

State-Level Reforms to Local Land Use Planning: Strategies for Addressing Housing Needs

Executive Summary

While urban planning and zoning have traditionally been controlled at the municipal level, local governments derive this authority from the state. Historically, localities across the United States have used this decentralized zoning power to implement exclusionary policies—such as limiting higher density housing such as duplexes, small apartment buildings, or other multi-family homes—that have heightened racial segregation, restricted housing supply, and thus contributed to the contemporary housing affordability crisis. In response to this failure to accommodate growth, state governments are increasingly reasserting their authority to reform local land use planning processes.

Drawing on data from the Furman Center’s [Land Use Reform Tracker](#), this brief analyzes recent reforms to state planning statutes and examines four distinct models that have emerged:

- **Mandated disclosures about the locality’s assessment of needs:** Frameworks that require local governments to plan to address housing needs but leave it up to individual local governments to determine how much housing they need to permit, impose no hard numeric supply targets, and carry no explicit state enforcement mechanisms.
- **State-driven needs methodology without local production targets:** Centralized regional or state-level systems that calculate housing needs for households with varying levels of income, but impose reporting mandates rather than local housing production targets.
- **Menu-based reforms:** Policies that require municipalities to meet their planning obligations by adopting a specified number of “pro-housing” zoning changes (e.g., legalizing Accessory Dwelling Units (ADUs) or duplexes) from a state-provided list.
- **Housing production targets:** Models that allocate regional housing needs through strict growth targets or specify the amount of affordable housing each local jurisdiction should permit, frequently reinforced by enforcement tools such as penalties or a “builder’s remedy”.

Though limited, the empirical research on the impact of land use reforms suggests that planning mandates that focus on allowing more building in areas that fail to meet local demand for housing, when paired with robust oversight and enforcement mechanisms, are most likely to yield results. However, states have struggled to anticipate where growth will happen and to fairly and accurately calculate and allocate housing production targets.¹ Exclusionary jurisdictions routinely engage in strategic maneuvering to limit local growth or concentrate density exclusively in lower-income communities.²

To ensure that their reforms have the best chance of resulting in more housing, states considering this approach should design comprehensive reforms that provide a methodology for calculating and allocating housing needs using metrics for both current underproduction and future needs (among other data), explicitly mandate that local plans expand zoned capacity based on these housing needs, condition state grant funding based on local zoning actions or housing production milestones, and consider the resources required for robust oversight and compliance.

1. SIDHARTH KAPUR ET AL., UCLA LUSKIN SCH. OF PUB. AFFS., WHAT GETS BUILT ON SITES THAT CITIES “MAKE AVAILABLE” FOR HOUSING? 15 tbl. 1, 17 tbl. 2 (2021), <https://escholarship.org/uc/item/6786z5j9>.

2. DOUGLAS S. MASSEY ET AL., CLIMBING MOUNT LAUREL 35-45 (2013); Nicholas J. Marantz & Huixin Zheng, *Exclusionary Zoning and the Limits of Judicial Impact*, 42 J. PLAN. EDUC. & RSCH. 280, 281 (2022). <https://doi.org/10.1177/0739456X18814924>. (arguing that state courts, in comparison to the legislature, are disadvantaged when fighting exclusionary zoning and highlighting how municipalities can stymie judicial orders through litigation). Paavo Monkkonen et al., *Do Land Use Plans Affirmatively Further Fair Housing? Measuring Progress*, 90 J. AM. PLAN. ASS’N 247, 250 (2024), <https://doi.org/10.1080/01944363.2023.2213214>.

Introduction

Comprehensive plans and land use regulations have traditionally been the domain of local governments. Local governments, however, derive their authority to regulate land use from the state. In response to the effect restrictive local regulations have on housing supply and the cost of housing, many state governments are now stepping in to reform processes local governments use to plan for future development and housing.

This brief first examines the historical and legal context of land use regulation in the United States and the role of the states in setting standards for how localities plan for housing growth. Second, we provide a comprehensive overview of recent reforms to these standards. We then explore the available empirical evidence on how these state planning frameworks and housing production targets affect housing production. The final section reviews the key questions policymakers should consider as they design new planning requirements or reform existing ones to achieve statewide housing goals.

History of land use planning: the role of states, local governments, and exclusionary zoning

Historically, states have delegated authority to local governments to create comprehensive plans, zone in accordance with those plans, control the subdivision of land, ensure historic preservation, and otherwise regulate the use of land. In 1924, the U.S. Department of Commerce developed the Standard State Zoning Enabling Act, a model statute that many states adopted to give their local governments zoning authority.³ However, there is ample evidence that many localities have used their zoning powers to limit growth and, in many cases as a result, have excluded people on the basis of their race, income, or other socio-economic characteristics.⁴ The resulting mismatch between housing supply and demand has contributed to housing unaffordability in many markets,⁵ which has led states to rethink the scope of local authority over planning and zoning. Recognizing that the status quo has failed to meet housing needs across the country, state governments have adopted a range of reforms in an effort to ensure that local planners and policymakers assess and respond to their community's housing needs.

3. The standard was first published in 1924. STANDARD ZONING ENABLING ACT (Advisory Comm. on Zoning, Dep't of Com. 1924), <https://www.govinfo.gov/content/pkg/GOVPUB-C13-c1525bdb21763c5cf69010cfab02846/pdf/GOVPUB-C13-c1525bdb21763c5cf69010cfab02846.pdf>.

4. Alexander Sahn, *Racial Diversity and Exclusionary Zoning: Evidence from the Great Migration*, 87 J. POL. 1302 (2025). <https://doi.org/10.1086/734261>.

5. Amrita Kulka, Aradhya Sood & Nicholas Chiumenti, *How to Increase Housing Affordability: Understanding Local Deterrents to Building Multifamily Housing* 50 fig. 6 (Fed. Res. Bank of Bos., Working Paper No. 4241563, 2022), <https://doi.org/10.29412/res.wp.2022.10>; Amrita Kulka, Aradhya Sood & Nicholas Chiumenti, *Under the (Neighbor)Hood: Understanding Interactions Among Zoning Regulations*, REV. ECON. & STAT. 29, (2026), <https://doi.org/10.1162/REST.a.1736>; Jaehee Song, *The Effects of Residential Zoning in U.S. Housing Markets*, 149 J. URB. ECON., no. 103784, 2025, at 2, <https://doi.org/10.1016/j.jue.2025.103784>; Emily Hamilton, *The Effects of Minimum-Lot-Size Reform on Houston Land Values*, 26 CITYSCAPE 159, 183 (2024), <https://www.jstor.org/stable/48799254> (demonstrating a reduction in prices from minimum-lot-size reforms).

Recent state planning laws and reforms

For many years, a number of states have required that their local governments adopt a comprehensive plan that addresses (among other things) the locality's need for new homes.⁶ But states often did little to enforce the requirements, and, as a result, non-compliance was common.⁷ Since 2017, however, Colorado⁸, Connecticut⁹, Maryland¹⁰, Maine¹¹ and Nebraska¹² have adopted new requirements mandating that local plans address housing needs or include specific strategies to meet statewide housing goals. States like Illinois have amended their statewide planning frameworks.¹³ Several states that already required plans to address housing needs have revised their requirements or strengthened reporting mandates for local plans (see Figure 1). Typically, these laws require that local and regional governments assess their current and future housing needs, adopt a plan (or amend existing plans) to meet those needs, and reform their zoning ordinances accordingly. These laws often require localities to report specific data on progress to the state and in some cases set a quantitative target for how much housing affordable at different income levels the locality's plan will accommodate.

6. Darrell Ramsey-Musolf, *State Mandates, Housing Elements, and Low-Income Housing Production*, 32 J. PLAN. LITERATURE 118 (2017), <https://doi.org/10.1177/0885412217693569>.

7. Paul G. Lewis, *Can State Review of Local Planning Increase Housing Production?*, 16 Hous. Pol'y Debate 173, 181-82 (2005) ("In the judgment of CDHCD staff, a large majority of communities across the state were not in compliance with the housing element statute in the early 1990s. However, a concerted effort, including warning letters to local governments from the state attorney general, succeeded in improving compliance rates. . . . As of 2004, about one-third of municipalities and one-quarter of counties were noncompliant.").

8. COLO. REV. STAT. § 31-23-206 (2025).

9. CONN. GEN. STAT. § 8-23 (2025).

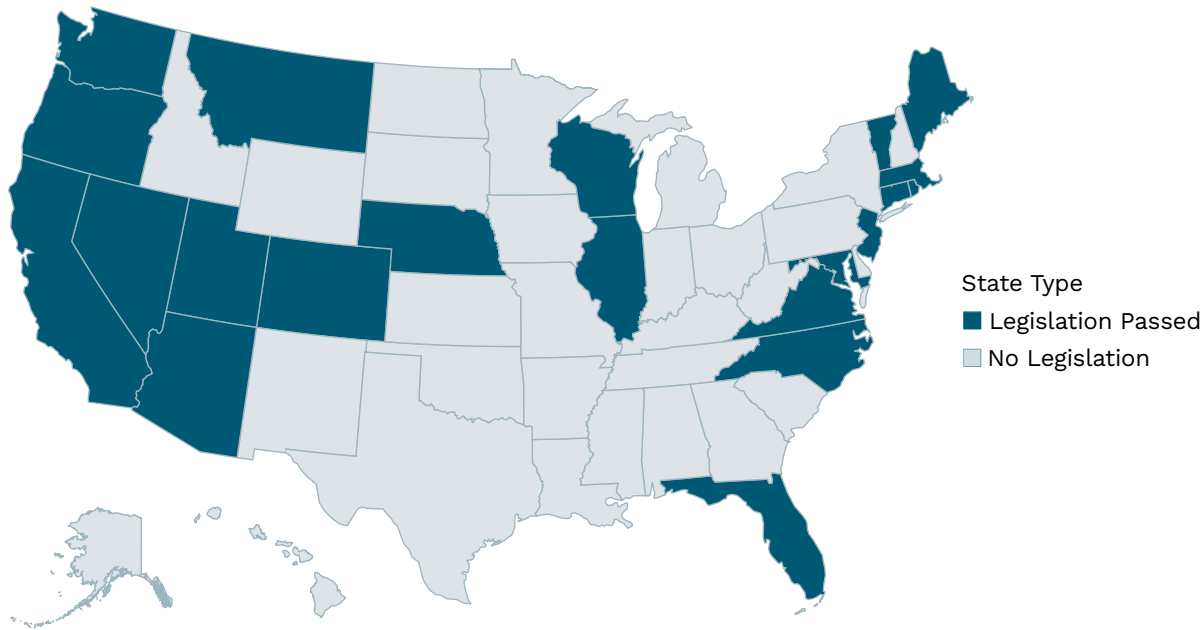
10. MD. CODE ANN., LAND USE § 1-407 (2026).

11. ME. REV. STAT. tit. 30-A, § 4326 (2025).

12. NEB. REV. STAT. ANN. § 19-5505 (2023) now requires cities of a certain size to develop affordable housing action plans as part of their comprehensive plans or separately.

13. Illinois requires the *state* to create an annual comprehensive housing plan but doesn't mandate this for local governments (unless they want to create a planning commission). 310 ILL. COMP. STAT. ANN. 110/15 (2016). However, it requires "non exempt" local governments to approve an affordable housing plan. 310 ILL. COMP. STAT. ANN. 67/25 (2024).

Figure 1: State Reforms on Planning Requirements¹⁴



Source: NYU Furman Center Land Use Reform Tracker (2017-2025)

Typologies of reform

The reforms to local land use planning requirements cluster into a few distinct models: (1) mandated disclosures about the locality's assessment of needs, (2) a state-driven needs assessment methodology that does not set local targets, (3) a requirement that localities adopt reforms from a menu the state provides, and (4) a method of allocating quantitative housing production targets to localities paired with mechanisms to enforce those targets. States often combine elements of more than one category. For example, Montana requires that localities quantify their housing needs for the next 20 years and adopt five policies from a menu of zoning reforms in a comprehensive plan,¹⁵ while Colorado has a statewide housing needs assessment, requires localities to publish their own local needs assessment based on the state methodology,¹⁶ and mandates a menu of housing affordability strategies.¹⁷

14. NYU Furman Center, *Land Use Reform Tracker*, <https://www.furmancenter.org/land-use-reform-tracker/?term-lut-topic=planning-requirements%2Cfair-distribution-of-housing> (last visited Sept. 4, 2026) (providing an interactive map of state land use reforms, including measures not discussed in this brief).

15. MONT. CODE ANN. §§ 76-25-203(2), -302(1) (2023). Strategies include, *inter alia*, allowing duplexes where single-unit dwellings are allowed as a permitted use; allowing higher density near transit, higher education, and other appropriate population centers; allowing accessory dwelling units (ADUs) on a single-unit lot; eliminating or reducing off-street parking requirements; eliminating impact fees for ADU or multi-unit dwellings; allowing single-room occupancy developments; and reducing minimum lot size requirements by at least 25%. *Id.* § 76-25-302(1)(a) to (n).

16. COLO. REV. STAT. § 24-32-3702 (2023).

17. COLO. REV. STAT. §§ 24-32-3705 to -3706 (2026).

Mandated disclosures about the locality's assessment of needs

These reforms take the least prescriptive approach. They allow local governments to determine how much housing supply is needed but require localities to report information about those needs and on the housing production required to meet them. Arizona, for example, directs localities to report their housing needs but otherwise gives localities discretion on how to assess their needs and specifies that the law “does not require a municipality to fulfill the projections in [its] housing needs assessment”.¹⁸ Nebraska requires local governments to disclose a variety of information, including each locality’s “estimates of the housing need classified by housing type and price range”, and directs localities with populations of at least 50,000 residents to adopt an affordable housing action plan that sets forth goals for the new construction of affordable units.¹⁹ Nebraska does not, however, mandate production targets or provide much guidance about how localities are to assess needs.²⁰ Utah requires localities to adopt a “moderate income housing plan” that provides a “realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years” but does not mandate specific production targets.²¹

Many states in this category do not have specific enforcement measures tied to their planning requirements or housing needs assessment mandates, but most, such as Arizona, Florida, and Nebraska, do have separate provisions that either preempt local zoning if local governments fail to adopt a compliant plan or preempt localities outright.²² As we discuss further in Sections III and IV, the broader oversight of local plans and housing needs assessments, as well as the enforcement of these state-driven strategies to grow the housing supply are key considerations for the potential effectiveness of this type of reform.

State-driven needs methodology without local production targets

A second cluster of states has invested in building or centralizing an assessment methodology to determine the need for more housing at different income levels at the state, regional, or local scale. Many states in this category rely on “carrots” as opposed to “sticks” to encourage localities to align their

18. Ariz. Rev. Stat. § 9-469 (2025).

19. Legis. B. 866, § 5, 4(1)(i) and 5(1)(a), 106th Leg., 2d Sess. (Neb. 2020) (enacted), <https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB866.pdf>.

20. If a locality fails to create an affordable housing action plan, it must allow the development of ‘middle housing’ and duplexes in all single-family zoned areas. *Id.* at § 5(2).

21. UTAH CODE ANN. § 10-21-201 (2026). Localities must adopt compliant ‘moderate income’ housing plans to access certain grant funds from the state. *Id.* § 10-21-202.

22. Arizona requires municipalities to adopt regulations allowing accessory dwelling units (ADUs) in areas where single-family dwellings are permitted; if a locality fails to adopt such regulations by a deadline, the state will preempt the locality and ADUs will then be allowed on any lot zoned residential “without limits”. ARIZ. REV. STAT. § 9-461.18 (2025). Florida preempts local law by requiring localities to allow multifamily housing by-right in commercial zones if 40% of the units are rentals affordable for at least 30 years. FLA. STAT. § 166.04151(7) (2025). Nebraska legalizes duplexes and other “middle housing” in residentially-zoned areas for cities that fail to adopt a compliant housing action plan. NEB. REV. STAT. ANN. § 19-5505(4) (2025).

plans with the statewide assessment, and to use specific data and methods to determine local housing market conditions and needs. Maine, for example, recently updated its comprehensive planning rules to require local governments to include an inventory, analysis, and needs assessment in their plans, which must project local and regional population and residential trends for ten years.²³ The local plans also must include a local goals and policy development section that “relate[s] the findings contained in the [plan’s] inventory and analysis section to the state goals and to the local goals.”²⁴ The state has to certify a locality’s plan and uses incentives such as grants to encourage localities to address the statewide need for more homes.²⁵ Colorado’s SB 174 (passed in 2024) directs the Department of Local Affairs to conduct a statewide needs assessment every six years and to develop methodologies for regional and local needs assessments. It requires each larger locality to produce a housing action plan that is “responsive to an accepted housing needs assessment” and demonstrates the locality’s commitment to addressing its housing needs.²⁶ Although there is no specific requirement that the plan set a local production target, Colorado prioritizes certain state grants based on local compliance with SB 174 and other strategic growth laws.²⁷

Menu-based reform requirements

A third model is a menu-of-reforms approach in which states require localities to adopt strategies from a list of ‘pro-housing’ regulatory changes as part of their local plans. Some states pair that requirement with a combination of penalties and incentives to encourage localities to make these policy changes. Colorado, Montana, Nebraska and Utah use this approach.²⁸ In 2019, for example, Utah required localities to include in their general plan at least three strategies from a list of twenty-seven that included allowing higher density near major transit corridors, legalizing single room occupancy developments, and reducing impact fees.²⁹ The goal of this category of state-level reform is to encourage local governments to remove zoning and other regulatory barriers to accommodate growth and streamline housing development.

23. Legis. Doc. 1751, 132d Leg., 1st Spec. Sess. Secs. 31-32 (Me. 2025) (amending 30-A MRSA §4326(1)).

24. Legis. Doc. 1751, 132d Leg., 1st Spec. Sess. Secs. 31-32 (Me. 2025) (amending 30-A MRSA §4326(1), (2)).

25. Legis. Doc. 1751, 132d Leg., 1st Spec. Sess. Secs. 35 (Me. 2025) (amending 30-A MRSA §4346). H.R. & A. Advisors et al., State of Maine Housing Production Needs Study (October 2023), https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/State%20of%20Maine%20Housing%20Production%20Needs%20Study_Executive%20Summary_Final_10.3.23.pdf (estimating housing production need by 2030 at between 76,400 and 84,300 homes).

26. S.B. 24-174, 74th Gen. Assemb., Reg. Sess. (Colo. 2024) (codified at COLO. REV. STAT. §§ 24-32-3702(1)(b), -3705(1) (2026)).

27. Colorado Governor Jared Polis directed state agencies to deprioritize infrastructure and transportation grants from noncompliant cities; see Colo. Exec. Order No. D 2025-005 (May 16, 2025).

28. COLO. REV. STAT. §§ 24-32-3705-3706 (2026) requires localities to adopt housing action plan strategies identified by the department of local affairs. MONT. CODE ANN. § 76-25-302 (2023) requires localities to pick from a list of zoning reforms to adopt for their local zoning regulations. NEB. REV. STAT. § 19-5505 (2024) requires localities to create an affordable housing action plan that incorporates new construction incentives and goals (as part of their comprehensive plan or separately).

29. S.B. 34, 63d Leg., 2019 Gen. Sess. § 3 (Utah 2019) (codified as amended at UTAH CODE ANN. § 10-21-201(2) and (3)(a)(iii) (2026)), <https://le.utah.gov/~2019/bills/sbillenr/SB0034.pdf>. Note that municipalities with certain kinds of public transit facilities have to choose 5 of the listed strategies.

Housing production targets

Under this model, state or regional planning agencies allocate specific numerical obligations to their localities to meet the state's housing needs, and each locality is required to plan to allow the production of the amount and types of housing required to meet its existing and projected needs. California, Connecticut, Illinois, Massachusetts, New Jersey, Oregon, Rhode Island, Washington, and Vermont all use this model.³⁰ Some of those states set a threshold percentage of the locality's housing (usually ten percent) that must satisfy the state's definition of affordable, for example. Others specify a particular number of rehabilitated or new homes that each municipality must allow to be developed. Some of these states use incentives to encourage compliance or use a combination of incentives and penalties. A subset of the states (California, Connecticut, Illinois, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Washington) have stronger enforcement mechanisms such as the builder's remedy.³¹ The following subsections outline how the model works in each state given recent reforms.

California

Local governments in California are required to have a comprehensive plan that includes a housing element. In preparing its plan, each local government must conduct an assessment of its housing needs and inventory the resources and constraints that may affect its ability to meet those needs.³² California runs one of the most complex housing need allocation systems in the country. The Department of Housing and Community Development (HCD) first produces an assessment of existing and projected housing needs for each region.³³ Each regional Council of Governments (COG) then develops a methodology for allocating that need among the cities and counties in the region and must obtain HCD's approval of that methodology.³⁴ This Regional Housing Need Allocation (RHNA) process is done in five- or eight-year cycles. The COGs allocate housing needs among their local governments based on such factors as

30. Nine states (California, Connecticut, Illinois, Massachusetts, New Jersey, Oregon, Rhode Island, Vermont and Washington) now use processes that assign targets to regional, county or local governments, or require them to set specific supply targets. CAL. GOV'T CODE § 65584(b)(1)–(2) (2025); CONN. GEN. STAT. § 8-30g(k) (2026); 310 ILL. COMP. STAT. ANN. 67/20 (2025); MASS. GEN. LAWS ch. 40B, §§ 20 para. 4, 23 (2026); N.J. REV. STAT. §§ 52:27D-304.1(f)(1)(a), -304.2, -304.3 (2025); OR. REV. STAT. § 184.453(2)–(4) (2025); R.I. GEN. LAWS ANN. § 45-22.2-6(b)(6) (2026); VT. STAT. ANN. tit. 24, § 4348(a) (2026); WASH. REV. CODE § 365-196-410(1)–(2) (2025).

31. For more on state builder's remedy laws, see generally VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., THE BUILDER'S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES (2026).

32. CAL. GOV'T CODE § 65583(a)(3).

33. CAL. GOV'T CODE § 65584.01 (2026).

34. *Id.* at § 65584.04; California Department of Housing and Community Development, Current Housing Planning Process, <https://www.hcd.ca.gov/rhna/process>; Senate Housing Committee, HOUSING ELEMENT AND REGIONAL HOUSING NEEDS ASSESSMENT LAW: RECENT REFORMS (October 2025), <https://shou.senate.ca.gov/system/files/2025-12/housing-element-and-rhna-reforms-12.25.pdf>

proximity to transit, the balance between jobs and housing, and the state's Affirmatively Furthering Fair Housing (AFFH) mandate.³⁵ The allocations are broken down by the income levels for which the housing will be affordable.³⁶

Localities also must inventory the land that is suitable and available for development to meet their RHNA allocation. The housing element must identify adequate sites for different types of housing, including rental housing, factory-built and mobile homes, and emergency shelters and provide for the needs of all economic segments of the community.³⁷ If a jurisdiction's inventory of suitable and available sites cannot accommodate its allocation, it must rezone by a statutory deadline.³⁸ HCD and the California Attorney General enforce the requirement that a locality's plan allow it to meet its allocation, escalating from compliance letters to litigation and fines.³⁹ Noncompliant jurisdictions also lose protection from the builder's remedy, which allows developers that include affordable housing in their projects to seek approval through special procedures and standards.⁴⁰

Connecticut

Since 1990, Connecticut municipalities that fail to have 10 percent of their housing stock affordable have been subject to a builder's remedy through the state's Affordable Housing Land Use Appeals Procedure.⁴¹ In 2017, the state began requiring every town to prepare an affordable housing plan outlining how the municipality plans to increase and preserve its affordable housing stock.⁴² In 2025, however, HB 8002 replaced that mandate with a requirement that each town either create a "housing growth plan" or opt into a regional plan.⁴³ The statute does not change the 10 percent housing target but does impose a regional housing needs process similar to California's, and provides incentives for towns to adopt strategies to meet those needs. Unlike California, however, Connecticut does not directly tie compliance with the

35. COGs must consider the following factors in their methodology for allocating the RHNA: each locality's existing and projected jobs and housing, opportunities and constraints to development due to lack of sewer or water service, availability of land for residential development, wildfire and other climate impacts, distribution of household growth, agreements related to unincorporated areas and agricultural preservation, loss of units in assisted housing, percentage of housing at each income level, overcrowding rates, housing needs of farmworkers, student housing needs, homeless rates, and the region's greenhouse gas emissions. Cal. Gov't Code § 65584.04 (2026).

36. *Id.* at § 65584.04(2)(A).

37. *Id.* at § 65583.

38. See *id.* § 65583(c)(1).

39. See Senate Housing Committee, *supra* note 34, at 5–6 for a discussion of the carrots and sticks California uses to ensure compliance with the housing element requirement.

40. Cal. Gov. Code § 65585(j)–(l) (AG enforcement authority); *id.* § 65589.5(d) (builder's remedy). For more information on the builder's remedy, see generally VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., THE BUILDER'S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES (2026).

41. CONN. GEN. STAT. § 8–30g (2025).

42. *Municipal Affordable Housing Plans*, CONN. OFF. OF POL'Y & MGMT. (n.d.), https://portal.ct.gov/opm/igpp/org/municipal-plans/municipal-affordable-housing-plans?language=en_US

43. See H.B. 8002, 2024–2025 Gen. Assemb., Nov. Spec. Sess. § 5 (Conn. 2025).

allocation framework to the state’s builder’s remedy statute.⁴⁴ Rather, Connecticut provides financial incentives for compliance: towns that satisfy the planning requirements qualify for the Housing Growth Program grant HB 8002 establishes.⁴⁵

Under the 2025 legislation, the Connecticut Office of Policy and Management (OPM) identifies statewide and regional housing needs, and regional councils of governments (COGs) then use this information to assign recommended affordable housing goals to municipalities.⁴⁶ Each locality’s housing growth plan must include strategies for promoting more diverse housing types (similar to the menu of policies other states require localities to choose from), an inventory of its developable land, an analysis of infrastructure needed to meet its goal, and identification of zones and parcels that could be developed through a “summary review” process.⁴⁷ Local governments must submit their plans to the COGs, receive approval of the plan from the OPM, and submit annual progress reports.⁴⁸

HB 8002 also makes it easier for localities with a compliant housing growth plan to access a four-year moratorium from the builder’s remedy.⁴⁹ Municipalities that fail to submit a plan by the deadline are ineligible to apply for the moratorium.⁵⁰ While the state municipal or regional housing goals HB 8002 requires are somewhat separate from (and do not alter) the existing 10 percent affordability target required for Connecticut towns to avoid the builder’s remedy process, the eligibility for the temporary safe harbor from the remedy is contingent on towns meeting the new planning requirements.⁵¹

Massachusetts

Massachusetts’ long-standing Chapter 40B law makes any municipality where less than 10 percent of the year-round housing stock is classified as affordable subject to a builder’s remedy. Similar to Connecticut, Massachusetts provides temporary access to safe harbor from the remedy for localities that have adopted a plan to meet their housing production goal and have demonstrated progress towards that goal.⁵²

44. For more on state builder’s remedy laws, see generally VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., *THE BUILDER’S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES* (2026).

45. See, e.g., CONN. GEN. STAT. § 8-13jj(b) (2025) (tying grant eligibility to compliance with a local or regional housing growth plan).

46. *Id.* § 7. Plan requirements for lower-income towns differ and focus on preserving existing affordable housing and preventing the displacement of existing residents. These towns are exempted from housing targets assigned by regional COGs under HB 8002. Conn. H.B. 8002 § 5-e.

47. “Summary review” is based on objective criteria and does not require a public hearing. CONN. GEN. STAT. § 8-2r (2024).

48. Conn. H.B. 8002 § 5.(2025)

49. See Conn. H.B. 8002, sec. 41, § 8-30g(l)(4)(B) (allowing municipalities with a compliant housing growth plan to qualify for a moratorium at a reduced threshold of 1.75% of dwelling units, instead of 2%).

50. CONN. GEN. STAT. § 8-13bb(l)(2) (2026).

51. This would suggest that towns that already have met the state’s requirements for ensuring 10 percent of housing is affordable would not be subject to the builder’s remedy, regardless of their compliance with the housing growth plans, but those who have not, must adhere to this new standard to access safe harbor through a temporary moratorium. Those who are not currently in safe harbor can earn points toward the moratorium through various other provisions in H.B. 8002, such as adopting a “transit-oriented” district.

52. MASS. GEN. LAWS ch. 40B, §§ 20 para. 4, 21, 23 (2026). 760 MASS. CODE REGS. 56.03(1)(a)–(b), (3), (4).

The builder's remedy allows developers proposing a project that contains low or moderate income housing to seek a single comprehensive permit through the Zoning Board of Appeals (rather than having to follow the usual procedure of seeking permits from a variety of different agencies).⁵³ If the Zoning Board of Appeals denies the application or imposes conditions that would render the proposed development "uneconomic" the developer can appeal to the Housing Appeals Committee of the Executive Office of Housing and Livable Communities (EOHLC).

To avoid the builder's remedy, Massachusetts allows localities to adopt a housing production plan (HPP) and show progress towards achieving the housing goals in that plan. The plan must contain the following elements: a comprehensive housing needs assessment; numerical annual housing goals that would increase the locality's number of eligible housing units by at least 0.50 percent of its total units in each year covered by the HPP until the 10 percent minimum is met; and implementation strategies.⁵⁴ If approved by the EOHLC the HPP is valid for five years. The locality can ask the EOHLC to certify its compliance with an approved HPP if it has produced 0.50 percent of its affordable housing goals in a calendar year. That certification gives the locality a one-year period (two years if the locality has produced 1.0 percent of its goals) in which developers' ability to secure a builder's remedy is limited.⁵⁵

Massachusetts recently added a new planning mandate to promote transit-oriented development. The "MBTA Communities Act" requires 177 cities and towns served by or located near stops for the Massachusetts Bay Transportation Authority (MBTA) to establish at least one zoning district of reasonable size that allows multifamily housing as-of-right.⁵⁶ While housing and transportation planning in many states continue to be siloed, this law is one example of how state legislatures are attempting to better integrate pro-growth planning policy with access to transit.⁵⁷

53. MASS. GEN. LAWS ch. 40B, §§ 22–23 (2026). Massachusetts law deems regulations presumptively "consistent with local needs," and therefore exempt from the builder's remedy, if passed by a municipality where 10 percent or more of total housing units are low- to moderate-income housing. *Id.* § 20.

54. 760 MASS. CODE REGS. 56.03(4) (2026).

55. *Id.* at (4)(f).

56. MASS. GEN. LAWS ch. 40A, § 3A (2026).

57. Regional planning organizations are the primary actors in transportation. As we demonstrate in this brief, COGs are increasingly being mandated by states to play a role in housing planning. A recent survey of metropolitan governance and planning organizations found less than 20% of metropolitan governance and planning organizations report having at least "fairly integrated" housing and transportation planning. See Lydia Lo & Yonah Freemark, *Planning for Housing in a Regional Context: Results from a Survey of Metropolitan Governance and Planning Organizations* 13–14 (Urban Inst. 2025).

New Jersey

Under the Mount Laurel doctrine and 2024 amendments to the state Fair Housing Act, localities in New Jersey must adopt a housing element and fair share plan to show how they will meet their housing production targets and avoid a potential builder's remedy. The state legislature directed the Department of Community Affairs to periodically calculate both regional housing needs and the present and prospective fair share of those needs for each municipality in accordance with statutory formulas.⁵⁸ The localities themselves, however, have the ultimate responsibility to determine their fair shares. Localities must take the Department's calculations into account and follow the statutory formulas.⁵⁹ The municipalities must adopt a housing element and fair-share plan every 10 years by a statutory deadline.⁶⁰

The 2024 amendments set up an Affordable Housing Dispute Resolution Program to address any challenges to a municipality's housing element and fair share plan.⁶¹ If challenges are rejected, or if there is no challenge, the Program will issue a certificate of compliance after conducting a "limited review" of the plan's consistency and compliance with Mt. Laurel and the state's Fair Housing Act and of whether the plan enables the municipality to satisfy its fair share obligation and requirements about unit types.⁶²

Oregon

Since 1975, Oregon has had state guidelines for urbanization and housing planning and has included housing in its statewide planning goals.⁶³ In 2023, Oregon passed HB 2001, directing the Oregon Department of Administrative Services to conduct an annual housing needs analysis and estimate needs for the state and its regions and for municipalities. The analysis must project housing needs for the following 20 years based upon such factors as current housing underproduction, homelessness data, projected population and job growth, converted or new vacation or second homes, and the equity of the statewide distribution of housing across specified income levels.⁶⁴ The Department then sets housing production

58. S. Burlington Cnty. NAACP v. Mount Laurel Twp. (*Mount Laurel I*), 336 A.2d 713 (N.J. 1975), *cert. denied*, 423 U.S. 808 (1975); S. Burlington Cnty. NAACP v. Mount Laurel Twp. (*Mount Laurel II*), 456 A.2d 390 (N.J. 1983); Assemb. B. 4, 221st Leg., Reg. Sess. (N.J. 2024) (enacted).

59. N.J. REV. STAT. §§ 52:27D-304.1(f)(1)(a)(2025). For more on how municipalities must calculate their fair share see David N. Kinsey et al., Fair Share Hous. Ctr., Developing Effective Housing Plans in the Fourth Round 9-11 (2024), <https://media.fairsharehousing.org/media/Round-4-Guide-revised-12-16.pdf>. "Present need" refers to the existing deficient housing *Id.* at 10-11. "Prospective need" refers to the projected housing need of anticipated new low- and moderate-income households. *Id.* at 9-10.

60. *Id.* at § 52:27D-304.1(3)(f)(2)(a). A minimum of 50% of the affordable housing units must be available to families with children, and a minimum of 25% of the affordable housing units must be rental units, of which half must be available to families with children. *Id.* at § 52:27D-311(l). Age restricted units may not satisfy more than 30% of a municipality's housing obligation. *Id.*

61. The Affordable Housing Dispute Resolution Program sets a procedure for challenges against municipalities for failing to comply with the Fair Housing Act or Mount Laurel Doctrine. See *New Affordable Housing Law Delivers Results: Nearly All NJ Towns Resolve Challenges by Dec. 31 Deadline*, FAIR SHARE HOUS. CTR., <https://www.fairsharehousing.org/press-release/new-affordable-housing-law-delivers-results-nearly-all-nj-towns-resolve-challenges-by-dec-31-deadline/>.

62. N.J. REV. STAT. § 52:27D-304.1(f)(2)(b) (2025).

63. See OR. LAND CONSERVATION & DEV. COMM'N, *Order Adopting Statewide Goals and Guidelines*, LCDC Order No. 1, at 29 (Dec. 27, 1974) (Goal 10: Housing).

64. H.B. 2001, 82d Legis. Assemb., Reg. Sess. § 2(1) (Or. 2023), <https://olis.oregonlegislature.gov/liz/2023r1/Measures/Analysis/HB2001> (codified at OR. REV. STAT. §§ 184.451-.455 (2025)).

targets for each city with a population of at least 10,000 and for each unincorporated urbanized area within the metro urban growth boundary for either six or eight years (depending on where the locality is).⁶⁵ Similar to California, Oregon cities must create an inventory of buildable land and amend their comprehensive plan whenever the allocated target exceeds available zoned capacity.⁶⁶ Oregon tasks the Land Conservation and Development Commission with issuing enforcement orders for noncompliance, which can include imposing model ordinances, reducing development review timelines, or forfeiting grant funds.⁶⁷

Vermont

Vermont has a long history of state oversight of land use planning and development.⁶⁸ The Vermont Department of Housing and Community Development sets a statewide housing target, divides that among the state's 11 regional planning commissions, and then allocates that regional target to local governments. Vermont requires regional plans, as well as plans voluntarily submitted by municipalities, to include a set of recommended actions to satisfy the established needs.⁶⁹ Recently passed legislation requires that “planned growth areas” provide opportunities for infill development and “redevelopment that is needed to meet the regional and municipal housing targets”.⁷⁰

Washington

Washington's Growth Management Act (GMA) provides a framework for comprehensive planning that includes a mandatory housing element.⁷¹ The GMA has long included growth targets.⁷² House Bill 1220, passed in 2021, strengthened the role of the targets by requiring local governments to do more than just “encourage” affordable housing, and instead “planning for and accommodating” housing affordable to all income levels.⁷³ The Washington State Department of Commerce, using twenty-year population projections from the Office of Financial Management, estimates housing need by income level for each

65. OR. REV. STAT. § 184.455 (2025).

66. *Id.*

67. *Id.* at § 197.335(1), (6).

68. 10 VT. STAT. ANN. §§ 6001–6093 (2025).

69. VT. STAT. ANN. tit. 24, § 4348a(a)(9) (2025). While compliance with the state's planning requirements is voluntary for municipalities, only those municipalities that have adopted plans that are current have the authority to zone or impose subdivision or other land use regulations. A municipality that has adopted a plan that is consistent with state goals and has been approved by the regional planning commission also may levy impact fees, is entitled to additional funds from the state's municipal and regional planning fund, is exempt from some reviews, and receives deference from the state on some matters. *Id.*, at § 4350, 4401.

70. S.B. 325, 2025–2026 Leg., Reg. Sess. § 13 (Vt. 2026) (enacted), <https://legislature.vermont.gov/bill/status/2026/S.325> (amending VT. STAT. ANN. tit. 24, § 4348a(a)(12)(B)(vi)).

71. Wash. Rev. Code §§ 36.70A.020 (4) (2026).

72. Countywide planning policies govern the allocation of housing and employment growth targets among the local jurisdictions, see *id.*, § 36.70A.115.

73. Act of May 12, 2021, ch. 254, § 1(4), Wash. Sess. Laws 2 (codified as amended at Wash. Rev. Code § 36.70A.020(4) (2026)).

county in the state.⁷⁴ Each county and its cities then allocate the housing need among themselves.⁷⁵ Counties and cities planning under the GMA must ensure that their plans and land use regulations provide sufficient land capacity to accommodate their allocated housing need.⁷⁶

Most recently, the state legislature adopted Senate Bill 5148 to provide a voluntary state review of local housing elements to ensure their compliance with the GMA.⁷⁷ The law also allows the Department of Commerce to select up to ten cities or counties annually for a mandatory compliance review based on certain criteria, including (but not limited to) the fact that the city or county has not planned for and accommodated its allocated housing need.⁷⁸ If a city or county is found not to be in compliance, it has 120 days to amend its housing element; if the amended plan is still not compliant, the locality's ability to deny or impose conditions on eligible affordable housing developments is significantly limited.⁷⁹

Evidence on the impacts of these reforms

There are limited empirical studies on the effects of the reforms outlined in this brief, such as incentives to align plans with local housing needs or requirements that localities choose from a menu of zoning reforms. The economic literature shows that generally upzoning leads to greater housing production over time.⁸⁰ It may be reasonable to infer from that evidence that states with planning requirements and production targets that require upzoning and other changes to local land use regulations would theoretically be the most effective at encouraging housing development. We do not yet have enough evidence, however, to determine whether planning itself has an effect on production. Two evaluations of state planning frameworks from California reveal the challenges of using planning to anticipate where housing will be developed and the need for rezonings to meet housing production targets.⁸¹

74. Wash. State Dep't Com., *Housing for All Planning Tool (HAPT)*, Updating GMA Housing Elements, <https://www.commerce.wa.gov/growth-management/housing-planning/housing-guidance/>.

75. WAC § 365-196-305, -310.

76. Wash. Rev. Code § 36.70A.115 (2026)

77. S.B. 5148, 69th Leg., Reg. Sess. (Wash. 2025) (codified at WASH. REV. CODE § 36.70A.835 (2026)). The Department of Commerce reviews the submitted plans in light of requirements set by other provisions of the GMA, other housing and environmental statutes and Department regulations. WASH. REV. CODE § 36.70A.835(7)(a)(i)–(x).

78. S.B. 5148, 69th Leg. Reg. Sess. (Wash. 2025) (codified at WASH. REV. CODE §§ 36.70A.835(9)(a)(i)–(iii)).

79. WASH. REV. CODE §§ 36.70A.030(13), 36.70A.835(9)(b) (2026).

80. Vicki Been, Ingrid Gould Ellen & Katherine O'Regan, *Supply Skepticism Revisited*, 35 HOUS. POL'Y DEBATE 96, 106 (2025), <https://doi.org/10.1080/10511482.2024.2418044>.

81. SIDHARTH KAPUR ET AL., UCLA LUSKIN SCH. OF PUB. AFFS., WHAT GETS BUILT ON SITES THAT CITIES “MAKE AVAILABLE” FOR HOUSING? (2021), <https://escholarship.org/uc/item/6786z5j9>; Paavo Monkkonen et al., *Do Land Use Plans Affirmatively Further Fair Housing? Measuring Progress*, 90 J. AM. PLAN. ASS'N 247, 250 (2024), <https://doi.org/10.1080/01944363.2023.2213214>.

State planning regulations requiring local governments to assess their housing market conditions using readily available data open local governments up to scrutiny (and potential legal and enforcement challenges) about their progress toward meeting statewide housing goals.⁸² Evidence from states with builder’s remedy policies suggests that those policies can be an effective tool against localities reluctant to grow their housing supply and produce their fair share of affordable housing. Enforcement tools tend to be blunt instruments, however, and significant variations in local conditions across a state may require a more nuanced approach.⁸³ Further, existing research can’t isolate whether increases in production are due to the plans or allocation of production targets themselves, the use of a builder’s remedy, or a combination of all of these policies.⁸⁴

Pro-housing advocates argue that state requirements for local planning that have relatively weak oversight tools and don’t come with technical assistance to help localities comply with the requirements will likely fail to meet the policy’s goals.⁸⁵ Researchers also point out that tying plan compliance to actual housing production is more likely to generate new housing.⁸⁶ State planning reforms that identify exactly which regions of the state need significantly more housing, include robust oversight and enforcement tools, and require underperformers to actually increase their targets and their zoned capacity seem to be the most promising.

A 2021 study analyzed almost 100 cities in the San Francisco Bay Area, comparing housing site inventories prepared for the 2014-2015 housing element cycle to permitting data from 2015-2019. The study assessed how much housing was actually developed on sites identified as likely to meet the cities’ allocated housing needs. The median city was on track to permit housing on fewer than 10 percent of the sites listed in their plan. The median city achieved 60 percent of its housing targets, but were not on the

82. Jenny Schuetz, *How Can State Governments Influence Local Zoning to Support Healthier Housing Markets?*, 25 CITYSCAPE 73, 82 (2023) (“Understanding current housing market conditions is an essential first step before developing or altering a statewide housing policy. . . Simple descriptive statistics using publicly available data from the U.S. Census Bureau can provide a snapshot of housing conditions for cities, towns, and counties.”).

83. Schuetz also found the housing shortage is often not a statewide phenomenon. *Id.* at 84 (“Identifying which local governments, if any, produce too little housing can help guide policies that aim to boost production. In most states, land use regulations are not a binding constraint on new housing in all localities (or not to the same degree). Identifying places where regulations create the largest distortions would allow state governments to focus additional efforts (fiscal carrots and sticks or preempting zoning) where such policies would have the largest effect.”).

84. For more information on the builder’s remedy, see generally VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., *THE BUILDER’S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES* (2026).

85. Angela Tiangco, *Housing Targets Review: Comparing other Housing Target Programs with the Virginia Housing Targets Bill*, at 47 (November 2025), <https://drive.google.com/file/d/126ocp6HvqH3Fn7DsoZjG1MJVvSkse7US/view>. (“Findings from comparable programs across other states—such as California’s Housing Element Law, Massachusetts’ Chapter 40B, and New Jersey’s Mount Laurel Doctrine—reveal that strong enforcement mechanisms, proactive state guidance, and realistic, data-informed targets are vital for success. Programs without consistent oversight or those lacking technical support for localities will likely fall far short of their intended outcomes, as illustrated by the severe underutilization of the original Affordable Housing Planning and Appeals Act (AHPAA) in Illinois.”).

86. Jenny Schuetz, *How Can State Governments Influence Local Zoning to Support Healthier Housing Markets?*, 25 Cityscape 73, 81 (2023) (arguing that state oversight on housing plans can work when paired with quantitative production targets, but “[t]ying carrots and sticks to plans but not housing production is likely to be ineffective at changing outcomes”).

sites in its inventory.⁸⁷ The authors recommend that cities rezone sites in their housing inventory to accommodate capacity in the order of “10 times more” than the sites’ current zoning.⁸⁸ They also suggest that the state make cities include every single parcel zoned for residential use in their site inventory and require regional councils to develop methodologies for predicting the probability that each site will be developed.⁸⁹

Similarly, another study examined whether California cities with compliant housing plans that committed to rezone did in fact rezone and the extent to which the rezoning was a function of any increase in their local housing targets. This study was conducted following reforms to prevent historically exclusionary jurisdictions from incorporating relatively low housing production targets into their plan, despite the fact that they likely have a much larger demand for housing.⁹⁰ In the 93 Southern California municipalities with compliant plans, the authors found that an increase in housing targets was associated with a city conducting more rezonings. They also found a connection between places with higher home values and a commitment to rezoning, presumably due to high demand in these markets along with the lack of existing capacity in the current zoning to meet their allocated need.⁹¹ This evidence supports the need for statewide planning processes to provoke zoning reform. The authors concluded that the reforms to California’s system address some of the strategic maneuvers cities used to avoid more growth and ultimately unlock housing production in these areas. An Urban Institute case study of housing target policies in California, Oregon, and Massachusetts came to similar conclusions. The authors’ research and interviews with key stakeholders in each state led them to conclude that states should avoid basing targets only on past housing production, which advantages the jurisdictions that have historically avoided development.⁹² The authors instead suggest that targets should take into account both the current rate of underproduction and estimates of future housing demand.

Overall, the evidence shows that merely rewarding municipalities for completing a plan may be ineffective. Instead, states likely will need to prescribe a methodology for establishing local production targets based on current unmet housing needs and market conditions. Then, the state will need to direct localities to show where that residential development will be allowed and to incorporate specific regulatory changes

87. SIDHARTH KAPUR ET AL., UCLA LUSKIN SCH. OF PUB. AFFS., WHAT GETS BUILT ON SITES THAT CITIES “MAKE AVAILABLE” FOR HOUSING? 15 tbl. 1, 17 tbl. 2 (2021), <https://escholarship.org/uc/item/6786z5j9>.

88. *Id.* at 22.

89. *Id.* at 22, 24.

90. S.B. 828, 2017–2018 Leg., Reg. Sess. § 3 (Cal. 2018) (amending CAL. GOV’T CODE § 65584.04), https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB828; Assemb. B. 1771, 2017–2018 Leg., Reg. Sess. § 3 (Cal. 2018) (amending CAL. GOV’T CODE § 65584.04), https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1771.

91. Paavo Monkkonen et al., *California’s Strengthened Housing Element Law: Early Evidence on Higher Housing Targets and Rezoning*, 25 CITYSCAPE 119, 135 (2023), <https://escholarship.org/uc/item/7fb2c66k>.

92. CHRISTINA P. STACY, ANIKET MEHROTRA & LEAH HENDEY, URB. INST., ADDRESSING HOUSING SUPPLY CHALLENGES THROUGH TARGET SETTING: POLICY LESSONS AND IMPLEMENTATION CONSIDERATIONS 3–4 (Sep., 2025), <https://www.urban.org/research/publication/addressing-housing-supply-challenges-through-target-setting>.

into their land use plans to ensure that development is actually feasible in those areas. Ultimately, oversight and enforcement are key to the effectiveness of state planning mandates. The following section will explore key considerations for policymakers designing or reforming land use planning frameworks, drawing on features in the planning requirements of states covered in this brief.

Considerations for policymakers

Clarify policy priorities and align with market context

States considering planning mandates should think carefully about what they are really trying to achieve and how to prioritize goals such as increasing overall housing supply, adding to the stock of income-restricted units, or ensuring that it is distributed fairly.

All of the states with a housing production target require planning for the unmet need for housing for low- to moderate-income households.⁹³ Some states, however, require targets and reporting for housing supply in general. California and Oregon, for example, require cities to plan for the total amount of housing required to fill current and future needs for housing of all income levels, and for housing of all types – from mobile homes and emergency shelters to housing for seniors and agricultural workers.⁹⁴ States with high-demand housing markets where housing at all income levels is needed might want to follow their lead and expand the scope of their planning requirements. When planning for affordable housing or housing more generally, states should account for local market conditions and consider how the availability of subsidies may affect the feasibility of the housing targets.

Balance growth with fair housing

If affordable housing in high-demand areas with little or no affordable housing is the goal, some causal studies show that state mandates, when paired with a strong enforcement tool, such as the builder's remedy, are likely to be most effective because these localities are incentivized to produce more affordable housing to access safe harbor from the builder's remedy.⁹⁵

If the goal is to promote more diverse cities and neighborhoods, the evidence shows that fair housing planning frameworks in California have had limited impacts, and policymakers should anticipate that some local governments will plan to increase density and develop affordable housing only in communities

93. Cal. Gov't Code § 65583(c)(2)(A) (2026) (California); CONN. GEN. STAT. § 8-23(e)(1)(G), (2)(I) (2026) (Connecticut); MASS. GEN. LAWS ch. 40B, § 20 para. 4 (2026) (Massachusetts); OR. REV. STAT. § 184.453(4) (2026) (Oregon); N.J. REV. STAT. § 52:27D-304.2(1) (2025) (New Jersey); R.I. GEN. LAWS ANN. § 45-22.2-6(b)(6) (2026) (Rhode Island); WASH. REV. CODE § 36.70A.070(2)(d)(i) (2026) (Washington).

94. See CAL. GOV'T CODE § 65583(a)(1) (2026); OR. REV. STAT. §§ 184.451(1)(a)

95. Spencer M. Cowan, *Anti-Snob Land Use Laws, Suburban Exclusion, and Housing Opportunity*, 28 J. URB. AFFS. 295, 307 (2006), <https://doi.org/10.1111/j.1469-9906.2006.00293.x>; Nicholas J. Marantz & Huixin Zheng, *State Affordable Housing Appeals Systems and Access to Opportunity: Evidence from the Northeastern United States*, 30 HOUS. POL'Y DEBATE 370, 388 (2020), <https://doi.org/10.1080/10511482.2020.1712612>.

that already have lower-income populations, if at all.⁹⁶ Although state planning requirements could be an avenue to encourage local governments to address historic inequities, more experimentation and evaluation is needed to understand how best to structure and enforce those fair housing requirements to ensure that they are effective.⁹⁷ Legal scholars have used the example of Connecticut’s builder’s remedy to point out that achieving the fair housing goals of racial and economic integration may require more subsidies and ultimately disincentivize developers from building affordable projects.⁹⁸ Other incentives might be necessary to encourage more affordable housing construction across the state. States must consider which of their localities have a market strong enough to support tools such as inclusionary zoning.⁹⁹ Some jurisdictions have stronger markets that can support inclusionary zoning. As noted in the above discussion of Massachusetts’s recent reforms to local zoning,¹⁰⁰ state-level planning laws are also increasingly centering transit-oriented development as a strategic state housing goal.¹⁰¹

Setting need frameworks

Before a state decides to allocate specific production targets to localities, policymakers should examine the different approaches states use to determine and quantify the current and projected future housing needs across a state. Approaches vary from highly prescriptive, top-down systems to frameworks that largely delegate the analytic tasks to local governments.¹⁰²

Current and projected demand

States must decide how to assess existing unmet needs (e.g. using data on overcrowding, vacancy rates, cost burdens and the like) and how best to calculate future housing needs based upon projected growth. The methodology employed is critical to ensure the framework is actually accomplishing the state’s goals for the planning requirement. Calculating future needs using only past growth trends, for example,

96. Paavo Monkkonen et al., *Do Land Use Plans Affirmatively Further Fair Housing? Measuring Progress*, 90 J. AM. PLAN. ASS’N 247, 250 (2024), <https://doi.org/10.1080/01944363.2023.2213214>

97. Charter counties in Maryland must incorporate Affirmatively Furthering Fair Housing (AFFH) into their comprehensive plans and housing elements. H.B. 17, 2024 Leg., Reg. Sess. (Md. 2024). The Maryland Department of Planning provides a “self-assessment” tool for local jurisdictions on housing planning and fair housing in small jurisdictions. *Self-Assessments*, MD. DEPT OF PLAN., <https://planning.maryland.gov/Pages/OurWork/PBP/housing-element-mg/housing-planning-self-assessments.aspx> (last visited July 6, 2026). Similarly, Washington’s requirements under H.B. 1220, 67th Leg., Reg. Sess. (Wash. 2021) (codified at WASH. REV. CODE § 36.70A.070(2)), for the housing element of local comprehensive plan direct localities to identify and begin to undo racially disparate impacts, exclusion and displacement. The State Department of Commerce has provided guidance to support jurisdictions in this effort. WASH. STATE DEPT OF COM., GUIDANCE TO ADDRESS RACIALLY DISPARATE IMPACTS (final version 2023), <https://deptofcommerce.app.box.com/s/1l217l98jattb87qobtw63pkplzhxege>.

98. Terry Tondro, *Connecticut’s Affordable Housing Appeals Statute: After Ten Years of Hope, Why Only Middling Results?*, 23 W. NEW ENG. L. REV. 162–163, 115–164 (2001).

99. Jenny Schuetz, Rachel Meltzer & Vicki Been, *Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in the United States*, 48 URB. STUD. 297 (2011).

100. MASS. GEN. LAWS ch. 40A, § 3A (2026).

101. UTAH CODE ANN. § 10–21–201 (3)(a)(iii)(F–G) (2026); Assemb. B. 4, 221st Leg., 2024–2025 Sess. (N.J. 2024) (enacted). Grants credits given towards the fair share obligation for housing near transit or commercial developments.

102. For a more comprehensive discussion of data sources and methodological differences between how states calculate housing needs to allocate a housing target, see Christina Stacy, Aniket Mehrotra & Leah Hendey, *Addressing Housing Supply Challenges through Target Setting: Policy Lessons and Implementation Considerations: Appendixes* (2025), <https://www.urban.org/research/publication/addressing-housing-supply-challenges-through-target-setting> [hereinafter Stacy, Appendixes].

without an independent measure of demand, can understate true housing need.¹⁰³ In a recent case study of the Oregon Housing Needs Assessment, one interviewee stated that earlier versions of the state’s methodology overemphasized job centers, which led to a suburb of Portland being allocated a larger housing need than the city of Portland, prompting an adjustment to how these factors are weighed to avoid overburdening smaller jurisdictions. However, an earlier version of the methodology had also created lower targets for areas which historically underproduced housing, so calculations were also adjusted to allocate more housing and more affordable housing to these cities.¹⁰⁴ A determination of future housing need and demand should also account for the current undersupply of housing in high-opportunity areas or areas that are part of a broader metropolitan region.

States must also decide how to prioritize the preservation of existing affordable units alongside the development of new housing. California incorporates the potential loss of subsidized housing in its calculations, which allows local governments that make efforts to preserve this housing to get credit toward their allocation. New Jersey categorizes local targets by “present need” which represents a housing rehabilitation obligation, and “prospective need” for new construction. Municipalities can get credit toward these rehabilitation targets by funding the rehab or repair of distressed properties or by extending the deed restrictions on existing affordable housing.¹⁰⁵ If the goal of the policy is not solely to increase supply everywhere, but also to preserve more subsidized and affordable housing, policymakers may want to consider how to factor existing income-restricted housing, and the risk of loss of these units, into targets for specific localities.

Other states have begun incorporating factors which may be more difficult to quantify but are relevant in assessing potential limitations for future development. These factors include infrastructure needs, natural disasters and climate-related risk,¹⁰⁶ water supply in different regions of the state,¹⁰⁷ and estimates of the portion of new construction which will be used as a second home or short-term rental.¹⁰⁸ These examples

103. See Monkkenen, *supra* note 96, at 123 (asserting that prior to the 2018 reforms, the system in California conflated low effort by local governments to plan for and permit more housing with low demand).

104. STACY, APPENDIXES, *supra* note 92, at 26.

105. DAVID N. KINSEY ET AL., FAIR SHARE HOUS. CTR., DEVELOPING EFFECTIVE HOUSING PLANS IN THE FOURTH ROUND, 16, 22 (2024), <https://www.fairsharehousing.org/wp-content/uploads/2024/12/Developing-Effective-Housing-Plans-In-The-Fourth-Found.pdf>.

106. See, e.g., CAL. GOV’T CODE § 65584.04 (2026) (requiring regions to factor in wildfire and climate impact in their methodology for how regional housing needs are allocated).

107. See, e.g., COLO. REV. STAT. § 30-28-106(3)(a.5) to (a.7) (2024) (requiring that county and regional master plans contain a water-supply element and estimate a range of water supplies and facilities needed to support the public and private development described in the master plan).

108. NATE LANTIERI & LESLIE BLACK-PLUMEAU, VT. HOUS. FIN. AGENCY, VERMONT HOUSING NEEDS ASSESSMENT 2025-2029 APPENDIX 1: STATEWIDE AND REGIONAL HOUSING TARGETS 12 (2024), https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/Housing/Housing-Needs-Assessment/2025-2029/Housing-Targets-Appendix.pdf (“In addition to meeting demand from year-round households, all housing target scenarios include homes needed to normalize vacancy rates, replace homes lost from the stock, and to replace those likely be used as seasonal homes.”); WASH. ADMIN. CODE § 365-196-410(2)(c)(iv) (2026) (outlining technical recommendations for the housing needs analysis, and noting that counties and cities should consider the housing needed to address patterns of second homes in destination communities).

illustrate the importance of crafting a methodology which weighs relevant factors to determine the local housing need, including the constraints to growing the housing supply in the given market context.

Analyze different income tiers

Most of the states requiring localities to conduct a housing needs assessment mandate that the analysis be broken down by the number of available homes affordable to different levels of low- or moderate-income households. Even states that do not allocate a specific production target, such as Arizona, Colorado, and Florida.¹⁰⁹ Almost all states with a uniform production target (Connecticut, Rhode Island, Massachusetts) mandate a percentage of the total stock that should be affordable to households earning less than a defined income.¹¹⁰ States with a tailored target (California, New Jersey, Oregon) typically categorize allocations by how much housing is needed at each level of affordability, although policymakers may want to consider additional factors, such as whether the housing is rental or owner-occupied.¹¹¹

While targets should accurately reflect the need for affordable housing, policymakers should take into account that affordable housing in most jurisdictions will require either government subsidies and/or cross-subsidy from market rate housing in mixed-income buildings. Policymakers should avoid setting targets that are unrealistic because subsidies are too limited, but, they should also set targets that reflect the true need and expand subsidies to meet the need where possible. In addition, states can enable and encourage localities to use other forms of subsidy (such as tax exemption and abatement programs or revolving loan funds) and to think creatively about how to lower the cost of construction (by relaxing inefficient land use or building code regulations).

109. ARIZ. REV. STAT. § 9-469(A)(4) (2025) (requiring municipal housing needs assessment outline needs by income levels); COLO. REV. STAT. § 24-32-3702 (2025) (requiring regional housing need estimates to approximate existing housing stock, housing need by income/type, household counts, and job counts by wage level for each locality in the region); FLA. STAT. § 163.3177(6)(f) (2025) (requiring housing element strategies to be based on data and analysis of housing needs, including housing stock characteristics and substandard unit counts, and mandating that future household projections by size, income, and age be derived from validated population projections to determine minimum housing needs).

110. MASS. GEN. LAWS ch. 40B, §§ 20–23 (2025); R.I. GEN. LAWS §§ 45-53-1 to -10 (2025); CONN. GEN. STAT. § 8-30g (2025). For Connecticut, this includes mobile manufactured homes located in manufactured home developments. CONN. GEN. STAT. § 8-30g(k) (2025).

111. CAL. GOV'T CODE § 65584.04(e)(1) (2026); Assemb. B. 4, 221st Leg., 2024-2025 Sess. §§ 6-7 (N.J. 2024) (codified at N.J. REV. STAT. §§ 52:27-D304.2 to 3 (2025)); H.B. 2001, 82d Legis. Assemb., Reg. Sess. §§ 2, 27 (Or. 2023) (codified as amended at OR. REV. STAT. § 197A.348 (2025)).

State versus local need calculations

States vary in which entity calculates the regional housing need to be distributed to the region's local government and in whether the need is then translated to a production target. In California and Washington, a state-level agency calculates needs across the state with some opportunity for allocation by regional or county governments. In Arizona and New Jersey, localities set their own targets based on a state-defined formula; in Colorado, targets are developed collaboratively with regional and local input. Each approach trades off statewide consistency against a desire to accommodate local context and encourage collaboration.

Allowing localities to determine their own targets may be less fraught politically because it gives localities more control, but that strategy may be ineffective in the jurisdictions that historically have failed to plan for and permit sufficient levels of housing, especially for lower income households. Frameworks requiring both a state-level and local calculation of need risk disagreement on the target, particularly when the methodology and data sources used are inconsistent. Policymakers should consider whether the risk of duplicate efforts and the gridlock that can come with inconsistent assessments by different levels of government outweigh the political risks associated with the state- or regional-level calculations and allocation.

Another consideration is how much detail states should actually codify in the law rather than leave up to the rulemaking and implementation undertaken by agencies. In Oregon, interviews with key stakeholders reflect that they “did not put too many details in statute but attempted to prevent political interference by leaving the calculations to economists to maintain neutrality and keep them far from political negotiation.”¹¹²

Link incentives to progress

States without production targets tend to focus on requiring localities to enumerate their goals clearly and update plans regularly. Policymakers should think carefully about how to define when a locality achieves compliance with planning requirements. Many states define compliance based upon the comprehensiveness or quality of the plans. States like Utah have taken an incentive-based approach, prioritizing funds for municipalities with compliant moderate-income housing plans which adopt enumerated strategies.¹¹³ However, it will be important in the long-term to evaluate the impact of these reforms and connect incentives to actual progress towards state housing goals.

If compliance is not tied to actual growth of housing production or to quantitative targets, state policy should at least require local governments to report on their progress in meeting targets and in adopting

112. STACY, *supra* note 92, at 9.

113. UTAH CODE ANN. § 10-21-201 to -202 (2026).

housing policies, as research suggests that the association between plan “quality” and the actual production of low-income housing is limited.¹¹⁴ States with production targets should ensure that incentives for local governments are connected to demonstrated progress toward these targets.

In other words, policymakers should ensure that planning requirements do more than just identify needs and induce localities to adopt general strategies. Rather, if the goal is to achieve more supply, the planning process should lead to changes in zoning to address the unmet need and make it easier to build more housing in areas that can accommodate growth.¹¹⁵ Though more research is needed, there is some evidence that state incentives for localities to voluntarily upzone have some success.¹¹⁶

Policymakers who are considering combining the “menu-based” reform approach with some mandated assessment of local housing needs may want to tie rewards to whether localities demonstrate progress (within a reasonable time-frame given that research shows upzoning takes time to yield results).¹¹⁷ One approach could be allowing jurisdictions to adopt zoning reforms from a state-approved list but holding them to revising their plans after a certain number of years if there is no evidence that these reforms have led to more housing production in the localities, the market ultimately determines production, so a local jurisdiction may fail to induce production even if it adopted the same pro-housing measures that resulted in more production in another jurisdiction.

Uniform versus tailored housing targets

For states that set a target for how much housing localities should be permitting, percentage-based targets have the advantage of being clear and predictable. This clarity helps to reduce disagreement between local governments and the state over the determination of their tailored housing obligations, conflicts that were common in New Jersey and California before the recent changes in their housing allocation

114. Darrel Ramsey-Musolf, *According to the Plan: Testing the Influence of Housing Plan Quality on Low-Income Housing Production*, URB. SCI., Dec. 22, 2017, at 16, <https://doi.org/10.3390/urbansci2010001>.

115. CAL. GOV'T CODE §§ 65583(c) (2026) requires that localities implement a rezoning program if their housing inventory cannot accommodate the city's allocation of the regional housing need. MASS. GEN. LAWS ch. 40A, § 3A (2024) requires MBTA communities to establish a compliant multifamily zoning district. COLO. REV. STAT. §§ 29-35-201 to -210 (2025) requires a locality deemed a “Transit Oriented Community” to meet certain density requirements based on its “housing opportunity goal”. Nebraska requires cities to adopt an affordable housing action plan or otherwise allow the development of middle housing in all residential districts. NEB. REV. STAT. ANN. § 19-5505. MONT. CODE ANN. § 76-25-302 (2023) requires localities to pick from a list of zoning reforms to adopt.

116. For an in-depth discussion of Chapter 40R, the Smart Growth Overlay District Act see, Matthew S. Robayna, *When Incentives Aren't Enough: Challenges in Chapter 40R Massachusetts Smart Growth Zoning Overlay District Act Implementation* (June 2018) (M.C.P. thesis, Massachusetts Institute of Technology) (on file with MIT Libraries, Massachusetts Institute of Technology).

117. See Yonah Freemark, *Zoning Change: Upzonings, Downzonings, and their Impacts on Residential Construction, Housing Costs, and Neighborhood Demographics*, 38 J. PLAN. LITERATURE 548, 555 (finding evidence showing increase in construction in the long term for upzoned areas).

systems.¹¹⁸ The potential downside of a generally applicable target is that it ignores differences between municipalities that might appropriately bear on where housing should be built.¹¹⁹

More tailored systems to allocate housing needs and targets include considerations such as the degree to which the municipality has land left on which to develop new housing, that land's proximity to transit, or the ability of local infrastructure to sustain an increase in population. In one example, New Jersey incorporates nonresidential property values into its calculation for regional housing needs and allocations.¹²⁰ Property values could be helpful when local governments are considering whether to include sites that are not currently zoned for residential use as possibilities for future housing (because property values will help inform the economics of developing or converting those properties to housing). However, including these additional factors may create opportunities for localities to manipulate the data to reduce their projected housing need, as some California municipalities have done.¹²¹

Oversight & enforcement

State law should provide clarity on which agencies are responsible for oversight and enforcement. Without strong enforcement mechanisms, experience has shown that planning requirements and state land use reform more generally have little direct impact on where housing is developed. There are four main types of enforcement: providing authority to the Attorney General to bring lawsuits against localities that fail to comply with state housing laws, as California¹²² and Massachusetts¹²³ have done; fining localities

118. Allan Mallach, *The Mount Laurel Doctrine and the Uncertainties of Social Policy in a Time of Retrenchment*, 63 RUTGERS L. REV. 849, 864 (2011); CHRISTOPHER S. ELMENDORF, NICHOLAS J. MARANTZ & PAAVO MONKKONEN, A REVIEW OF CALIFORNIA'S PROCESS FOR DETERMINING, AND ACCOMMODATING, REGIONAL HOUSING NEEDS 3 (2022), <https://law.ucdavis.edu/sites/g/files/dgvnsk10866/files/inline-files/RHNA-Audit-Background-Paper-2021.01.04.pdf> [<https://perma.cc/DY5Y-DT53>] (describing the “fundamental problems” in California’s RHNA process).

119. See Jonathan Witten, *Adult Supervision Required: The Commonwealth of Massachusetts’s Reckless Adventures with Affordable Housing and the Anti-Snob Zoning Act*, 35 B.C. ENV’T AFFS. L. REV. 217, 222 n.25 (2008) (criticizing chapter 40B as a “one-size-fits-all statute” that “makes no distinction among the state’s unique geologic or topographic regions or among the state’s cities, suburbs, or relatively rural towns”). For further discussion see VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., THE BUILDER’S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES 10–11 (2026).

120. N.J. STAT. ANN. § 52:27D-304.3(c)(2) (West 2025) (requiring that a municipality’s prospective fair share affordable housing obligation be determined in part by calculating its “equalized nonresidential valuation factor,” which measures the change in local nonresidential property valuations relative to its region since the preceding housing round).

121. There is some evidence from the California RHNA process that even in the case of well-intentioned efforts to allow localities to take stock of what portion of their land is suitable for residential development, this does not always bear out in the reality of what is actually built in that market. See KAPUR, *supra* note 81, at 84; Christopher S. Elmendorf, Nicholas J. Marantz & Paavo Monkkonen, *A Review of California’s Process for Determining, and Accommodating, Regional Housing Needs* (Jan. 4, 2022) (background paper prepared for the California State Auditor), <https://law.ucdavis.edu/sites/g/files/dgvnsk10866/files/inline-files/RHNA-Audit-Background-Paper-2021.01.04.pdf>.

122. CAL. GOV’T CODE § 65585(j)-(l) (2026).

123. Following a Massachusetts Supreme Judicial Court ruling confirming that transit-oriented multi-family zoning is a mandatory state obligation, Attorney General Andrea Campbell filed enforcement lawsuits against nine noncompliant towns that rejected the housing mandates. The civil actions seek judicial orders forcing the municipalities to establish compliant zoning districts, escalating the state’s enforcement strategy after previous attempts to leverage compliance through the withholding of state infrastructure grants failed. See MASS. GEN. LAWS ch. 40A, § 3A; Att’y Gen. v. Town of Milton, 248 N.E.3d 635 (Mass. 2025); Jennifer Smith, *AG sues towns flouting MBTA Communities law*, COMMONWEALTH BEACON (Jan. 29, 2026), <https://commonwealthbeacon.org/housing/ag-sues-towns-flouting-mbta-communities-law/>. Three of the towns have made efforts to amend their plans; one asked for a more definitive statement from the government, which was denied; and five are requesting jury trials. Amir Wilson, *Policy Update: MBTA Communities Law Status and Housing Outlook*, A BETTER CITY (May 18, 2026), <https://www.abettercity.org/news-and-events/blog/policy-update-mbta-communities-law-status-and-housing-outlook>.

(Utah outlines fees for noncompliance);¹²⁴ revoking state funds from noncompliant localities;¹²⁵ and applying the builder's remedy.¹²⁶ States have to find the right combination of carrots or sticks to secure compliance with its mandates, but setting forth a clear enforcement mechanism in the planning statute is key to the success of a planning mandate.

Technical support & reporting

One key implementation consideration is ensuring that localities have the tools and resources needed to fulfill statewide mandates. Various states provide detailed guidance to local governments. California, Oregon, and Washington, have created offices specifically charged with providing both technical assistance and oversight of compliance with planning mandates.¹²⁷ Most states discussed in this brief prescribe what data localities need to report to the state e.g. annual progress reports and provide some type of publicly accessible dashboard to view these data. Ensuring consistency and quality in data collection, analysis, and reporting at the local level is key to oversight and measuring progress.

In general, the states with the most prescriptive planning mandates have also created entirely new systems to support local governments with implementation. California's HCD provides various resources to local governments but also requires them to submit parcel-level data on planned and permitted unit counts, affordability, and project status as part of annual progress reports for the housing element.¹²⁸ In some cases, small jurisdictions especially may have limited planning and data analysis capacity. Relying on local reporting and data collection for compliance requires substantial investment from the state. The implementation of planning requirements is complex and requires both states and their local governments to invest considerable resources in collecting and analyzing data, planning, and changing local regulations. More consistent data and methodologies across local jurisdictions will leave policymakers better able to evaluate whether planning requirements are meeting their goals and correct problems as they arise.

124. UTAH CODE ANN. § 10-21-201 (2026).

125. In response to local resistance over state housing mandates, Colorado and Washington have leveraged fiscal penalties to force municipal compliance, with Colorado Governor Jared Polis directing state agencies to deprioritize or withhold up to \$280 million in infrastructure and transportation grants from noncompliant "home rule" cities, while Washington relies on statutory mechanisms authorizing the Governor to withhold shared tax revenues and public works funding from jurisdictions violating the Growth Management Act. See Colo. Exec. Order No. D 2025-005 (May 16, 2025); WASH. REV. CODE § 36.70A.340 (2025); Jesse Paul, *These 14 Colorado cities aren't complying with state housing laws. It could cost them \$280M in grants*, COLO. SUN (Oct. 7, 2025), <https://coloradosun.com/2025/10/07/colorado-housing-laws-state-grants/>.

126. For more information on the builder's remedy, see generally VICKI BEEN, JOHN OVERSTREET & HELEN KETEMA, FURMAN CTR., *THE BUILDER'S REMEDY: KEY CONSIDERATIONS FOR ENFORCING PRO-HOUSING POLICIES* (2026).

127. See, e.g., CAL. GOV'T CODE §§ 65583, 65585 (authorizing the California Department of Housing and Community Development's Housing Accountability Unit to enforce local housing element compliance); OR. REV. STAT. §§ 197.040, .251 (empowering the Oregon Department of Land Conservation and Development to review local comprehensive plans and enforce housing production strategies); WASH. REV. CODE §§ 36.70A.040, 43.330.050 (tasking the Washington Department of Commerce's Growth Management Services division with providing technical assistance and enforcing compliance under the Growth Management Act).

128. Memorandum from Megan Kirkeby, Acting Deputy Dir. Div. of Hous. Pol'y Dev., to Plan. Dirs. & Interested Parties, Dep't of Hous. & Cmty. Dev., Housing Element Site Inventory Guidebook Government Code Section 65583.2, at 7 (June 10, 2020); see also *Housing Element Annual Progress Report (APR) Data by Jurisdiction and Year*, CAL. DEP'T OF HOUS. & CMty. DEV. (July 3, 2026), <https://data.ca.gov/dataset/housing-element-annual-progress-report-apr-data-by-jurisdiction-and-year>.

Conclusion

The contemporary housing crisis underscores the challenges of local control, which some municipalities have historically used to restrict supply and exclude diverse housing types and households. As state intervention in land use regulation increases to address regional housing shortages, the success of state interventions to open localities up to more residents depends on the careful design and implementation of requirements, the help provided to local governments to comply, and consistent enforcement. State frameworks must require localities to change the permitting systems and restrictive zoning rules that block development or make it too costly to pursue. Many states are setting housing production targets that localities must meet and strengthening enforcement of these requirements. Further empirical research on several dimensions could support future policy design: monitoring production using local housing and permitting data, effects of different enforcement mechanisms for local plan compliance, methods of quantifying how aspects outside of land use regulation (infrastructure, second homes or short-term rentals, climate hazards) limit the growth of the housing supply or impact costs, and more causal information on the impact of state pro-housing mandates and incentive programs. Ultimately, unlocking meaningful housing production requires pairing data-driven needs assessments directly with mandatory pro-housing changes to local regulations and robust enforcement tools.

Acknowledgements

Thank you to Hayley Raetz and Isabel Kirsch for their close review and feedback.

Research Assistance from:

Eliza Cash

Agatha Fusco

Sophia Hughes

Aaron Miller

Suad Mumin

Maximilian Ungert