



Planning and zoning strategies
for **housing production** in
New Hampshire communities.



Prepared for the New Hampshire Office of Planning and Development by Outwith Studio, June 2023.

ACKNOWLEDGMENTS

This project was made possible through the efforts of the New Hampshire Office of Planning and Development, members of the Regional Housing Needs Assessment Committee and related staff, staff at New Hampshire's Regional Planning Commissions (particularly those on the Regional Housing Needs Assessment Housing Toolbox Subcommittee), and a team of private consultants.

NH Office of Planning and Development

Noah Hodgetts, Principal Planner

Toolbox Subcommittee

Chair: Mike Tardiff, Central New Hampshire RPC

Caleb Cheng, Nashua RPC

Vickie Davis, Upper Valley Lake Sunapee RPC

Natalie Gemma, Strafford RPC

Todd Horner, Southwest RPC

David Jeffers, Lakes RPC

Matt Monahan, Central New Hampshire RPC

Michelle Moren-Grey, North Country Council

George Reagan, NH Housing

Emma Rearick, Nashua RPC

Kaela Tavares, North Country Council

Matt Taylor, Central New Hampshire RPC

Olivia Uyizeye, Upper Valley Lake Sunapee RPC

Sylvia von Aulock, Southern New Hampshire Planning Commission

Consultant Team

Willy Mann, Outwith Studio

June McCartin, Outwith Studio

Louis Do, Bocoup

Isaac Durazo, Bocoup

Courtney Holland, Bocoup

Aleena Khan, Bocoup

Grace McCants, Bocoup

Sheila Moussavi, Bocoup

Boaz Sender, Bocoup



Contents

INTRODUCTION	4
ACCESSORY DWELLING UNITS (ADUS)	8
ADAPTIVE REUSE	16
AGE-FRIENDLY NEIGHBORHOODS	24
CLUSTER HOUSING	29
COMMUNITY REVITALIZATION TAX RELIEF (79-E)	37
FORM-BASED CODES	44
HOUSING OPPORTUNITY ZONES	51
INCLUSIONARY ZONING	55
INFILL DEVELOPMENT	60
MISSING MIDDLE HOUSING TYPES	66
MANUFACTURED HOUSING	73
MIXED-USE DEVELOPMENT	86
PLANNED UNIT DEVELOPMENTS (PUDS)	93
REDUCED ZONING AND SUBDIVISION REQUIREMENTS	101
SHORT-TERM RENTAL REGULATIONS	108
TAX INCREMENT FINANCING (TIF)	115
TRANSFER OF DEVELOPMENT RIGHTS (TDR)	123
VILLAGE PLAN ALTERNATIVE	130
WASTEWATER SYSTEM ALTERNATIVES	135
WORKFORCE HOUSING ORDINANCE	143



Introduction

The New Hampshire Housing Toolbox is a project that compiles and describes many of the tools available to New Hampshire cities and towns to produce more housing, especially more housing that is aligned with community needs. Government officials and local housing advocates can use this toolbox to learn what tools might be right for their community, quickly understand how the tools can be used, and know where to look for detailed information and precedents. Some of these tools are broad approaches to development that municipalities can think about, while others are specific regulations or programs that municipalities can implement.

Busy planners and advocates looking to understand their community's housing options are the target audience of this toolbox. It is meant for all those involved in planning, zoning, and housing development at the local level, particularly local government staff, local government officials (such as Select Board, Planning Board, or Zoning Board of Adjustment members), and housing advocates working in and around local government. We hope that this toolbox can serve as the first step to action, and that the tools inside can be implemented in the near term and with most of the effort expended at the local government level. This toolbox is primarily focused on local regulatory frameworks. Of course, beyond the tools in this toolbox, there are other housing strategies that private companies, nonprofit organizations, neighborhood groups, and others can use to help solve the housing crisis. All of these tools are ultimately necessary, but we wanted to provide a tailored resource for local government.

This project was part of the New Hampshire Regional Planning Commissions' Regional Housing Needs Assessment (<https://www.nharpc.org/rhna/>). It was coordinated by the New Hampshire Office of Planning and Development and executed with assistance from Outwith Studio. The project was funded through the American Rescue Plan State and Local Fiscal Recovery Fund Grant.

The toolbox exists as this document, as an interactive website at www.nhhousingtoolbox.org created by inclusive technology consultants Bocoup, and excerpted in some Regional Planning Commissions' individual Regional Housing Needs Assessments.

Though the toolbox addresses legal and regulatory issues and processes, it should not be taken as legal advice. The purpose of the toolbox is to provide an overview of the tools and point local officials and advocates in the right direction. Implementing these tools or understanding how they interact with state and local law will require further guidance and legal counsel.

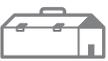


How to use this toolbox

Start by assessing what issues are in your community from the list below. Then find tools in the matrix below that can be used to address those issues. Tools are ordered alphabetically in this document. Each tool contains the following sections, which you can use to better understand your options.

- **What is it?:** A brief description of the tool's mechanisms.
- **How can it help?:** A list of potential benefits for your community.
- **Getting Started:** Notes on how to implement the tool.
- **Considerations:** Nuances or qualifications you will need to think about in using the tool.
- **Resources:** A list of articles, presentations, government reports, and other information that will help you further understand this tool.
- **Issues Addressed:** A list of issues this tool addresses (see below).
- **Related Tools:** Other tools in this toolbox that are similar to, work with, or are otherwise relevant to this tool.
- **State Law:** A list of any state statutes that authorize, specify, or otherwise act on this tool.
- **Case Studies:** Brief descriptions of cases in New Hampshire and beyond that have used the tool (or substantially similar tools if not in New Hampshire).

Use this toolbox as a starting point. Most of these tools can be implemented with creativity, so be sure to research each tool thoroughly and understand what you can (and cannot) do with the strategies here.



Issues these tools address

In order to help organize these tools, this document notes important themes that each tool addresses. There are seven broad themes addressed in this toolbox

- **Housing Options:** Production of a variety of housing options, including options that are more affordable and accessible than conventional housing development.
- **Housing Costs:** Production of housing that is more likely to cost less than conventional housing development based on the size of the home, land required, and other factors (though the actual impact on cost will vary by housing market).
- **Affordable Housing:** Production of housing that is formally offered at below-market rates, typically due to some form of subsidy. Often this is nonprofit housing.
- **Sustainable Housing:** Production of housing that is less resource intensive and land-consuming than conventional development.
- **Multigenerational:** Production of housing that encourages communities with people of all ages, and allows for multigenerational living patterns for families and others.
- **Infrastructure:** Deals with constraints on infrastructure capacity and maintenance, including road and utility.
- **Redevelopment:** Deals with the redevelopment of complex sites in previously developed areas that have gone through disinvestment.



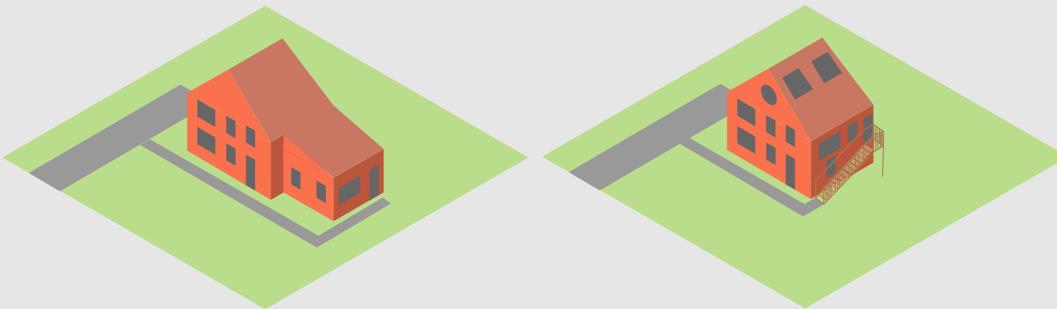
Housing Tool by Issue Addressed

Tool	Housing Options	Housing Costs	Affordable Housing	Sustainable Housing	Multi-generational	Infra-structure	Redevelopment
Accessory Dwelling Units (ADUs)	•	•			•		
Adaptive Reuse	•	•		•		•	•
Age-Friendly Neighborhoods	•	•			•		
Cluster Housing	•			•		•	
Community Revitalization Tax Relief (79-E)		•	•			•	•
Form-Based Codes	•	•				•	•
Housing Opportunity Zones			•			•	•
Infill Development		•				•	•
Inclusionary Zoning			•				
Missing Middle Housing Types	•	•	•	•	•		
Mixed-Use Development	•	•	•	•	•		
Planned Unit Developments (PUDs)		•		•		•	
Reduced Zoning and Subdivision Requirements	•	•	•	•			•
Short-Term Rental Regulations	•	•					
Tax Increment Financing (TIF)		•				•	•
Transfer of Development Rights (TDR)	•	•		•		•	
Village Plan Alternative (VPA)	•	•		•	•	•	
Wastewater System Alternatives	•			•		•	
Workforce Housing Ordinance	•	•	•		•		



Accessory Dwelling Units (ADUs)

Attached ADU



Detached ADU





What is it?

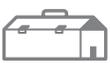
Accessory Dwelling Units (ADUs) are secondary homes or apartments on an existing single family lot. They can be apartments within the primary home (such as in a basement or attic), attached to the primary home, or in an accessory building (like a converted garage). ADUs are sometimes called “in-law apartments” or “granny flats.” In New Hampshire, ADUs are defined under state law. An ADU is not simply an extra room, but an “independent living facility for one or more persons, including provisions for sleeping, eating, cooking, and sanitation...” (RSA 674 § 71).

Attached ADUs (where the ADU is within or connected to the primary structure) are allowed by default in all New Hampshire communities. Municipalities can adopt more specific zoning rules related to ADUs, but they must be allowed in all single-family housing and additional zoning rules cannot be applied to discourage them. Municipalities can also allow detached ADUs, but they are not required to do so.

How can it help?

ADUs can...

- Provide an age-friendly housing option for older adults, as they can down-size while aging in place.
- Provide less expensive housing options for younger adults, single parents, and others.
- Accommodate multi-generational families and other household structures that are not well-served by conventional development.
- Reduce demand on assisted living facilities by providing homes to caregivers for elderly homeowners.
- Create more housing without changing the architectural character of an existing neighborhood.
- Create more housing affordability and options without the need for additional water and sewer infrastructure.
- Provide more units with fewer building materials than conventional development and with no additional land costs.
- Create income-support opportunities for homeowners in expensive housing markets.
- Generate increased tax revenue (over the long term) for municipalities.



Getting Started

1. If your community has a zoning ordinance without ADU provisions, attached ADUs are allowed by-right under State law in all zoning districts that permit single-family dwellings.
2. If your community already has local zoning provisions for ADUs, you may still want to amend the zoning bylaw to incentivize more ADU production or ADUs that are more aligned with the community's needs and desires.
3. Review your community's single-family districts. Assess demographics, architectural character, typical lot size, typical home size (by square feet and bedrooms), presence of existing outbuildings (like garages or sheds), presence and capacity of existing utilities, parking need and capacity. Assess local knowledge of any unpermitted ADUs, how they are configured, and what issues they create. Use these assessments to determine what constraints and opportunities exist for ADU production.
4. Hold a community engagement process with property owners, potential ADU tenants, and relevant boards (e.g. Planning and Zoning boards). Use this process to determine the community's general housing needs and desires and/or ADU-specific needs and desires.
 - a. The community should consider how ADUs are permitted, whether detached ADUs are allowed, square footage rules, parking requirements, design regulations or guidelines, and more.
 - b. Engagement will not only help craft locally appropriate ADU zoning, but generate awareness and interest in ADUs among property owners.
5. Draft amendments to the zoning bylaw to either add local ADU rules or amend existing rules. Amendments can encourage ADU production that meets the needs and desires of the community.
6. The community can also consider pre-permitting site plans and ADU designs based on local conditions and could consider public financing (e.g. low-interest loans) for ADU construction.
7. The municipality can promote ADUs to residents and homeowners.

Considerations

- Attached ADUs are allowed by-right by default under state law in all zoning districts that permit single-family dwellings. Local zoning may allow them explicitly either by-right, by special exception, or by conditional use permit. Compared to by-right permissions with clear requirements, discretionary permissions are more likely to limit ADU production by typical homeowners and encourage unpermitted ADU production by bad-faith actors.



- Detached ADUs are not allowed by-right by default under state law. They may be allowed explicitly in local zoning, either by-right, by special exception, or by conditional use permit.
- ADU construction typically costs between \$50,000 and \$200,000. Most homeowners or homebuyers will require bank financing for construction. That financing may be backed by equity in the existing home or the expected increase in property values.
- Local law can require owner-occupancy and principal place of residence of either the primary home or the ADU. Owner-occupancy requirements may limit the number of ADUs produced, however, as they discourage ADU construction on seasonal housing and rental properties. Owner-occupancy requirements also limit the availability of financing for ADU construction, as many lenders fear such restrictions limit their options in the event of a foreclosure.
- Local law cannot require that residents of both units be relatives.
- ADUs can be counted toward a municipality's Workforce Housing requirement if they meet the State law's affordability and rental rate requirements.
- In most cases, ADUs will not be deed-restricted affordable housing. However, some communities have experimented with strategies to keep ADUs affordable, as in Los Angeles, CA (see links in Resources) and past programs in Wellfleet, MA (see Case Studies).
- Dimensional requirements for single-family homes with *attached* ADUs must not differ from single-family homes generally. Lot size requirements are allowed to differ for single-family homes with *detached* ADUs.
- Local zoning may add rules on additional parking for ADUs.
- Local zoning may add minimum and maximum square footage rules for ADUs, but must allow ADUs of at least 750 square feet. Local zoning may not limit ADUs to one bedroom.
- Property owners must demonstrate the adequacy of water and wastewater utilities on-site, but local law may not require a separate water and wastewater facilities for the ADU.



An ADU in Florence, MA. (Image via Backyard ADUs.)



Resources

- NH OEP, “Planning for Accessory Dwellings,” <https://www.nhhousingtoolbox.org/resource-archive/oep-planning-for-accessory-dwellings.pdf>
- NH Housing, “Housing Solutions: Accessory Dwelling Units,” <https://www.nhhfa.org/housing-challenges-solutions/accessory-dwelling-units/>
- NH Housing, “ADU Guide for Municipalities,” https://www.nhhfa.org/wp-content/uploads/2019/08/NHHFA_ADU_Guide_final_web.pdf
- NH Housing, “ADU Resources,” https://www.nhhfa.org/wp-content/uploads/2020/04/ADU_HOGuideAppendixD_2018.pdf
- Backyard ADUs, “Our Homes,” <https://backyardadus.com/our-homes>
- Shelterforce, “Affordable ADUs: How It’s Being Done,” <https://shelterforce.org/2022/05/10/affordable-adus-how-its-being-done/>

Issues Addressed

Housing Costs, Housing Options, Multigenerational

Related Tools

Age-friendly neighborhoods, Reduced Zoning and Subdivision Requirements, Short-Term Rental Regulations, Workforce Housing Ordinance, Wastewater System Alternatives, Missing Middle Housing Types

State Law

- RSA 674:71-73, <https://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-mrg.htm>



Case Studies

Portsmouth, NH

The City of Portsmouth passed a local ADU ordinance in 2017, which allows attached and detached ADUs by Conditional Use permit across many of its zoning districts. ADUs may be no larger than 750 square feet in most cases. Either the primary home or the ADU must be occupied by the property owner, and this must be verified annually. Since the law's passage, 31 ADUs have been permitted and 25 have begun construction. The City's Planning Board has considered ways to simplify permitting, as one estimate places a price tag of \$20,000 to \$30,000 in permitting costs alone. Several amendments have been proposed to the ADU law, with the stated aim to make ADU production easier.

- City of Portsmouth, "Land Use and Zoning Regulations," <https://www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations>
- Portsmouth Herald, "Accessory dwelling units in Portsmouth: 'Easiest' housing solution or is it too late?" (November 29, 2022)
- Portsmouth Herald, "As popularity of accessory dwelling units grows, Portsmouth looks to simplify permitting" (July 26, 2022)



Swansey, NH

The Town of Swansey first introduced ADUs through zoning in 2009, allowing attached ADUs by Special Exception for owner-occupied single-family homes in certain zoning districts. In 2017, the Town amended the law to respond to the state-level ADU law. Under the current zoning, attached ADUs are allowed by-right and detached ADUs are allowed by Special Exception. Both types of ADUs are allowed in all zoning districts where single-family homes are permitted. Either the principal unit or the ADU must be owner-occupied. Dimensional rules for ADUs are the same as single-family homes, but there must be at least three parking spaces available on the property.



Homes in Swansey with ADUs: attached (top photo, above garage) and detached (bottom photo, upper left). (Images via RE/MAX Town & Country from Redfin and Zillow)



- Town of Swanzey Zoning Ordinance, <https://cms8.revize.com/revize/swanzeynh/Planning/2022%20ZONING%20ORDINANCE.pdf>
- Keene Sentinel, “Zoning changes would expand housing options in area communities” (February 5, 2022)

Wellfleet, MA

The Town of Wellfleet, MA on Cape Cod has allowed ADUs since 2002, but through 2021 they were required to be deed-restricted affordable housing for income-eligible renters. (Massachusetts has no statewide ADU requirement.) The Town’s affordability requirements were matched by property tax relief for the homeowners, as well as grants by the local Housing Authority for construction. Still, between 2002 and 2020, only 11 affordable ADUs were permitted in Wellfleet, though hundreds of grandfathered ADUs and illegal ADUs exist there.

In 2021, Wellfleet Town Meeting passed amendments to remove affordability requirements for ADUs, hoping the move would bring broader market affordability. ADUs are now permitted by right in most of Wellfleet, as long as they meet the zoning’s specifications. The (attached or detached) ADUs must be between 600 and 1,200 square feet in size and require two parking spaces. The ADU must be rented out on a year-round basis. Renting the ADU seasonally or as a short-term rental results in a daily \$300 fine.

- Provincetown Independent, “Wellfleet Looks at Changing Its Accessory Dwelling Bylaw” (December 17, 2020)
- Town of Wellfleet, ADU Reform Ordinance, https://www.wellfleet-ma.gov/sites/g/files/vyhlif5166/f/uploads/2_accessory_dwelling_unit.pdf
- Wellfleet Housing, Accessory Dwelling Units, <https://www.wellfleethousing.org/accessory-dwelling-units>



An ADU in Wellfleet, MA. (Image via Wellfleet Housing)



Lexington, KY

Lexington-Fayette County, KY passed an ADU bylaw in 2021. Following a recommendation in the 2018 Comprehensive Plan, Lexington proposed ADU legislation in 2019. The legislation was considered bold by ADU advocates, largely due to allowance for attached and detached ADUs, a lack of owner-occupancy or parking requirements, and reasonable site planning requirements.

The proposal received push-back due to a lack of rental registration (and concerns about code compliance); the potential for overcrowding; a lack of design, owner-occupancy, or parking requirements; fears about short-term rentals; and other frustrations about capacity and neighbors wanting more control on permitting. The final legislation was a compromise by only allowing detached ADUs in existing structures (like garages), adding owner-occupancy requirements, and clearer (but still limited) design standards.

- Strong Towns, “Three Cheers for Lexington ADU Ordinance,” <https://www.strongtowns.org/journal/2019/8/21/three-cheers-for-lexingtons-adu-ordinance>
- CivicLex, “What is in Lexington’s proposed ADU legislation?,” <https://www.civiclex.org/issue-hub/adu-legislation>
- Imagine Lexington, “Overview of ADU Regulations,” https://drive.google.com/file/d/1SpybD7xG_fa6GqPI11ReEGhkZaI3jt3W/view

Eugene, OR

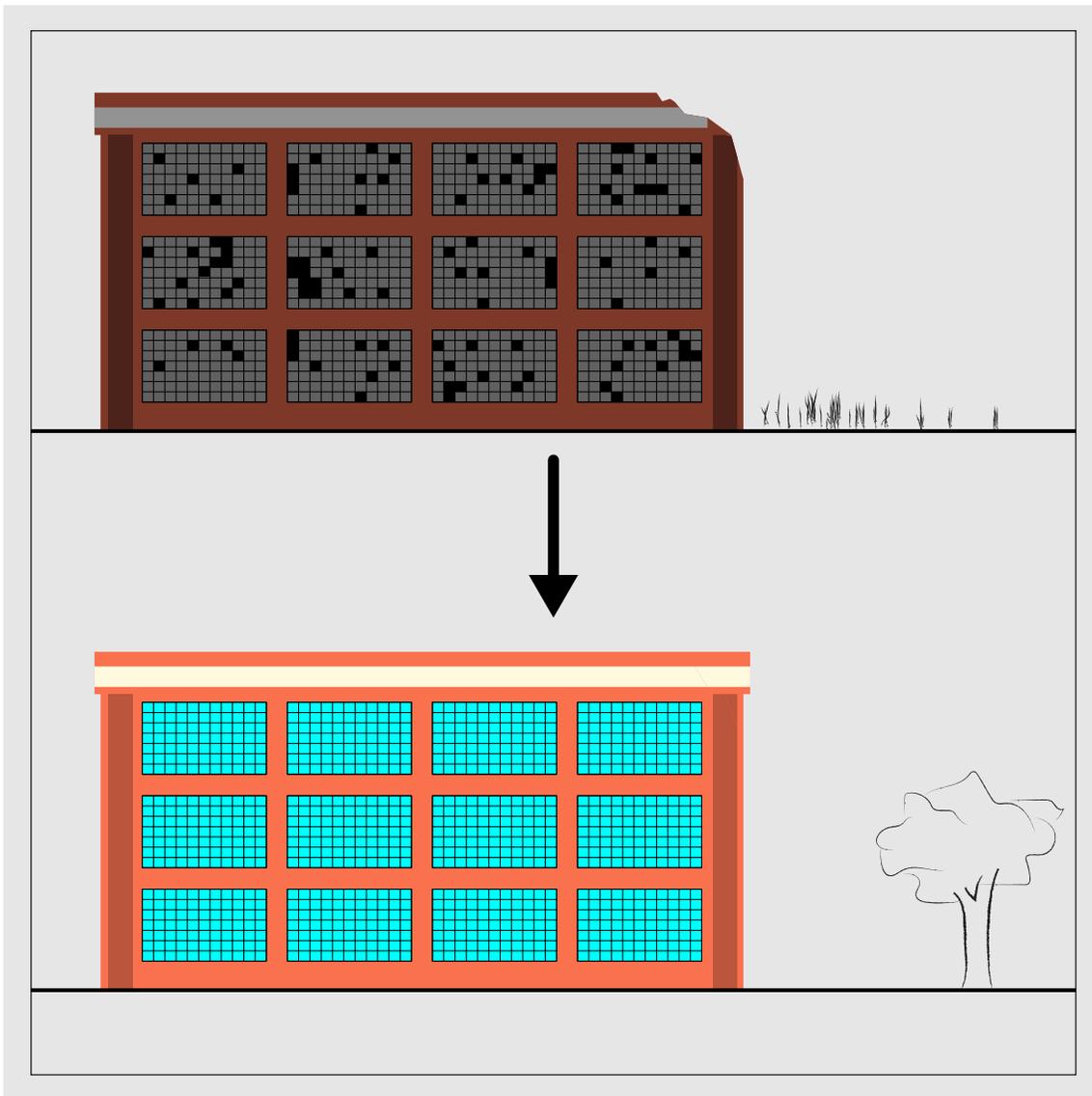
In 2017, the State of Oregon mandated most towns and cities to allow ADUs in single-family residential zones with reasonable local regulations on siting and design. The City of Eugene already allowed ADUs at that time, but required owner occupancy and other restrictions not related to siting or design. In 2020-2021, Eugene brought its ADU code into compliance with State law. Now Eugene permits ADUs in all residential zoning districts. The ADUs can be a maximum of 800 square feet, they have ADU-specific design standards, they do not require owner-occupancy or additional parking, and they are not restricted by minimum lot sizes or certain other dimensional requirements.

Most importantly, the City also pre-approved certain ADU designs, and the ADU designers licensed the designs to property owners for \$500. Owners must still work on a site plan and follow other steps of construction, but by providing pre-approved designs, the City has simplified the process and reduced ultimate costs.

- City of Eugene, “Pre-approved ADU plans,” <https://www.eugene-or.gov/4707/Pre-Approved-ADU-Plans>
- The Register-Guard, “City of Eugene offering free pre-approved plans for accessory dwelling units” (October 3, 2021)



Adaptive Reuse





What is it?

“Adaptive reuse” or “adaptive use” is the practice of reusing old buildings for new purposes. While people have always adapted their buildings to meet the needs of the moment, the contemporary architectural practice and term “adaptive reuse” emerged in the 1970s and 1980s in response to the demolition of historical buildings during the era of urban renewal.

While, in theory, many types of buildings can be adapted for new uses, in practice adaptive reuse most often occurs in pre-World-War-II industrial buildings (like factories, mills, and power plants) and institutional buildings (like hospitals, schools, and houses of worship). The durability of pre-war construction and the dimensions of such buildings make them more amenable to adaptive reuse compared to post-war buildings. Often these older buildings are well suited for housing.

While adaptive reuse is a great way to add new housing, revitalize vacant buildings, increase local tax revenue, and reduce the energy used for new construction, adaptive reuse projects are typically more complex than new greenfield development.

How can it help?

Adaptive reuse can...

- Provide new housing in existing communities.
- Provide a wider range of home types than conventional development.
- Create opportunities for mixed-use development.
- Preserve local heritage and sense of place and history.
- Eliminate the negative impacts of empty buildings and vacant lots.
- Increase the value of and tax revenue generated by older buildings.
- Spur economic development in disadvantaged areas.
- Remediate sites contaminated with hazardous industrial materials.
- Save on costs for construction (if the site does not require extensive cleanup).
- Reduce the embodied carbon footprint of new housing.
- Reduce demand for greenfield housing development, thus preserving open spaces.
- Take advantage of current infrastructure capacity, rather than creating the need for new infrastructure.



Getting Started

1. Recognize and promote adaptive reuse's impact on common master plan goals, such as historic preservation, economic development, open space preservation, and increased housing options.
2. If undertaking a master plan, include adaptive reuse as a recommendation.
3. Consult any other plans, including urban renewal plans, to learn if other sites have already been identified for adaptive reuse or redevelopment. If so, find out what barriers to redevelopment have been previously identified.
4. Inventory existing buildings and sites that would be appropriate for adaptive reuse. This could include historic mill complexes, power plants, factories, schools, hospitals, churches, retail malls, or other sites.
5. Where possible, talk to property owners to gauge interest in redevelopment or selling their property for that purpose. If the property owner has already considered redevelopment, determine what factors have shaped their decisions.
6. Reach out to and build relationships with property developers who specialize in adaptive reuse. Talk to them about the typical impediments they face in their projects.
7. Conduct an audit of your city or town's regulations to find impediments to reuse of existing buildings. Your audit should include zoning (use, parking, and dimensional rules), site design regulations, any local amendments to the state building code, conservation requirements, and any other regulations relevant to your conversations with property owners and developers. Identify barriers to adaptive reuse.
8. Propose amendments to local regulations that would make adaptive reuse viable in your community. Building, zoning, and site design regulations should be flexible enough to make projects workable on constrained sites.
9. Build public awareness of preservation needs and adaptive reuse potential.
 - a. Use public forums, outreach to local boards and committees, and other engagement methods to grow awareness.
 - b. Use visuals to illustrate what adaptive reuse would look like at specific sites.
10. Introduce and encourage partnerships between property owners and potential developers.
11. Work with private consultants and/or the New Hampshire Department of Environmental Services to assess environmental remediation needs on viable sites.
12. Where necessary, identify sources of funding for environmental remediation, including local sources, NH DES grants and loans, or US EPA funds.



The Amoskeag Millworks in Manchester, now with residential and office uses. (Image via Wikimedia.)

Considerations

- Public investment in infrastructure or environmental clean-up can spur private investment in building rehabilitation.
- Brownfield assessments and cleanups can be facilitated by NH Department of Environmental Services and US Environmental Protection Agency grants and loans.
- For identified sites, ensure housing is allowed by-right following administrative review.
- Larger projects benefit from a mix of uses. Leading development with retail, restaurant, and/or cultural institutions can help spur interest in reuse of other buildings/sites nearby.
- When allowing non-residential uses, ensure residential uses are prioritized through zoning incentives and/or restrictions.



- The 2018 International Existing Building Code (IEBC) has been adopted by the State and specifies guidance and requirements for adaptive reuse projects. Your community’s building inspectors (if you have them) should be trained in this code. Communities without a local building code enforcement system can request the State Bureau of Building Safety & Construction Engineering & Plan Review Section inspect construction projects.
- (Re)branding a specific site or historic area may help increase interest in adaptive reuse.

Issues Addressed

Redevelopment, Housing Costs, Housing Options, Sustainable Housing, Infrastructure

Related Tools

Mixed-Use Development, Infill Development, Community Revitalization Tax Relief, Housing Opportunity Zone, TIF, Reduced Zoning and Subdivision Requirements, TDR, Form-Based Code

Resources

- NH Division of Historical Resources, “Adaptive Reuse: ‘Cause Everything Old is New Again!,” <http://nhhousingtoolbox.org/resource-archive/adaptive-reuse-michaud.pdf>
- National Association of Home Builders, “Case Study: Dover, NH Adaptive Reuse,” <https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/housing-affordability/case-study-dover-nh.pdf>
- Business NH Magazine, “Breathing New Life Into Old Buildings,” <https://www.businessnhmagazine.com/article/breathing-new-life-into-old-buildings>
- Buildings of New England, “Tag: Adaptive Reuse,” <https://buildingsofnewengland.com/tag/adaptive-reuse/>
- Multi-Housing News, “Reviving the Past Through Adaptive Reuse,” <https://www.multihousingnews.com/reviving-the-past-through-adaptive-reuse/>
- B. Schliemann, J. Mullin, Z. Kotval-k, Z. Kotval, “The Adaptive Reuse of Closed Military Bases in New England,” https://www.researchgate.net/publication/325732032_The_adaptive_reuse_of_closed_military_bases_in_new_england/link/5b2a2a5f4585150c63400a8a/download



- Berkshire Regional Planning Commission, “Adaptive Reuse Zoning,” <https://berkshireplanning.org/wp-content/uploads/2022/05/Toolkit-2022-Adaptive-Reuse-Zoning.pdf>
- Massachusetts Historical Commission, “Preservation through Bylaws and Ordinances,” <https://www.hingham-ma.gov/DocumentCenter/View/6735/preservation-through-bylaws-and-ordinances->

Case Studies

Manchester, NH

The Amoskeag Manufacturing Company was a 19th and early 20th Century textile manufacturer that built a massive mill complex in Manchester, NH. By the end of the 1940s, the company had closed, leaving behind many buildings unfit for modern manufacturing. A 1966 plan called for partial demolition and partial rehabilitation of the complex. In the early 1980s, they attracted private investor attention, notably by inventor Dean Kamen for some of his commercial operations. Development continued in the 1990s, in large part due to purchases made by the City then deeded to private developers and other forms of subsidy. The complex is now home to offices, restaurants, apartments, colleges and universities, art studios, a museum, and research and development space for technology companies. The Millyard has added over 500 housing units, with developers expressing continued interest in residential as the local jobs market thrives. There were many factors that contributed to this success, but ones that were critical include infrastructure improvements, environmental remediation funds, the introduction of mixed-use zoning, public/private partnerships, and marketing efforts.

- Hastings and Trumball, “Mill District: Factors Contributing to Success in Manchester, NH” <http://nestval.aag.org/wp-content/uploads/2015/09/Adaptive-Re-use.pdf>
- New York Times, “A Millyard Transitions From Textiles to Tech” (March 14, 2017), <https://www.nytimes.com/2017/03/14/realestate/commercial/commercial-real-estate-manchester-millyard.html>
- Business NH Magazine, “Turning Mills Into Economic Engines” (July 6, 2015), <https://www.businessnhmagazine.com/article/turning-mills-into-economic-engines>
- Politico Magazine, “How a 19th-Century Town Became a New Millennium Marvel” (February 18, 2016), <https://www.politico.com/magazine/story/2016/02/what-works-manchester-new-hampshire-renaissance-213639/>



Newmarket Mills, Newmarket, NH

Newmarket's mill complex began construction in the early 19th century and the Newmarket Mill Company continued using the mills through the mid 1930s. In 2009, the then-decrepit mill complex was purchased and rehabilitated by Chinburg properties, a now-prolific mill redeveloper in New England. Today the Newmarket Mills is a mixed-use development with 111 housing units. The development was financed in part by state Rehabilitation Tax Credits.

- Chinburg Properties, "Newmarket Mills," <https://chinburg.com/property/newmarket-mills/>
- Portsmouth Herald, "Newmarket celebrates mill history in bronze" (March 22, 2021).

Cottage Hospital, Portsmouth, NH

The Portsmouth Cottage Hospital is a National Register of Historic Places site that served as the primary hospital for the Portsmouth area from 1895 to 1986, when another hospital opened. The City purchased the site and began a slow redevelopment process, beginning with municipal facilities. In 2004, the Portsmouth Housing Authority redeveloped the original hospital building into 20 units of senior housing. The project was funded in part through state Rehabilitation Tax Credits.

- Walk Portsmouth, "Portsmouth Cottage Hospital," <http://walkportsmouth.blogspot.com/2012/03/portsmouth-cottage-hospital.html>
- Portsmouth Housing Authority, "Connor's Cottage," <https://porthousing.org/connors-cottage/>
- Portsmouth Herald, "Portsmouth makes (Ted) Connors Cottage name official, honoring former mayor" (April 21, 2022)



Connors Cottage in Portsmouth is a public senior housing development adapted from the historic Cottage Hospital building in the city.



Holyoke, MA

In the early 2000s, a small campus of Catholic institutions, including the Holyoke Catholic High School, closed for good. The century-old buildings stood vacant and boarded up for nearly a decade before plans to rehabilitate them finally materialized with the ultimate conversion of the campus's schools and convents into 54 units of housing. The \$19 million project was funded in part by \$1.6 million in direct state aid and almost \$1 million in federal low-income housing tax credits. Permitting for the project was facilitated by Holyoke's adoption of a Massachusetts law that allows relatively high-density development by-right for affordable and mixed-income projects.

- The Architectural Team, "Chestnut Park Apartments," <https://www.architecturalteam.com/projects/chestnut-park/>
- MassLive, "Conversion of old Holyoke Catholic High School into 54 apartments underway; construction to last a year" (July 22, 2014), https://www.masslive.com/news/2014/07/conversion_of_old_holyoke_cath.html

Baltimore, MD

Baltimore's Greater Hampden area is marked by many mill complexes along the creek that once powered the city's industry. By the end of the 1980s, many of the mills had been shuttered, with the neighborhood's last industrial occupants mostly in newer facilities. The first adaptive reuse projects opened in the late '80s and early '90s, including the 1992 reopening of Meadow Mill with a gym, artist studios, restaurants, and commercial space. The first residential project opened in 1995 at Clipper Mill. In the 2010s, a wave of new development kicked off with a greater overall focus on residential mixed-use development. Mill No. 1, which had most recently been a model train factory, had been largely vacant by 2009, save skateboarder and artist squatters.

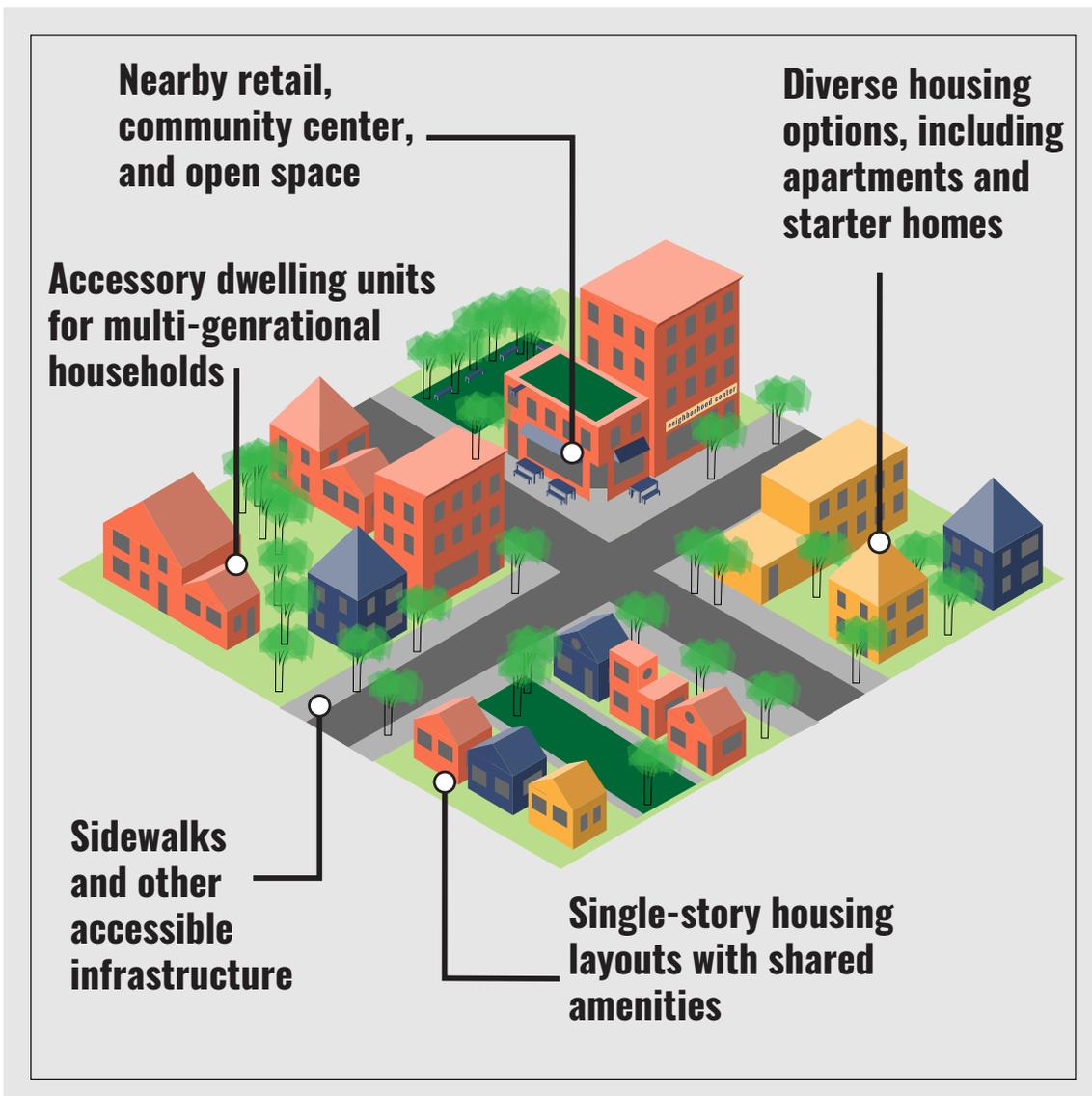
- Mill No. 1, <https://millno1.com/>
- Baltimore Sun, "Greater Hampden faces flood of development" (December 12, 2015), <https://www.baltimoresun.com/business/bs-bz-jones-falls-20151212-story.html>



Renovated mill buildings from the courtyard at Mill No. 1. (Image via Terra Nova Ventures.)



Age-Friendly Neighborhoods





What is it?

Age-friendly neighborhoods are places that address the needs of younger and older adults that may move away from their community due to a lack of housing that fits their needs. Typically, younger adults that hope to buy their first home and older adults that want to downsize are looking for similar housing essentials: smaller and easier-to-maintain homes that are affordable. Older adults in particular may also want single-level living arrangements.

Communities who answer yes to the following questions may want this tool:

- Are long time residents leaving your community because there are no options available for them to downsize or age in place?
- Are young adults who grew up and want to stay in the community unable to find local, affordable starter homes?
- Are existing residents finding their two-story homes burdensome and are looking for one-story homes?
- Are the businesses, agencies, and educational institutions in your community unable to attract workers on every level due to the lack of housing in your community?
- An age-friendly neighborhood has multiple attributes that attracts younger and older adults, including:
 - Accessible single-level living options such as first floor bed/bath, kitchen and living space.
 - Smaller and easier-to-maintain homes and yards.
 - Homes that are accessible for all abilities (incorporating universal design elements).
 - Shared infrastructure and amenities to reduce costs and increase social engagement.
 - Homes that offer quality-of-life essentials such as a nearby library, parks and recreation programs, and walking trails or sidewalks.

How can it help?

Age-friendly neighborhoods can

- Enable residents to age-in-place.
- Retain young people in their hometowns.
- Prevent economic losses due to workers leaving their community in search of adequate housing.



- Create housing that meets the needs of residents of all ages and abilities.
- Provide zoning-based incentives to build smaller, more affordable, low-maintenance homes.
- Maintain or increase local tax revenue by maintaining demand for housing.

Getting Started

1. Assess your community's changing demographics through data analysis and public engagement. Identify whether your community's lack of housing options is causing age cohorts to move away (especially young people and seniors).
2. Assess existing subdivision regulations and residential zoning rules. Identify any rules that are preventing the development of housing that meets the community's needs or provisions (such as cluster and open space housing districts) that could be easily adapted to create more age-friendly communities.
3. Assess the infrastructure associated with age-friendly neighborhoods, such as sidewalks, open spaces, outdoor furniture like benches, playgrounds, snow plowing capacity (for streets and sidewalks), and more. Identify any areas in your community that are particularly well-served or underserved with these infrastructures.
4. Create zoning rules for existing and/or new neighborhood developments that incentivize (through density bonuses) or require age-friendly housing. Some key components that might be required or incentivized include:
 - a. First-floor main bedrooms and bathrooms
 - b. Maximum building square footages and/or bedroom counts
 - c. Accessible (no-step) thresholds
 - d. Universal design requirements
 - e. Shared amenities (community spaces, playgrounds)
 - f. Sidewalks and other age-friendly infrastructures required.

Considerations

- A specific element of age-friendly neighborhoods can be incorporated into any type of residential building, specifically requiring units (or a minimum percentage) be built to universal design standards. Universal design standards are typically standards that ensure accessibility to the home regardless of ability, including provisions for people in wheelchairs or using walkers, low-vision and blind people, and people with hearing difficulties. Universal design



features include:

- No step entry
- Wide doorways and wide hallways
- Walk-in showers with grab bars and/or benches
- Thresholds flush with floors throughout
- Kitchen layouts and appliances that accommodate wheelchair use
- Easy access light switches and other components

Resources

- AARP, “Network of Age-Friendly States and Communities,” <https://www.aarp.org/livable-communities/network-age-friendly-communities/>
- Grantmakers in Aging, “Aging Power Tools: A Curated Selection of Resources to Promote Stronger, Age-friendly Communities,” https://www.giaging.org/documents/130402_GIA_AFC_Toolkit.pdf
- Citizens’ Housing and Planning Association, “Age Restricted Active Adult Housing in Massachusetts,” https://www.chapa.org/sites/default/files/f122952789640_BUpdateDec2008_4.pdf

Issues Addressed

Housing Costs, Housing Options, Multigenerational

Related Tools

Missing Middle Housing Types, Cluster Housing, Village Plan Alternative, Housing Opportunity Zone, PUD, Workforce Housing Ordinance, Inclusionary Zoning



Case Studies

Chester, NH

Chester's age-friendly subdivision law grew from a public outreach campaign that identified a lack of housing options for young people and downsizing seniors. These age-friendly neighborhoods are envisioned to consist of smaller, affordable, low-maintenance homes for all people regardless of age, ability, or disability. The ordinance allows single-family and duplex developments on lots of at least 12 acres. Density is based on 1.75 acres per single-family home and 2.5 acres per duplex, with a maximum of 10 units in each subdivision. These rules are significantly more permissive and consume less land than Chester's conventional subdivision rules. Housing must meet universal design standards for accessibility, and each unit can have no more than two bedrooms.

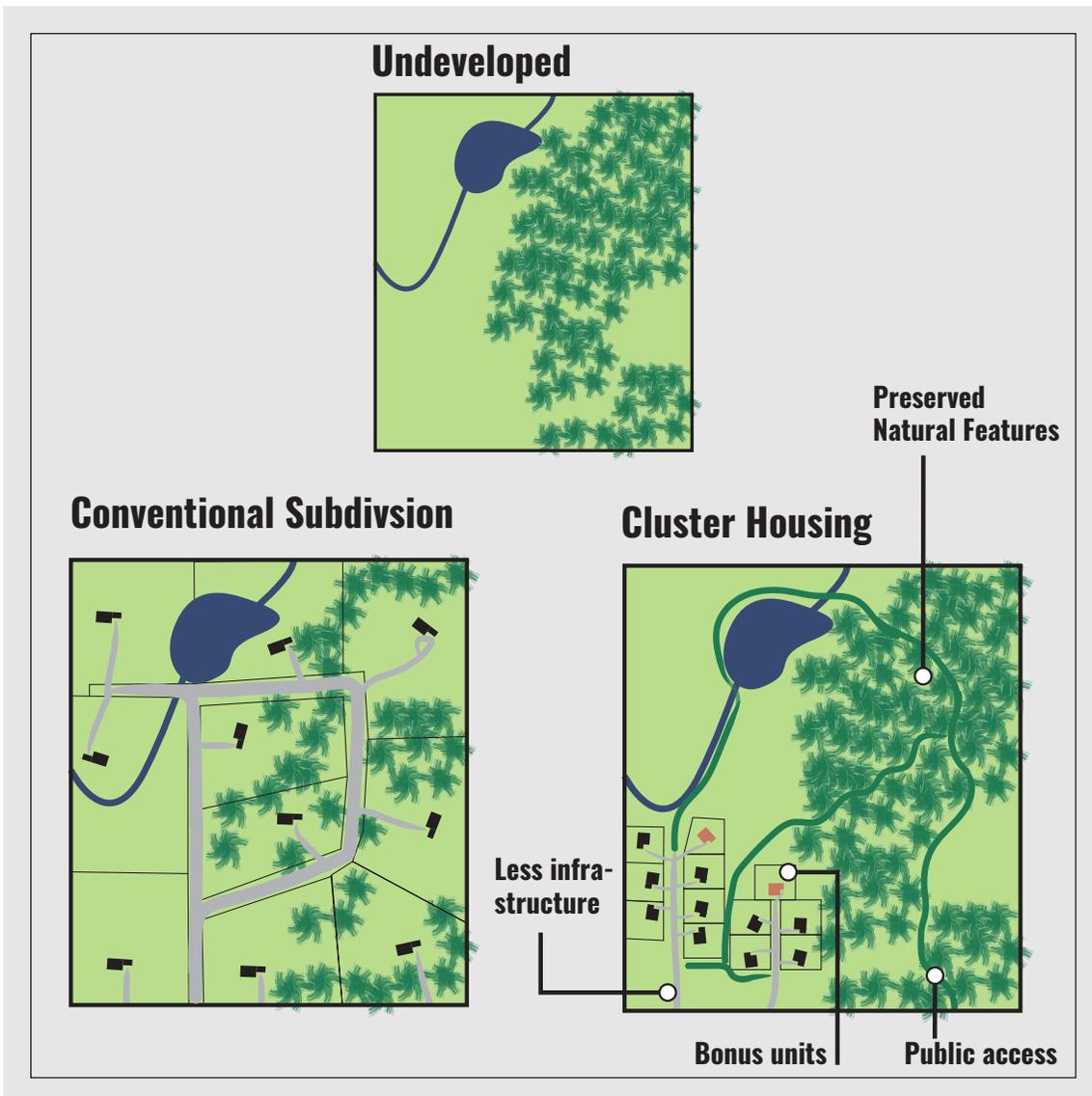
- Chester's Zoning Ordinance, https://www.chesternh.org/sites/g/files/vyhlf2941/f/uploads/50_zoning_ordinance_03-14-22.pdf

Stow, MA

Stow, Massachusetts' zoning laws include provisions for an Active Adult Neighborhood Overlay District, which emphasizes design elements to promote aging in place, such as ADA accessibility, clustering of buildings, and the provision of community gathering spaces. Active Adult Neighborhoods are subdivisions on at least 25 acres of land, allowing single-family homes, cottages, duplexes, triplexes and four-plexes. At least 30% of units must be less than 1,800 square feet in size, and at least half of those must be detached single-family dwellings. The maximum density is three units per acre. At least 15% of units must be affordable to low-income households. Both the homes and public realm must be accessible to people with disabilities, and the development must include shared community spaces for residents.

- Stow's Active Adult Neighborhood Special Permit Rules and Regulations, https://www.stow-ma.gov/sites/g/files/vyhlf1286/f/uploads/2021_aan_rules_and_regulations.pdf

Cluster Housing





What is it?

Cluster housing (also called “conservation subdivision”) is a style of development in which homes are grouped together on a site and given large shared open spaces, rather than the style of conventional development, with homes evenly distributed with smaller private open spaces. The practice mirrors historic patterns of neighborhood development before the rise of large-lot subdivisions. Towns can encourage and developers can pursue cluster development to preserve natural resources, provide high-quality open space amenities, and reduce the ecological impact of new development.

Over 170 communities in New Hampshire permit some form of this development today. Cluster housing laws are also known as “open space development” and “conservation development” laws. In its most common form, this method more closely groups homes within a subdivision by reducing the zoning codes’ dimensional requirements for new homes (such as minimum lot size). Cluster housing may also have different infrastructure requirements under a subdivision bylaw and may include a residential density bonus for open space protection. Cluster housing is typically given as an option for developers through a Conditional Use Permit (or other discretionary) process.

How can it help?

Cluster developments can...

- Provide flexibility to both planning boards and developers for handling unique site characteristics, such as steep slopes, wetlands, and wildlife corridors.
- Facilitate the preservation of large tracts of open space, protecting farmland, natural features, and key resources like aquifers.
- Create smaller subdivision lots, which can be more affordable.
- Reduce the footprint of new development, minimizing impervious surface and site grading.
- Reduce the cost of construction and maintenance of infrastructure. Savings can be passed on to residents.
- Reduce utility costs for residents.
- Protect important views and vistas for the community.
- Improve stormwater management.
- Provide outdoor recreation opportunities, especially for seniors and young families living on site.
- Increase overall supply of housing, especially smaller and less expensive housing types.



Getting Started

1. Recognize and promote cluster housing's impact on common master plan goals, such as open space preservation, natural resource management, and increased housing options.
2. If undertaking a master plan, include cluster housing as a recommendation.
3. Identify sites or areas of town appropriate for cluster development:
 - a. Identify important natural or agricultural resources, especially those at the margins of recent development.
 - b. Catalog parcels that include or are adjacent to those resources, noting those that are not already built out and may be likely to be developed.
4. Build public awareness of preservation needs and alternative development options like cluster.
 - a. Use public forums, outreach to local boards and committees, and other engagement methods to grow awareness.
 - b. Use visuals to illustrate what cluster development is like.
5. Craft an ordinance to allow for cluster housing in the identified areas. If you already have a cluster housing ordinance, craft an update to ensure its requirements are aligned with current needs and desires.
 - a. The ordinance will need to consider the density of cluster housing units in terms of the whole site as well as on subdivided lots.
 - b. The ordinance will need to consider dimensional regulations applying to the whole site, as well as the subdivided lots.
 - c. Subdivision regulations will need to be updated to reflect and implement the zoning.
6. Promote the cluster housing option to the owners of identified parcels, locally and regionally active housing developers.
7. If possible, create opportunities for pre-proposal consultations between landowners, developers, and planning staff on cluster development designs and opportunities.

Considerations

- Make cluster housing an allowed use by right. Conditional Use Permits and vague regulations can make the process unpredictable, which will discourage developers from choosing this option. Consider making cluster development mandatory for environmentally sensitive areas.



- Ensure application procedures are not overly burdensome, especially compared to conventional development.
- The method for determining housing density should be relatively simple and should not require a near-full design of a conventional subdivision to determine yield. Ensure any density formula is easily understood.
- Incorporate basic design standards into the ordinance to better achieve the aesthetics desired in your community, while keeping the ordinance flexible enough to address unique site conditions. Rigid dimensional requirements, such as requiring large perimeter buffers may not work for every parcel.
- If open spaces are provided to the public, try to provide public access separate from residents' access.
- Try to connect cluster development open spaces to existing open space resources and/or other cluster developments. This will expand the area of undeveloped contiguous land, which can create better recreational opportunities and ecosystem supports.
- Consider requiring a design-oriented process, in which developers first design open space based on clear criteria, then site houses, roads, trails, and finally lot lines.



Clustered homes overlooking a working farm in Nubanusit Neighborhood and Farm in Peterborough. (Clive Russ via Harvard Magazine)



Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, Chapter 4: Conservation Subdivision, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.4.pdf>
- NH DES, “Conservation Subdivision Design,” <http://nhhousingtoolbox.org/resource-archive/conservation-subdivisions.pdf>
- American Planning Association, “Active Living Opportunities through Cluster Housing,” <https://www.planning.org/blog/9227411/active-living-opportunities-through-cluster-housing/>
- American Planning Association, “Planning Advisory Service Report 135 (June 1960): Cluster Subdivisions,” <https://www.planning.org/pas/reports/report135/>

Issues Addressed

Sustainable Housing, Housing Options, Infrastructure

Related Tools

Age-Friendly Neighborhoods, TDR, Village Plan Alternative, Inclusionary Zoning, Missing Middle Housing Types, Wastewater System Alternatives

State Law

- RSA 674:21(I)(f), <http://www.gencourt.state.nh.us/rsa/html/lxiv/674/674-21.htm>

Case Studies

Nubanusit Neighborhood and Farm, Peterborough, NH

The Nubanusit Neighborhood and Farm is an intentional community and cohousing development in a conservation subdivision in Peterborough. The 113-acre neighborhood includes 29 environmentally sensitive farmhouse-style homes, clustered



Clustered homes in the Nubanusit Neighborhood and Farm development in Peterborough. (Clive Russ via Harvard Magazine)



around a working farm and common indoor and outdoor spaces. The development was enabled by a zoning change by the Town of Peterborough, and it includes single-family, duplex, and four-plex units.

- Nubanusit Neighborhood and Farm home page, <https://www.nhcohousing.com/>
- Foundation for Intentional Community, Nubanusit description, <https://www.ic.org/directory/nubanusit-neighborhood-farm/>
- Harvard Magazine, “A New Hampshire cohousing community models sustainability,” <https://www.harvardmagazine.com/2010/07/greener-pastures>

Terrell Farm, Nashua, NH

Until the 21st Century, the Terrell Homestead was an eighth generation dairy farm on 74 acres in southeast Nashua. In 2011, the Terrell family sold most of the property to the City for permanent conservation. In 2019, the last 25 acres were sold to Etchstone Properties for development under the City’s Conservation Subdivision rules. The new development provides 25 new three-bedroom, single-family homes of less than 2,000 square feet each. The development includes three conserved areas with wetlands, hayfields, and nature trails that connect to other parks. The homes are sold as condominiums, with the land held by a nonprofit condominium association.

- Union Leader, “Twenty-five new homes to be built in southwest Nashua” (December 6, 2019)
- Etchstone Properties, “Terrell Farm Condominiums,” <https://www.etchstoneproperties.com/properties/terrell-farm.html>

Brandywine at Thornbury

The Brandywine at Thornbury is a conservation subdivision on the rural fringe of the Philadelphia Suburbs. The development consists of single-family homes, townhomes, and carriage houses set on over 200 acres of land. The developed areas feature closely sited homes with small front setbacks and sidewalks, in order to encourage interaction between neighbors. The open spaces feature a riparian reserve surrounding a stream, trails, basketball and tennis courts, playgrounds, and community spaces. (Chester County, PA’s conservation zoning calls for 20% active open space). The community also includes a daycare center.

- Brandywine at Thornbury HOA, <https://brandywineatthornbury.nabrnetwork.com/>
- Chester County Planning, “Successful Cluster Developments,” <https://www.chescoplanning.org/municorner/ConservationSubdivision/pdf/BrandywineThornbury.pdf>



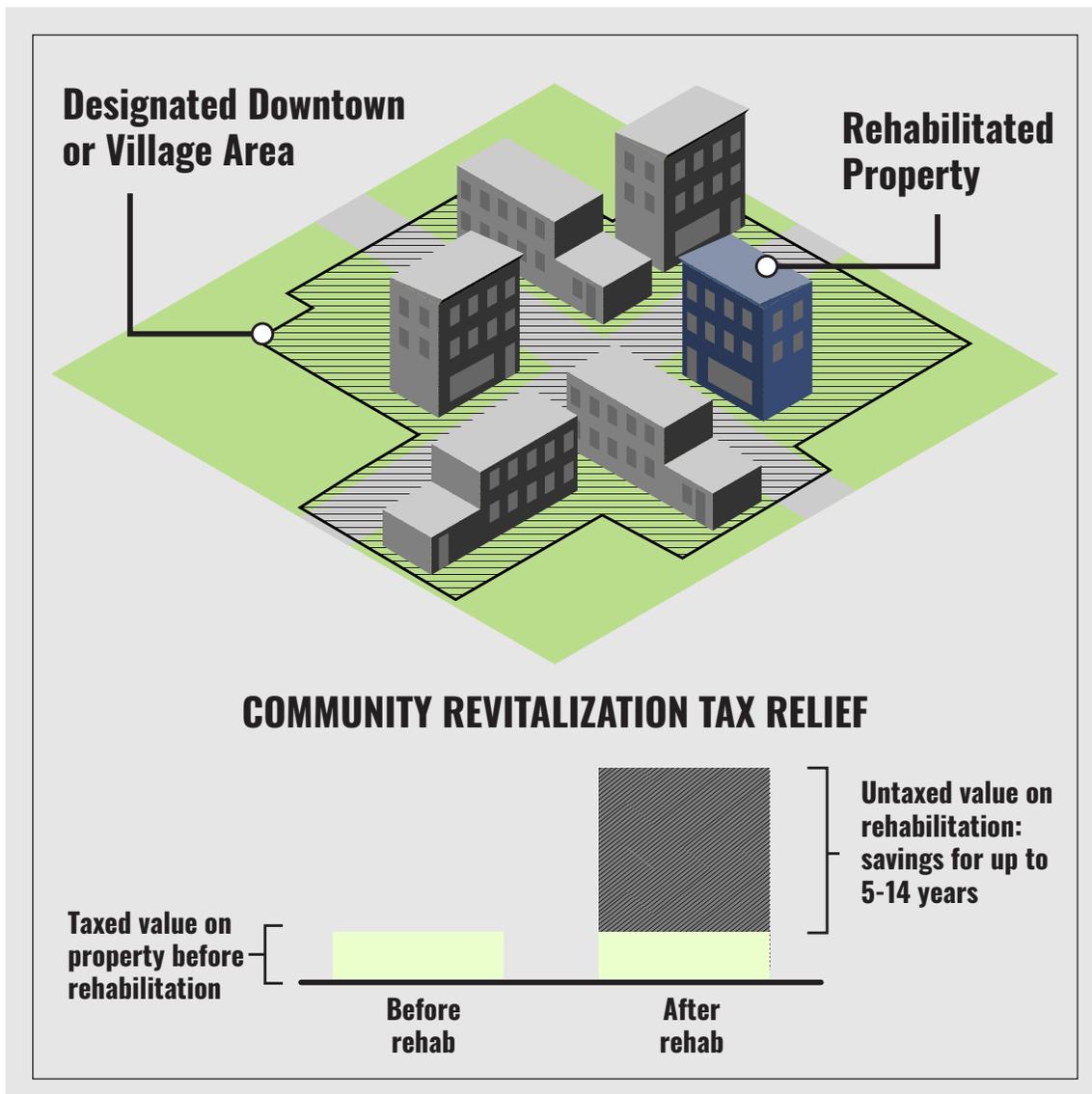
SITE MAP



TERRELL FARM CONDOMINIUM | NASHUA, NH | (603) 724-2655 | ETCHSTONEPROPERTIES.COM

A site plan for the Terrell Farms development in Nashua. (Etchstone Real Estate)

Community Revitalization Tax Relief (79-E)





What is it?

The Community Revitalization Tax Relief Incentive provides temporary tax relief for a property owner to rehabilitate or replace their building in a village or downtown area. The tax relief program is authorized under state law RSA 79-E, and so the program is often referred to as “79-E.”

Though it’s a state law, the program must be adopted locally to go into effect. To be eligible for the tax relief, the property owner must provide a “public benefit.” Eligible public benefits include the creation of housing in town centers, preservation of the existing building stock, economic development in town centers, and more. For any 79-E project, a covenant specifying the public benefit owners will provide is placed on the property’s deed.

Under the program, a property owner can apply to the Select Board or a similar body to **delay an increase in property taxes caused by the increase in valuation from rehabilitation**. The delay can last for up to five years for eligible projects at the local governing body’s discretion. Additional years of tax relief may be added at the governing body’s discretion for specific benefits: up to two additional years for the project’s inclusion of housing and up to four additional years for the inclusion of affordable housing, as well as up to four years for rehabilitation of a property National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district.

The tax relief does not decrease the property owner’s taxes or provide permanent tax relief. Following expiration of the tax relief, the property is taxed at its full market value, taking into account the rehabilitation.

A property owner can apply for the tax relief only if:

- The building is located in the community’s downtown district (or equivalent neighborhood business district), as defined by the community (see Considerations for further detail).
- The rehabilitation costs at least 15% of the building’s pre-rehab assessed value, or \$75,000, whichever is less.
- The rehabilitation is consistent with the municipality’s master plan or development regulations.

How can it help?

The Community Revitalization Tax Relief Incentive can...

- Preserve buildings of historical significance in a downtown or village area.
- Spur economic development in a downtown or village area.
- Encourage infill development.



- Direct investment to areas where infrastructure and public facilities already exist, preventing increased costs to expand that infrastructure.
- Reduce demand for conventional greenfield development, thus reducing pressure on natural resources and open spaces.
- Fix old and deteriorating buildings, reduce the number of vacant buildings and lots, and otherwise revitalize disinvested areas.
- Encourage development that fits the historic architectural character of New Hampshire's towns and villages.
- Provide amenities to surrounding neighborhoods.
- Conserve energy by directing development to established areas.

Getting Started

1. Recognize and promote 79-E's impact on common master plan goals, such as increased housing options, economic development in downtowns and village centers, open space preservation, and historic preservation.
2. If undertaking a master plan, include adoption of 79-E housing as a recommendation, and designate a district officially as a downtown, town center, central business district, or village center.
3. Through a community engagement process, determine as well as what types of development and which specific sites within the downtown or village center area would be most appropriate and desirable for 79-E development.
4. Draft legislation to adopt RSA 79-E. If not already in your master plan, the legislation should define your community's "village" or "downtown" area through zoning.
5. Adopt that legislation via the relevant public body (Town Meeting, Town Council, City Council, etc.).
6. Upon adoption, develop application materials and a process for property owners to apply for the 79-E program. This should include application forms that require detailed testimony on the nature and costs of the rehabilitation and public benefits.
7. Promote the 79-E program to property owners in the village or downtown area, as well as property developers who are locally active. Send letters to these stakeholders, post the process and application materials to your community's website, etc.



Considerations

- Per RSA 79-E:2, II, a development is only eligible for this relief, if the "building is located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center."
- The key trade-off for this program is public benefits from property redevelopment versus increased local tax revenue. Communities can choose between the immediate increased tax revenue brought by redevelopment or the long-term benefits that redevelopment offers.
- Ideally, the need for relief would be backed by history of the sites in the target area and up-to-date real estate financial analysis.
- Your community should hold public outreach which explains the goals of the program, clarifies how the village or downtown area is established, the requirements for local property owners, and the nature of the tax relief and covenant.
- All applications for tax relief under 79-E are given a public hearing by the relevant governing body (i.e., the Select Board or City Council). The governing body has full discretion to approve or deny the application.



Construction underway at the China Mill rehabilitation project using 79-E in Allenstown, NH. (Image via allenstown-alt.com)



- Existing structures can be rehabilitated or replaced. In the case of a replacement, the governing body must work with the local Historic District/Heritage Commission and/or other local or state bodies to show the existing structure has little historical, cultural, or architectural value before approving the application.
- Your community can adopt stricter eligibility criteria for projects.
- Historic structures outside of village or downtown areas are eligible for the 79-E program if they are listed or eligible for the National or State Register of Historic Places.

Resources

- Plymouth State University. “A Tool for Your Town: New Hampshire's Community Revitalization Tax Relief Incentive” https://www.nh.gov/nhdhr/publications/documents/79e_psu_report.pdf
- New Hampshire Preservation Alliance. “79-E Process Flow-Chart.” <https://static1.squarespace.com/static/60f857d53daa8866a9caed91/t/62711b837bf8827dd8b00fa3/1651579779645/RSA%2B79-E%2BFlow%2BChart%2B2016.pdf>

Issues Addressed

Redevelopment, Housing Costs, Infrastructure

Related Tools

Infill Development, Adaptive Reuse, Workforce Housing Ordinance, Mixed-Use Development, Housing Opportunity Zone

State Law

- RSA 79-E, <http://www.gencourt.state.nh.us/rsa/html/V/79-E/79-E-mrg.htm>



Case Studies

Allenstown, NH

In 2020, Allenstown approved 79-E tax relief for an 155-year-old textile mill that had been underutilized. The town also rezoned the area to allow for residential uses to enable the project. Project plans called for 150 new market-rate apartments. As of this writing, the rehabilitation project is under construction.

- Allenstown 79-E materials, <https://www.allenstownnh.gov/economic-development-committee/pages/community-revitalization-tax-relief-incentive>
- Town site on mill rehab project, <https://www.allenstownnh.gov/economic-development/pages/an-historic-old-mill-finds-new-life>
- Video: Construction Images, <https://allenstown-alt.org/news-analysis/videos/china-mill-110121.mp4>



A historic riverfront restaurant in Exeter was renovated using 79-E tax relief and is now a Sea Dog Brewing brewpub location.

Exeter, NH

Exeter, NH used 79-E for the first time to aid the rehabilitation of a riverfront restaurant location, making way for a brewpub location.

- Exeter 79-E materials, <https://www.exeternh.gov/business/community-revitalization-tax-relief-incentive-rsa-79e>
- Exeter News-Letter. “Sea Dog Brewing building could be town's first 79-E project” (July 29, 2017).

Dover, NH

In Dover, the City is using 79-E to incentivize the rehabilitation of a vacant courthouse into new housing. The courthouse itself will be renovated, and a new four-story structure will be built there. The City negotiated for 20% of housing units to be deed-restricted Affordable Housing for low-income residents.

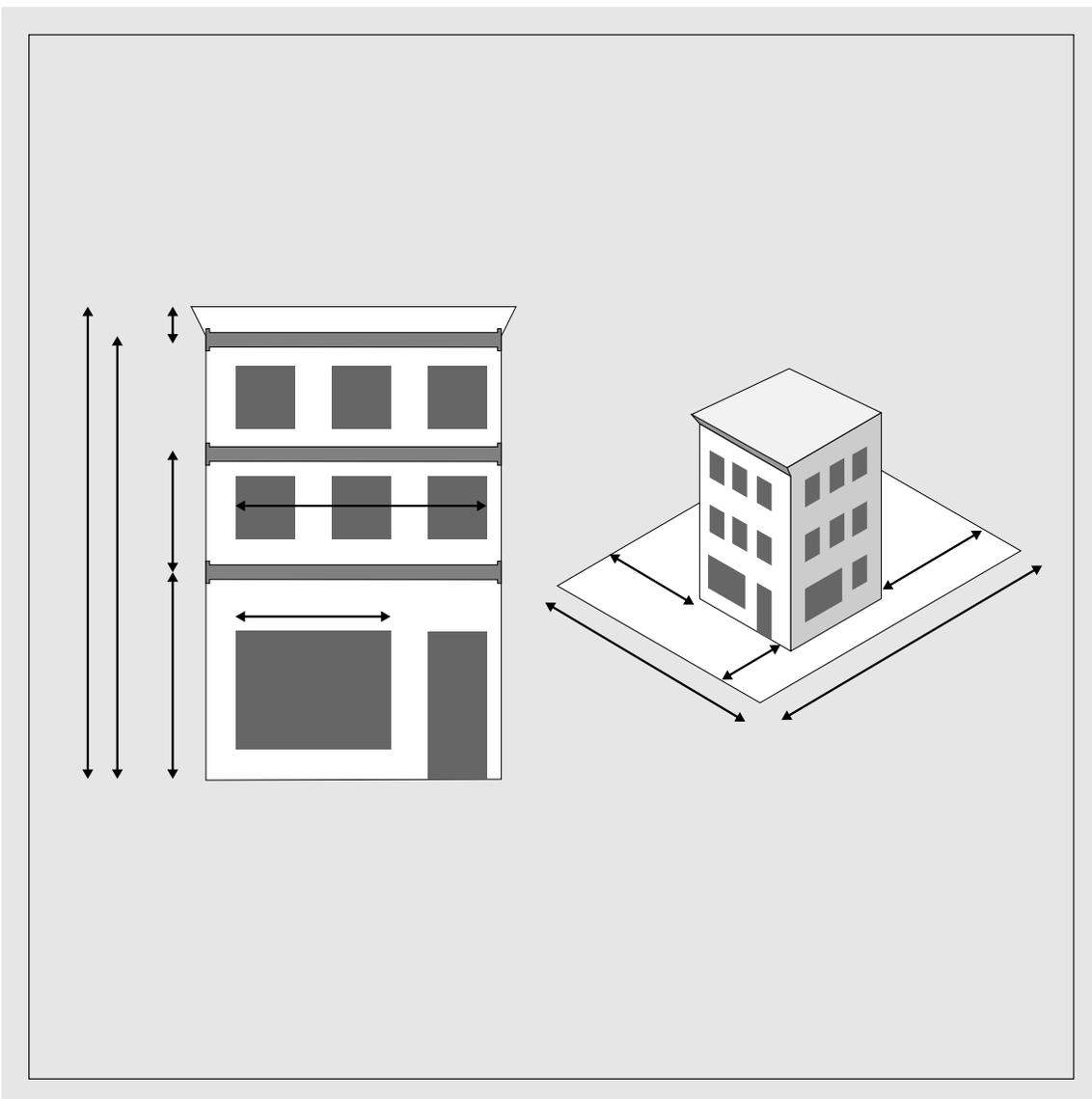
- Fosters Daily Democrat, “Chinburg's old Dover courthouse housing project: What's new, what's next” (February 25, 2021).



Dover's vacant Strafford County courthouse in 2021 (above) and a rendering of the 79-E enabled redevelopment (below). (Images via Foster's Daily Democrat)



Form-Based Codes





What is it?

A “Form-Based Code” (FBC) is a set of land development regulations with a primary focus of achieving a specified urban form. It is an alternative to conventional zoning, and is more direct about the type of development it hopes to foster. In practice, FBCs either replace the base zoning for an area, or are incorporated into a zoning overlay district. FBCs are often used in downtown areas and village centers, but they can also regulate development in historic districts and small infill development in neighborhoods.

Conventional zoning works by specifying allowed uses, development densities, dimensions for the site and building, parking ratios, and other qualities of a site. It often relies on ratios or formulas to determine the exact regulations for a given site. Often one needs the help of a zoning lawyer and architect to decipher what is allowed and where. It is common for development approvals to be at the discretion of a public body like a Planning Board. The community can provide reactive input on development proposals, but they rely on individual property owners and their teams to interpret zoning into built form. Approval processes can be long and uncertain.

In contrast, FBCs specify what types of buildings can go where, and this can lead to more predictable proposals and results for municipalities. Standards for building form with graphical depictions are a hallmark of FBCs. Use tables are typically shorter than those found in zoning ordinances, with more general categories and the uses are linked to specific building types rather than a zoning designation or area. The scale (and sometimes architectural style) of a building is usually refined with more specific standards, along with its relationship to parking areas, the street, and other public spaces.

How can it help?

Form-Based Codes can...

- Encourage construction of alternative housing types like duplexes and small multifamily buildings, which are often missing in smaller communities with little affordable housing.
- Increase property owners’ certainty about what is allowed on their land, and, for developers, reduce design and permitting uncertainty—potentially lowering costs for homebuyers and renters.
- Help regulate the infill, expansion, and redevelopment of downtowns and village areas.
- Help to continue historic development patterns and reflect the character of an existing built environment.
- Encourage mixed-use development and opportunities for small businesses.
- Create more useful and enjoyable public spaces, especially streets.



Getting Started

1. Recognize and promote an FBC's impact on common master plan goals, such as increased housing options, economic development in downtowns and village centers, historic preservation, and more.
2. If undertaking a master plan, include adoption of an FBC as a recommendation.
3. Hold a public visioning process to determine where an FBC might be useful and the community's long-term goals for that area, including specific design goals as well as broader goals that a FBC may be helpful in achieving.
4. Inventory the existing built environment in your target FBC areas. Determine if any existing buildings in the area could serve as a model for the FBC's standards. Catalog different built conditions to which the code should respond.
5. Develop standards for buildings and public spaces for new development. Work with an architect to help define the parameters for these new standards.
6. Draft legislation defining the area for the FBC, the standards new development must meet, and any processes related to development in the FBC area. The form of this legislation will vary greatly depending on the needs and conditions of each community.

Considerations

- Since FBCs are still relatively new, some people may need extra education on what they can do. This is especially the case for planning and development professionals who are used to conventional zoning. People not familiar with conventional zoning may find form-based codes more intuitive. You may want to include a "How to use this code" accompanying document to clarify the process of reading it as zoning.
- While most FBCs respond directly to the historic built environment, ensure the FBC is aligned with contemporary building practices and real estate economics. If these are ignored, the code may halt development altogether.
- An FBC can take many forms, such as a special district, an overlay district, or even an alternative development incentive.
- Additional specific standards, such as those for building architecture, landscaping, and signs, can be included in the code, if desired.
- Graphics should clearly depict standards for buildings, streets, and the outdoor space that they create, and they should help the code to be understood by all.
- While FBCs are more specific than conventional zoning and the intent should be clear, incorporating flexibility is important, as site conditions can be diverse.
- Developing an FBC can be a daunting task. Consider hiring a consultant or



contact your regional planning commission.

- If an FBC covers a larger area, they are typically divided into different districts (often called “transects” in FBCs), which deal with different existing conditions. Often a transect will define a community core with rings of decreasing density.
- Much like zoning, an FBC requires provisions for permitting and other administrative processes. An FBC also requires a map to show where the FBC applies and any transects within that area.
- FBCs are often hybrids with some typical FBC features and not others, in order to mesh with existing ordinances. FBCs are often confused with design guidelines, but they are regulatory rather than advisory.

Resources

- Form-Based Code Institute, <https://formbasedcodes.org/>
- Community Planning New Hampshire, “Form-Based Code,” https://extension.unh.edu/sites/default/files/migrated_unmanaged_files/Resource004821_Rep6854.pdf
- Strong Towns, “6 Reasons Your City Needs a Form-Based Code,” <https://www.strongtowns.org/journal/2020/6/8/6-reasons-your-city-needs-a-form-based-code>
- Cape Cod Commission, “A Framework for Form-Based Codes on Cape Cod,” https://www.capecodcommission.org/resource-library/file/?url=/dept/commission/team/Website_Resources/crbd/FBC-Framework-FINAL.pdf
- Peter Katz, “Form First,” <http://nhhousingtoolbox.org/resource-archive/form-first.pdf>
- Emily Talen, Transect Code Manual: A Step-by-Step Manual,” <https://urbandesignresources.org/wp-content/uploads/2013/12/transectmanualDec13smallerize.pdf>
- Town of Bridgton, Maine, “Place-Based Maine and Form-Based Codes,” <https://www.maine.gov/dacf/municipalplanning/docs/2010-04-22FormBasedCodes.pdf>

Issues Addressed

Redevelopment, Housing Costs, Housing Options, Infrastructure



Related Tools

Infill Development, Mixed-Use Development, Workforce Housing Ordinance, Missing Middle Housing Types, Age-Friendly Neighborhoods, Cluster Housing

State Law

- RSA 674:21, <http://www.gencourt.state.nh.us/rsa/html/lxiv/674/674-21.htm>

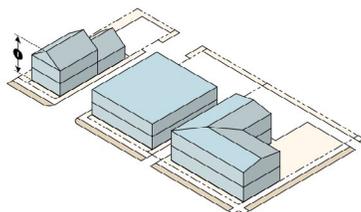
Case Studies

Keene, NH

In 2021, Keene adopted a new Land Development Code, which recodified the whole of the City’s zoning and uses form-based elements in the Downtown Area.

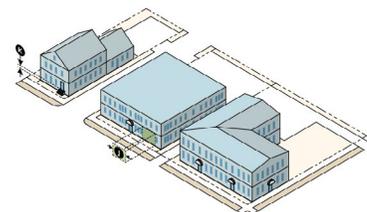
- Keene Land Development Code, <https://keenenh.gov/land-development-code>
- Keene Building Better, <https://www.keenebuildingbetter.com/>

4.5.3 Height



Building Height	
Min Building Height	None
1 Max Building Height	35 ft & 2.5 Stories

4.5.4 Activation



Building Activation	
1 Max Blank Wall Area	20 ft
2 Max Height of Building Entry Threshold Above Sidewalk	4 ft
Min Ground Floor Transparency	30%
Min Upper Floor Transparency	15%

Dover, NH Downtown Form-Based Code

With the first FBC adopted in New Hampshire in 2009, Dover has garnered several awards for the effort, which has spurred redevelopment in the downtown.

- Downtown FBC Homepage, <http://www2.dover.nh.gov/government/city-operations/planning/special-projects/form-based-code/>
- Business NH, “Dover’s Economic Explosion,” <https://www.businessnhmagazine.com/article/dover-s-economic-explosion>
- PlanNH Award, <https://plannh.org/awards/2010-merit-awards/form-based-code-project-dover>

An excerpt from Keene’s Land Use Code, using form-based elements in downtown districts. (Image via City of Keene)



Lancaster, NH

The largely rural town of Lancaster adopted a form-based code for their downtown in 2014. The form-based approach grew from the community’s recognition that their old conventional zoning code would not allow development in line with the historic character of downtown, nor would it provide needed community space.

- Community Planning New Hampshire, “Form-Based Code,” https://extension.unh.edu/sites/default/files/migrated_unmanaged_files/Resource004821_Rep6854.pdf

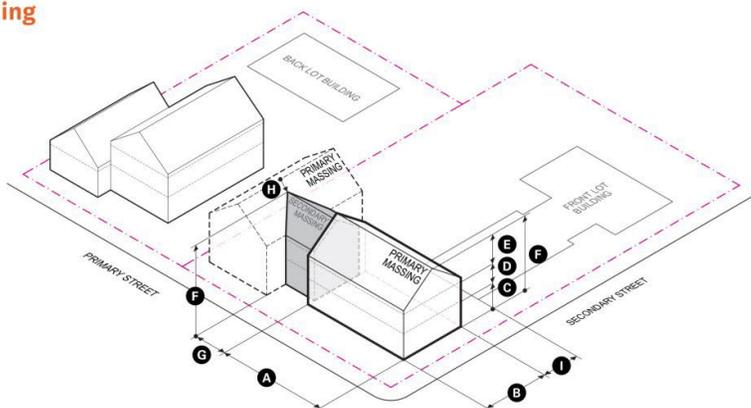
Littleton, MA

The largely rural town of Littleton has a population of 10,000 and sits on the outskirts of Greater Boston, near I-495. In 2020, the Town adopted an FBC to spur development in its Village Common. The FBC followed recommendations from the Town’s master plan and a Village Common District Plan.

- Adopted Code, https://www.littletonma.org/sites/g/files/vyhlf8011/f/uploads/littleton_vcfbc_for_tm.pdf
- Public Presentation, https://www.littletonma.org/sites/g/files/vyhlf8011/f/uploads/2020-02-10_littleton_common_fbc_slides_for_feb_10_public_hearing.pdf

Front Lot Building

On corner lots, up to 2 Front Lot Buildings are permitted. On interior or key lots, 1 Front Lot Building and up to 1 Back Lot Building is permitted.



Primary Massing		Secondary Massing		Use and Features		Permitted Building Components	
A Width (max)	36 ft	C Projection from Side or Rear Wall (max)	18 ft or 50% of the largest primary massing, whichever is less	Ground Story Occupation	Commercial	Projecting Gable	
B Depth (max)	64 ft			Upper Story Occupation	Any	Projecting Storefront	
Facade Build-out (min)		D Roof Ridge Offset (min)	6 ft	Dwelling Units (max)	1 / 1.25 parking spaces	Side Wing	
Primary Front	60%			E Ground Story (min)	60%	Rear Addition	
Secondary Front (Corners Lots)	50%	I Distance from any other building (min)	20 ft	Fenestration	--	Dormer Window	
Height				F Ground Story (min)	60%	Cross Gable	
Story Height	--	F Upper Story (min/max)	15% 50%	Bay Window		Balcony	
C Ground Story (min)	14 ft	Building Separation		Permitted Frontage Types			
D Second Story (min/max)	10 ft 12 ft	I Distance from any other building (min)		Gallery			
E Half Story	10 ft 16 ft			Entry Plaza			
F Number of Stories (max)	2.5 stories			Dining Patio			
F Building Height (max)	36 ft			Front Garden			

An excerpt from Littleton, MA’s Village common Form-Based Code. (Image via Utile.)



Standish, ME

The Town of Standish was the first community in Maine to adopt an FBC in 2011. It is designed to address village development in a rural community.

- Standish’s FBC, <https://ecode360.com/6382121#29444870>
- Main Biz, “Form-based codes | A new zoning philosophy gets a toehold in Standish.” (July 25, 2011)

Lowell, MA

First adopted in 2004 and amended in 2006, the primary goal for the City’s FBC is to address urban infill development.

- Commonwealth of Massachusetts. Form Based Code Case Studies: Lowell, <https://www.mass.gov/service-details/case-studies-form-based-codes>
- George Proakis. “Adopting Innovative Form Adopting Innovative Form-Based Codes Based Codes in Massachusetts,” <http://www.growsmartri.org/training/Adopting%20Innovative%20FBC%20-%20Lowell%20MA%20Presentation%202008.pdf>

Fort Worth, TX

This FBC aimed to balance historic preservation and incentivizing new development. The code includes three transects for the historic district (a National Register of Historic Places), a transition district, and an edge district. In addition to the FBC, the project provided design guidelines that could shape development in more detail without being mandatory, as well as a one-page guide for using the code.

- Fort Worth FBC webpage, <https://www.fortworthtexas.gov/departments/development-services/preservation-urban-design/historic-preservation/historic-stockyards>
- “How to Use this Document,” <https://www.fortworthtexas.gov/files/assets/public/development-services/documents/all-preservation-and-design/historic-stockyards/33648829-8140-4799-a38a-4b713548887d.pdf>

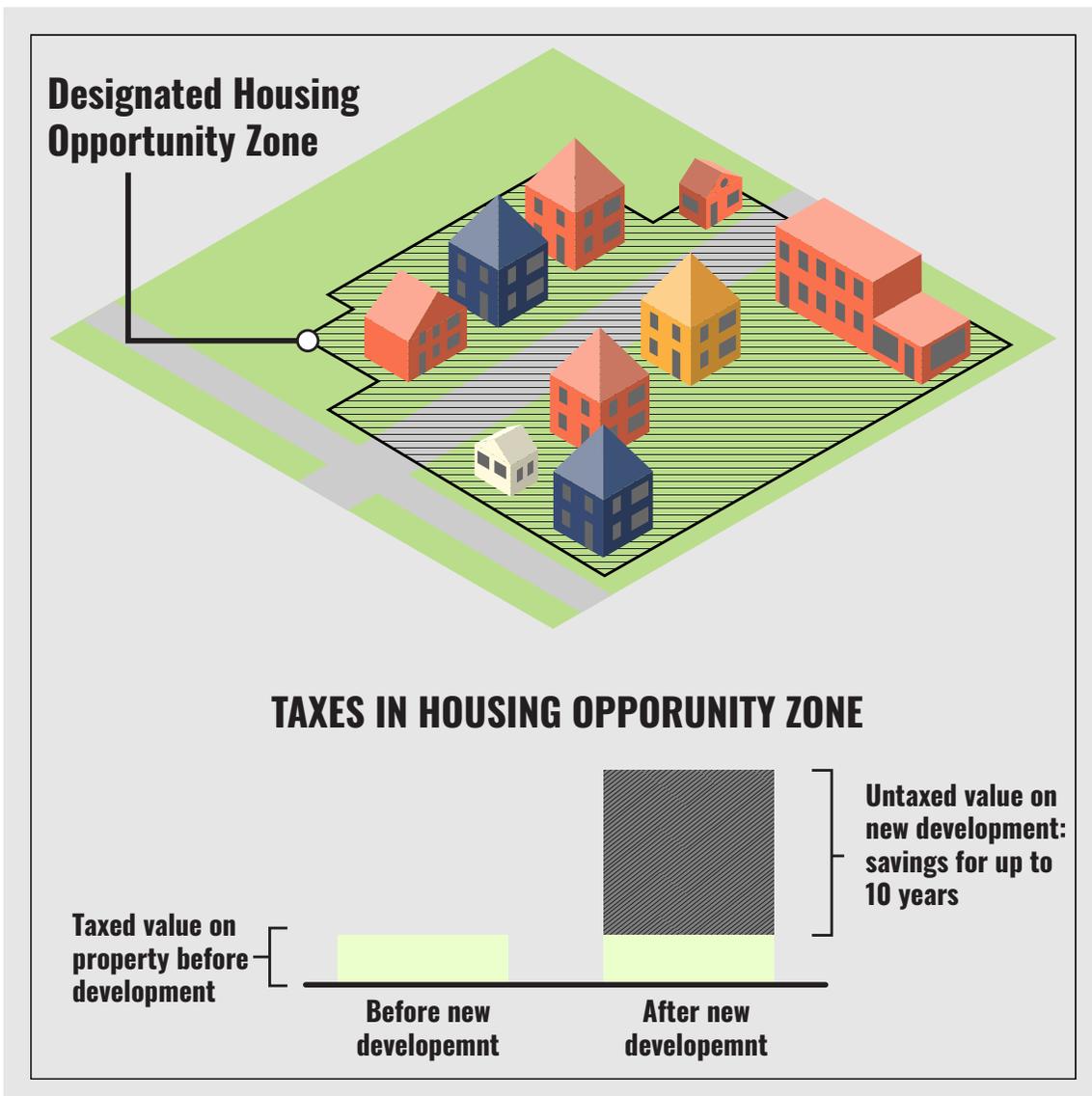
Burlington, Vermont

The City adopted a master plan for the downtown and waterfront area that recommended an FBC-based approach. The City Council adopted an FBC in 2017 and followed up with streetscape standards in 2018.

- Adopted Code, https://www.burlingtonvt.gov/sites/default/files/Art14planBTVDowntownCode_FINAL_11-13-17.pdf
- Presentation on FBC, https://www.burlingtonvt.gov/sites/default/files/PZ/planBTV/Downtown_Plan/FBC_101_AIAVT.pdf



Housing Opportunity Zones





What is it?

A Housing Opportunity Zone (HOZ) is an area within a community where qualifying mixed-income developments can receive property tax relief for up to 10 years. Under the program, a community defines an area of their town or city as a “Housing Opportunity Zone,” and new housing developments there can apply to the municipality for a delay on increased property taxes resulting from that new development. For a development in a Housing Opportunity Zone to qualify, it must provide at least 30% of its homes to low-income households or meet another mix of incomes defined under state law. The program does not permanently decrease taxes owed. The Housing Opportunity Zone, which became law in 2022, is an iteration of the older Community Revitalization Tax Relief Incentive (Chapter 79-E).

How can it help?

Housing Opportunity Zones can...

- Encourage new housing development at targeted locations.
- Provide new housing for households at lower income levels, who are otherwise unserved by new development.
- Spur economic development in targeted areas.
- Create incentives for new housing with no up-front cost to the municipality or other government bodies, while ensuring greater municipal revenues after the tax relief’s expiration.

Get Started

1. Recognize and promote HOZs’ impact on common master plan goals, such as increased housing options, increased affordability, economic development in downtowns and village centers, open space preservation, and more.
2. If undertaking a master plan, include adoption of a Housing Opportunity Zone as a recommendation.
3. Conduct a public engagement process to determine what areas of your community should be considered a Housing Opportunity Zone. A Housing Opportunity Zone does not need to be a “downtown” or “village” area, like with the Community Revitalization Tax Relief Incentive, but it can be.
4. Draft legislation to adopt the Housing Opportunity Zone. The legislation should define the boundaries of the zone.
5. Draft legislation to adopt RSA 79-E. The legislation should define your



community’s “village” or “downtown” area, as well as administrative procedures and criteria for determining the duration of the tax relief.

6. Adopt that legislation via the relevant public body (Town Meeting, Town Council, City Council, etc.). Adoption follows the provisions of RSA 79-E:3.
7. Upon adoption, develop application materials and a process for property owners to apply for the Housing Opportunity Zone program.
8. Promote the Housing Opportunity Zone to property owners within the zone, as well as property developers who are locally active. Send letters to these stakeholders, post the process and application materials to your community’s website, etc.

Considerations

- The key trade-off for this program is the benefit of new (affordable) housing versus increased local tax revenue. The tax relief can help communities if the real estate market is otherwise unable to develop new mixed-income housing in these areas of your community, and if the tax relief can cover the increased costs of constructing the affordable housing units. The tax relief could also be used in conjunction with other tools (like Inclusionary Zoning) to facilitate mixed-income housing development.
- Ideally, the need for relief would be backed by history of the sites in the target area and up-to-date real estate financial analysis.
- In some limited “hot” real estate markets, developers may be able to provide mixed-income housing without tax relief. Your community could also consider other kinds of incentives, such as density bonuses or dimensional relief for provision of affordable housing units.
- The Housing Opportunity Zone is another tool to help provide all-affordable housing developments, and it will have synergy with other incentives and programs like the state Affordable Housing Fund and the federal Low-Income Housing Tax Credit (LIHTC).
- Your community will need to have capacity to enforce the regulations, ensuring the units of a qualifying structure are rented and sold to income-eligible residents.
- Under the Housing Opportunity Zone law, qualifying income mixes include 30% or more units reserved for households making 80% or less of the area median income, or under a unit mix defined in RSA 204-C:57, IV. The mixes from that law range from at least 50% of the units being affordable to persons of very low, low, or moderate income to at least 20% of the units being affordable to persons of very low income.
- A qualifying structure is eligible for tax assessment relief for a period of up to 10 years, beginning upon issuance of the certification of occupancy.



Issues Addressed

Affordable Housing, Redevelopment, Infrastructure

Related Tools

Community Revitalization Tax Relief, Cluster Housing, Workforce Housing Ordinance, Missing Middle Housing Types

State Law

- RSA 79-E:4-c: <https://www.gencourt.state.nh.us/rsa/html/V/79-E/79-E-4-c.htm>

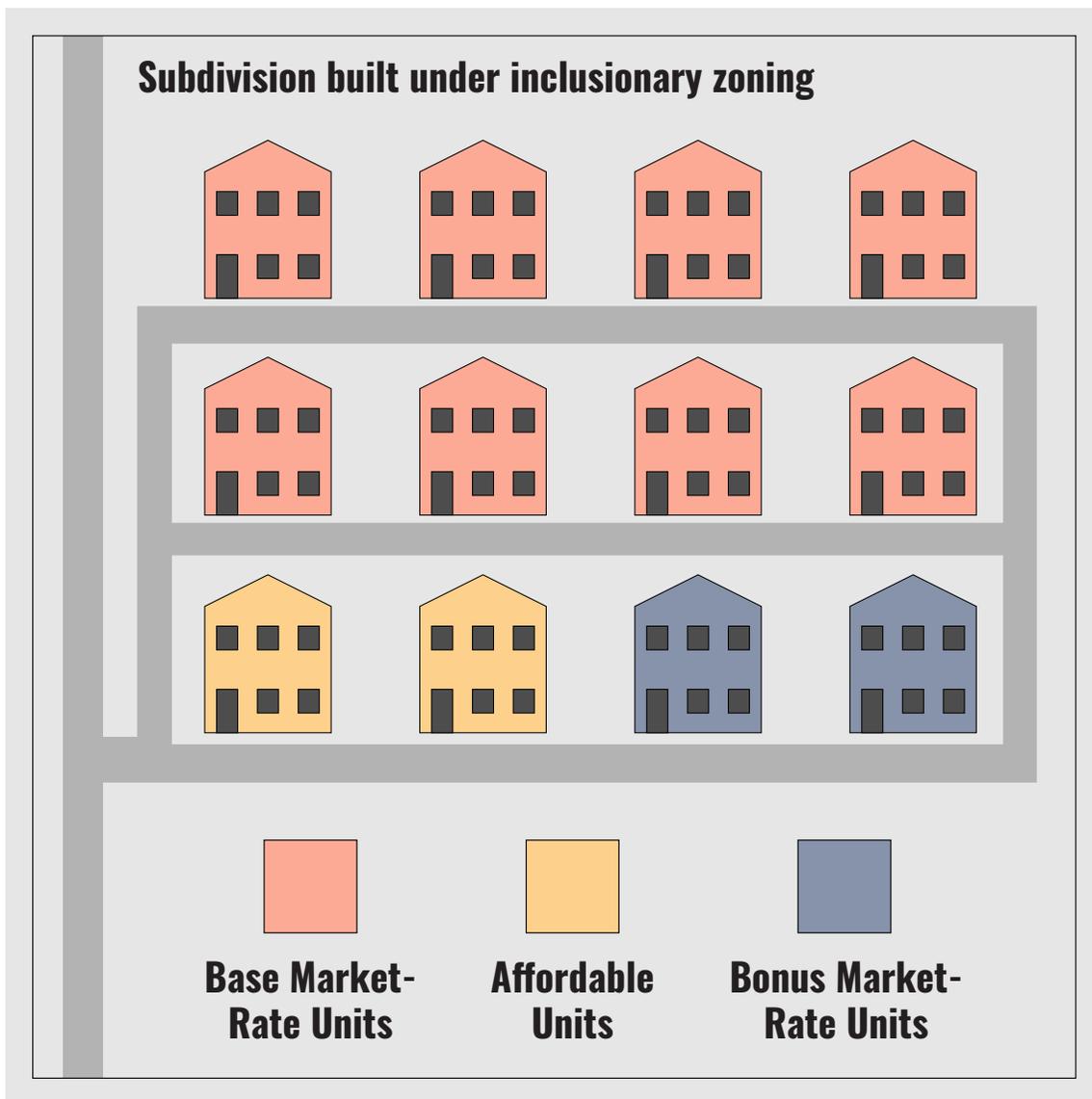
Case Studies

There are no examples of a Housing Opportunity Zone due to the tool's novelty. There have been many examples of both housing and non-housing projects enabled by Community Revitalization Tax Relief Programs, of which Housing Opportunity Zones are a part.



The State House added Housing Opportunity Zones to RSA 79-E in 2021.

Inclusionary Zoning





What is it?

Inclusionary Zoning (IZ) is a land use regulation that encourages the creation of deed-restricted affordable housing (homes that must be rented or sold at a price affordable to the typical household) within market-rate developments. The name “Inclusionary Zoning” is meant to reference and counteract “exclusionary zoning,” the practice of crafting zoning rules to limit the presence of low-income households, racial and ethnic minorities, and other groups.

The typical IZ law specifies that certain zoning rules (maximum density, dimensional rules, minimum parking) can be relaxed for new developments of a certain size if that development rents or sells a portion of its units at an affordable rate to income-eligible households. Under New Hampshire law, IZ must be voluntary (i.e., a developer elects to provide the affordable units in exchange for zoning relief). Some states allow for mandatory IZ, in which all developments of a certain size must provide affordable housing. Usually, IZ’s affordable housing units must be provided on the same site as the market-rate development. Some IZ laws allow affordable units to be built off-site. Others allow developers to pay a fee in lieu of building the units themselves. This “payment-in-lieu” is a way some communities capitalize their funds for affordable housing development.

In the case of most developments built under IZ, the market rate units “cross-subsidize” the affordable units, making up for any financial loss that below-market-rate prices create. For cross-subsidies to work, there must be sufficient market-rate rent to cover the affordable units and deliver the profit that financiers expect from developers. This real estate balancing act is tricky and will be very specific to your community.

How Can It Help?

Inclusionary Zoning can...

- Increase affordability without reliance on scarce government funding.
- Encourage housing production (if a bonus is included).
- Create more community support for housing development generally.
- Produce more diverse housing options.
- Produce affordable units even when costs are rising.

Getting Started

1. Recognize and promote IZ’s impact on common master plan goals, such as increased housing options and increased affordability.



2. If undertaking a master plan, include adoption of IZ as a recommendation.
3. Conduct a real estate financial analysis to determine whether and at what levels IZ will work in your community. This step is needed to ensure any IZ law provides the most amount of affordability without foregoing housing production generally or regressively passing affordable housing costs to low-income households. The analysis should consider typical home rents/prices, land and construction costs, your community's income distribution, the proportion of affordable units within an overall development, the level of affordability of those units, the number of units in a development at which IZ goes into effect, density bonuses or other zoning relief, the impact on market-rate rents/prices, and more.
4. Hold a public engagement process to discuss the costs and benefits of IZ in your community. Use the real estate financial analysis to educate the community on what is possible and what trade-offs there are. Use the public discussion to determine a vision for IZ in your community.
5. Draft and adopt an IZ law that reflects both the market realities and your community's vision.
6. Work with local developers to help them understand the IZ law and take up the IZ option for their developments.

Considerations

- IZ is a very technical intervention into the private market. Passing a law without considering its market impact will cause the law to fail. It could encourage “gaming” of the law, a failure to produce an optimal number of units.
- New Hampshire law does not allow mandatory IZ requirements, which are common in some other states. Mandatory IZ must be similarly (if not more) calibrated to local market conditions in order to prevent unwanted outcomes. New Hampshire lawmakers may consider allowing local mandatory IZ laws in the future.
- IZ typically works best in high-demand downtown or village areas. Applying IZ in low-demand markets or in rural and suburban single-family areas may not result in uptake of the program.
- Payments-in-lieu are a great way to build up local coffers for affordable housing development. They should only be used if your community has the capacity to spend the money, typically through an active Housing Authority or Housing Commission, but potentially through municipal staff with existing relationships to nonprofit housing developers. Payments-in-lieu can also be used to capitalize a revolving fund to finance affordable housing development, as authorized by RSA 31:95-h, I(d).
- Payments-in-lieu can be difficult because there are many ways to put a dollar value on an affordable housing unit. Consider all the options and their impacts.



Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, "Innovative Land Use Planning Techniques: A Handbook for Sustainable Development," Chapter 1.9: Inclusionary Housing, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.9.pdf>
- Grounded Solutions Network. *Inclusionary Housing*. <https://inclusionaryhousing.org/>
- Grounded Solutions Network. "Inclusionary Housing In the United States." https://groundedsolutions.org/sites/default/files/2021-01/Inclusionary_Housing_US_v1_0.pdf

Issues Addressed

Affordable Housing

Related Tools

Workforce Housing Ordinance, Reduced Zoning and Subdivision Requirements, Housing Opportunity Zone

State Law

- RSA 674:59, I-II. <https://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-59.htm>
- RSA 674:21(k), <https://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-21.htm>

Case Studies

Chester, NH

Chester had a version of IZ for cluster housing that provided affordable units at different income levels. That system produced more than 70 affordable units. It was repealed in 2007 and replaced with a version that offered a density bonus for age-



restricted units. In 2020, the bonus was adjusted to encourage Workforce Housing instead. (Under New Hampshire law, homes are considered “Workforce Housing” when they meet the requirements of RSA 674:58-61 being affordably rented to a three person household earning no more than 60% of the Area Median Income (AMI) or sold to a four person household earning no more than 100% AMI.)

- Chester, NH Zoning Code, https://www.chesternh.org/sites/g/files/vyhlif2941/f/uploads/50_zoning_ordinance_03-14-22.pdf
- Planning Board report on 2020 TM warrant, https://www.chesternh.org/sites/g/files/vyhlif2941/f/uploads/037_-_planning_board_-_2020_final.pdf

Exeter, NH

Exeter’s zoning ordinance provides for IZ. Developments can opt into the IZ program if they provide at least 10% of units at affordable rates to income-eligible residents and if they adhere to design standards. The IZ program is structured by removing density caps for new developments and allowing dimensional and parking requirements to dictate allowable residential density, while also increasing some height limits and reducing parking requirements.

- Exeter, NH Zoning Code, https://www.exeternh.gov/sites/default/files/fileattachments/zoning_board_of_adjustment/page/13161/2022_final_zo_with_cover_appendix_03-08-22.pdf

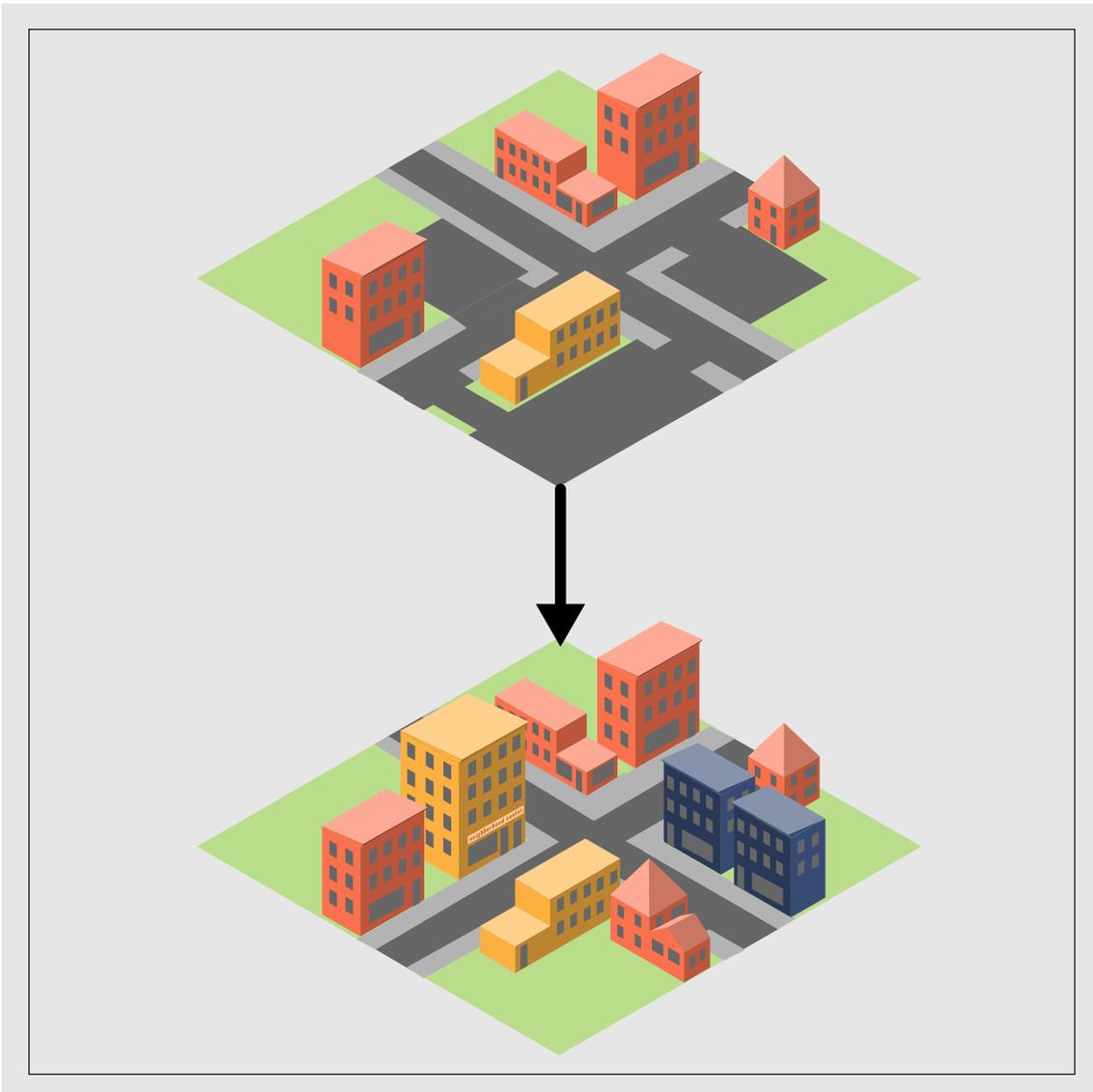
Seattle, WA

The City of Seattle offers a voluntary “Incentive Zoning” program for new development. In exchange for either building affordable housing, making an in-lieu payment, or providing another amenity from a list of community benefits, the City will allow more gross floor area in a development. In 2022, the program raised more than \$800,000 dollars for affordable housing and other public benefits, directly created three affordable housing units, and directly generated other public benefits.

- City of Seattle, Incentivize Zoning program home page, [https://www.seattle.gov/sdci/codes/codes-we-enforce-\(a-z\)/incentive-zoning-program](https://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/incentive-zoning-program)
- Cornerstone Partnership, “Seattle Incentive Zoning: Analysis of data relating to the historical production under Seattle’s Incentive Zoning Program,” http://www.rjacobus.com/wp-content/uploads/2014/05/plus20140213_1e.pdf



Infill Development





What is it

New construction undertaken in an already built-up area is often referred to as “infill development.” It generally occurs on underused properties within a downtown or urban core either by reusing existing buildings, developing on vacant parcels, or demolishing existing buildings to make way for new construction. It can vary in scale from a single residential lot to large industrial sites. Infill can also occur in neighborhoods or along commercial corridors, similarly when the site is vacant or underutilized.

Towns and cities in New Hampshire have taken a variety of approaches to encourage infill development. Many use one or more of the tools listed in RSA 674:21, Innovative Land Use Controls, which are discussed elsewhere in this document. Buildings, of course, have a shelf life, just like everything else in the universe. They are often repurposed and reused (see Adaptive Reuse), but sometimes they are demolished, leaving gaps in our communities. Attracting new development that fits well into those gaps is an ongoing challenge for most cities and towns.

How It Can Help

Infill Development can...

- Encourage more efficient use of land.
- Reduce negative impacts of vacant buildings and lots.
- Reduce cost for development and need to extend infrastructure.
- Lead to more housing options in a community.
- Spur new investment and help to expand the tax base.
- Serve as an impetus to clean up contaminated sites.

Getting Started

1. Recognize and promote infill development’s impact on common master plan goals, such as increased housing options and increased affordability.
2. If undertaking a master plan, include infill development as a recommendation.
3. Identify potential and priority infill development sites. Talk to property owners and developers to gauge redevelopment interest and constraints.
4. Audit existing regulations to find impediments for infill development.
5. Consider adopting a fee structure that favors infill development.
6. Consider infill development incentives, including density bonuses, a streamlined



permitting process, and tax relief.

7. Provide clear rules for building renovations
8. Draft and adopt amendments to land use regulations to reflect the above changes.
9. Promote infill opportunities to local property owners and developers.

Considerations

- Capital costs are often higher and finance options are limited for infill projects.
- Clean up of environmental contamination usually requires public investment.
- Infill developments can be good candidates for a mix of uses, especially in areas that are walkable and have residents to support retail. Encourage or require mixed-use developments in infill projects.
- Right-sizing regulations may be necessary for projects to fit into the existing character of the area and to pencil out. Many zoning codes do not allow traditional neighborhood development and/or are out of step with real estate economics.
- Land assembly can be a challenge for some infill projects. Your community should be proactive when opportunities arise, facilitating discussions between stakeholders or even purchasing land for banking or immediate development.

Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, Chapter 6: Infill Development, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.6.pdf>
- US EPA, “Attracting Infill Development in Distressed Communities: 30 Strategies,” https://www.epa.gov/sites/default/files/2015-05/documents/fresno_final_report_042215_508_final.pdf
- Municipal Research and Services Center of Washington, “Infill Development,” <https://mrsc.org/home/explore-topics/planning/development-types-and-land-uses/infill-development-completing-the-community-fabric.aspx>
- City of Dover, “Infill Development Update to City Council,” <https://www.dover.nh.gov/Assets/government/city-operations/2document/planning/Presentations/EcDev/City%20Council%20infill%20update.pdf>
- American Planning Association, “Infill Development Supports Community Connectivity,” <https://www.planning.org/blog/9227414/infill-development->



supports-community-connectivity/

- US EPA, “Smart Growth And Economic Success: Investing In Infill Development,” <https://www.epa.gov/sites/default/files/2014-06/documents/developer-infill-paper-508b.pdf>
- US EPA, “Smart Growth, Brownfields, and Infill Development,” <https://www.epa.gov/smartgrowth/smart-growth-brownfields-and-infill-development>
- Colorado Real Estate Journal, “Infill development: Challenges, opportunities,” <https://crej.com/news/infill-development-challenges-opportunities/>



Issues Addressed

Redevelopment, Housing Costs, Infrastructure

Related Tools

Community Revitalization Tax Incentive, Mixed-Use Development, Inclusionary Zoning, TIF, TDR, Reduced Zoning and Subdivision Requirements, Housing Opportunity Zone



22 Marshall Street before and after infill development. (Images via Google StreetView (top) and Metropolis Property Management (bottom)).

Case Studies

Marshall Street Apartments, Nashua, NH

The site at 22 Marshall Street is located in downtown Nashua and was home to Beebe Rubber Company, which manufactured rubber products at that location for about 70 years. Buildings were demolished on



The Orpheum Apartments, an infill project in Dover. (Image via Orpheum)

the property in 2001 after the plant closed and soil contamination was later discovered. Cleanup had been ongoing for a number of years and in 2020 construction of a new multifamily residential project with 152 units was completed. A variety of tools were employed by both the developer and the City to make the project possible, which was funded, in part, by the New Hampshire Finance Authority.

- NH Business Review. “Apartment complex planned at former brownfields site.” <https://www.nhbr.com/apartment-complex-planned-at-former-brownfields-site/>

Orpheum Apartments, Dover, New Hampshire

The site on Washington Street had been home to Robbins Auto Supply Company since the 1930s. The company was a local, family-owned business that was sold in 2009 and business operations on the property ended in 2011; the buildings sat vacant for several years. Previously, the State Theater and the Orpheum Hotel had been located within this block of buildings.



Over the past decade, the City of Dover has worked to set the stage for new infill development in its downtown by adopting many of the tools that are included in this document. In 2018, demolition began on the Robbins Block to make way for a new five story mixed use building with ground floor commercial and 130 residential units. The project was completed in the summer of 2020.

- NE Real Estate Journal. “Fulcrum Associates completes 130-unit Orpheum Apartments - a five-story, 157,000 s/f building developed by Cathartes” <https://nerej.com/fulcrum-assocs-completes-130-unit-orpheum-apartments>

42 Lafayette Square, Haverhill, MA

A developer in a historically disinvested mixed-use area of Haverhill, MA proposes to construct 14 market-rate housing units and two commercial units in a four-story building. The site had been vacant for 23 years after a fire destroyed the previous structure. The size and architecture of the proposed building is in line with its neighbors, as well as the previous structure. The proposal is the work of a developer who has invested elsewhere in the immediate vicinity and who is attempting to make transformative investments in the area.

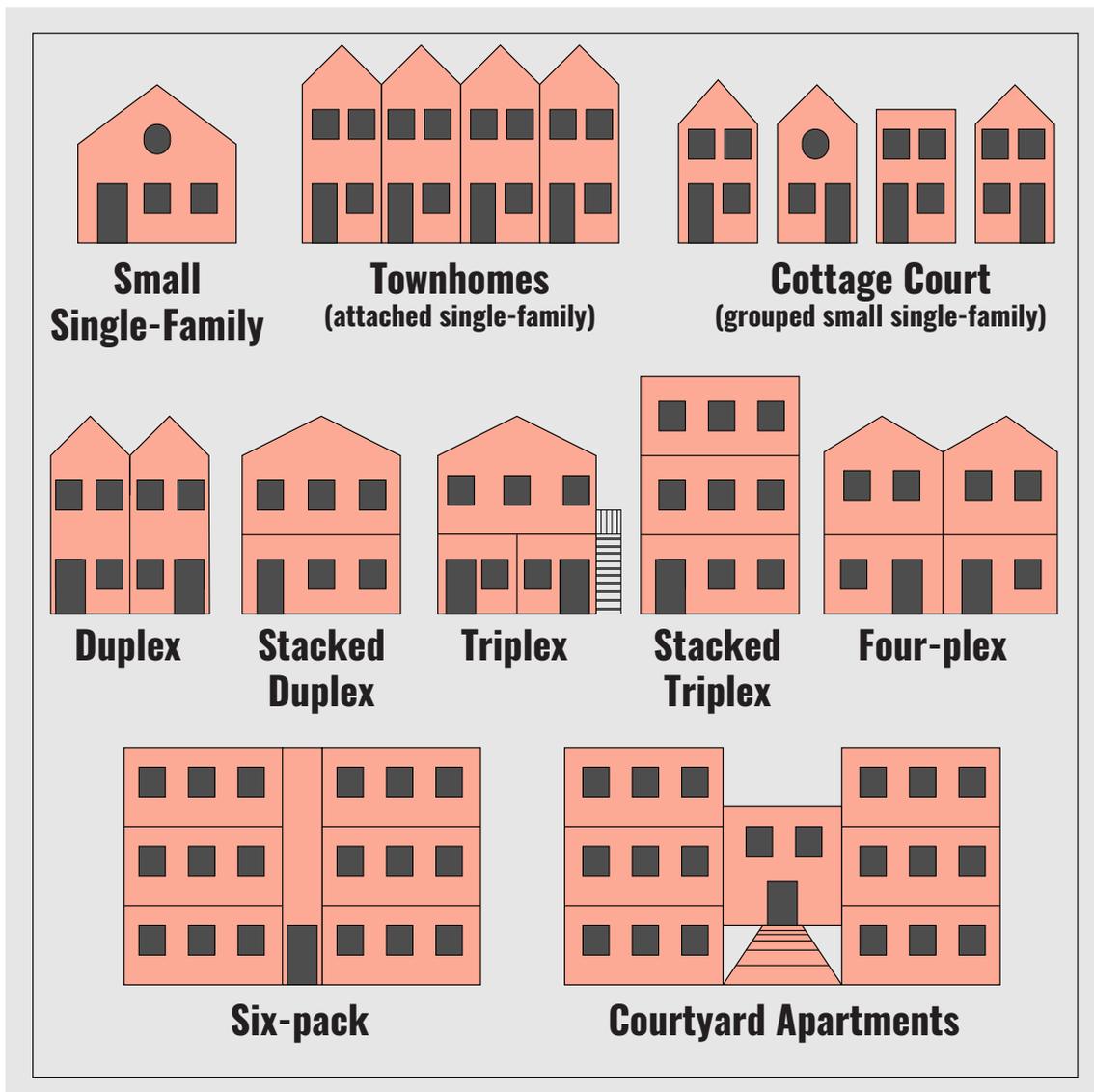
- WHAV Wavelengths. “Developer Proposes New Lafayette Square Building with Two Commercial Units and Housing.” <https://whav.net/2020/10/20/developer-proposes-new-lafayette-square-building-with-two-commercial-units-and-housing/>



The presently vacant lot and proposed building at Lafayette Square in Haverhill, MA. (Images via Google Street View (left) and Atlantis Investments (right).)



Missing Middle Housing Types





What is it?

Missing middle housing types refer to a range of housing options that are smaller than conventional single-family homes, but are not large apartment buildings. They include various types of attached and detached housing units that are designed to be more affordable than conventional development. These units can include duplexes, triplexes, fourplexes, townhouses, and other types of small multifamily housing. Their relative affordability is driven by their “gentle density”—which lowers land cost per housing unit while not requiring the space, circulation areas, or infrastructure required of large apartment buildings—and their smaller square footages require less construction materials.

These housing types are called “missing middle” housing because they fill the gap between single-family homes and large apartment buildings in terms of density, and they can help address the shortage of affordable housing options in many areas.

Many communities have zoning codes and subdivision regulations that do not permit these housing types. Bans on missing middle housing types can be explicit in the codes or they can happen in effect through the combined application of dimensional standards, parking requirements, and subdivision rules. Allowing missing middle housing types includes aligning regulations so that it is truly enabled and encouraged.

How can it help?

- **Increased housing options:** Missing middle housing types provide more housing options for people with different needs and budgets. This can help a community attract and retain a greater mix of residents, allow seniors to age in their community, and allow young people and new families to find homes.
- **Increased affordability:** Because missing middle housing units are smaller, require less land per unit, and can have shared amenities and infrastructure, they can be more affordable than conventional single-family homes. This can help address the shortage of affordable housing in a community and make it more accessible to a wider range of people.
- **Improved walkability:** missing middle housing types can make use of public sidewalk and trail infrastructure, making it easier for residents to walk to work, school, and run everyday errands. This can help reduce traffic congestion and improve air quality.
- **Preservation of open space:** Construction of missing middle housing units can preserve open space and natural areas on the outskirts of a community that would otherwise be pressured by development.
- **Economic benefits:** missing middle housing developments can bring economic benefits to a community and more concentrated demand for local businesses.
- **Sense of community:** missing middle housing developments can foster a sense of community by bringing people together in a shared living environment.



- Environmental benefits: Missing middle housing units can be designed to be more energy-efficient and environmentally sustainable, which can reduce energy needs, and greenhouse gas emissions.

Getting Started

1. Recognize and promote the impact of missing middle housing types on common master plan goals, like increased housing options, increased affordability, open space preservation, and more.
2. If undertaking a master plan, include missing middle small housing types as a recommendation.
3. Assess the existing built environment, existing parcel sizes and configurations, the community's housing needs, local infrastructure capacity, recent real estate market trends, and property owner and developer interest in non-conventional residential development. Using these assessments, determine which missing middle housing types might be well-suited for different areas of your community.
4. Audit your land use regulations to see what rules would need to be changed to allow (and encourage) missing middle housing development. This should



Classic New England architectural elements applied to the townhouse housing type in Providence, RI.



begin with zoning use tables, dimensional regulations, parking regulations, and subdivision rules.

5. Draft and adopt amendments to land use regulations that proactively support missing middle housing types. These amendments should be targeted toward promoting specific housing types that the community desires, given development constraints like actual lot sizes, rather than blanket increases to density.
6. Promote missing middle housing types among property owners and developers active in your community or nearby.

Considerations

- Not all housing types may be appropriate for every community, but there are many housing types and designs. Pursue whatever housing types that are most likely to be embraced by the community.
- Many zoning codes include provisions for multifamily housing, but fail to distinguish between a three- or four-unit building and a hundred-unit building. Even if your community technically allows these missing middle housing types, untargeted rules will not promote their production.
- Depending on the state of the real estate market, allowing more density could increase land values, translating to higher prices for existing homes, particularly in areas where the existing homes have low prices or are in poor condition. Price effects are less likely for properties that are unlikely to “flip” to higher densities.
- In hot real estate markets, increasing allowed densities can contribute to displacement of established communities. Housing production incentives should be paired with restrictions to protect the vulnerable and avoid the social and public health consequences of displacement.
- Consider form-based codes as a method of promoting missing middle housing types more directly, rather than through complex dimensional rules.
- Consider Conservation Subdivisions and Village Plan Alternatives as means to allow these housing types.
- Pre-approving housing types can reduce the guess-work by a town’s developers and zoning board when assessing potential developments.
- Traditional neighborhood design included many types of housing nearby one another. This type of housing mix can reduce actual segregation by race, income, and other factors, and increase feelings of shared community.



Issues Addressed

Housing Costs, Housing Options, Affordable Housing, Multigenerational, Sustainable Housing

Related Tools

Reduced Zoning and Subdivision Requirements, Wastewater System Alternatives, Inclusionary Zoning, Workforce Housing Ordinance, Village Plan Alternative, Form-Based Codes, Age-Friendly Neighborhoods

Resources

- Opticos Design, “Missing Middle Housing” resources and information on small housing types, <https://missingmiddlehousing.com/>
- Metropolitan Area Planning Council, “Living Little” resources and information on small housing types, <https://living-little.mapc.org/>
- Strong Towns, “Making Normal Neighborhoods Legal Again,” <https://www.strongtowns.org/journal/2019/7/3/making-normal-neighborhoods-legal-again>
- Strong Towns, “Pre-Approved House Designs Jump-Start Infill Development in South Bend,” <https://www.strongtowns.org/journal/2022/10/6/pre-approved-house-designs-jump-start-infill-development-in-south-bend>
- American Planning Association, Michigan Chapter, “Zoning Reform Toolkit,” https://www.planningmi.org/assets/images/ZoningReformToolkit/MAP_ZoningReformToolkit_2022%2008%2002_Gradient.pdf
- Turner Center for Housing Innovation, “Lessons in Land Use Reform,” https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Lessons_in_Land_Use_Reform.pdf

Case Studies

Dover, NH

Dover's zoning ordinance has long been a model for aligning zoning rules with housing production needs and traditional neighborhood design. All of its residential districts allow—whether by-right or by Special Exception—homes with up to four housing units



per structure. (In lower-density areas, these housing types are only allowed in cluster housing developments.) Lot size and setback requirements provide reasonable opportunities to produce housing, with minimum lot sizes for missing middle housing types tending to be less than an acre.

- Dover Zoning Code, <https://www.dover.nh.gov/Assets/government/city-operations/2document/planning/Regulations/Zoning%202018.pdf>

Hanover, NH

In 2022, Hanover town meeting approved a new base zoning district along one street in Downtown Hanover near Dartmouth College. The stated goal of the zoning amendment is "to increase the number of residential units," according to the zoning text itself. The existing neighborhood fabric has a mix of housing types, including missing middle housing types. Under the new rules, single-family, two-family, and multifamily housing is allowed by-right. Importantly, the district's dimensional rules and dimensional rules were also relaxed to enable more infill small multifamily. Main Wheelock's new zoning was accompanied by design guidelines that specify architectural treatment of new housing. The zoning change was at least ten years in the making, with one failed proposal in 2015. In the 2022 effort, Dartmouth students were significantly involved in advancing the proposal and in the Town Meeting vote itself. At least area landowner had plans to add new housing to the area upon the amendment's passage.

- Main Wheelock District zoning text, http://nhhousingtoolbox.org/resource-archive/2022_zo_hanover_MWD.pdf
- The Dartmouth, "New Main Wheelock zoning district to expand residential development," May 31, 2022

Grand Rapids, MI

In 2008, Michigan's second largest city updated their zoning to allow duplexes in previously single-family-only zones. (The amendments also allowed mixed-use development in commercial districts, and included "form-based light" provisions.) Duplexes were allowed by Special Permit on corner lots under the 2008 law. In 2018,

Suburban Density Multi Residential (RM-SU) District

Amended: 11-28-12 by Ord. No. 2012-11.14-24, 06-22-2016 by Ord. No. O-2016.06.08 - 010



Permitted Uses

- ACCESSORY DWELLING UNIT
- ADULT DAY CARE
- ASSEMBLY HALL
- CHILD CARE FACILITY
- CHILD CARE HOME
- Conversion of Existing Dwelling to Accommodate 5 or more units [3]
- Conversion of Existing Dwelling to Accommodate not more than 4 units [3]
- Dwelling, 2 Family
- Dwelling, 3-4 Family [3]
- DWELLING, MULTI-FAMILY [3]
- DWELLING, SINGLE FAMILY
- EDUCATIONAL INSTITUTION, K-12
- FARM [5]
- FARM ANIMALS FOR FAMILY USE, for non-commercial purposes, on lots containing a one or two family dwelling [6]
- OFFICE [7]
- PUBLIC RECREATION
- Public Utility [8]
- ROADSIDE FARMSTAND [9]

Dimensional Regulations [1] [2]

LOT	
Minimum LOT Size [3] [4]	20,000 sf
Maximum LOT COVERAGE	40%
Minimum FRONTAGE	100 ft
PRINCIPAL BUILDING	
Front SETBACK	50 ft
Abut a Street SETBACK	50 ft
Side SETBACK	20 ft
Rear SETBACK	20 ft
OUTBUILDING/ACCESSORY USE	
Front SETBACK	50 ft
Abut a Street SETBACK	50 ft
Side SETBACK	10 ft
Rear SETBACK	10 ft
HEIGHT OF BUILDING	
PRINCIPAL BUILDING	40 ft max
OUTBUILDING	40 ft max

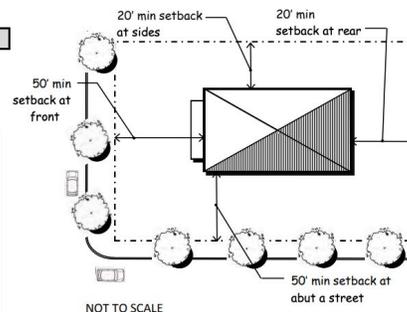
Uses Permitted by Special Exception

- ELDERLY ASSISTED CARE HOME

Sign Regulations

Size	RM-SU District
Total signs permitted	1
Total area permitted	16 sf (CUSTOMARY HOME OCCUPATION SIGN 2 sf max, development identification SIGN 20 sf max)
Type	
FREESTANDING	permitted (10 ft setback required)
PROJECTING	permitted
WALL/ Awning	not permitted
Temporary	not permitted

Principal Building Placement



An excerpt from the Dover zoning code.



the City amended the new code to remove the Special Permit requirement and allow duplexes by-right.

- Next City, “A Decade without Single-Family Residential Zoning in Grand Rapids,” <https://nextcity.org/urbanist-news/a-decade-without-single-family-residential-zoning-in-grand-rapids>

Bend, OR

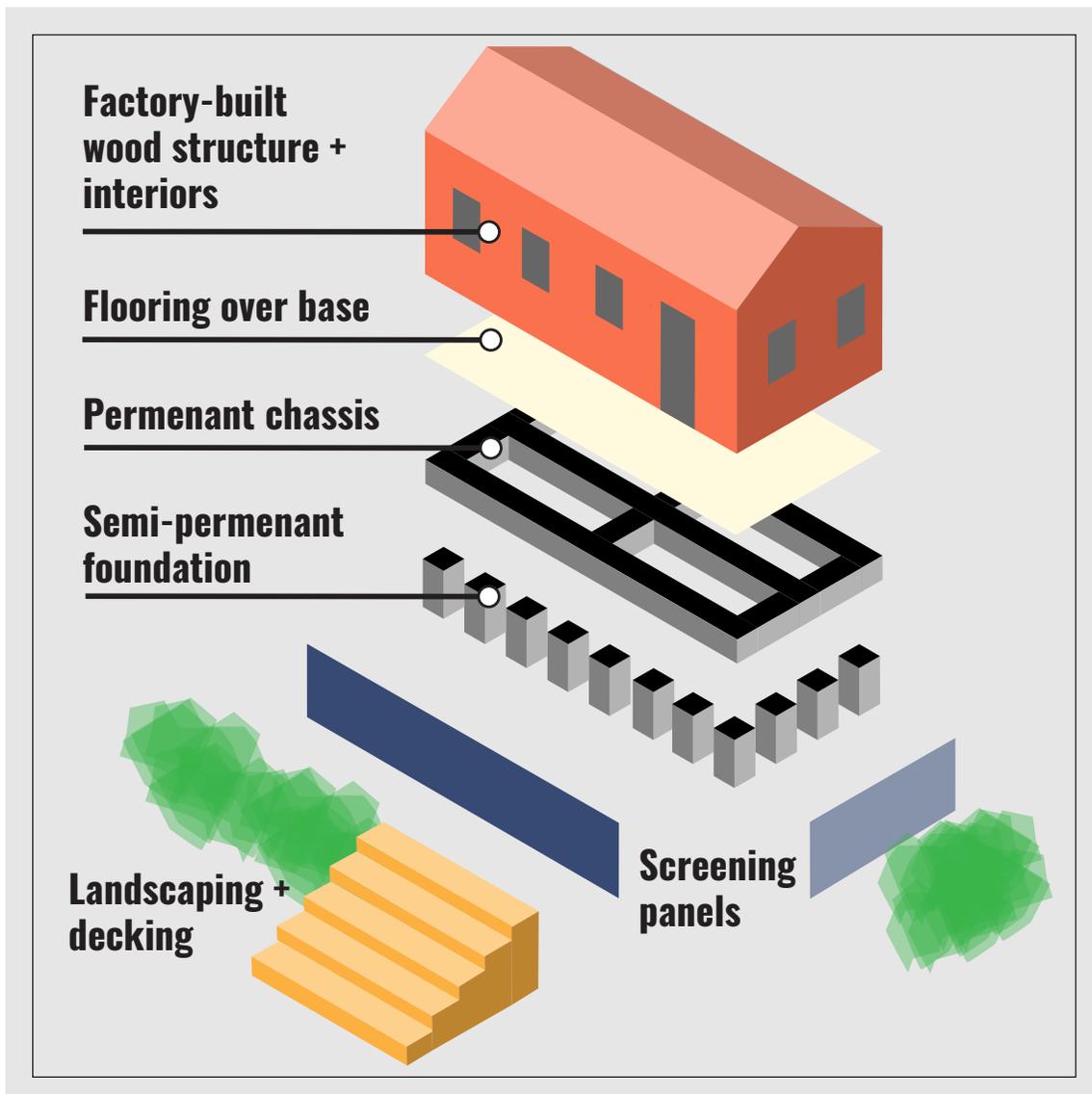
In 2019, Oregon passed a law to allow some missing middle housing types in all single-family zones across the State, giving discretion in implementation to a state land use board. In addition to allowing duplexes, fourplexes, and other small multifamily options, the board reduced local parking minimums for small multifamily homes in large Portland-area cities. Bend, Oregon became the first community to comply with the law locally, adjusting its zoning to allow duplexes and fourplexes. Those changes, combined with a strong real estate market, with 650 units under construction in early 2022.

- Planetizen, “Statewide Zoning Changes Adopted in Oregon to Limit Parking, Add Missing Middle,” <https://www.planetizen.com/news/2020/12/111546-statewide-zoning-changes-adopted-oregon-limit-parking-add-missing-middle>
- KTVZ, “Bend’s big shift from single-family homes to more multifamily housing tops city’s expectations,” <https://ktvz.com/news/bend/2022/01/24/bends-big-shift-from-single-family-homes-to-more-multifamily-housing-tops-citys-expectations/>



A prewar duplex in Grand Rapids—the type of housing the city hoped to allow again.

Manufactured Housing





What is it?

Manufactured homes are an important part of New Hampshire’s housing landscape, composing an estimated 5% of all housing units and households (American Community Survey, 2017–2021 5-year estimates). Manufactured homes, also commonly called mobile homes, are a type of housing that is prefabricated off-site and placed on a permanent chassis. These homes can be found on individual lots or in manufactured housing parks (also known as “manufactured housing communities”), where the homes are clustered together. They can remain with exposed chassis or can be made semi-permanent through placement on a temporary foundation and the addition of porches, screening, landscaping, and other design elements. Manufactured housing parks (“parks”) provide residents with land for their home, roads and parking, utility connections, and on-site amenities (e.g., indoor and outdoor recreation facilities, security systems, landscaping, laundry facilities, etc.). These parks are often owned by a landlord who rents access to residents, but they can also be owned collectively by residents, similar to a traditional homeowners’ association (HOA). The vast majority of manufactured home residents own the home itself, though they may not own the land it sits on. Manufactured homes and manufactured home parks tend to be more prevalent in rural areas than in more urban or suburban places.

Manufactured homes are often an affordable alternative to traditional site-built homes; they can be built quickly and efficiently, making them ideal for areas with high demand for housing. According to the American Community Survey (2017–2021 5-year estimates), the median monthly gross rent was \$1,212 in New Hampshire, while the median value for all homes was \$345,200. The median value for manufactured homes, however, was \$74,700, making ownership possible for people of modest means. Affordability of manufactured housing in New Hampshire is significantly enhanced by state law that treats manufactured housing as real property, meaning that residential mortgage lending is available to purchase the units. Most states treat manufactured housing as personal property, requiring the use of more expensive consumer loans to facilitate purchase. Given their relative affordability, manufactured housing is one option communities can pursue to address their housing needs, though it is up to each community to decide how to address this housing type from legal and policy standpoints.

New Hampshire law requires that municipalities provide reasonable opportunities for manufactured housing and manufactured housing communities to exist. However, local land use regulations can impact the placement, architectural design, site design, and infrastructure for manufactured homes and manufactured housing parks. Historically, some communities have used zoning and other tools to exclude manufactured homes and manufactured housing parks. Others have used these tools to create more safe, attractive, and valuable manufactured home properties. With regard to zoning for manufactured housing park density, one approach is to treat it similar to cluster subdivision, where perceived density is greater than a conventional subdivision but open space is preserved. Increasingly, some municipalities have used zoning and land use regulations to protect existing manufactured housing communities, in an effort to preserve affordability and limit displacement.

The reality of manufactured housing today is quite different from Great Depression-era “trailer parks” or poorly built mobile homes of the past, but there remains a stigma around manufactured housing in public discourse. Today’s manufactured homes comply



with rigorous construction standards and (typically) cannot be easily hauled. They are usually permanent (rather than “mobile”) homes, and residents are not typically transient. The legacy of poorly maintained mobile home parks with opportunistic owners also lingers in the public discussion, but such practices can be limited through local enforcement of standards, as well as resident ownership.

Manufactured housing communities are increasingly seen as good business for real estate investors. While this influx of investment can improve maintenance for some older communities, existing residents at some manufactured housing parks face unsustainable land rent increases and housing insecurity due to these changes in ownership. This can also lead to abandonment of the home or below-market sale of the home, often to the park owner. One alternative to outside investment is cooperative ownership by residents, who then manage the park collectively as a nonprofit. In this structure, also known as a Resident Owned Community (ROC), each resident owns a share in the park and has a say in decisions affecting the community. ROCs can lead to greater accountability and lower costs. Cooperative ownership provides residents with more stability and security, as the park is unlikely to be sold or closed. The New Hampshire Community Loan Fund was established in 1983 with a goal of providing loans for residents to form ROCs and purchase their manufactured housing communities. This first-of-its-kind program has since become a model for programs



A manufactured home on a semi-permanent foundation with landscaping in the Forest Park Estates, Jaffrey, NH.

across the US. Today, there are 145 ROCs in New Hampshire, with nearly 9,000 affordable housing units. These communities can be a stable and affordable housing option for low- and moderate-income families, as well as older adults, veterans, and people with disabilities.



How can it help?

Manufactured housing parks can...

- Provide less expensive housing options than site-built alternatives.
- Respond to spikes in housing demand through the relatively quick placement of new units and increases in housing density with more flexibility than conventional development.
- Create homes that are less resource-intensive and land-consuming than conventional site-built housing.
- Provide lower-cost construction options for age-friendly housing, active adult communities, and cluster housing developments.
- Count toward a community's Workforce Housing "Fair Share" under certain circumstances.
- Improve housing stability and provide a clear path to homeownership, especially in ROC-operated manufactured housing communities.
- Instill a sense of pride and strengthen the social fabric through collective ownership (in the case of ROC-operated manufactured housing communities).
- Prioritize living standards, maintenance, and security (in the case of ROC-operated manufactured housing communities).

Getting Started

1. Assess the current use of manufactured housing in your community, including manufactured homes on individual lots as well as manufactured home parks. Consider the age, safety certifications, design, siting, maintenance, security, utility hookups, infrastructure, and amenities related to individual manufactured homes and manufactured home parks. Consider the members of the community that are served by manufactured homes, as well as manufactured housing's place in the overall real estate market. Identify issues with manufactured homes in your community, such as the maintenance and safety of homes, access to infrastructure and amenities, threats from speculative investment and/or redevelopment, and more.
2. Hold a community engagement process that educates the community on the present reality and potential of manufactured housing, as well as local and state regulation of manufactured housing. Use the engagement process to identify the community's goals for and any concerns about manufactured housing.
3. If undertaking a master plan, include recommendations about manufactured housing with reference to the above analysis and engagement.
4. Consider zoning amendments that will align local regulations with your



community's goals for manufactured housing.

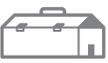
5. Consider creating local design guidelines for new manufactured housing communities. While the state regulates design of the units themselves, local laws can specify how manufactured housing relates to landscaping, community layout, site design, and so on.
6. Work with existing manufactured housing residents and owners to establish housing security for residents. Identify communities that may face displacement. Consider how resident ownership may create housing stability and, if needed, connect residents with nonprofit partners who can aid in the resident-ownership process.

Considerations

- Terminology around manufactured homes and regulation can be confusing. “Mobile homes” and “manufactured homes” are often used interchangeably in everyday speech. In a US regulatory context, the term “mobile home” is used to describe this type of prefabricated housing on a chassis built before 1976 and not subject to federal building standards. “Manufactured home” means this type of home built in 1976 or later, when safety and construction standards became regulated by the US Department of Housing and Urban Development. Manufactured housing must meet these HUD standards, rather than comply



A manufactured home with contemporary colonial ranch architecture.



with state or local building codes. New Hampshire defines “manufactured home” and “mobile home” with reference to the former’s certification of compliance with HUD safety standards, and the latter’s lack of certification.

- Manufactured homes are sometimes divided into “single-wide” and “double-wide” groupings. Single-wide homes are smaller, are placed on a single chassis, and can typically be hauled as a standalone unit. Double-wide homes are larger (often twice as big as single-wide homes). They are built in multiple large pieces and hauled separately to their lot, where they are grafted together on-site. Double-wide homes can come in a variety of layouts and offer more flexibility than single-wide homes, though they tend to cost more.
- Manufactured housing does not include homes that are prefabricated offsite, but placed permanently on a site and not on a chassis. This “presite built housing” is regulated like site-built housing, conforming to state and local building codes rather than the HUD standards for manufactured housing. These homes are often called “modular” or “panelized” homes.
- Contemporary manufactured housing construction standards allow for home designs that are nearly identical to conventional site-built homes.
- If manufactured housing meets the affordability standards of the state’s Workforce Housing law, then those homes can count as Workforce Housing in determining whether a community is providing its fair share of Workforce Housing.
- Under New Hampshire law (RSA 674:31-32), communities must provide reasonable opportunities for manufactured housing to be placed in most residential zoning districts. They can meet this mandate in one of three ways or any combination of the three: on individual lots, in manufactured housing parks, or in manufactured housing subdivisions. For manufactured homes on individual lots, communities cannot place more onerous dimensional regulations, permitting processes, or other restrictions than other single-family homes (i.e., they need to be treated the same as conventional “stick-built” homes). If a community allows manufactured housing parks, they must also allow reasonable expansion of those parks. New Hampshire law also governs the operation of manufactured housing parks (RSA 205-A) and establishes a board that governs installation standards for manufactured homes (RSA 205-D).
- Manufactured housing park ordinances can mirror cluster housing ordinances where density increases are permitted if certain lot size and open space provisions are met.
- As with all types of housing, utility provision for manufactured homes and manufactured housing parks can be challenging. Wastewater system alternatives can enable compact manufactured housing park development in locations where it may be otherwise impossible.
- Though manufactured housing is not typically thought of as an appreciating financial asset, research has shown that manufactured housing appreciation is similar to site-built housing, and values for manufactured homes held as real property and site-built homes have risen and fallen in tandem for decades. Appreciation for manufactured homes on homeowner-owned land is largely



indistinguishable from appreciation for site-built homes.

- While manufactured housing is less expensive than site-built housing, newly built manufactured homes can still be expensive, especially for people with lower incomes. There are also up-front costs such as shipping the home to the desired site.
- In New Hampshire, manufactured housing is treated as real property (rather than personal property like cars or boats), so New Hampshire residents have more options for financing than residents of other states. Nonetheless, there are still fewer financing options for manufactured home purchases than for site-built homes. NH Housing and the Community Loan Fund have a novel program with Fannie Mae for Fannie to acquire mortgages for manufactured housing in the state's Resident Owned Communities.
- Manufactured housing communities are typically privately owned, where an owner leases individual lots (with infrastructure access) to residents who own the actual structures. Like with rental housing, owners can set the rent, maintenance standards, and rules of the park. Incompetent or predatory park ownership can lead to high rents, poor maintenance, and lack of accountability. Residents may have few alternative communities to choose from, and they may lack the money needed to move their home to another location. (For semi-permanent structures, this can cost many thousands of dollars.) Residents may be at risk of a total loss in investment if the park is closed or they must move.
- A trend has emerged in recent years of private equity firms and other investors purchasing manufactured housing parks. For the residents, a change in ownership can mean uncertainty about their future housing options, as the new owner may choose to evict tenants or raise rents beyond what they can afford. Increasing rent adds value on paper to the properties, which can lead to increased taxes for a municipality, but it also makes housing overall less affordable.
- Manufactured housing residents are also at risk of displacement due to redevelopment into site-built housing when real estate markets heat up. Some communities have used land use regulations to protect existing communities, while others have provided relocation assistance to residents affected by redevelopment.
- Under New Hampshire law (RSA 205-A:21), if a manufactured housing park owner has agreed to sell the property, they must notify tenants of the terms of the sale. Tenants have 60 days to match that offer, and the owner must consider the tenants' offer. Massachusetts and Vermont have similar "first right of refusal" laws that allow residents the first chance to purchase manufactured housing parks.
- The New Hampshire Community Loan Fund ROC-NH program provides financing, training, and technical assistance to help resident cooperatives buy and manage their manufactured housing communities.



Resources

- Community Loan Fund, “Resident Owned Communities - New Hampshire (ROC-NH),” <https://communityloanfund.org/focus/roc-nh/>
- American Planning Association, “Mobile Home Parks Understudied in Planning,” <https://www.planning.org/blog/9232703/mobile-home-parks-understudied-in-planning/>
- Crystal Launder, American Planning Association, “PAS Memo: Preserving Manufactured Home Communities,” <http://nhhousingtoolbox.org/resource-archive/pas-manufactured-housing.pdf>
- Prosperity Now, “Manufactured Home Communities in New Hampshire,” https://prosperitynow.org/sites/default/files/PDFs/New%20Hampshire_Metro%20Opportunity%20Policy%20Snapshot.pdf
- National Association of Realtors, “Saving Manufactured Home Parks,” <https://www.nar.realtor/articles/saving-manufactured-home-parks>
- Rochester, NH, “Mobile Home Park Design Standards,” <https://ecode360.com/32272791>
- HUD, “Regulatory Barriers to Manufactured Housing Placement in Urban Communities,” https://www.huduser.gov/portal/publications/mfghsg_hud_2011.pdf
- Fannie Mae, “Manufactured Housing Landscape 2020,” <https://multifamily.fanniemae.com/news-insights/multifamily-market-commentary/manufactured-housing-landscape-2020>
- Manufactured Housing Institute, “Unfair Zoning Laws Can Restrict Manufactured Home Placement,” <https://www.manufacturedhousing.org/zoning-2/>
- Urban Institute, “New evidence shows manufactured homes appreciate as well as site-built homes,” <https://www.urban.org/urban-wire/new-evidence-shows-manufactured-homes-appreciate-well-site-built-homes>
- Consumers Union, “Manufactured Housing Appreciation: Stereotypes and Data,” <https://www.hud.gov/sites/documents/APPRECIATION.PDF>
- Municipal Research and Services Center of Washington, “Manufactured Housing Regulation and Preservation,” <https://mrsc.org/explore-topics/planning/housing/manufactured-housing>
- National Conference of State Legislators, “How Manufactured Homes Can Build Housing Stability,” <https://www.ncsl.org/news/details/how-manufactured-homes-can-build-housing-stability>
- Journal of Extension; Charlie French, Kelly Girou, and Sally Ward; “Building Wealth Through Ownership: Resident-Owned Manufactured Housing Communities in New Hampshire,” <https://archives.joe.org/joe/2008april/a3.php>



Issues Addressed

Housing Costs, Housing Options

Related Tools

Age-friendly Neighborhoods, Reduced Zoning and Subdivision Requirements, Wastewater System Alternatives, Cluster Housing

State Law

- RSA 674:31-32, <https://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIV-674.htm>
- RSA 205-A, <https://www.gencourt.state.nh.us/rsa/html/XVII/205-A/205-A-mrg.htm>
- RSA 205-D, <https://www.gencourt.state.nh.us/rsa/html/XVII/205-D/205-D-mrg.htm>
- New Hampshire Manufactured Housing Installation Standards Board, <https://www.oplc.nh.gov/manufactured-housing-installation-standards-board>

Case Studies: Resident-Owned Communities

Resident-Owned Communities are an important tool to preserve affordability and improve standards at existing manufactured housing communities. The New Hampshire Community Loan Fund maintains an expanding list of manufactured housing communities in the state that have converted to cooperative ownership. <https://communityloanfund.org/focus/ROC-NH/co-op/list/>

Mascoma Valley Cooperative, Canaan, New Hampshire

The Mascoma Valley Cooperative is a small resident-owned community with 29 manufactured housing units. Residents purchased the land and infrastructure supporting their homes and formed a non-profit ROC in 2017. The Cooperative's small web site is brimming with that pride in its brief description of the community:

“Mascoma Valley Cooperative is a resident-owned manufactured home community in Canaan, N.H. ...Mascoma Valley Cooperative, Inc. is owned by the community members who live here – we are a resident-owned community (ROC). That means we control the rent and make the rules. On June 28, 2017, the ROC purchased the land and infrastructure, such as the roads and water



lines. Now, a democratically elected Board of Directors manages the business of running Mascoma Valley. Every Member household in the community has a say in who sits on the Board, how we spend our money, the annual budget, and whether we make changes to the rent.”

- Mascoma Valley Cooperative website, <http://www.mascomavalley.coop/>



North Conway's Black Bear Village resident-owned community (ROC) on a snowy day.

Allenstown, Keene, and North Conway, New Hampshire

On July 19, 2019 the owners in three communities across the state—Bear View Crossing in Allenstown, Black Bear Village in North Conway, and Tanglewood Estates in Keene, all purchased the land and infrastructure supporting their communities from individual private owners and formed nonprofit cooperatives. This \$48 million investment was funded through the New Hampshire Community Loan Fund. Since this change, board members have acted in the public interest to have vacant pads developed and make improvements to the community.



- National Association of Housing Cooperatives, “Trio of Community Purchases Preserves Nearly 900 Affordable Homes in New Hampshire,” <https://coophousing.org/trio-of-community-purchases-preserves-nearly-900-affordable-homes-in-new-hampshire/>

Sandcastle Estates, Sunset Acres, and Brookside, Southeast MA

Sandcastle Estates is a 55+ active adult community and manufactured housing park in North Attleborough, Massachusetts, a town on the Rhode Island border with a historic downtown and vast rural and suburban areas. Sandcastle Estates hosts 172 manufactured homes made semi-permanent through porches, screening, landscaping, and more. The community has sidewalks, a resident clubhouse, swimming pool, tennis courts, and a fire pit. In 2019, Legacy Communities purchased the property for more than \$13 million, more than four times its assessment at the time. Leases increased 12% the following year. Two and a half years after the purchase, another investment firm offered nearly \$19 million for the park. In response, state legislators introduced a bill to provide rent stabilization in the town, though that legislation has not proceeded. Instead, Sandcastle Estates residents voted to purchase the park themselves, matching the offer at around \$19 million. The resident-purchase would still result in substantial rent increases to cover the mortgage, but it would remove the property from further speculation.

Shortly after buying Sandcastle Estates in 2019, Legacy Communities offered to purchase Sunset Acres and Brookside, two manufactured housing parks in Plainville, Massachusetts, a town adjacent to North Attleborough. Sunset Acres and Brookside



Sandcastle Estates, a retirement community in North Attleborough, MA with manufactured homes and community amenities (including a clubhouse and pool).





Village are both 55+ communities of semi-permanent manufactured homes. Sunset acres hosts 225 manufactured homes and Brookside Village hosts 69. Having seen the impact on Sandcastle Estates, the residents of both communities voted to purchase their parks. To make this happen, residents worked with nonprofits and Community Development Financial Institutions to aid the process of becoming a cooperative and financing the purchases.

- Foxboro Sun-Chronicle, “Residents of Sandcastle Estates in Attleboro dreading pending sale” (July 19, 2021).
- Foxboro Sun-Chronicle, “Plainville mobile home parks now owned by tenants” (July 16, 2020).
- Planet Money, “Mobile Home Parked,” <https://www.npr.org/2021/08/06/1025557463/mobile-home-parked>
- ROC USA Capital, “Brookside Residents Association Featured In NPR Planet Money Episode,” <https://rocusa.org/news/brookside-residents-association-featured-in-npr-planet-money-episode/>

Case Studies: Zoning for Manufactured Housing

Many local zoning ordinances treat manufactured housing on individual lots the same as site-built homes, and this is generally the best practice. Similarly, some communities treat manufactured housing communities as they would other cluster housing developments. That said, many communities have specific regulations for manufactured housing communities.

Allenstown, NH

In 2015, Allenstown passed Chapter 18 of its Zoning Ordinance, which governs pre-site-built housing and manufactured housing, as well as manufactured housing parks. The zoning explicitly allows manufactured homes on any lot that allows single-family homes. Manufactured home parks (where the homes are not on permanent foundations) are governed by specific provisions in this chapter, whereas pre-site-built homes clustered on permanent foundations are governed by the Town’s cluster housing provisions. Manufactured home parks can be built by Conditional Use Permit with the Manufactured Home Park Overlay District within the Open Space and Farming Zone. Parks can have one manufactured home for every two acres, and parks must be at least 15 acres in size with at least 20% of the park preserved as open space. Individual home lots have specific dimensional rules, as well.

- Allenstown Zoning Ordinance, Chapter 18, “Pre-Site-Built Housing and Manufactured Housing,” <http://nhhousingtoolbox.org/resource-archive/allenstown%20zoning%20-%20chapter%2018.pdf>



Wolfeboro, NH

Wolfeboro's zoning code includes a Manufactured Housing Overlay District specifically intended for compliance with the State's mandate that communities allow reasonable opportunities for manufactured housing (RSA 674:31-32). Initially adopted in 1988, the law has been amended as the needs and desires of the communities have changed. Currently, the overlay district allows manufactured housing in subdivisions, in which both the structures and individual lots are owned by homeowners. Manufactured housing subdivisions are allowed in most of the southwestern portion of the town. Density, dimensional, site design, permitting, and other zoning requirements are the same for manufactured housing subdivisions as they are for site-built single-family housing. The overlay district previously allowed "manufactured housing parks," which were specified as any tract of land of a given size that allowed parking spaces for manufactured homes, without a requirement that the homeowner owned their individual lot. That provision has been repealed, however, leaving only the provision for manufactured housing subdivisions.

- Wolfeboro Zoning Ordinance, Article III, "Manufactured Housing Overlay District," <https://ecode360.com/10187036>

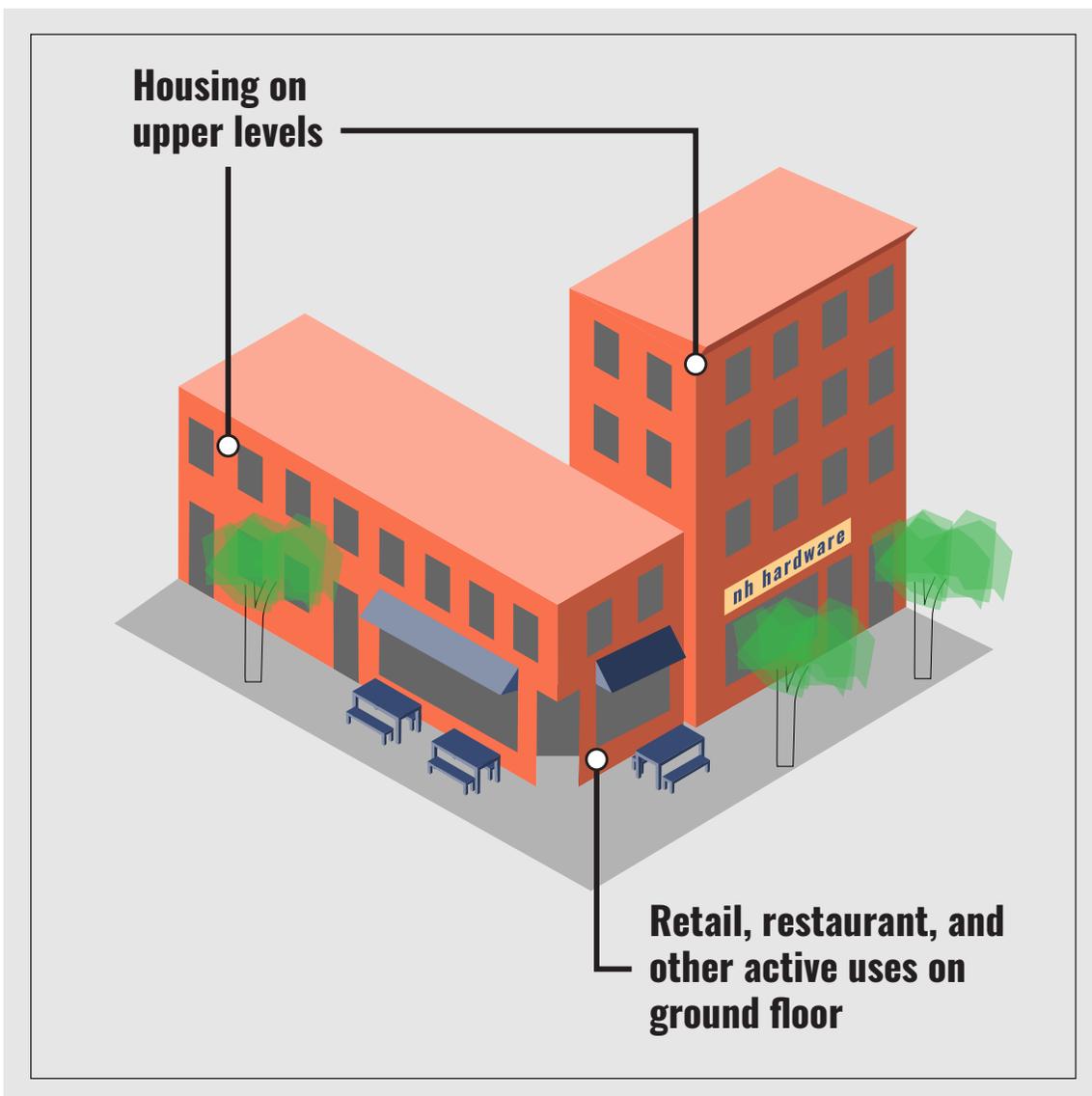
Volusia County, FL

Volusia County is a moderately developed county in east-central Florida. Its most notable city is Daytona Beach, but it contains numerous small cities and towns and large unincorporated areas. In 2023, citing a lack of affordable housing options, the county council proposed to expand by-right permitting for manufactured housing parks in rural zoning districts. Presently, manufactured housing parks are allowed by special permit in a subset of rural zones.

- Daytona Beach News-Journal, "Proposal would open thousands of acres in Volusia County to mobile homes in rural areas" (February 20, 2023), <https://www.yahoo.com/now/proposal-open-thousands-acres-volusia-100425123.html>



Mixed-Use Development





What is it?

Mixed-use development is a type of real estate development that combines multiple uses, such as residential, commercial, cultural, entertainment, and institutional, into a single development project. These types of developments can take many forms, including residential buildings with ground-floor retail space, office buildings with apartments on upper floors, or entire neighborhoods that mix different types of residential buildings with commercial, cultural, and institutional uses.

Mixed-use developments can be located in a variety of settings. In urban areas, mixed-use developments are often located in downtown areas, along commercial corridors, or in neighborhoods that are undergoing redevelopment. In suburban and rural settings, mixed-use developments may be located in traditional village centers, near shopping centers or strip malls, or they may be standalone developments that create a new mixed-use center in an area without one.

Mixed-use developments are typically designed to create a sense of community and to foster a variety of activities and interactions. Housing in mixed-use developments may take the form of apartments, condominiums, or townhouses, and may be designed to appeal to a range of income levels, household sizes, and physical abilities. Larger mixed-use developments often include amenities such as parks, playgrounds, and other public spaces to encourage socialization and economic activity.

How can it help?

Mixed-use development can...

- Provide a range of housing options, including affordable housing, which can help to address the needs of a diverse population and promote economic diversity within the community.
- Revitalize downtown areas by bringing new residents, businesses, and activity to the area. This can help to support local economic development and create a more vibrant and attractive community.
- Reduce traffic congestion and improve air quality by bringing residents closer to jobs, neighborhood retail, and other sources of trips.
- Provide needed community spaces to foster social connections and a sense of belonging among residents.
- Preserve natural and open spaces by allowing for more compact and efficient development patterns.
- Generate new tax revenue while using fewer public infrastructure resources.



Getting Started

1. Recognize and promote mixed-use development's impact on common master plan goals, such as increased housing options, increased affordability, economic development, reduced traffic, and fostering community wellbeing.
2. If undertaking a master plan, include mixed-use development as a recommendation.
3. Assess options for mixed-use development in your community. This could include existing downtowns or village areas with infill development opportunities, aging shopping centers or strip malls, old industrial buildings ready for adaptive reuse, rural areas that can be preserved through a Village Plan Alternative (VPA), and large sites requiring a Planned Unit Development (PUD).
4. Hold a public engagement process to determine the communities vision for identified places, goals for any housing in mixed-use development, and retail needs and desires.
5. Audit land use regulations and identify potential barriers to mixed-use development. This includes allowed uses in zoning; right-sizing dimensional, parking, and subdivision rules; or a lack of specialized zoning tools (like PUDs or VPAs) that must be adopted locally.
6. Identify any infrastructure challenges that constrain mixed-use development. To the extent possible, use your community's capital budget and any state grants to address these.
7. Draft and adopt amendments to land use regulations that will enable the community's desired mixed-use development at relevant locations.
8. Promote mixed-use opportunities to local property owners and mixed-use developers.

Considerations

- Mixed-use development involves different skills and knowledge than conventional single-family development, and typically they are not the same developers. Promote your community and its development opportunities to mixed-use developers working in the region.
- Requiring smaller retail units in mixed-use developments may be needed to ensure commercial tenants are small, community-focused businesses.
- Mixed-use development is more likely to be successful when commercial tenants are lined up before financing is secured. Connect established businesses and entrepreneurs in town to potential mixed-use developers to spur potential retail tenancies.
- Developments in hot real estate markets can sometimes afford to include



“loss leaders” that do not turn a profit on their own but attract residents. This includes specialty retail and food service businesses, as well as community spaces and cultural institutions.

Resources

- Metropolitan Area Planning Council, “Mixed-Use Zoning: A Planners’ Toolkit,” http://www.mapc.org/wp-content/uploads/2017/11/Mixed_Use_Planners_Toolkit.pdf
- Montgomery County Planning Commission, “New Town Mixed-Use District: Creating Walkable, Transit-Friendly Places,” <https://www.montcopa.org/DocumentCenter/View/4101/NTMMOrdFinal?bidId=>

Issues Addressed

Housing Costs, Housing Options, Affordable Housing, Multigenerational, Sustainable Housing

Related Tools

Village Plan Alternative, Planned Unit Development, Infill Development, Community Revitalization Tax Relief, Age-Friendly Neighborhoods, Form-Based Codes, Missing Middle Housing Types

Case Studies

Concord, NH

Concord has undertaken a series of visioning exercises to reimagine areas of the city. Many of these exercises include zoning for mixed-use developments similar to that in Downtown Concord. Bringing these visions into reality would require significant rezoning, including adoption of a draft form-based code, and ultimately piecemeal redevelopment



A rendering of the mixed-use vision for Loudon Road in Concord. (Image via the Concord Monitor).



Portwalk Place, a mixed-use project in downtown Portsmouth. (Image via portwalkplace.com)

by numerous property owners. In contrast, the city is also reviewing a plan for the mixed-use redevelopment of a large industrial site in the city's Penacook village. The developers' design includes market-rate and Workforce Housing in apartments and townhomes, as well as retail.

- Concord Next (Form-based code), <https://www.concordnext.info/>
- Concord Monitor, "City planners work with residents to redevelop Concord neighborhoods," (October 22, 2022)
- Concord Patch, "Massive Mixed-Use Project Proposed At Former Concord Monitor Property," (August 11, 2022), <https://patch.com/new-hampshire/concord-nh/massive-mixed-use-project-proposed-concord-monitor-property>

Portwalk Place, Portsmouth, NH

Portwalk Place is a five-acre, 400,000 square foot redevelopment in downtown Portsmouth. The development includes 149 housing units, 50,000 square feet of retail space, and several hotels.

- Cathartes Development, "Portwalk Place," <https://cathartes.com/portwalk-place/>
- Tighe & Bond, "Portwalk Place," <https://www.tighebond.com/project/portwalk-place/>



501 Main, Fairlee, VT

Fairlee, VT is a town of less than 1,000 people on the New Hampshire border. Since 2021, a small real estate developer has been working on a 10-unit development on the town's Main Street, a mix of commercial uses and housing tucked between I-91 and the Connecticut River. The development will replace a vacant commercial building, and uses a state tax credit for downtown redevelopments. The developer has documented the process online, which provides useful insights into the financial and regulatory landscape for small mixed-use projects in small towns, including zoning rules that are out of scale with the existing built environment and lengthy review processes. The documentation also yields interesting insights on dealing with wastewater disposal through smart site planning and community septic, as well using shared parking strategies to meet zoning requirements.

- Brick+Mortar, "Project Spotlight: 501 Main," <https://brickandmortar.substack.com/p/project-spotlight-501-main>
- Valley News, "Downtown projects in multiple towns win Vermont tax credits" (October 3, 2021)



Mixed-use construction underway on a constrained site on Main Street in Fairlee, VT. (Image via brickandmortar.substack.com)



Mashpee Commons, Mashpee, MA

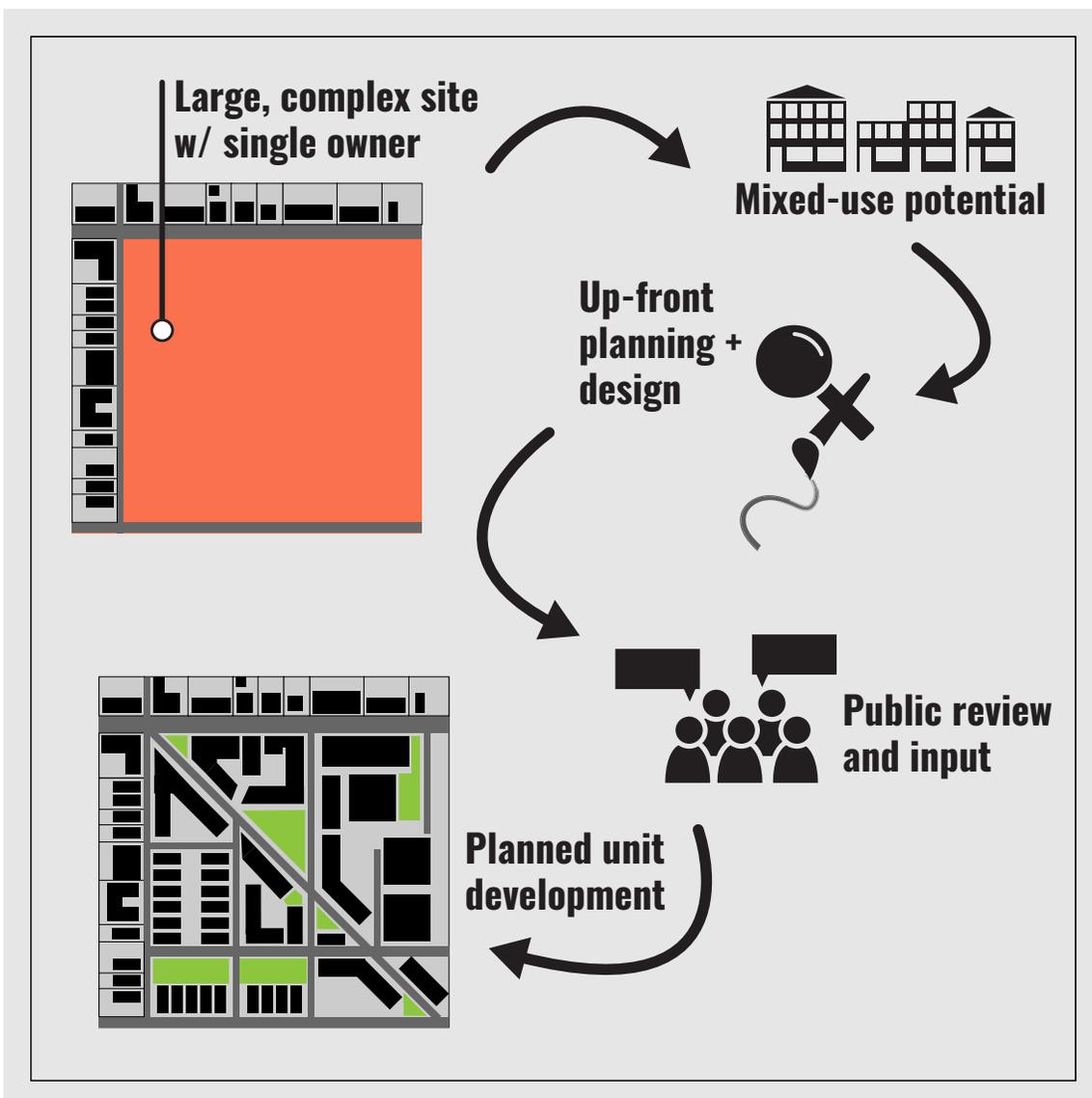
In 1986, the owners of an aging strip mall on Cape Cod in Massachusetts held a design charrette with the community to determine a direction for the property. Since then, the developers of the site have been realizing their vision of a new mixed-use community following the traditional New England town style. The development currently contains 77 homes, with plans for additional residential development underway, though mired by controversy.

- Sightline, “We Could Fit Lots of Homes in the Middle of Old Strip Malls,” <https://www.sightline.org/2022/02/14/we-could-fit-lots-of-homes-in-the-middle-of-old-strip-malls/>
- Metropolitan Area Planning Council and Congress for New Urbanism, “Reclaiming the Strip Mall: A Common Suburban Form, Transformed,” <https://www.cnu.org/sites/default/files/MAPC-CNU%20Strip%20Mall%20Case%20Studies.pdf>
- Cape Cod Times, “Mashpee Commons will still try to create housing, despite partnership agreement dissolving” (November 10, 2021)



Mashpee Commons’ existing retail/office (top left) and housing (top right) and 2022 plans for expansions to the neighborhood (bottom). (Images via Mashpee Commons and capenews.com)

Planned Unit Developments (PUDs)





What is it?

Planned unit development (PUD) is a method of land use regulation where the allowed mix of land uses, building types, densities, site design, and infrastructure are specified in detail for a single parcel or small collection of parcels. While PUDs are authorized under State law, the State provides no guidance on their use, and therefore they can take many forms.

PUDs are helpfully contrasted with conventional zoning:

- Conventional zoning sets broad parameters for many public and private property owners and those parameters can be interpreted to result in a variety of building outcomes, depending on site conditions and the owners' wishes.
- PUDs set specific rules for (typically) one property owner that are laid out in a master plan. Those rules will result in a single outcome known by the owner and the community. While these rules are specific, the PUD allows for more flexibility in the final outcome of development than would be allowed under conventional zoning and subdivision rules.

PUDs typically result in a broader mix of uses, better configurations of public space and conserved open space, more targeted parking, and less unnecessary infrastructure.

Communities allow PUDs within their zoning code, and they can be limited to particular zoning districts. Within the PUD section of the zoning bylaw, the community can specify a process and criteria for permitting a PUD, allowed uses, allowed densities, design or performance standards, and PUD master plan requirements.

How can it help?

PUDs can...

- Provide a mix of uses and multifamily housing that expand the tax base without the proportionate costs found under conventional zoning for infrastructure maintenance.
- Decrease development costs for new housing, potentially passing savings on to homebuyers and renters.
- Create a wider range of housing options than that found under conventional zoning.
- Efficiently use land available for development.
- Better integrate large developments with existing communities.
- Connect existing neighborhoods and new housing with commercial development to create more amenity-rich communities.
- Spur investment in public infrastructure, while creating less demand burden on



that infrastructure.

- Address the quality-of-life issues and limit open space encroachment associated with conventional development.

Getting Started

1. Recognize and promote PUDs' impact on common master plan goals, such as open space preservation, natural resource management, increased housing options, and more connected communities.
2. If undertaking a master plan, include PUDs as a recommendation.
3. Identify large sites or collections of sites that are under concentrated site control and which may be likely to redevelop. These sites are often older, vacant, and/or deteriorating institutions, campuses, industrial areas, business parks, or logistics sites.
4. Approach owners of those sites to gauge their interest in redevelopment or selling their site and to discuss redevelopment options.
5. Hold a public engagement process to determine the community's vision for these areas, including what types of uses, site configurations, and other goals. Through this process, educate the community on the PUD option.
6. Draft an ordinance that allows PUDs in your community through the zoning bylaw, based on your engagement process and conversations with property owners and stakeholders. The legislation should specify where PUDs would be allowed, the process for permitting them, and any other restrictions for proposals (design, allowed uses, density, etc.)
7. Adopt the ordinance through your community's governing body.
8. Promote the PUD option to local property owners and developers, and promote its community benefits to the general public.
9. When large property owners approach the municipality with development ideas or interest, pose the PUD as an option and encourage a master planning process to test PUD strategies and find the best outcomes.

Considerations

- PUDs are often used where a single entity has site control, though multiple property owners can be party to a PUD. In any case, the site typically has considerable flexibility (such as a large amount of buildable area, especially in the interior of the site).
- Before allowing PUDs, communities should conduct district-level planning to



establish a clear community vision for areas where PUDs might be relevant.

- Because they rely on intensive up-front planning, iterative design, and highly discretionary permitting, PUDs are among the most expensive land use controls for property owners, who pay holding costs during the design phases and other soft costs for planning. Over-reliance on PUDs could therefore impact the affordability of units produced.
- The availability of infrastructure will determine the limitations of density and uses on the site for the PUD.
- New infrastructure improvements can take years to plan, design, and build. Get started early!
- Permit the local land use board as much flexibility as possible in the PUD ordinance. Markets can change considerably in just a few years. The intent of the PUD option, however, should be very clear so that flexibility is not later abused.
- Areas of open space should be usable with amenities for both visitors and residents.

Resources

- UNH Cooperative Extension, “Innovative Land Use Controls,” <http://nhhousingtoolbox.org/resource-archive/innovative-land-use-controls.pdf>
- American Planning Association, “Planning Advisory Service: Planned Unit Developments,” <https://www.nhhousingtoolbox.org/resource-archive/PAS-Report-545.pdf>
- Wisconsin Center for Land Use Education, “Planning Implementation Tools Planned Unit Development,” https://www3.uwsp.edu/cnr-ap/clue/documents/planimplementation/planned_unit_development.pdf
- NH Municipal Association, “Look Before You Leap: Understanding Conditional Use Permits,” <https://www.nhmunicipal.org/town-city-article/look-you-leap-understanding-conditional-use-permits>

Issues Addressed

Housing Costs, Sustainable Housing, Infrastructure



Related Tools

Age-Friendly Neighborhoods, Cluster Housing, Mixed-Use Development, Adaptive Reuse, TIF, TDR, Workforce Housing Ordinance, Missing Middle Housing Types, Wastewater System Alternatives

State Law

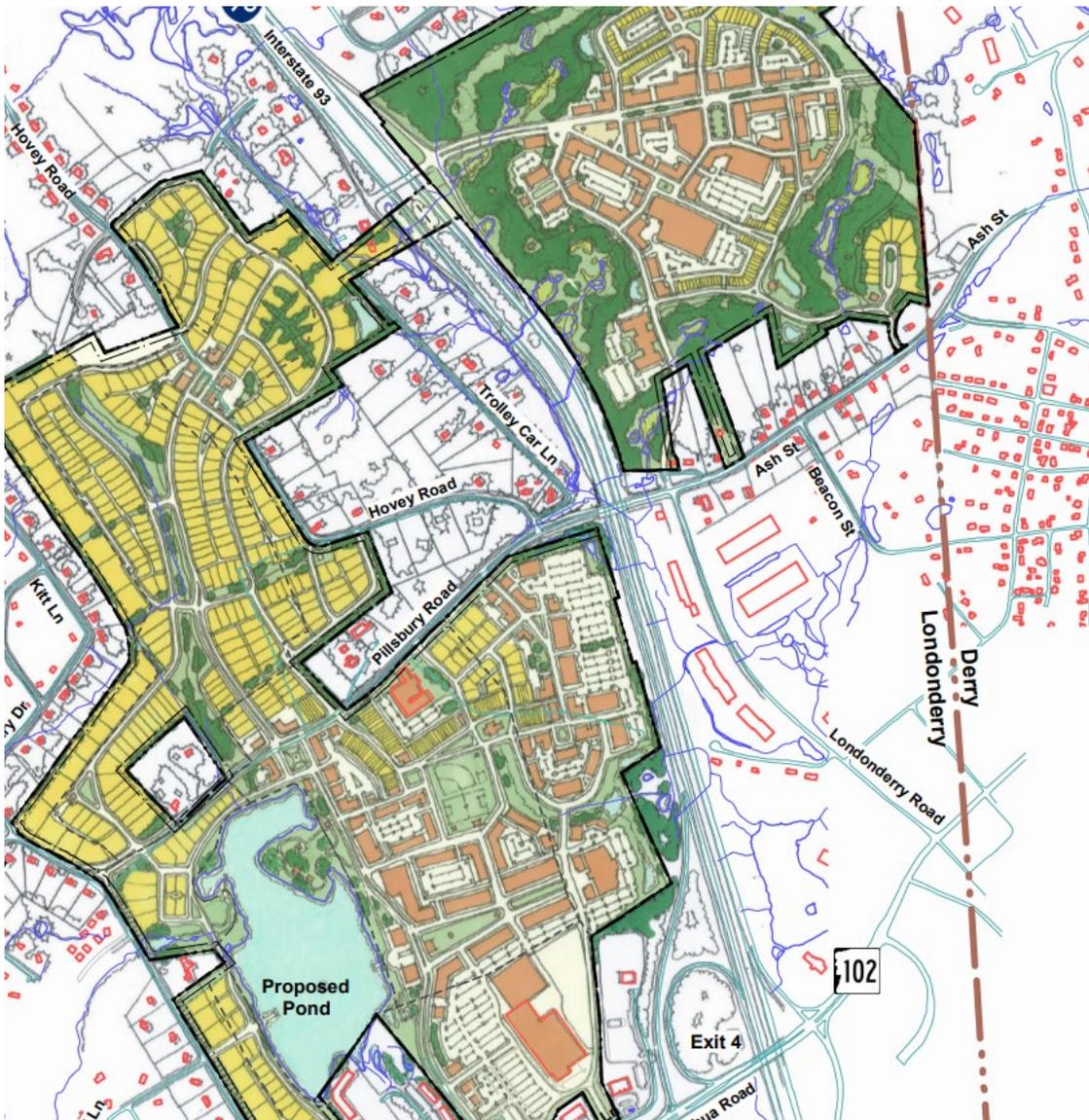
- RSA 674:21(e), <http://www.gencourt.state.nh.us/rsa/html/lxiv/674/674-21.htm>

Case Studies

Woodmont Commons, Londonderry, NH

Woodmont Commons is a 603 acre mixed-use development with housing, office space, retail and restaurants, medical space, civic space, and open space. The PUD's master plan, approved in 2013, divides the former orchard into 12 subdistricts, each with its own mix of street types, block types, building types, and more. The project includes 1,400 new housing units, some of which are age-restricted. Construction of the 20-year project began in 2018.

- Londonderry's PUD Bylaw. <https://online.encodeplus.com/regs/londonderry-nh/doc-viewer.aspx?tocid=001.002.008#secid-233>
- Woodmont Commons Master Plan. https://www.londonderrynh.gov/sites/g/files/vyhlif4616/f/uploads/volumeifinalwoodmontcommons_pudmasterplansigned10.2.pdf
- New Hampshire Public Radio. "Can You Build A Downtown From Scratch? Londonderry, N.H. Is Going To Find Out." <https://www.nhpr.org/nh-news/2018-01-23/can-you-build-a-downtown-from-scratch-londonderry-n-h-is-going-to-find-out>



Completed construction for Woodmont Commons Phase I, and an excerpt of the site plan from the approved PUD application. (Images via TF Moran Engineers (top) and Pillsbury Realty (bottom)).



Tuscan Village, Salem, NH

Tuscan Village is a large-scale mixed-use district in Salem, NH on the site of a former race track. If the plans for the development are fully executed, the 170-acre site will contain 4 million square feet of development, costing more than \$1 billion, and completed potentially by 2030. As of January 2023, the developers plan nearly 1,800 housing units on the site. Roughly 1,200 units were completed or under construction at the end of 2022.

- Town of Salem, Tuscan Village project page, <https://www.townofsalemnh.org/home/projects/pages/tuscan-village>
- Town of Salem, Tuscan Village Planning Board page, <https://www.townofsalemnh.org/planning-board/pages/tuscan-village>
- Union-Leader, “Three huge developments combine retail and office space with thousands of residential units” (September 10, 2022)
- Union-Leader, “Tuscan Village seeks to add 600 more housing units and more entertainment” (January 23, 2023)



The Tuscan Village mixed-use development in Salem, NH was permitted through a PUD process on the site of the former Rockingham Park Race Track. Housing is located in the mid-ground and background of this photo. (Image via Tuscan Village)



Bloomington, IN

Bloomington, Indiana's PUD base zoning district is a vehicle for allowing PUDs within the 80,000-person city. For a PUD to be permitted, property owners petition to change the base zoning of their land and submit a PUD plan, which triggers a series of public hearings and municipal staff reviews, and ultimately reviews by their Planning Board equivalent and their governing body. If any housing is built, at least 15% must be deed-restricted Affordable Housing for low-income residents. Much of the city's recent housing production and notable investments in transit have resulted from a few large PUDs.

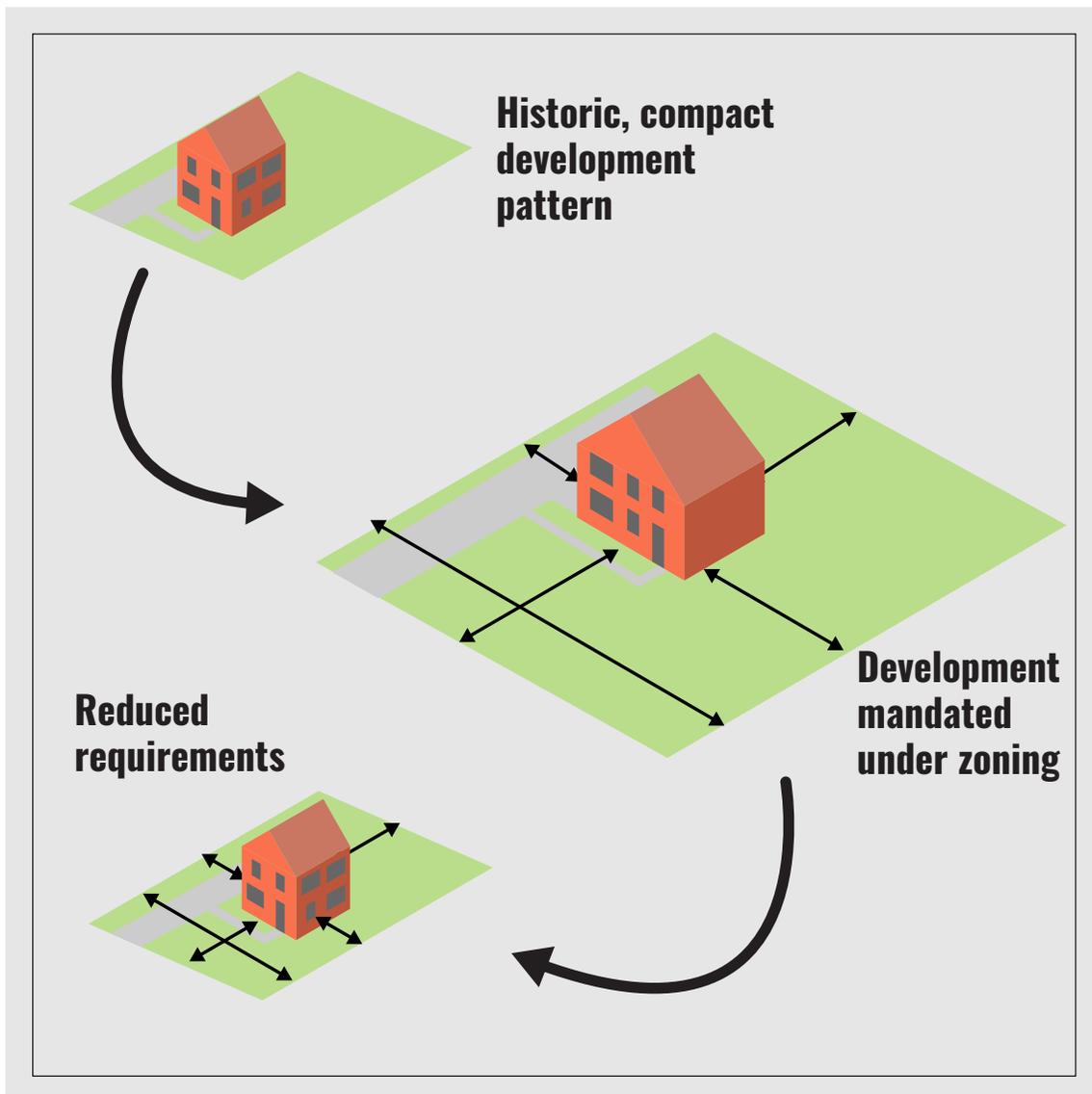
- PUD district and applicability, https://library.municode.com/in/bloomington/codes/code_of_ordinances?nodeId=TIT20UNDEOR_CH20.02ZODI_20.02.050PLUNDEPUDI
- PUD permitting process, https://library.municode.com/in/bloomington/codes/code_of_ordinances?nodeId=TIT20UNDEOR_CH20.06ADPR_20.06.070PLORAM
- Herald Times. "City council approves 1,000+ bedroom development," (March 5, 2020) <https://www.heraldtimesonline.com/story/news/local/2020/03/05/city-council-approves-1000-bedroom-development/43881983/>
- B Square Bulletin. "Bloomington alters zoning to reduce monoliths, spur affordability; city council could push more tweaks," (May 20, 2022) <https://bsquarebulletin.com/2022/05/20/bloomington-alters-zoning-to-reduce-monoliths-spur-affordability-city-council-could-push-more-tweaks/>

Cliff Street Retreat, Ithaca, NY

Not long after a custom metal fabricator vacated its small industrial space in Ithaca, NY, the property owner proposed to adapt the existing structure into a mixed-use development incorporating office, restaurant, residential, light industrial, and hotel uses. The industrial use was already non-conforming. The developer and city used the PUD zoning provisions to bypass the purely residential zone's rules and take on this more ambitious project. The complexity of the site, existing building, and proposed uses required the PUD zoning provision, though the site (at 2 acres) is relatively small among PUDs. The PUD was approved and the terms of the PUD were incorporated into the zoning code itself. Incidentally, the thorough municipal review made the project eligible for State tax relief.

- Ithaca's PUD enabling bylaw, <https://ecode360.com/8394237>
- Cliff Street Retreat PUD District, <https://ecode360.com/38916606>
- Ithaca.com "Cliff Street Retreat sails through PUD public information session" (May 12, 2021), https://www.ithaca.com/news/ithaca/cliff-street-retreat-sails-through-pud-public-information-session/article_ca30065a-b340-11eb-9724-8bf50ed58a14.html

Reduced Zoning and Subdivision Requirements





What is it

Reducing zoning and subdivision requirements is a process of matching local land use rules with the existing built character of a place, with community needs, with contemporary real estate economics, and with a community's vision for its future. This process of "right-sizing" regulations can open up housing opportunities. Too often, a community's land use regulations will mandate development that doesn't complement well-loved neighborhoods and architecture, unnecessarily increasing housing costs, and removing open space. Sometimes, these regulations have been passed from one community to the next out of convenience, without much thought to the particularities of the place. Often, these regulations have not been substantially revised in decades. According to a study from the Wharton Residential Land Use Regulatory Index, New Hampshire is one of the most regulated states for home construction. Today many municipalities in our State have regulations that add significantly to the cost of housing and can limit housing production altogether.

Most cities and towns in New Hampshire have historic downtowns and villages that are cherished by residents. If your community's historic downtown or village couldn't be built under its current standards, you may not have right-sized regulations. As well as looking to the past, look to the future vision in your community's master plan, which should also include specific recommendations for achieving that vision.

To get development that a community actually wants, an audit of current regulations is critical. Scrutiny should be given to numerical values in ordinances, such as those for minimum lot size, setbacks, lot coverage, height restrictions, road design standards, and parking requirements.

How can it help?

Reducing zoning and subdivision requirements can...

- Effectively increase housing production.
- Lower land and construction costs for new housing.
- Provide more diverse housing options.
- Help reduce economic segregation.
- Nurture and complement historic districts and traditional architecture.
- Reduce the impact of unnecessary pavement, including on groundwater and flooding.



Getting Started

1. The community's master plan and any district-level plans or studies can serve as guides for right-sizing regulations. These plans may have already identified problematic rules that should be modified.
2. If you are currently undertaking a master plan, include right-sizing regulations as a recommendation or even include specific regulatory changes that should be made.
3. Audit your zoning code, subdivision regulations, and any other land use controls that impact lot size, street frontages, heights, setbacks, parking, etc.
 - a. If possible, use geographic information systems (GIS) to assess whether current neighborhoods and housing could be built under present regulations.
 - b. Assess whether desired housing could be built, given present land use regulations, the latest version of the building code, and market conditions.
 - c. If possible, use build-out analyses to project land needed to support reasonable growth under current regulations versus other housing types/scenarios.
 - d. If possible, conduct a parking study to determine areas where parking may be over- or under-built.
 - e. Make note of specific controls that cause issues (minimum land area, minimum parking requirements, setbacks, etc.).
 - f. Make note of any specific locations (neighborhoods, landmarks) that have regulatory issues.
4. Conduct a community engagement process to present your findings and gather feedback.
 - a. If land use regulations would not permit specific landmarks or common housing types, communicate those discrepancies.
 - b. Gather feedback on what regulations there is support for changing, if any.
5. Draft and adopt amendments to zoning, subdivision rules, etc. to reflect the community's desires.
6. Periodically audit regulations to ensure they are a good fit for your community.



Considerations

- Design charrettes can help build support for relaxing regulations.
- Numerical values in ordinances are based on assumptions that may no longer be valid, check them carefully.
- Make sure to right-size your permitting fees; they can significantly add to the cost of housing.
- Also, your review process should be the right size; time is money and lengthy local reviews of projects add to the cost of every home.

Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, Chapter 2: Lot-Size Averaging, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.2.pdf>
- Edward Glaeser, “Reforming land use regulations,” <https://www.brookings.edu/research/reforming-land-use-regulations/>
- Manhattan Institute, “Changing Minds on Restrictive Zoning: How to Unclog America’s Home Supply,” <https://www.manhattan-institute.org/sorens-changing-minds-restrictive-zoning>
- Jason Sorens, “Residential Land Use Regulations in New Hampshire: Causes and Consequences,” <https://jbartlett.org/wp-content/uploads/Residential-Land-Use-Regulations-in-New-Hampshire-Report.pdf>
- Strong Towns, “Do Minimum Lot Size Rules Matter?” <https://www.strongtowns.org/journal/2019/6/19/do-minimum-lot-size-rules-matter>
- Strong Towns, “A Map of Cities That Got Rid of Parking Minimums,” <https://www.strongtowns.org/journal/2015/11/18/a-map-of-cities-that-got-rid-of-parking-minimums>
- Strong Towns, “How Zoning is Holding Your Neighborhood Back,” <https://www.strongtowns.org/journal/2018/7/3/how-zoning-is-holding-your-neighborhood-back>
- Victoria Transport Policy Institute, “Parking Requirement Impacts on Housing Affordability,” <https://www.vtpi.org/park-hou.pdf>
- The Square Center, “Report: New Hampshire’s housing crisis fueled by restrictive local zoning,” https://www.thecentersquare.com/new_hampshire/report-new-hampshires-housing-crisis-fueled-by-restrictive-local-zoning/article_1de57708-2b73-11ec-aa3c-bb6c25515ff3.html



Issues Addressed

Housing Costs, Sustainable Housing, Redevelopment, Affordable Housing, Housing Options

Related Tools

Missing Middle Housing Types, Workforce Housing Ordinance, Infill Development, Housing Opportunity Zone, Form-Based Codes, Age-Friendly Neighborhoods

Case Studies

Seabrook, NH

In 2019, the Town of Seabrook replaced its parking minimums for certain land uses with parking maximums. The maximums apply to nonresidential uses, with all residential uses required to provide parking at the discretion of the Planning Board. Though the parking maximums do not apply specifically to residential uses, they are a directional signal indicating the type of development the community is seeking.

- Seabrook Site Plan Regulations, <https://seabrooknh.info/wp-content/uploads/2021/06/Site-Plan-Regs-dated-14June2021.pdf>

Brunswick, ME

Brunswick is a town in Maine half an hour north of Portland. In 2017, the town enacted a new zoning code implementing their 2008 master plan, which aimed to increase development in designated growth areas and limit new housing in designated preservation areas. To implement this goal by encouraging infill development, the new code eliminated residential lot minimums in all growth districts, maximum frontages in most growth districts, and curtailed several other dimensional rules.

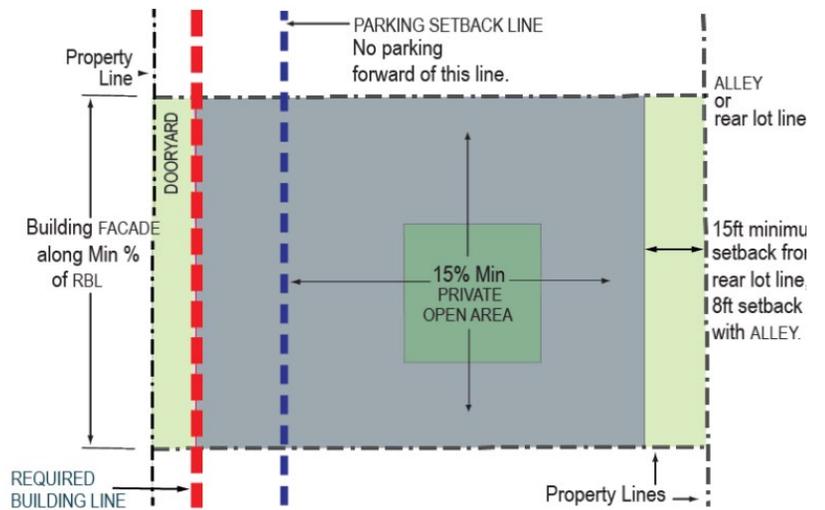
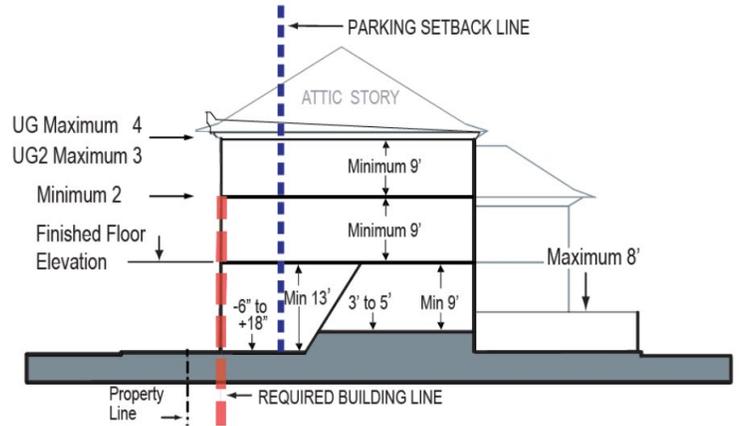
- Brunswick Zoning Code, <https://www.brunswickme.org/DocumentCenter/View/6846/Brunswick-Zoning-Ordinance-as-of-8172022>
- The Zoning Ordinance Rewrite Committee's explanation of their master plan implementation, <https://www.brunswickme.org/DocumentCenter/View/806/Revised-Zoning-Ordinance-Comprehensive-Plan-Correlation-Table-PDF>



Cedar Falls, IA

Cedar Falls, Iowa is a small city that has an active downtown with significant recent residential development. In 2019, the local government initiated a visioning and rezoning effort to update its 30-year zoning code. The result was a new law that codified the historic building standards of the town’s downtown and surrounding areas through right-sized height, bulk, setback, and parking regulations. Right-sizing minimum parking requirements became the most controversial but ultimately significant element of the rezoning. In addition to form-based dimensional changes, the plan reduced parking minimums to 0.75 spaces per bedroom in the downtown core.

- Zoning Code, <https://www.cedarfalls.com/DocumentCenter/View/11878/Adopted-Downtown-Character-District-Code-low-res>
- Waterloo-Cedar Falls Courier. “New downtown zoning code adopted in Cedar Falls after months of contentious debate.” (November 2, 2021)



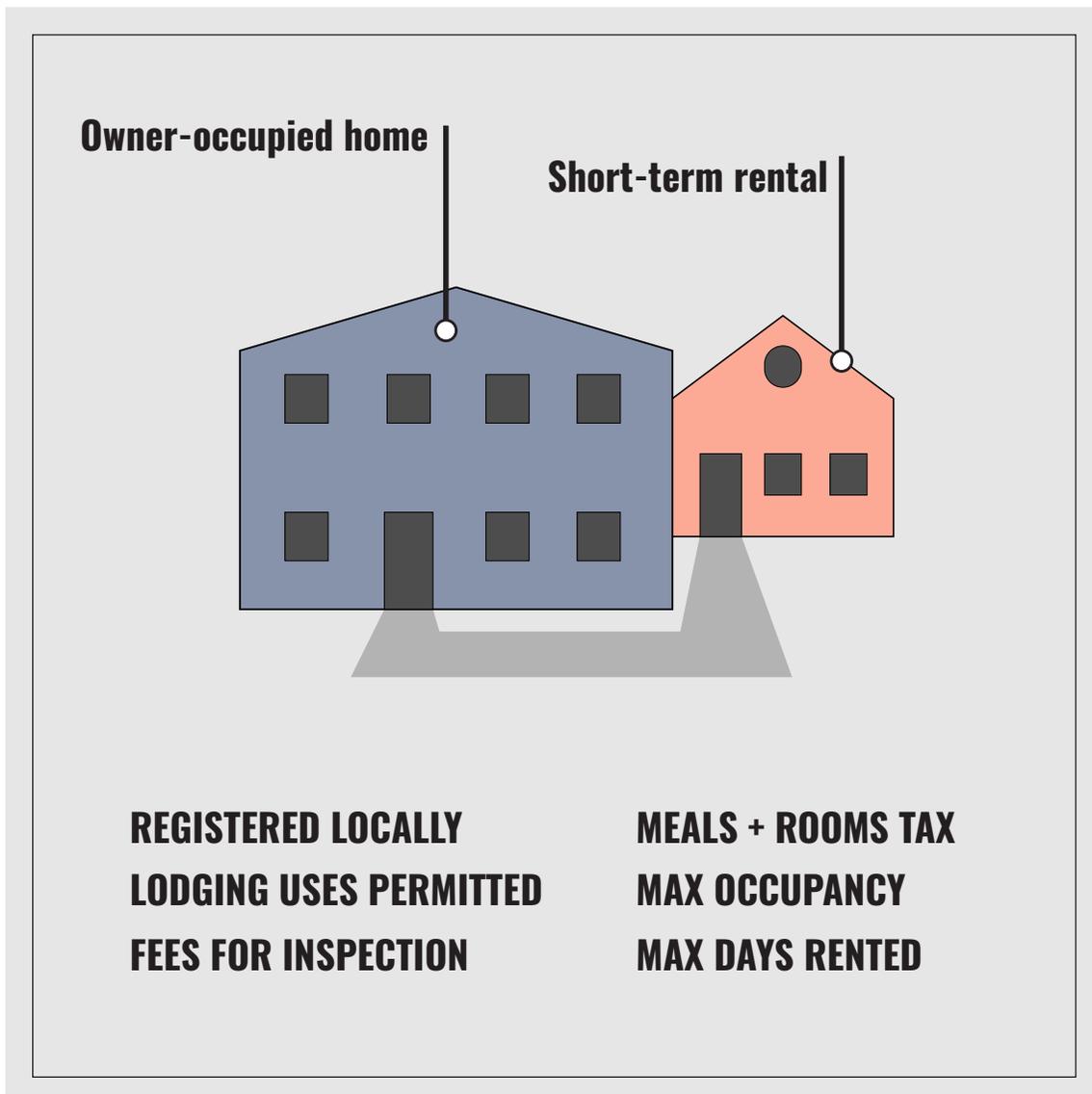
Right-sized building and site plan regulations from the Cedar Falls codes.



An analysis of onerous dimensional regulations on a residential block (top) in New Brunswick, NJ. After accounting for all the zoning rules, only the 20'-deep yellow area (bottom) remained buildable, preventing redevelopment of a vacant lot. (Images via Strong Towns: <https://www.strongtowns.org/journal/2018/7/3/how-zoning-is-holding-your-neighborhood-back>)



Short-Term Rental Regulations





What is it?

Online markets for overnight and short-term homestays (such as AirBNB and VRBO) have grown exponentially over the past decade, particularly in prosperous urban areas, tourist destinations, and near economic anchors that draw in visitors (like universities). As short-term rentals (STRs) have taken up a small but significant share of housing in some areas, the growth in the cost of long-term housing has risen considerably. Although there is no one cause for the rapidly increasing cost of housing, there is a growing body of evidence that suggests that the growth of STRs has fueled some of the price increases in some places. There is a growing concern in these STR-heavy markets that neighborhoods are slowly being turned into hotels, especially as the country faces a housing shortage generally.

Cities and towns can restrict STRs under state law. A growing number of communities, particularly in the mountains and along the seacoast, have done so in recent years. By 2022, over thirty cities and towns in the State had adopted some form of regulations restricting STRs. Many simply amended the Zoning Ordinance and added a definition and a new use category; some communities have required owner occupancy of a building with an STR; a number of municipalities also clarified the process for review. Some municipalities are allowing maximum occupants per room, maximum nights rented per year, fees for registration and inspection, and other restrictions.

STRs can take many forms. For example, they can be owner-occupied (where the owner rents a room or accessory dwelling for extra income). They can also be seasonal rentals by “snowbird” owners. They can also be owned by professional STR operators, who buy homes (sometimes many homes) for the express purpose of converting them to STRs. (The latter was increasingly common in the late 2010s and early 2020s, though that business model is becoming more difficult with increasing regulations, competition from the hotel industry, and higher interest rates.) Homes can operate as STRs sporadically or full-time.

There is not, however, one definition that is mandated and communities are mostly free to define STRs as they choose in their zoning ordinance. Your community may want to regulate all, some, or none of the variants of STRs, but it should consider as many variables as possible in its regulations, in order to prevent bad actors from gaming the regulations.

How can it help?

STR regulations can...

- Limit the conversion of long-term housing stock to hotel uses via STRs.
- Target certain areas over others for STR uses.
- Protect neighborhoods from the negative impacts of STRs and absentee landlords.
- Establish clarity for both homeowners and professional STR operators, including



thresholds for when an accessory STR in a person's home becomes a regulated STR.

- Establish consistent treatment for different types of lodging uses in zoning.
- Increase local Meals and Rooms Tax revenue from STRs that may otherwise fly under the radar.
- Increase demand for traditional hotel developments, which will reduce pressure on the long-term housing market, have a greater local economic impact, and can revitalize underinvested areas in your community.

Getting Started

1. Evaluate the impact of STRs in your community. Look on major STR provider websites to view active listings, collecting data over several months and removing duplicate listings. Via this data, assess whether STRs have a significant presence in your community, where they are located, and what the potential draws are for STR tenants. Speak with STR providers to learn about the local STR business models and customers. Decide whether regulation is necessary.
2. If undertaking a master plan, include your evaluation in the plan and recommend STR regulations if needed.
3. Conduct an audit of current regulations to determine where STRs are allowed in your city or town, how hotel lodging is defined generally, and whether the current market is complying with these regulations.
4. Hold a public engagement process to gain input on what types of STR operations should be allowed (if any) and what types should be regulated as hotel uses (if any).
5. Draft an ordinance that amends zoning to clearly define an STR, set thresholds for regulation, set a process for permitting and review, and set any additional restrictions on STR operators (e.g., owner-occupancy).
6. Establish a system of registering and monitoring STR operations in your community.

Considerations

- There are many arguments STR operators make to claim regulation is illegal, though lawmakers and courts have tended to find those arguments unconvincing. Authority to make regulatory distinctions between long-term and short-term lodging are already embedded in state law, which makes the distinction in RSA 48-A and RSA 78-A, which addresses housing standards and lodging taxation, respectively.



- For many communities outside of prosperous urban and tourist markets, STRs are not occupying a significant part of the housing stock. In those cases, STR regulation is unlikely to impact the housing market.
- For NH Meals and Rooms Tax purposes, a room or home is considered an STR if it has tenancies of less than 185 days. This may be a convenient standard to set as the difference between a long-term residence and an STR. Some communities, especially in college towns with many student rentals, may find this definition will not work for them.
- Treat an STR as you would other commercial uses for lodging, similar to a hotel. As such, they would require site plan review, unless exempted, and may require other local approvals depending upon the regulations.
- Owner-occupied STRs are less likely to cause problems for the community.
- Consider adopting additional (non-zoning) STR regulations to minimize impact on abutters (quiet hours, number of vehicles, etc.).
- For communities with many seasonal residents, STR regulation will not likely return seasonally vacant units to the long-term market.
- Consistent enforcement of STR regulations is key to achieving your community's outcomes.

Resources

- NH Municipal Association, "Municipal Regulation of Short-Term Rentals," https://www.nhmunicipal.org/sites/default/files/uploads/workshop-materials/short-term_rental_municipal_regulations.pdf
- NH Office of Planning and Development, "Controlling Short-Term Rentals: What Can Towns Do?," <http://nhhousingtoolbox.org/resource-archive/short-term-rentals.pdf>
- Danye Lee, "How Airbnb Short-Term Rentals Exacerbate Los Angeles's Affordable Housing Crisis: Analysis and Policy Recommendations," <https://blogs.ubc.ca/canadianliteratureparkinson/files/2016/06/How-Airbnb-Short-term-rentals-disrupted.pdf>
- Boston Magazine, "We are at a crisis level on the supply of rental housing. Experts discuss the impact of short-term rentals," <https://www.boston.com/real-estate/spring-house-hunt/2022/06/15/short-term-rentals-impact-housing-crisis/>
- Granicus, "Six Ways That Short-Term Vacation Rentals Are Impacting Communities," <https://granicus.com/blog/six-ways-that-short-term-vacation-rentals-are-impacting-communities/>
- Granicus "A Practical Guide To Effectively Regulating Short-term Rentals on the Local Government Level," https://granicus.com/pdfs/Whitepaper_-_A-practical-



[guide-to-effectively-regulating-short-term-rentals-on-the-local-government-level.pdf](#)

- NH Bulletin, “Bill on short-term rentals ratchets up a fundamental debate in N.H. communities,” <https://newhampshirebulletin.com/2022/04/11/bill-on-short-term-rentals-ratchets-up-a-fundamental-debate-in-n-h-communities/>
- New England Real Estate Journal, “New England cities rein in short-term rentals,” <https://nerej.com/new-england-cities-rein-in-short-term-rentals-by-ken-mackenzie-and-chris-vaccaro>

Issues Addressed

Housing Costs, Housing Options

Related Tools

Accessory Dwelling Units, Workforce Housing Ordinance

State Law

- RSA 674:16, <http://www.gencourt.state.nh.us/rsa/html/lxiv/674/674-16.htm>
- RSA 21:6-a, <http://gencourt.state.nh.us/rsa/html/I/21/21-6-a.htm>
- RSA 78-A:3, <http://www.gencourt.state.nh.us/rsa/html/V/78-A/78-A-3.htm>
- RSA 78-A:4-a, <http://www.gencourt.state.nh.us/rsa/html/V/78-A/78-A-4-a.htm>
- RSA 674:43, <http://www.gencourt.state.nh.us/rsa/html/lxiv/674/674-43.htm>

Case Studies

Hanover, NH

In 2020, after considerable study of the STR market and example regulatory mechanisms, the Town of Hanover decided to regulate STRs. The Town distinguishes between hosted STRs, where the owner is present on the premises through the rental, and unhosted STRs, where the owner is not present. STRs may not be operated by investors (the STR must be the owner’s principal residence), and unhosted STRs are



not permitted in ADUs. STRs must be registered with the Town. The STR regulations, though passed in 2020, became active with the adoption of broad rental regulations in 2022.

- NH Municipal Association, “Short-Term Rentals” webinar presentation, https://www.nhmunicipal.org/sites/default/files/uploads/workshop-materials/short-term_rentals_slides.pdf
- Town of Hanover Rental Housing Ordinance FAQ, https://www.hanovernh.org/sites/g/files/vyhlf3226/f/uploads/town_of_hanover_initial_rental_housing_faq_8-12-2022.pdf

Boston, MA

Boston passed STR regulations in 2019, allowing them under certain conditions. It recognizes three classes: limited share rentals (where a spare bedroom in the operator’s home is the STR), home share rentals (where the home the operator occupies is sometimes a STR), or owner-adjacent rentals (where another unit in a duplex or triplex the operator owns and lives in is an STR). All STRs must be in owner-occupied buildings and cannot exist in buildings with more than three units. STRs must register with the city and pay a fee. The estimated number of STRs in Boston decreased from roughly 6,000 before the regulations to 841 in 2021.

- City of Boston, “Short-Term Rentals,” <https://www.boston.gov/departments/inspectional-services/short-term-rentals>

TO BE ELIGIBLE A UNIT MUST...

Not be restricted by affordability covenants	▼
Be in compliance with related Housing laws and codes	▼
Not violate any law beyond the City's jurisdiction relating to short-term rental use	▼
Be owner-occupied	▼
Be located in a two- or three-family dwelling (owner-adjacent units only)	▼
Be classified as residential use	▼

A screenshot from Boston’s online guide to its STR regulations.

San Diego, CA

San Diego recently passed STR regulations with the goal of limiting STRs to 1% of the total housing stock. Similar to Boston, San Diego recognizes multiple classes of STRs based on characteristics of the home and rental practices. San Diego’s tiers are partly based on the number of days rented, with fewer restrictions on owner-occupants who rent their home for less than 20 days, intermediate restrictions for owner-occupants who rent their home for more than 20 days but still live there most of the time, and significant restrictions on full-time STRs. STR operators must apply for a license, and a limited number of licenses are granted on a lottery basis.

- City of San Diego, “Short-Term Residential Occupancy (STRO),” <https://www.sandiego.gov/treasurer/short-term-residential-occupancy>



Portsmouth, NH

In 2019, the New Hampshire Supreme Court upheld the City of Portsmouth's Zoning Ordinance, which defined STRs as "transient occupancy" and prohibited them in residential zones.

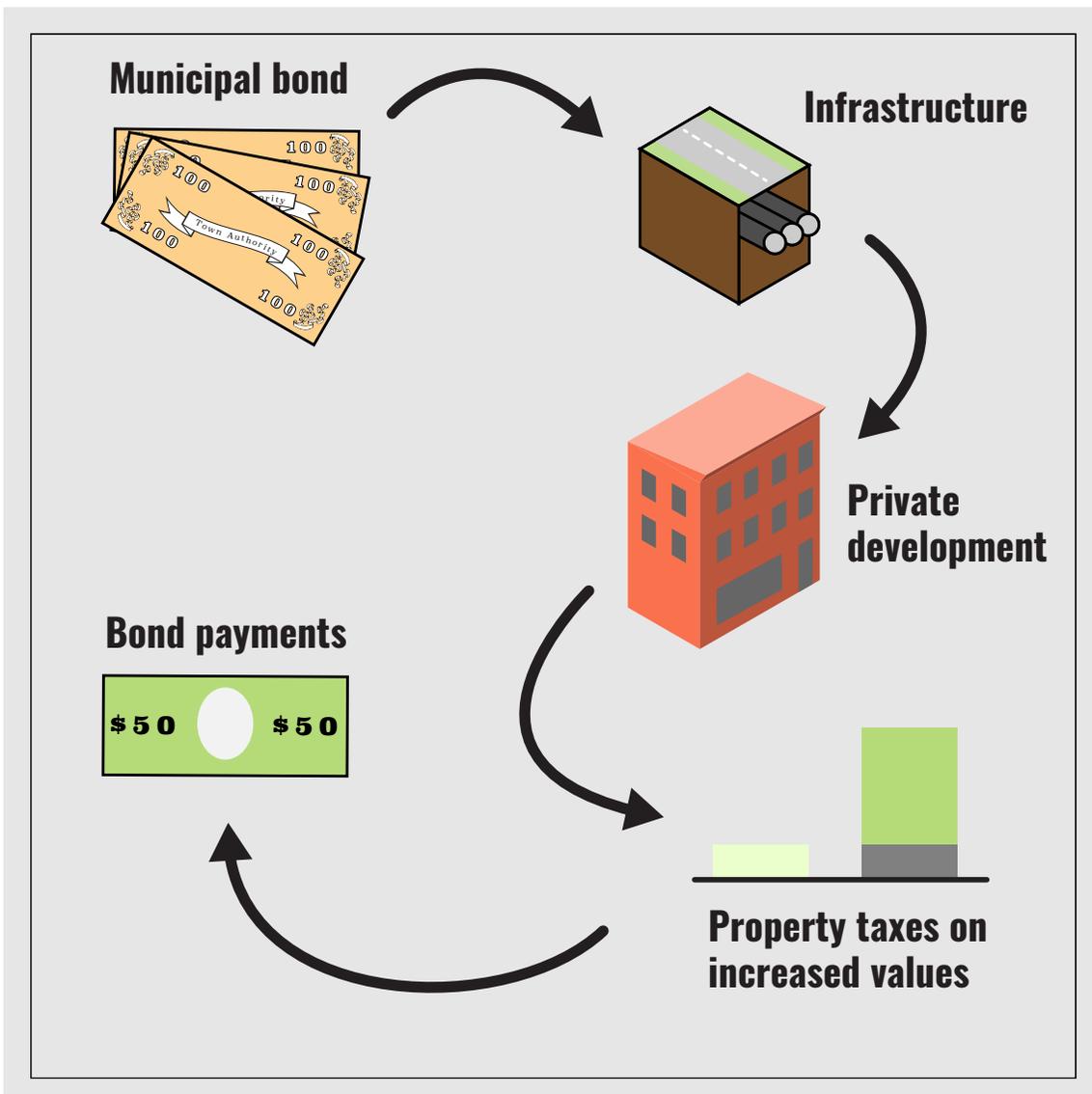
- Portsmouth Herald, "Short-term rentals in Portsmouth: Should city allow it? Mayor says yes, but with limits" (February 3, 2022)
- NH Municipal Association, "Short Term Rental Use of Property Zoned Residential is Prohibited by a Zoning Ordinance Definition that Such Use is a Prohibited Transient Occupancy," <https://www.nhmunicipal.org/court-updates/short-term-rental-use-property-zoned-residential-prohibited-zoning-ordinance>

Conway, NH

A case currently before the NH Supreme Court is a challenge to the Town of Conway's requirement that STRs must be owner occupied.

- Town of Conway, "Regulations of Short-Term Rentals Proposed by the Committee and Accepted by the Board of Selectmen," <https://conwaynh.org/wp-content/uploads/2020/12/STR-Regulations-Accepted-by-BOS.pdf>
- WMUR, "Judge denies Conway's attempt to ban short-term rentals that are not owner-occupied," <https://www.wmur.com/article/judge-denies-conway-attempt-ban-short-term-rentals/38903866>

Tax Increment Financing (TIF)





What is it?

Tax Increment Financing (TIF) is an economic development tool meant to make private developments feasible at low upfront costs to the community. With TIFs, a municipality issues debt or otherwise agrees to pay to finance infrastructure or other public improvements in a specific area (the “TIF district”). Those improvements enable private development, which increases the value of TIF district properties and associated property tax revenue. Those increases to tax revenue (called the “tax increment”) are set aside to pay off the debt. Once the debt is repaid, all the property tax revenues go into the municipality’s general fund. The law permits municipalities to make investment decisions.

There are a number of misconceptions about TIF districts. A TIF does not increase or reduce taxes for anyone; it simply allocates how some tax revenue is spent. It does not change zoning requirements or affect property rights. Most importantly, it does not create a separate taxing authority. It is completely under the control of the local legislative body, which for towns is made up of voters at the annual town meeting.

TIFs are authorized by New Hampshire RSA 162-K, and a city must legally have adopted that statute in order to proceed with creating a TIF.

How can it help?

Tax Increment Financing can...

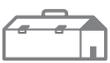
- Encourage housing development where it would be otherwise impossible due to expensive brownfield cleanups, lack of infrastructure, or other constraints.
- Provide workforce housing.
- Finance public improvements that will help the whole community.
- Subsidize worthy projects without burdening current taxpayers.
- Spur economic development in targeted areas when private investment is insufficient, such as the case in many downtowns.
- Diversify the tax base.
- Bring local jobs in targeted industries.
- Improve infrastructure leads directly to higher property values.
- Boost local tax revenues in the long-run when debt is repaid and in the short-term if property values exceed what was expected.



Getting Started

TIF adoption must follow specific guidelines set forth in RSA 162-K. These requirements are marked with an asterisk (*) in the list below. There are additional best practices included here that will increase the chances of success.

1. Recognize and promote TIFs' impact on common master plan goals, such as increased housing options, economic development in downtowns and village centers, open space preservation, and historic preservation.
2. If undertaking a master plan, include adoption of TIF housing as a recommendation.
3. Assess your local infrastructure, real estate market, and development constraints that may be resolved by infrastructure development. Use this assessment to identify potential workable TIFs.
4. Talk with property owners and other stakeholders in potential TIF districts. Determine if infrastructure could unlock actual development opportunities with active interest from owners and developers.
5. Hold public engagement events to discuss, reassess, and build support for the idea of TIFs (if not yet authorized in your community) and specific potential TIF districts and TIF plans. It is important for local officials and the general public to understand how a proposed TIF might work. There should be a public outreach campaign to ensure awareness; a local economic development committee many times can be the champion of a TIF plan.
6. (*) Based on your assessments and the public input, develop a TIF plan, which must include the district boundaries, a development program, and a finance plan.
7. (*) If your community has not adopted RSA 162-K "Municipal Economic Development and Revitalization Districts," you must legally do that before adopting. However, the process of holding hearings for the initial adoption of RSA 162-K and establishment of a specific TIF district may be held concurrently.
8. (*) The governing body (City Council, Board of Selectmen, etc.) must hold a hearing.
 - a. If your community has *not* adopted RSA 162-K, the hearing should be both on the adoption of that law enabling TIFs locally, and a specific TIF district.
 - b. If your community has already adopted RSA 162-K, the hearing can be specific to a proposed TIF district.
9. A clear and concise presentation explaining the plan, with examples, should be given at the city council or annual town meeting prior to a vote.



10. (*) Formal District Establishment:
 - a. If your community has already adopted RSA 162-K, the legislative body (City Council, Town Meeting, etc.) can vote on the establishment of a TIF district and the associated TIF plan.
 - b. If your community has not adopted RSA 162-K, the legislative body must first vote to adopt that statute, and can then vote on the establishment of a TIF district and the associated TIF plan.
11. (*) Establish a TIF Advisory Board.
 - a. The legislative body, in approving the TIF Plan, should also approve the number of members for a TIF district's Advisory Board. The legislative body can place other restrictions as well, as long as they do not conflict with the statute.
 - b. The statute requires the majority of members be property owners or occupants in the community, and at least one member be a property owner or occupant in the TIF district. The law requires a balance between business and community interests on the board.
12. (*) File annual financial reports.
13. Continue to promote the TIF so that it can benefit your town or city. Developers won't know about this incentive unless someone tells them.

Considerations

- Many states require private developments to be financially infeasible “but for” the public’s TIF investment in infrastructure. New Hampshire does not have this requirement, but your community should still think about the “but for” test when assessing TIFs. You do not want to issue public debt if the developer could have paid for the infrastructure improvements themselves.
- The municipality is on the hook for any debt payments if tax revenue generated does cover debt payments.
- Keep the finance plan as flexible as possible. A reimbursement mechanism (where the municipality pays back the developer for infrastructure with the tax increment) may be preferable to issuing a bond. It decreases the risk to the municipality, and ensures the developer has “skin in the game” earlier.
- Only issue debt once development is likely, and issue debt in phases if possible to avoid undue risks. Require development agreements and performance guarantees to minimize the risk for the municipality.
- Make sure the process is transparent and follow the letter of the TIF law.
- Note that tax relief programs, like the Community Revitalization Tax Relief Incentive (79-E) could limit tax increments available for TIF payments.



Resources

- New Hampshire Office of Energy and Planning, “Tax Increment Financing,” <http://nhhousingtoolbox.org/resource-archive/tax-increment-financing.pdf>
- NH Municipal Association, “Field of Dreams: How Tax Increment Financing Can Help Development Dreams Come True,” <https://www.nhmunicipal.org/town-city-article/field-dreams-how-tax-increment-financing-can-help-development-dreams-come-true>
- Government Finance Officers Association, “Tax Increment Financing Primer,” https://gfoaorg.cdn.prismic.io/gfoaorg/23abaf70-6a7b-4491-9b8a-f20055b84d95_CEDCPPrimerTaxIncrementFinancing.pdf
- Government Finance Officers Association, “Best Practices: Creation, Implementation, and Evaluation of Tax Increment Financing,” <https://www.gfoa.org/materials/creation-implementation-and-evaluation-of-tax-increment>
- City of Dover, “Tax Increment Financing Feasibility Study,” <https://www.dover.nh.gov/Assets/government/city-operations/2document/planning/outreach/EcDev/TIF%20Report%20v2.pdf>
- Council of Development Finance Agencies, “Tax Increment Finance Resource Center,” <https://www.cdfa.net/cdfa/cdfaweb.nsf/resourcecenters/tif.html>
- Town of Londonderry, “Tax Increment Finance (TIF) District Page,” <https://www.londonderrynh.org/planning-economic-development/pages/tax-increment-finance-tif-district-page>

Issues Addressed

Housing Costs, Redevelopment, Infrastructure

Related Tools

Age-Friendly Neighborhoods, Mixed-Use Development, Workforce Housing Ordinance, Adaptive Reuse

State Law

- RSA 162-K, <http://www.gencourt.state.nh.us/rsa/html/xii/162-k/162-k-mrg.htm>



Case Studies

Bow, NH

The town adopted the Bow Business Corridor TIF in 2018 to extend the municipal water system and fund road improvements in the northern part of town. The previous year Bow had approved a mixed-use district allowing higher densities with multifamily housing. The town has used the revenue generated so far to fund engineering and design of the waterline extension. This commitment to extend the waterline has attracted several developers including the John Flatley Company, which has proposed a mixed-use development with 260 housing units.

- Town of Bow, “Bow Tax Increment Finance Districts (TIF),” <https://bownh.gov/688/Bow-TIF-Districts>



Concord, NH

Concord has established numerous TIF districts, including the Sears Block TIF District in downtown Concord. The site of a former Sears department store, an incomplete development in the late 1990s left the buildings partially demolished. The City acquired the block and demolished the remaining structures in 2002. The City and a private developer used TIF, private funds, and other revenue sources to redevelop the block into “Capitol Commons.” Across the City, TIFs have funded roadway, utility, and parking improvements, as well as preparation of sites for new development. TIF improvements have enabled millions of dollars in new taxable value.

- BondBuyer.com, “Concord, N.H., Selling \$10M Today For Downtown Sears Block Project” (July 20, 2005)
- Matt Walsh, City of Concord,



Concord’s Sears Block was either vacant or underutilized for years after the department store left for a suburban mall (top). It sat partially demolished until the City used TIF to ready the site for private development. Now it is called Capitol Commons (bottom) a hotel, parking garage, movie theater, and more. (Images via City of Concord)



“Tax Increment Financing” Concord case studies presentation, https://www.rochesternh.gov/sites/g/files/vyhlif9211/f/file/file/rochester_tif_presentation_no_jd_slidesm.pdf

- Jack Dugan, Applied Economic Research, “Downtown Lebanon TIF Feasibility Analysis Study Committee Briefing October 12, 2017” with Concord case studies, <https://flyleb.com/DocumentCenter/View/5534/TIF-Meeting-Presentation-10-12-17?bidId=>

Exeter, NH

Exeter voters approved a TIF for the Epping Road area in 2015. The TIF funded improvements and extensions to roadways and utilities. The TIF infrastructure has supported businesses, as well as an age-restricted condominium development.

- Town of Exeter, “Epping Road TIF (Tax Increment Financing) District,” <https://www.exeternh.gov/business/epping-road-tif-tax-increment-financing-district>

Easton, MA

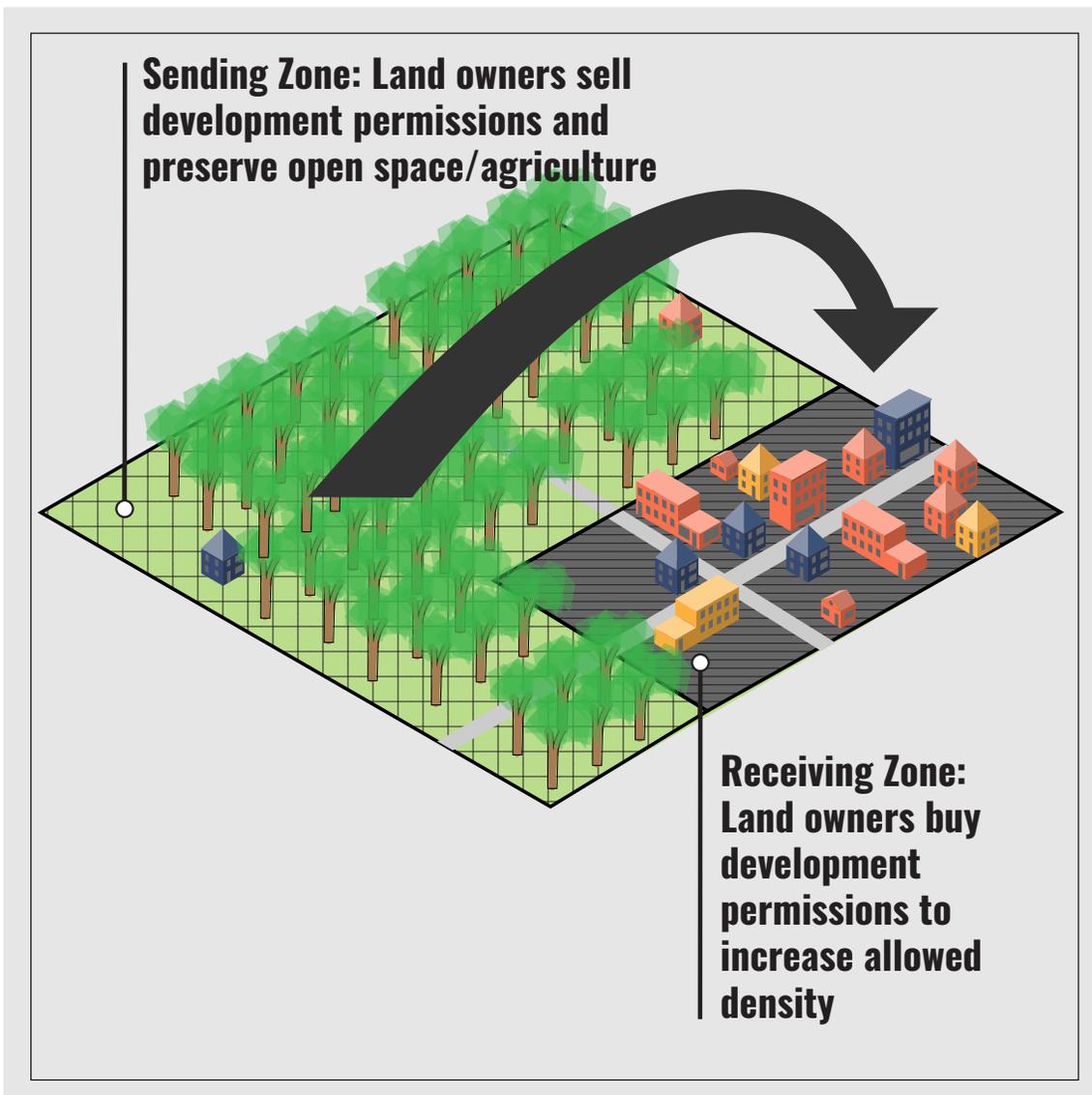
Easton is a far suburb of Boston with a population of 20,000. The town’s master plan called for concentrating growth (including residential growth) at its major commercial hub, Five Corners. The town’s voters approved a TIF district (called DIF in Massachusetts), which would add sewer capacity, sidewalks, bike lanes, and traffic improvements to the area, in order to enable mixed-use development.

- Town of Easton, “Five Corners District Improvement Financing” home page, <https://www.easton.ma.us/sewer/dif/index.php>
- Town of Easton, MA “Five-Corners District Improvement Financing Master Plan, <https://eastontownma.documents-on-demand.com/document/d3513160-f12e-e911-a2c9-000c29a59557/Five%20Corners%20DIF%20Program%20Master%20Plan>



Sewer construction in the Five Corners growth area in Easton, MA, funded in part through Tax Increment Financing. Once complete, the new sewer capacity will allow more housing development and absorb growth from more rural areas of town. (Image via Town of Easton, MA.)

Transfer of Development Rights (TDR)





What is it?

Transfer of Development Rights (TDR) is a zoning tool used to distribute development in an area to the places best suited for development, while letting all property owners recoup the value of development. Within a TDR framework, the owner of land that the community wishes to protect (e.g., where there is a farm or where there are no utilities) could sell development rights to an owner of land more suitable to new housing (e.g., in a developed area with infrastructure access).

Many TDR frameworks establish a “sending zone,” where property owners can sell development rights, and a “receiving zone,” where property owners can buy development rights. In most frameworks, a local government body (like the Planning Board) must approve the sale, and sale is often conditional on the approval of the development itself. In some cases, municipalities will remove the right to actual development in the sending zone, but use TDR to maintain the sending zone landowners’ financial benefits.

In theory conventional zoning and TDR permit the same number of total housing units, just in different places. In practice, TDR can unlock more housing development by moving development capacity from infeasible parcels and parcels with limited infrastructure access to parcels that are more conducive to housing development.

How can it help?

TDR can...

- Create new housing options in areas with existing infrastructure and amenities.
- Preserve open space, agricultural, and low-density residential areas.
- Unlock housing potential from parcels that would otherwise be infeasible or lower capacity.
- Maintain community character by preventing sprawl development.
- Help transition from high-density to low-density areas.
- More evenly distribute the financial benefits of development to open space, agricultural, and low-density residential areas, while also increasing financial benefits for built-out areas.
- Encourage small and alternative housing types without increasing the overall development in a community.



Getting Started

1. Recognize and promote TDR's impact on common master plan goals, such as increased housing options, open space preservation, economic development in targeted areas, and more.
2. If undertaking a master plan, include adoption of TDR as a recommendation, as well as recommendations for the locations of sending and receiving zones. Ideally, the sending zone will be an area of high conservation value (e.g., community open space, farmland, forested areas, scenic view sheds, historical landmarks, etc.), while the receiving zone should be suitable for accommodating growth (e.g., areas that have existing or planned public utilities).
3. Conduct a real estate financial analysis of properties and recent developments in and around your community, in an attempt to place a dollar value on development rights on a per-housing-unit basis. This should consider both the value of development in the sending zone and the value in the receiving zone. Publish your findings as guidance for property owners looking to participate in the TDR scheme.
4. Audit your community's existing land use regulations. Identify any changes needed to make TDR-enabled development feasible. For example, allowed housing types, densities, and dimensional rules may need to change to accommodate denser development in the receiving zone.
5. Conduct a public engagement process to educate property owners and the community generally and determine your community's goals for a TDR program. Engagement should help determine whether and where sending and receiving zones are located, what kind of development is desired in the receiving zone, and whether TDR are "bankable."
6. Draft and adopt legislation that implements TDR. This will require amendments to zoning that:
 - a. Allow TDR,
 - b. Set sending and receiving zones (if desired),
 - c. Set a process for TDR approval,
 - d. Set a procedure for severing development rights from the sending parcel (typically through a deed of transferable development rights) and a procedure for protecting lands with severed development rights (typically through a covenant placed on the deed),
 - e. Make any other changes (zoning, subdivision, etc.) that are necessary for TDR-enabled development.
7. Publicize the TDR option to property owners and developers in the sending and receiving zones.
8. If TDR are bankable, consider using local funds to purchase development rights to sell later when developments are on the table.



Considerations

- Adding TDR to zoning will not ensure it is used. There must be demand for TDR-enabled development in the receiving zone, there must be interest in selling development rights in the sending zone, and the value of development rights need to be understood similarly by all parties involved.
- TDR works best when the value of development rights are predictable. An overly discretionary development approval system can make development rights *unpredictable*. If implementing TDR, your community should try to add predictability to the system through zoning rules, and if possible, by-right approvals.
- Bankable TDRs can be a great way to give property owners financial liquidity, make transactions smoother, and add predictability to the system. However, opening up bankable TDRs to the private market could risk making development rights speculative assets, could encourage predatory transactions, and/or title transactions more difficult. If your community wants to make TDRs bankable, you should consider making the municipality or other trusted actor the sole “TDR bank.”
- In order for this tool to be used, TDR should be more attractive to landowners than conventional practices, such as subdivision of lots. Municipalities should incorporate this tool in a way that ensures the developer can achieve the highest possible benefits in a receiving area. For example, if a developer is able to achieve the same density by obtaining a zoning change, they are less likely to use the TDR tool.
- TDR frameworks can face opposition from neighbors of the receiving area who might argue that a TDR will increase noise, traffic, or lead to increased property taxes as a result of added development (whether factual or not). A public engagement process needs to thoroughly discuss TDR’s trade-offs, and engagement should include the community at large.
- For TDR to be successful, there must be adequate staff capacity to promote, administer, and monitor the program.

Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, "Innovative Land Use Planning Techniques: A Handbook for Sustainable Development," Chapter 1.1: Density Transfer Credit, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.1.pdf>
- WeConserve PA, “Conservation Tools: Transfer of Development Rights,” <https://conservationtools.org/guides/12-transfer-of-development-rights>



- Local Housing Solutions, “Transfers of development rights,” <https://localhousingsolutions.org/housing-policy-library/transfers-of-development-rights/>
- Jennifer McStotts, “A Preservationist’s Guide to Urban Transferable Development Rights,” <https://www.laconservancy.org/sites/default/files/files/documents/A%20Preservationist%27s%20Guide%20to%20Urban%20Transferable%20Development%20Rights%20%28NTHP%202007%29.pdf>

Issues Addressed

Housing Costs, Housing Options, Sustainable Housing, Infrastructure

Related Tools

Age-Friendly Neighborhoods, Mixed-Use Development, Workforce Housing Ordinance, Adaptive Reuse

State Law

- RSA 674:21(d), <https://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-21.htm>

Case Studies

Dover, NH

The City of Dover recently enabled a workforce housing project called the Cottages at Back River Road through its Transfer of Development Rights program. The development consists of 44-detached “cottage style” units that are 385 square feet each located on a 7.16 acre site. These residences, which will all be rental units, will be capped at HUD’s Fair Market Rates and are meant to support the local workforce by giving employees affordable homes near their work.

- Dover TDR Fact-Sheet, <https://www.dover.nh.gov/Assets/government/city-operations/2document/planning/outreach/TDRr.pdf>
- Fosters Daily Democrat “Affordable cottage homes: Project in Dover aims to set 'example' for workforce housing” (March 9, 2021)



The Cottages at Back River Road project features small detached single-family around a central green area. It was enabled by TDR in Dover. (Image via Foster’s Daily Democrat.)

Stowe, VT

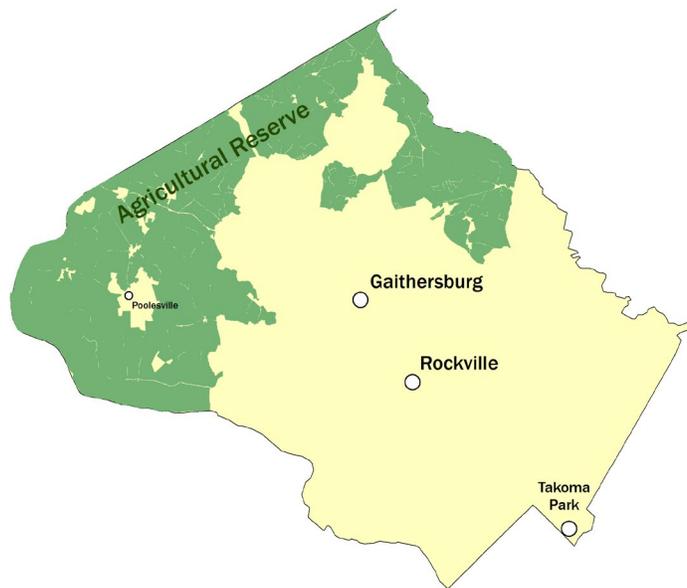
This Vermont resort town implemented zoning changes to protect farm and meadowlands from large-scale commercial development, drastically reducing potential development in some areas of town. The town implemented TDR to both soften the financial blow to those landowners and to improve development quality in identified growth nodes.

- Vermont Natural Resources Council, “Transfer of Development Rights – Stowe,” <https://vnrc.org/community-planning-toolbox/case-studies/transfer-of-development-rights-stowe/>



Montgomery County, MD

This Maryland county is often regarded as the best example of TDR in the US. The county's landscape ranges from dense inner DC suburbs like Bethesda and Silver Spring to contemporary suburban and exurban development to farmland and forests. These varied conditions enabled the county to launch its TDR program in the 1980s. Along with a building boom and Maryland's mostly county-level governance, the program took off. More than 50,000 acres of farmland were preserved. However, only 4% of subdivisions used during its most active decades, and exurban development continues to alter the rural part of the county. This TDR program has been criticized for not aligning the economics of TDR credits with the zoning capacity in the receiving zone.



A map of Montgomery County, MD showing the Agricultural Preserve (sending area) and growth nodes (around which are the receiving areas). (Image via Wikimedia.)

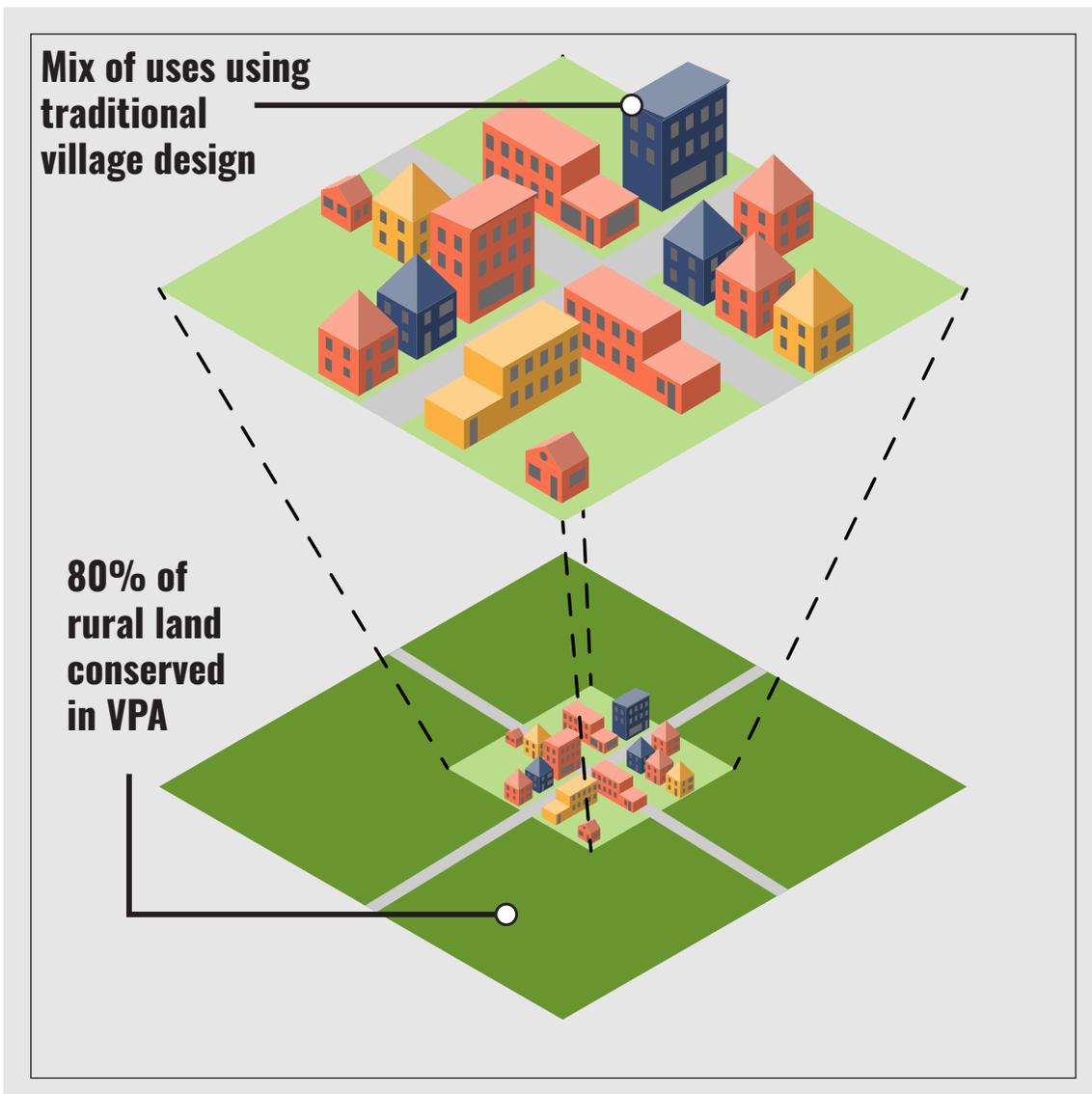
- Smart Preservation, “Montgomery County, Maryland,” <https://smartpreservation.net/montgomery-county-maryland/>
- Li Fang, “Land Preservation Under the Transfer of Development Rights Program,” <https://www.tandfonline.com/doi/abs/10.1080/01944363.2020.1841670?journalCode=rjpa20>

King County, WA

King County, Washington, where Seattle is located, has a TDR program that has protected 225 square miles of rural and open space lands. The program redirects development pressure from outer suburbs, exurbs, and farmlands to urbanized areas of the county. King's County runs a TDR bank to facilitate transactions, and it operates an exchange where private actors can participate in the TDR market. The county also facilitates interlocal agreements between participating municipalities and manages transfer of obligations between communities.

- King County, “Transfer of Development Rights: Program Overview,” <https://kingcounty.gov/services/environment/stewardship/sustainable-building/transfer-development-rights/overview.aspx>

Village Plan Alternative





What is it

The Village Plan Alternative (VPA) is a zoning tool designed to encourage the development of new villages in rural areas. The tool promotes compact development and a mix of land uses using traditional neighborhood design techniques, paired with open space conservation. The tool is similar to cluster zoning (also called “conservation development”), but it is focused on traditional mixed-use villages. The tool is also not an infill development ordinance, as it is focused on developing *new* villages in land that might otherwise go to conventional greenfield development. VPAs must conserve at least 80% of the total land in the VPA area.

Communities can allow the use of VPAs by incorporating a VPA ordinance into zoning. The VPA ordinance should specify applicable locations for establishing a VPA, allowed uses, dimensional rules, design standards for buildings and the public realm, and processes for permitting a VPA. All rules and standards should be specified for both the developable and conserved areas.

How It Can Help

VPAs can...

- Provide more diverse housing options with better access to everyday needs and community gathering spaces.
- Reduce infrastructure costs for new development, reducing housing costs overall.
- Create communities more accessible to seniors, young people, and new families.
- Create economic development opportunities by providing more supply of commercial space and concentrating residents’ demand for goods and services.
- Protect open spaces from sprawl style development.
- Protect agricultural economies and traditions.
- Create more local tax revenue, since housing near amenities tends to be valued more and successful mixed-use development can add more net revenue than housing alone.

Getting Started

1. Recognize and promote VPA’s impact on common master plan goals, such as more diverse housing options, increased affordability, open space and agricultural preservation, efficient use of infrastructure, etc.
2. If undertaking a master plan, include adopting VPA as a recommendation.



3. Conduct a public engagement process to gather public input on how to use the tool, including where new villages could be located, and which open spaces should be protected. Ensure the public understands how the tool works before moving forward with any legislation.
4. Assess whether identified village areas can support greater housing development (i.e., access to utilities, traffic constraints, etc.).
5. Draft zoning amendments that would adopt VPA into your existing zoning ordinance, specifying where VPAs are an available tool for development, where villages can be located, allowed uses, densities, parking requirements, etc. These amendments should account for any other zoning rules that may impact VPA implementation, as well as any non-zoning elements (e.g., Site Plan and Subdivision regulations) that must be adapted.
6. Work with your Planning Board, Zoning Board, or any other relevant body to bring draft VPA legislation to the public and the Legislative Body.
7. Once adopted, promote the VPA option to existing landowners and developers active in your town.

Considerations

- VPA adoption and VPA development have been limited. While there is a model VPA ordinance, your community will need to commit resources to studying how best to implement VPA locally and how to educate the public on the tool.
- Long-term phased VPA development can aid more organic community development. That said, the developer and any businesses located in the VPA may need a critical mass of residents to flourish.
- Where possible, the village area and preserved open spaces should feel connected and should support one another (e.g., residents directly purchasing produce from preserved farmland or by providing trails in preserved woodlands).
- The relative density of VPA's village areas means there may be more physical constraints on VPAs than similar tools like cluster housing. Tools like Tax Increment Financing (TIF) could be used to fund utility access or other infrastructure needs.
- Mixed-use development requires a different skill-set than residential-only development. Your community should seek out mixed-use developers working in the region and connect them with local agricultural or open space landowners.
- Businesses in totally new communities face significant economic risks, and commercial spaces risk sitting vacant. Tailor commercial space design to meet local business needs, and connect developers to local businesses and entrepreneurs. Partnerships between developers and commercial tenants can improve a project's viability.



Resources

- NH DES, NH Association of RPCs, NH OEP, and NHMA, "Innovative Land Use Planning Techniques: A Handbook for Sustainable Development," Chapter 1.5: Village Plan Alternative, <http://nhhousingtoolbox.org/resource-archive/ilupt-chpt-1.5.pdf>

Issues Addressed

Housing Costs, Housing Options, Sustainable Housing, Infrastructure, Multigenerational

Related Tools

Cluster Housing, Age-Friendly Neighborhoods, Missing Middle Housing Types, Housing Opportunity Zones, Workforce Housing Ordinance, Planned Unit Development, Wastewater System Alternatives

State Law

- NH RSA 674:21.VI, <http://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-21.htm>

Case Studies

Five communities have adopted the Village Plan Alternative rules as of 2020, but use of the tool has been limited. The Planning Board in Enfield, one of the communities that adopted VPA, put forward a Town Meeting warrant to repeal the VPA in 2022, citing its redundancy with other tools.

Nonetheless, mixed-use conservation or cluster developments have proven successful elsewhere.

Serenbe, Chattahoochee Hills, GA

Serenbe is a mixed-use conservation development located on the rural outskirts of Atlanta, GA. The 1,200 acre parcel currently houses 650 people and commercial uses while preserving 70% of the land for open space, forest, and agriculture. Homes are



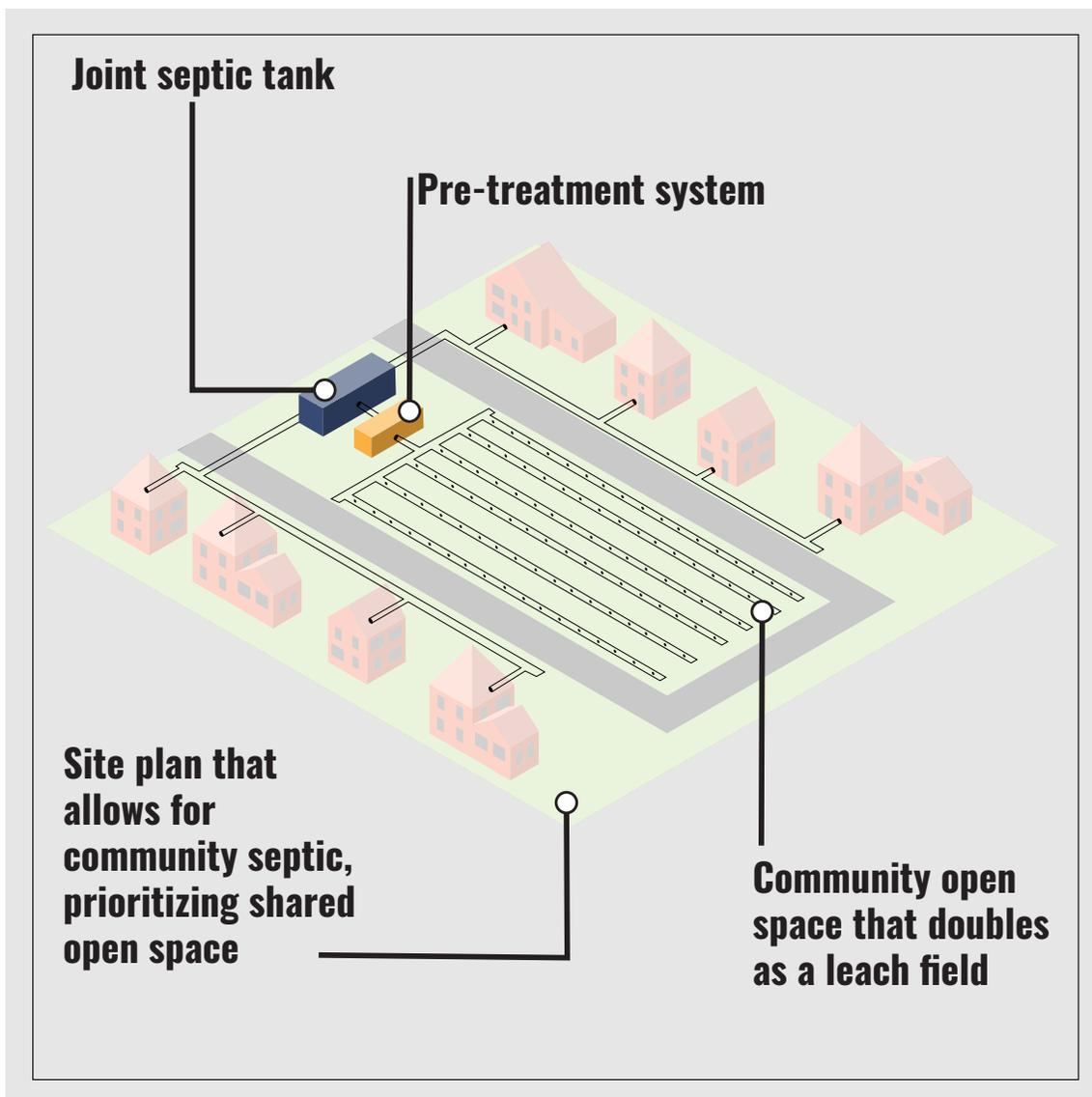
offered for sale or rent, and include single-family homes, cottage housing, townhomes, and live/work units. The development is divided into four “hamlets,” each of which is meant to have walkable access to shops and amenities. An organic farm operates on-site, and Serenbe residents can access weekly farmers markets and the farm’s CSA.

- Urban Land Institute, “Lessons from the Field: Serenbe,” <http://uli.org/wp-content/uploads/ULI-Documents/Serenbe.pdf>
- Serenbe Real Estate development map, <https://www.serenberealestate.com/map>



Mixed-use cluster development surrounded by preserved landscape in Georgia, photo and excerpted site plan. (Image via Serenbe.)

Wastewater System Alternatives





What is it

Wastewater system alternatives are used to overcome limited wastewater discharge capacity, in order to build the appropriate housing types for a community. Dealing with wastewater is a major constraint on housing development in many communities. There are two conventional wastewater options for housing developments, and choosing one typically just comes down to location: (1) connect houses to (public) sewer systems, which usually treat and discharge wastewater into surface water; or (2) build an individual septic system for each home, which separates wastewater into liquids and solids, and discharges the liquids onto the land.

Sewer-connected homes are realistically only built within or sometimes directly adjacent to existing sewer systems, since laying new sewer is very expensive. Therefore, most septic-connected homes are much more common in many suburban and rural communities. In the case of septic systems, the density of housing depends on how much land there is for each home to safely discharge wastewater. Factors such as the type of soil, number of bedrooms, proximity to wells and aquifers, etc. must be factored in to determine the minimum lot size for a home, based on its wastewater needs.

Relatively dense housing that minimizes land costs per unit is often impossible to build with conventional septic systems. Therefore, some developers turn to alternative wastewater systems. Various technologies have been successfully employed to safely discharge effluent onto land, rather than into surface water, even for larger developments with multiple sources. There are three basic strategies new developments might employ:

- **Unconventional site planning and subdivision design**
Unconventional designs can allow individual septic discharge fields to fit into relatively small spaces, decreasing land costs of development. Unconventional designs may require zoning variances or waivers from subdivision regulations.
- **Community septic systems**
These systems collect wastewater from several households into one septic system. This decreases the amount of land needed overall and lowers construction and maintenance costs. Community septic systems vary in scale, but they are sometimes referred to as decentralized wastewater treatment systems.
- **“Innovative/Alternative” (I/A) septic technologies**
I/A septic systems rely on pretreatment of wastewater before it is discharged into soil. Typically this is through the addition of a denitrification system, though I/A technologies can treat other hazards as well. The state maintains a list of I/A technologies that are approved in New Hampshire.

These strategies can be used on their own or combined to produce more and better designed housing. Ultimately wastewater systems, their design, and available technologies are regulated by the New Hampshire Department of Environmental Services. In some cases, communities can require local approval of septic systems.



How can it help?

Wastewater system alternatives can...

- Cut costs of land, development and maintenance, lowering housing costs overall.
- Preserve open space that would otherwise be used for private leach fields.
- Permit traditional patterns of small-lot development in villages without public sewer systems.
- Enable mixed-use and multifamily development possible in areas without public sewer.
- Increase the supply of affordable housing.
- Provides design flexibility.
- Fix failing wastewater systems.
- Significantly improve water quality with better treatment.
- Provide groundwater recharge.
- Spur economic development in small rural communities.

Getting Started

1. Make sure wastewater system alternatives are part of your community's comprehensive plan. Recognize their impact on other planning goals, and include them as a recommendation if undertaking a plan.
2. Audit your community's zoning, site plan, and subdivision regulations. Identify any barriers to implementing these systems, such as explicit rules for conventional septic and dimensional regulations that do not accommodate such systems.
3. If needed, amend zoning, site plan, subdivision, and/or other regulations to remove barriers to implementing these tools. This can be done by removing all barriers directly, or by using other land use regulatory tools (like cluster zoning) that will explicitly accommodate these systems.
4. Work with property owners and developers to promote these tools. Incorporate discussions of potential alternative wastewater systems into early meetings with developers before development proposals are submitted.



Considerations

- Consultation with engineers will be required throughout pre-design and design processes due to the site-specificity and complexity of wastewater management. Engineers with less experience in wastewater system alternatives may need help looking at a specific site from all angles.
- As with any septic system, big or small, regularly scheduled maintenance is critical, and a mechanism to fund maintenance, repairs, and replacement reserves is essential.
- Some local governments (such as Newbury, NH, see case study below) operate their own decentralized wastewater systems where they want to provide utilities but sewer is unavailable. These systems are typically larger than the community septic systems for particular developments. Setting up a public decentralized septic system is a large undertaking, but communities with significant resources could look into this option more.
- Communities can require local approval of septic systems by the health officer of a town under RSA 147:1, prior to DES approval (RSA 485-A:32, I & II).
- Building partnerships with local and regional river and lake associations, conservation organizations, and local conservation commissions can help assess and address concerns related to the impact of wastewater on water quality.

Resources

- NH DES, “Innovative Technology Approvals,” <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/innovative-tech-approvals.pdf>
- NH DES, “Communities that require prior approval,” <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/town-prior-approval.pdf>
- Civil and Structural Engineer Magazine, “Passive Decentralized Wastewater Treatment Systems Offer High Performance and Low Operation and Maintenance Costs for Large Projects,” <https://csengineermag.com/passive-decentralized-wastewater-treatment-systems-offer-high-performance-and-low-operation-and-maintenance-costs-for-large-projects/>
- Don Jones, Jacqui Bauer, Richard Wise, and Alan Dunn, “Small Community Wastewater Cluster Systems,” <https://www.extension.purdue.edu/extmedia/id/id-265.pdf>
- Civil and Structural Engineer Magazine, “Decentralized Wastewater Treatment Approaches Meet Community Treatment and Large Commercial System Demands,” <https://csengineermag.com/decentralized-wastewater-treatment-approaches-meet-community-treatment-and-large-commercial-system-demands/>



- US EPA, “Handbook for Managing Onsite and Clustered (Decentralized) Wastewater Treatment Systems,” https://www.epa.gov/sites/default/files/2015-06/documents/onsite_handbook.pdf
- Frank C. Shephard, “Managing Wastewater: Prospects in Massachusetts for a Decentralized Approach,” <https://www.mass.gov/doc/managing-wastewater-prospects-in-massachusetts-for-a-decentralized-approach-1/download>
- US EPA, “Financing Decentralized Wastewater Treatment Systems,” <https://www.epa.gov/system/files/documents/2022-02/financing-dwts.pdf>
- Booth Bay Register, “Community septic systems a strategy for economic development” (November 20, 2012), <https://www.boothbayregister.com/article/community-septic-systems-strategy-economic-development/6004>

Issues Addressed

Housing Options, Sustainable Housing, Infrastructure

Related Tools

Cluster Housing, Village Plan Alternative, Mixed-Use Development, Missing Middle Housing Types

State Law

- RSA 485-A, <http://www.gencourt.state.nh.us/rsa/html/L/485-A/485-A-mrg.htm>

Case Studies

Blodgett Landing, Newbury, NH

Blodgett Landing is on the shores of Lake Sunapee in Newbury, New Hampshire. It is a census-designated community with a population of 152 in 2020. It has many older camps, which have gradually been converted to year-round use. By 2009, the community’s fifty-year-old wastewater treatment facility had begun to fail, and the Town of Newbury voted to construct a large enviro-septic system to replace it. The new system was completed in 2011 and serves 145 separate connections; it has a maximum design capacity of 50,000 gallons per day (gpd).



Installation of the municipally owned Blodgett Landing community septic system in Newbury. (Images via NextGen Septics)

Note that the designs and specifications of wastewater system alternatives outside of New Hampshire may not meet NH DES standards. While the exact systems below may not be allowed, they are directionally in line with what is possible beyond conventional sewer or septic.



Brownville, ME

The Town of Brownville is in northern Maine near Moosehead Lake and Baxter State Park. In 1985, the Town voted to construct a subsurface wastewater treatment facility to help clean up the Pleasant River. The system serves the villages of Brownville and Brownville Junction; it consists of three miles of gravity sewer lines that lead to infiltration beds. A separate, septage disposal facility is adjacent to the treatment area. The maximum design capacity of the system is 330,000 gpd and it serves approximately 870 residents. This system's exact specifications may not meet NH DES requirements.

- Grow Washington, "Clustered Septic Systems: Brownville, Maine," <http://gro-wa.org/clustered-septic-systems-brownville-maine.htm#Yy4X6HbMLIU>
- Brownville Wastewater Treatment Facility homepage, <http://www.katahdingateway.com/brownville-maine/>



Noquochoke Village, Westport, MA

The affordable housing crisis is perhaps most acute in New England along the coast of Massachusetts, with very high land costs, and mostly large homes on large lots. One project helping to address this problem in Westport, Massachusetts is the newly constructed Noquochoke Village on a river of the same name. The project consists of 50 apartments varying in size, that were sited on the front 8 acres of the property. The remaining 23 acres abutting the river has been preserved as open space. The project is served by a community septic system with a maximum capacity of 9,900 gpd. Testing has shown that effluent quality exceeds the stringent standards set by the Westport Planning Board for the project. This system's exact specifications may not meet NH DES requirements.

- Wastewater Digest, "Noquochoke Village Affordable Housing With Stringent Water Requirements," <https://www.wwdmag.com/wastewater-treatment/decentralized-wastewater/article/10940291/noquochoke-village-affordable-housing-with-stringent-water-requirements>

Noquochoke Village, an Affordable Housing development enabled by community septic in Westport, MA. (Images via CEDAC (top) and Noquochoke Village (bottom)).



Brewster Landing, Brewster, MA

Brewster Landing is a mixed-income cottage development on Cape Cod, Massachusetts. The project consists of 28 homes on nine acres. Each home has two- to three-bedrooms and ranges from 1,350 to 1,600 square feet. Most homes are single-family residences, and some are duplexes. Homes are sited close together and arranged around a shared green. This amenity open space doubles as the leech field for a community septic system that includes I/A pretreatment. This combined approach to wastewater enables relatively dense development far from public sewer. This system's exact specifications may not meet NH DES requirements.

- Boston Magazine, “Home of the week: A Cape on the Cape captures the allure of sand and sea” (August 5, 2015), <https://www.boston.com/real-estate/home-of-the-week/2016/08/05/home-of-the-week-brewster-landing/>
- Coastal Engineering, “Brewster Landing” <https://coastalengineeringcompany.com/portfolio/brewster-landing>
- Union Studio Architecture, “Brewster Cottages,” <http://unionstudioarch.com/projects/brewster-cottages/>

An Affordable Housing development in Brewster, MA, was enabled by I/A tech and community septic. (Images via Coastal Engineering.)





Workforce Housing Ordinance



**Regulations cannot
mandate unaffordable
housing everywhere**



**Workforce housing
must be allowed in a
majority of
residential areas**





What is it?

Workforce Housing ordinances are local laws designed to allow for the development of housing that is affordable to a typical working household. These ordinances respond to a RSA 674:58-61, which was adopted in 2008, and which codifies a New Hampshire Supreme Court ruling that banned exclusionary zoning practices (see *Britton v. Town of Chester*, 134 N.H. 434 (1991)). That law requires each municipality to provide a “reasonable and realistic” opportunity for the development of workforce housing, as that is defined in the statute.

This “Workforce Housing” mandate includes a number of technical components:

- Workforce Housing must be *affordable* to a renter household of three making up to 60% of *Area Median Income* or a homeowner household of four making up to 100% of *Area Median Income*.
- “Area Median Income” (AMI) is the median income for a household in the region. Each municipality in New Hampshire falls into one of 14 regions, which are based on county borders. AMIs are calculated by the federal government.
- “Affordable” here means that no more than 30% of total household income should be spent on housing (rent and utilities for renter households; or mortgage principal and interest, taxes, and insurance for homeowner households)
- Workforce Housing does not include age-restricted housing.
- Workforce Housing does not include developments in which more than 50% of units have fewer than 2 bedrooms.
- Workforce Housing can be of any housing type (single-family, duplexes, accessory dwelling units, manufactured housing, apartments, etc.).
- Workforce Housing can be unrestricted homes that are affordable at their market price, or deed-restricted homes delivered in standalone affordable developments or as part of inclusionary zoning programs.

Practically speaking, for a community to comply with the law, Workforce Housing must be possible to build in more than half of residentially zoned land, and multi-family developments of at least 5 units per structure must be allowed somewhere in town. Not meeting the laws’ requirements opens up a municipality to increased litigation, expedited appeals from builders, and courts’ overruling local permitting decisions.

Many zoning rules could help facilitate Workforce Housing, including allowing small alternative housing types, encouraging ADU development, right-sizing zoning rules, inclusionary zoning provisions, and more. The local laws called “Workforce Housing Ordinances” that explicitly respond to the State’s mandate are typically similar to cluster housing or inclusionary zoning laws—with relaxed zoning rules in exchange for deed-restricted affordable units. A Workforce Housing Ordinance *could* include any zoning tools, as long as they enable Workforce Housing development.



How can it help?

Workforce Housing Ordinances can help...

- Address the rising costs of housing.
- Provide more diversity of housing options.
- Aid young people and new families housing opportunities.
- Aid seniors looking to stay in their community.
- Allow families to live near each other.
- Aid economic growth and limit stagnation by providing housing for workers.
- Compliance with the requirements of state law (RSA 674:58-61 and Britton v. Chester).

Getting Started

1. Recognize and promote a Workforce Housing law's impact on common master plan goals, such as increased housing options, increased affordability, economic development, aging in place, community wellbeing, and more.
2. If undertaking a master plan, include adoption of a Workforce Housing Ordinance as a recommendation.
3. Identify leaders on the Planning Board who can spearhead the effort. Identify other stakeholders, including members of the governing body, housing advocacy groups, developers (nonprofit and for-profit).
4. Assess recent development trends. This will help determine if Workforce Housing is already economically viable in the majority of residentially zoned land.
5. If the development trend assessment suggests that there have been challenges to the actual development of Workforce Housing, audit local laws and regulations to identify development barriers.
6. Conduct a public engagement process to provide clarity about what the tool is, why it is needed, and how it is used, and to receive input on how to shape the ordinance.
7. If challenges are identified in the regulatory audit, a Workforce Housing Ordinance could be a beneficial amendment to the local zoning ordinance.
8. Draft and adopt a Workforce Housing ordinance to address barriers to development and meet the needs and desires of the community. If the law intends to operate as a modified cluster ordinance (as is common), the ordinance should specify the location where the law is applicable, a simple



density calculation, dimensional rules for both the parent parcel and any subdivisions, process for keeping the homes affordable.

9. Promote workforce housing development options to local property owners and developers.

Considerations

- Communities do not need to pass a Workforce Housing Ordinance per se to be compliant with the law. If a community is not already compliant, framing any zoning or regulatory changes as a “Workforce Housing Ordinance” can help community members understand the purpose of the law and build support for housing opportunities.
- A community cannot be compliant with the Workforce Housing mandate if it only nominally allows smaller, more affordable homes, without allowing them in practice. If dimensional and parking rules, subdivision rules, historic preservation rules, procedural rules, or other land use controls make Workforce Housing infeasible, the community is not compliant.
- Public engagement is vital to the adoption of a Workforce Housing Ordinance. Public outreach sessions should occur before the ordinance is developed. Main areas should focus on: 1) why such an ordinance is necessary; 2) who will be living there; 3) what the tool is and what it is not; and, 4) discuss the specific elements that can be included in the tool (i.e. where it should be located, if



A rendering of the Depot & Main Apartments, infill workforce housing in Salem, which was under construction in 2022. (Image via BusinessNH.)



some of the units should be market rate and some affordable, open space considerations and dimensions)

- Management of the deed restrictions is a second concern. One approach could be to work with NH Housing to set up the covenants and administer affordability controls.

Resources

- NH Municipal Association, “Legal Q&A: What Municipalities Need to Know About “Workforce Housing”, <https://www.nhmunicipal.org/town-city-article/legal-qa-what-municipalities-need-know-about-%E2%80%9Cworkforce-housing%E2%80%9D>
- NH Housing, “Workforce Housing Law Summary,” https://www.nhhfa.org/wp-content/uploads/2019/06/NH_Workforce_Housing_Law_Summary.pdf
- NH Housing, “Meeting the Workforce Housing Challenge: A Guidebook for New Hampshire Municipalities,” https://www.nhhfa.org/wp-content/uploads/2019/06/Workforce_Housing_Guidebook.pdf
- NH Housing, “New Hampshire’s Workforce Housing Law: A 10-Year Retrospective on the Law’s Impact on Local Zoning and Creating Workforce Housing,” <https://www.nhhfa.org/wp-content/uploads/2021/12/Workforce-Housing-Law-Report-12.2021.pdf>
- NH Housing, “Housing Solutions for NH,” https://www.nhhfa.org/wp-content/uploads/2019/06/Housing_Solutions_for_NH.pdf

Issues Addressed

Affordable Housing, Housing Costs, Housing Options, Multigenerational

Related Tools

Cluster Housing, Accessory Dwelling Units, Missing Middle Housing Types



State Law

- RSA 674:58-61, <https://www.gencourt.state.nh.us/rsa/html/LXIV/674/674-mrg.htm>

Case Studies

Wakefield, NH

Wakefield responded to the Workforce Housing mandate by passing a so-called Workforce Housing Ordinance that explicitly invokes the Inclusionary Housing zoning tool authorized by the State. Under Wakefield's ordinance, residential Workforce Housing developments are allowed by Conditional Use Permit in most of the land zoned for residential and agriculture uses. Single-family, duplex, and multifamily housing (up to eight units per structure) are allowed. Base density and dimensional requirements carry over from base districts, with density bonuses of 15% offered to developments with at least 30% of units qualifying as Workforce Housing.

- Wakefield Zoning Ordinance, https://www.wakefieldnh.com/sites/g/files/vyhlf1366/f/uploads/2020_wakefield_zoning_ordinance_with_amendments_through_march_2020_002_2.pdf

Barrington, NH

Barrington passed a Workforce Housing ordinance in response to the mandate. Barrington's law does not specifically invoke Inclusionary Housing, though it functions similarly. Workforce Housing developments are allowed in most residential areas by Conditional Use Permit, and developments keeping at least 20% of units affordable receive density bonuses and dimensional relief, at the discretion of the Planning Board.

- Barrington Zoning Ordinance, https://www.barrington.nh.gov/sites/g/files/vyhlf2766/f/uploads/zo_2022_v1_7_as_amended_3-8-2022_withmap2_1.pdf



A Barrington charrette in 2015 arrived at two options for mixed-use residential development: the village center and village green. (Images via Town of Barrington.)