Zoning changes to allow for higher residential density

Overview
Zoning codes and ordinances specify the type of development that is permissible in each zoning district (residential, commercial, mixed-use, etc.), as well as provisions for how each parcel of land within those districts may be developed and used. In residential zones, these provisions generally include limits on residential density—that is, how many housing units may be built in a given land area. Cities, towns, and counties seeking to increase the overall housing supply may wish to revisit their zoning code to facilitate growth by (a) identifying opportunities in existing residential areas to increase density and (b) opening up areas where residential development has not previously been allowed.

In existing residential areas, density levels may have been set well below what the market and infrastructure are capable of supporting. In other cases, zoning codes may prohibit residential development in areas where it would now be appropriate. By modifying zoning policies to allow for residential growth and higher-density residential uses, local jurisdictions can help to increase the number of housing units
that can be created and better enable housing supply to keep up with demand.

Cities, towns, and counties may also consider revising occupancy codes that restrict the number of unrelated people permitted to live together in a unit. (Occupancy codes may also classify properties that exceed these thresholds as “rooming houses” that are subject to additional regulation.) Shared housing allows lower-income households to split the costs of rent and utilities and reduce individual housing costs.\(^1\)

**Approach**

Zoning codes can limit the number of housing units that can be developed and those limits should be re-assessed in light of what the market and infrastructure will bear. In areas where demand for housing exceeds supply, these limits make it difficult to correct this imbalance and thus contribute to higher rents and home purchase prices. While developers can sometimes request special permission for higher-density projects, they may be put off by the length and uncertainty of the process of obtaining the necessary permits or variances as well as the resulting increase in costs.

Cities, towns, and counties seeking to increase their density will first need to determine which neighborhoods are most appropriate for zoning changes. Not all neighborhoods are suited for higher-density residential development, and some areas may need investment in infrastructure upgrades before they can accommodate more residents. In many cases, however, cities, towns, and counties can allow some increase in density without over-burdening the roads, sewers, or school system or changing the character of the neighborhood.

Areas near existing or planned transit stations or along bus routes may be particularly appropriate to target for higher density, as the additional residents can contribute to usage levels required for these systems to succeed. (Where development around transit stations is compact, pedestrian-oriented, and offers a mix of residential and commercial uses, it is also known as “transit-oriented development.”) Cities, towns, and counties may also be able to identify parts of town that can be rezoned for residential purposes. In areas with long retail corridors, for example, many cities, towns, and counties have found that permitting mixed-use development allows the continuation of ground-floor retail but adds significant new multifamily housing in a manner that doesn’t disrupt adjacent neighborhoods. Underutilized industrial or commercial areas can present important opportunities for higher-density residential (or mixed-use) development, further increasing the supply of land available for
Once the city, town, or county has identified neighborhoods that can be targeted for increases in residential density (a process called “upzoning”) or changes to allow residential use, the next step is to determine the appropriate density level. “Higher-density development” means different things in different places, and development patterns can be tailored to fit a variety of circumstances. Many options are available on the continuum between large-lot single-family homes and high-rise apartment buildings. These include:

- Allowing single-family homes on smaller size lots, which creates opportunities to subdivide existing large lots to build additional housing units
- Zoning for attached homes, including duplexes, triplexes, and townhomes that each have their own entryway but consume less land than detached single-family homes
- Zoning for medium-density multifamily buildings with rental apartments or condos

In addition to creating conditions that enable expansion of the overall supply of units, by reducing per-unit land costs, upzoning may also increase the potential for the development of homes that are more affordable to rent or purchase.

Decisions about how much development capacity to add in a particular neighborhood will likely be the end result of a lengthy process that involves public hearings, environmental reviews, and engineering studies. Once the changes have been adopted, however, development of additional housing units can proceed as-of-right with fewer administrative obstacles and costs.

As part of this process, cities, towns, and counties may also wish to revisit occupancy limits for unrelated individuals. These limits determine the extent to which roommates may share a house or apartment, and typically do not apply if household members are related by blood or marriage. Austin, TX has a nuanced policy that permits anywhere from three to six unrelated adults to share a dwelling, depending on the housing type (single-family home, duplex, home with an accessory dwelling unit, etc.) and location. Austin code also includes an exception that allows for cooperative living among seniors. Specifically, the code permits no more than ten unrelated adults to live together if they are age 60 or older, self-caring and self-sufficient, and living together as part of a non-profit housekeeping unit. Other cities, towns, and counties are more restrictive: Denver, CO, for example, allows two unrelated persons to live together; a third person is only allowed with a home occupation permit under the Denver Zoning Code (page 26).

Overly stringent occupancy limits can also limit opportunities to share existing units to
create more unsubsidized affordable housing. In some cases, it may be possible to create zones in which housing is subject to higher limits – such as in neighborhoods near college campuses where homes are likely to be occupied by students. Cities, towns, and counties can also increase occupancy limits but require homes to register as rentals and be subject to periodic inspections to ensure safe conditions.

Other considerations

- **Impacts on other land use regulations.** Changes to one set of policies may require adjustments to others to be effective. For example, cities, towns, and counties that reduce the minimum lot size for single-family homes may also need to revisit minimum setback requirements that determine a structure’s placement on the lot (i.e., how far it has to be “set back” from the street and neighboring homes). If setback requirements are too large, then the remaining buildable land may be too small for an average-size home.

- **Potential for a “grand bargain.”** Higher-density development often (but not always) means that developers can earn greater profits for construction on the same parcel of land. Recognizing this benefit, and the new opportunities for housing development created when neighborhoods are upzoned, some cities, towns, and counties adopt upzoning and **mandatory inclusionary zoning** in tandem, as part of a package deal that requires a portion of the units be affordable in exchange for allowing higher density development. See the Seattle Housing Affordability and Livability Agenda example below. (Cities, towns, and counties can also provide for upzoning by offering density bonuses in exchange for a commitment to set aside a share of the newly-created units as affordable housing.)

Examples

- To allow the housing supply to keep up with population growth—and avoid contributing to increased traffic congestion—**Fairfax County, VA** rezoned areas around Metro transit stations and certain commercial corridors to allow for higher-density residential development. The upzoning increased the permissible floor area ratio of new buildings in designated areas from 2.0 or 3.0 to 5.0. (Floor area ratios compare the total usable floor area of a building to the total area of the lot on which it is located.)

- Through **Seattle’s Housing Affordability and Livability agenda**, the city has embarked on a major initiative to rezone areas in certain parts of town to include allowances for higher-density development as well as requirements for the inclusion of affordable housing. The proposal is the result of an extensive community engagement and planning process. In designated urban villages, developers of multifamily housing will be able to build at higher densities, but will also be required
to either include affordable units on site or make an in lieu payment to the City’s Office of Housing for use in activities that promote housing affordability.

- **Los Angeles** established the *Small Lot Ordinance and Small Lot Design Guidelines* to promote the development of higher density homes on single or small lots. The ordinance allows the subdivision of these lots for fee simple, infill development homes while the guidelines provide a design framework in accordance with the area’s General Plan Framework and Community Plans.

- In 2019, **Oregon** banned single-family zoning through *House Bill 2001*. In cities that contain more than 25,000 residents, multi-family developments such as duplexes, triplexes, fourplexes, and “cottage clusters” would be permitted on lots previously allotted for single-family homes. Cities with more than 10,000 residents would allow for duplexes.

- The City Council of **Minneapolis** put its support behind the *Minneapolis 2040 plan* in December 2018, which will upzone significant portions of land currently zoned for single-family. This plan will make way for multi-family housing such as triplexes.

- **Portland’s** city council passed a new “*Residential Infill Project*” that legalizes up to four homes on almost all residential lots. In addition, the new rules now allow for four- to six-home lots if half of the units are below-market rate.

### Related resources

#### General

- **Higher-Density Development: Myth and Fact**, Urban Land Institute (2005) – This pamphlet debunks eight of the major objections to higher-density housing, and includes profiles of developments from various communities.

- **Visualizing Density**, Lincoln Institute of Land Policy – This website includes an array of resources designed to help visitors see what different density levels look like in actual communities. The site includes an image gallery and interactive features to increase understanding of the benefits of higher-density development.

#### Implementation

- **The Roommate Gap: Your City’s Occupancy Limit**, Sightline Institute (January 2013) – This article is part of a series on legalizing inexpensive housing, and provides insights into the variation in occupancy limits across cities and the obstacles these policies can pose to the creation of lower-cost housing.

- **Wording Amendment for Small-Scale Residential Infill**, City of Asheville, NC Department of Planning and Urban Design (August 2017) – This presentation describes the City’s process for considering zoning amendments that permit “missing middle” housing (i.e., duplexes, courtyard apartments, townhomes, etc.) and four proposals to achieve increases in density.
Inclusionary Upzoning: Tying Growth to Affordability, Center for Housing Policy (2014) – This report outlines key terms related to higher-density zoning, and reviews case studies of upzoning policies in the United States.

1. Zoning codes also define the conditions under which housing is considered overcrowded. This is a separate issue that has implications for resident safety and well-being.

See also:
- Reduced parking requirements
- Zoning changes to facilitate the use of lower-cost housing types
- Streamlined permitting processes