



# If Florida's Local Governments Won't Keep Housing Affordable, The State Should Step In

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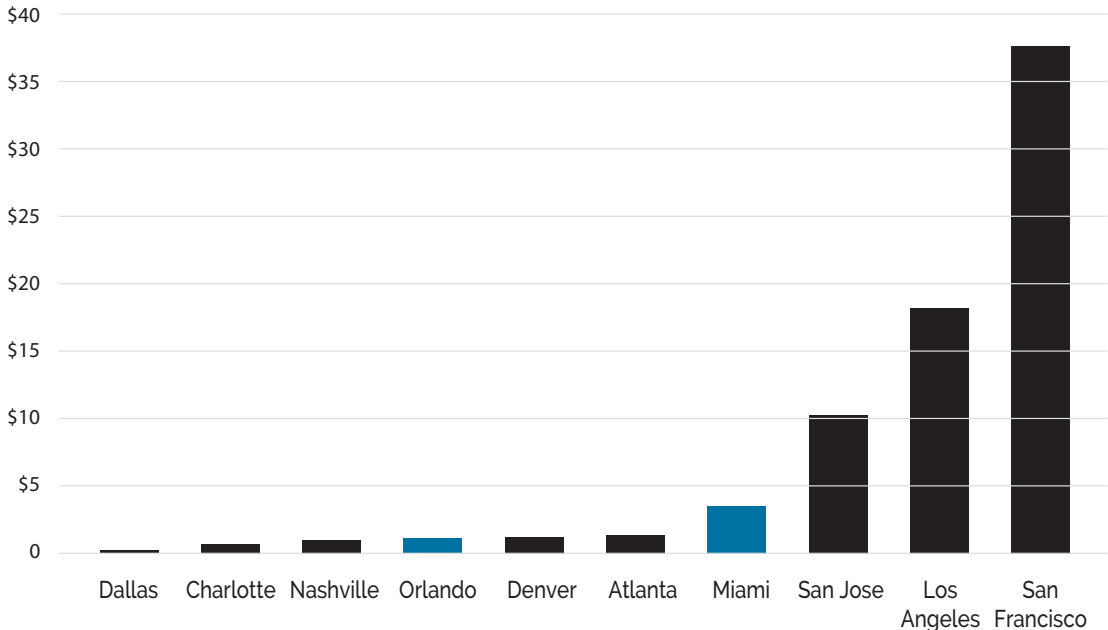
## Introduction

**H**ousing prices have been on a tear recently. The typical home value in the United States reached \$293,349 as of June 2021, a 13 percent increase from last year. In Florida, the typical home is worth \$297,390, just about at the U.S. average and far lower than in California (\$683,996), New York (\$371,880), and New

Jersey (\$408,517)<sup>1</sup>. Cheaper housing is one reason people are leaving New York and New Jersey for Florida, but it's not the only one. Florida's mild winters, great beaches, and the country's eighth-lowest state and local tax burden also help explain why over 800 people per day are expected to move to Florida over the next four years<sup>2</sup>.

Strong population growth is a good thing. If a state isn't growing, it's dying, as

**Figure 1: Zoning Tax Per Square Foot  
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Source: Author's figure. Zoning tax data from Gyourko and Krimmel (2021).

fewer people mean less economic activity, less dynamism, and less economic mobility. But population growth isn't inevitable. Florida will always have beaches and sunshine, but poor public policies can neutralize those advantages. Just ask all the Californians moving to Idaho<sup>3</sup>.

Right now, Florida's housing market is in better shape than California's, enabling Floridians of all income levels to find suitable housing. But being better than California is a low bar to clear. To keep Florida an attractive place to live and work, Florida's policy makers need to be diligent about removing barriers to building.

Florida's local governments control most of the land-use and zoning regulations

in the state, so right now they hold the key to affordable housing. But if they fail to allow the construction required to keep housing prices reasonable, the state should step in.

### **Expensive Housing Holds States Back**

One of California's biggest policy mistakes is its inability to build enough housing. It has the second-highest home prices in the country, behind only Hawaii, in large part because strict local zoning rules and land-use regulations make it extremely difficult to build<sup>4</sup>. A recent study calculated the "zoning tax," or the extra amount homebuyers pay due to land-use regulations that restrict construction

and thus artificially increase the price of housing<sup>5</sup>. The San Francisco and Los Angeles metro areas have the highest median zoning taxes in the study at \$37.62 and \$18.25 per square foot, respectively.

Though lower than the zoning taxes in California, as shown in Figure 1 Orlando's (\$1.02) and Miami's (\$3.47) zoning taxes are higher than those in other growing metro areas, including Nashville (\$0.95), Charlotte (\$0.69), and Dallas (\$0.20), indicating room for improvement in the Sunshine State.

The link between strict land-use regulations and high housing prices is well established. Evidence from Florida shows that permitting delays plus an additional land-use regulation can add \$20,000 to \$26,000 to the price of a house<sup>6</sup>. Another study calculated that land-use regulations increase housing costs nationwide by \$209 billion per year, or \$1,700 per U.S. household<sup>7</sup>.

Policies that contribute to the zoning tax—often referred to as exclusionary zoning policies since in effect they exclude newcomers, especially those with lower incomes—include minimum lot sizes, building height limits, single-family zoning rules, and limits on building permits<sup>8</sup>. In high-demand areas, these regulations mean more people vying for less housing, resulting in higher prices.

Minimum lot sizes are particularly onerous, requiring that every parcel of land in a regulated area be equal to or greater than a stipulated square footage. This increases the cost of housing by forcing people to purchase additional land, exacerbates segregation by income, and

encourages sprawl<sup>9</sup>. While these effects are more pronounced in high-demand areas, they exist anywhere the regulations bind, or, in other words, make people buy more land than they want.

Minimum parking requirements are another cause of high real estate prices<sup>10</sup>. They require developers to provide a certain number of parking spaces, irrespective of actual parking demand, when building new residential units or commercial space. These requirements reduce the amount of land available for the buildings themselves, resulting in less useful space and higher prices.

## Reforms Are Possible

These regulations, and others, push homeownership out of reach for many middle-class workers. Local officials and residents are beginning to understand this and, in some places, they have taken steps to reduce the harmful effects.

In 2019, Minneapolis quit prioritizing single-family homes and now allows triplexes to be built city wide<sup>11</sup>. More recently, Charlotte—which already has a lower zoning tax than Orlando or Miami—approved a new comprehensive plan that allows higher-density housing units such as triplexes in areas that previously only permitted single-family homes<sup>12</sup>. These laws will provide more affordable housing since duplexes, triplexes, and fourplexes tend to be cheaper than single-family homes.

Even California is doing something. Recently, it acted to improve housing affordability by making it easier to build accessory dwelling units (ADU)<sup>13</sup>. ADUs allow people to create new living space in

backyards or unused attics and garages.

Decreasing minimum lot sizes is another way cities can enable the construction of more housing. In 1998, Houston decreased minimum lot sizes from 5,000 square feet to as low as 1,400 square feet within the I-610 loop<sup>14</sup>. The result has been a substantial increase in housing in middle-income residential neighborhoods and areas with previously underutilized industrial and commercial land.

Cincinnati's city council eliminated parking requirements that required one space per apartment and one space for every 400 feet of retail space in some of the city's most walkable neighborhoods. While this is a good first step, Buffalo and Hartford went further and eliminated parking requirements citywide<sup>15</sup>. Eliminating parking requirements allows more land to be used for outdoor dining space or other non-auto uses, making areas more friendly for pedestrians. Such reforms may be even more important post-COVID-19, as people have rediscovered the health benefits of outdoor dining and recreation.

### **If Local Governments Won't Act, The State Can Encourage Them**

Despite these successes, widespread zoning reform remains elusive. Homeowners are a powerful interest group at the local level, and many are opposed to new construction that disrupts their lives and devalues what is often their biggest investment—their homes. Zoning is also very fragmented. Local governments control zoning and land-use rules through state zoning enabling acts. The amount of authority varies by state,

but the fragmentation of zoning authority means pro-growth reforms need to be repeated across thousands of jurisdictions nationwide.

Like other states, in Florida, land-use regulations and permitting are controlled by local governments<sup>16</sup>. Land-use planning is codified in the state's 2011 Community Planning Act (CPA), which requires local governments to adopt, maintain, and implement land-use plans and regulations for future development that are consistent with the community's adopted comprehensive plan.

Prior to the 2011 CPA, the state had to review and approve each local government's comprehensive plan. The CPA limited review by the state and regional agencies except in cases where state resources and facilities are "adversely" or "negatively" impacted. Florida is also a home-rule state, so local governments can enact ordinances without state approval so long as the ordinances do not conflict with state law.

So, under current law Florida's local communities are largely free to control land-use as they see fit. That said, because local governments are administrative units created by the states, they only have the authority granted to them by their state legislature or voters. This means that if local governments prevent construction via exclusionary zoning, it's possible for states to intervene.

State intervention has some benefits over local control. First, reforms at the state level mitigate the fragmentation issue since they apply to every community in the state. Second, the concerns of homeowners carry less weight at the state level since they are

just one group among many vying for the attention of state officials.

The most extreme state intervention would be legislative or constitutional changes that preempt local authority. Short of preemption, state officials can influence local government policy by making public statements or by making intergovernmental funding conditional on zoning and land-use reform.

### **Possible State Actions**

The first and easiest step Florida's state government can take to keep housing affordable is to encourage local governments to allow the housing supply to increase. Public statements from state officials that clearly articulate the need for the housing supply to keep up with demand so that Florida doesn't become another California may inspire local officials to reform their zoning rules and encourage current residents to accommodate new arrivals.

Of course, politely asking communities to allow more housing may not work. People often say they welcome more housing, but they rarely like actual construction: It's dirty, noisy, and generally inconvenient. There are also the immediate and tangible costs to local taxpayers of building more roads, schools, and other supporting infrastructure, while the benefits of more workers, a broader tax base, and more potential entrepreneurs are harder to see. This makes it easier to support more housing in theory while relying on other communities to do the actual building.

If words of encouragement are not enough, state officials can tie funding to zoning reform. The federal government

is trying to entice communities to build more housing via the YIMBY (Yes In My Backyard) Act<sup>17</sup>, a bipartisan bill that would require recipients of federal community development block grants to explain the reasoning behind their zoning codes. The sponsors hope that requiring such disclosure will promote zoning reform by shining more light on the costs of exclusionary zoning.

A similar but more aggressive approach would be for states to make some intergovernmental funding contingent on meeting housing supply goals. According to a Florida TaxWatch report, county and municipal governments in Florida receive just over six percent of their total revenue from state grants, state revenue sharing, and state payments in lieu of taxes<sup>18</sup>. This is lower than in many other states, as Florida relies on local taxing and spending to maintain government operations. Still, there seems to be enough money flowing from the state to local governments that the state could induce zoning reform by making some of the money conditional on reforms that reduce barriers to building.

For this approach to be effective, Florida will need to analyze data before sending money to ensure that any reforms made on paper actually lead to more housing and lower prices. Economists Emily Hamilton and Salim Furth of the Mercatus Center at George Mason University have suggested how HUD could do this regarding its grants, and states can incorporate many of their suggestions into their own policies<sup>19</sup>.

To monitor the price and supply of housing, Hamilton and Furth suggest using new home prices and the five-year

growth rate of the local area's housing stock. Absent new housing, a new arrival can only live in an area if they displace a current resident. More demand for the same supply increases prices, so additional supply—as measured by the growth rate of the area's housing stock—is necessary to keep housing affordable in high-demand areas like Florida.

Hamilton and Furth note that monitoring the price of newly-constructed homes is preferable to overall housing prices for two main reasons. First, it controls for the age of the house, which is associated with quality and price. Second, since policy changes related to zoning and construction requirements are likely to have the biggest impact on newly-constructed homes, focusing on new home prices will make it easier to see whether the policy changes are working.

To distribute funding, cities and counties can be separated into relevant peer groups based on past population and housing data. It makes more sense to compare larger coastal cities, such as the city of Miami and the city of Fort Lauderdale, to each other than it does to compare either to Quincy in Gadsden County. State funding can then be targeted towards the cities in each peer group that expand supply and keep housing affordable.

Getting the funding formula right will take time, and likely some trial and error. But if it keeps housing affordable amid strong population growth, it will be worth the effort.

## **State Preemption Can Drive Reform**

A more drastic, though not unwarranted step if the others fail, is for the state to reconsider the power it grants to local governments regarding zoning and land-use regulations. For example, the state could require local governments to add a section to their comprehensive plans that addresses the supply of housing. The plans are already required to contain a future land use element and a housing element that address zoning, the maintenance of the housing stock, and potential sites for additional housing. These elements could be modified to require local governments to explicitly discuss how their zoning and land-use regulations impact their housing supply and how they plan to accommodate population growth.

The 2011 CPA could also be amended to require state approval of comprehensive plans. The state could reject plans that fail to adequately explain how they will accommodate population growth. Since comprehensive plans have the force of law once adopted, this would require local governments to implement accommodative rather than exclusionary zoning and land-use policies.

Another option is for Florida to withdraw some of the zoning authority it has granted local governments. The most exclusionary land-use policies—minimum lot sizes, single-family zoning rules, height restrictions, floor-area ratios, parking requirements, and density limits—could be removed from the toolkit of local governments and instead be set at the state level.

Preemption is already occurring in some states. The state of Oregon passed a law requiring that cities with more than 25,000 people allow fourplexes on lots formerly reserved for single-family homes<sup>20</sup>. Similarly, Connecticut recently passed a state law that, among other things, allows ADUs in all single-family zones by right, limits local maximum parking requirements, and eliminates the nebulous word “character” from the state’s zoning enabling act, replacing it with “physical site characteristics”<sup>21</sup>. A cry to preserve neighborhood character, without ever defining what that character is, is a common tactic of zoning-reform skeptics. Connecticut’s new law forces people to clearly state what they mean by character so that communities can more accurately judge how zoning reform may affect it.

Preempting local government authority is not without tradeoffs. There are good reasons for states to delegate some powers to local governments. Local officials and residents have more information about local conditions and typically a better understanding of how to achieve their policy goals. Local authority also enables

more policy experimentation, which helps us discover which policies work and which don’t while also allowing for variety so people can choose the community that is best for them.

But in the case of housing policy, there are drawbacks to local authority. Decisions to stifle growth in one community spill over into nearby communities as new arrivals are forced to look elsewhere for housing. Local zoning authority is often abused as well. Local officials from San Francisco to Gainesville have been investigated for taking bribes in exchange for variances, zoning exceptions, and building approvals<sup>22</sup>. The conflicting interests of established residents on one side and newcomers plus developers on the other creates an environment that is ripe for backdoor dealing and cronyism.

State officials face different incentives than local officials and often take a more holistic view of the state’s economy and housing market. Done correctly, reinserting the state into zoning and land-use policy would keep housing more affordable and help prevent some of the worst zoning abuses by local governments.

## Conclusion

It's important to recognize that when a state limits local governments' use of zoning it is an expansion, not a limitation, of individual property rights. Zoning restrictions typically prioritize the community at the expense of the landowner by restricting what people can do with their own property. As economist Emily Hamilton explains<sup>23</sup>:

“Setting some limits on the extent to which localities can obstruct housing construction, such as allowing duplexes to be built where development is currently restricted to single-family housing, is not a move toward statewide planning; *it transfers some control over what gets built from local governments to individual property owners*, allowing the housing market to better respond to increases in demand for housing and improving affordability with no new subsidies.” [my emphasis]

There is something for everyone when more housing is allowed to be built. For those most concerned with equity, more housing means lower prices, all else equal,

which means more people can afford to live in high-demand areas with thriving economies. For those most concerned about government overreach, zoning reform is a way to return property rights to individual owners.

Florida's population is booming and that's likely to continue, but only if the state can avoid the mistakes that have derailed California's rise. Florida has the geographic amenities—nice beaches, mild winters, sunshine—and its economy is expanding. But to take advantage of all Florida has to offer, people must be able to afford to live there. If local governments can't keep housing affordable, the state should step in to do the job.



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