



# An Overview of Select State-Level Planning Processes

## MAINE

A state law passed in 2022 requires cities and towns to increase the housing density their zoning allows. Plans must allow for two to four housing units per residential lot, enable accessory dwelling units on lots with existing homes, and boost density for affordable housing developments. Maine will also establish statewide and regional housing production goals. The state provides up to \$10,000 for local governments to update their land use ordinances.

The law was written based on some of the recommendations of a commission established by the Maine Legislature in 2021. The implementation timeline was later updated to reflect local governments' planning needs.

## MASSACHUSETTS

The Massachusetts Comprehensive Permit Act is also known by its chapter in state code, or "40B." 40B simplifies the planning process for some housing projects with an affordable component. Such projects only need to apply for a single, comprehensive permit from local Zoning Boards of Appeal (ZBAs).

ZBAs run an accelerated proposal process for such projects. They can approve, deny, or conditionally approve a project. For example, a ZBA may require that a developer reduce the number of units in a property.

40B creates an expedited appeals process for ZBA decisions in certain cities. It applies when less than 10 percent of a city's housing stock is affordable to middle- and lower-income families. In such cities, developers can appeal a ZBA's decision to the state Housing Appeals Committee (HAC).

The HAC is made up of people from a state housing agency and local government. They can overturn

ZBA decisions if the ZBA can't provide evidence that a development would endanger the health or safety of a community.

The burden of proof in these hearings is on the ZBA. This turns the tables relative to other states, where developers must prove the merits of their case. The HAC works quickly compared to a typical judicial process.

40B became law in 1969. Over time, its implementation has changed through the rule- and law-making process. The changes range in scope. Some alter or clarify the administrative processes ZBAs and developers follow.

## NEW JERSEY

More than 50 years ago, the town of Mount Laurel used local housing policies to block an affordable housing project. Housing advocates sued. The New Jersey Supreme Court ruled in favor of the advocates. This was the first of a series of cases that would establish and refine the state's Mount Laurel doctrine.

That doctrine creates an "affirmative obligation" for local governments. It requires them to enable their "fair share" of a region's affordable housing needs. The doctrine has been modified by additional court cases and legislation over time.

Currently, New Jersey calculates affordable housing needs for each region of the state. Municipalities are assigned their "fair share" of their region's affordable housing needs. Local governments then plan to meet those needs. The process incorporates comprehensive planning but may also include allocating financial resources or providing other tools for new housing.

Localities' plans are subject to a state certification process. Developers may use a "builder's remedy" in places without a certified plan. The builder's remedy

can allow housing to move forward without local approvals. While this framework is focused on affordable housing, projects need not be exclusively affordable to access the builder's remedy.

All parts of this process can be challenged. A panel of retired judges reviews these disputes in an expedited process.

## OREGON

Oregon's state-level involvement in planning dates back to legislation from 1969. Leaders in the state were concerned about the impact of new housing on the timber and farming industries. The state's Land Conservation and Development Commission creates statewide goals for local planning. Along with the Department of Land Conservation and Development, it enforces these goals through its interactions with local governments.

The state provides technical support and data to support the local planning process. Local plans are ultimately certified by the commission. Over time, the role of the commission and the department have changed via legislation, ballot propositions, and agency rulemaking. These changes can bring new resources to, or alter the parameters of, local planning efforts.

For example, the legislature recently created the Oregon Housing Needs Analysis (OHNA). The OHNA will be finalized in 2025. It will estimate the 20-year housing needs for cities with over 10,000 people. The legislature also recently directed cities to accommodate more "missing middle" housing types.

The state is also creating model comprehensive plans for local governments of different sizes. This is expected to further simplify the planning process.

## LINCOLN LAND INSTITUTE COHORT

The Lincoln Institute of Land Policy is convening people from seven states in different phases of implementing land use policy changes. The states are California, Colorado, Maine, Massachusetts, Oregon, Utah, and Virginia. In a series of meetings, leaders from these states are discussing the challenges faced in translating state-level policies into local conditions that foster more housing.

Jenny Schuetz, Julia Gill, Semida Munteanu, and Sydney Zelinka wrote about what they learned from their first conversations with these states. This section describes their findings. More details are available in their free brief, *From the House to the Ground: Insights Into the Challenges of Implementing State Housing Policies*.

States have several motivations for changing their housing policies. They may seek to increase housing production in general. They may want to grow their supply of below-market-rate housing. Some states may focus on increasing housing near job growth or transit development. Finally, states may aim to diversify the types of housing available to their residents.

The authors highlight three considerations for states related to policy design. First, iteration is important for states pursuing these goals. Policies will be stronger when states engage with local governments and other stakeholders to fine-tune and improve policy over time. This may happen as part of an agency-based rulemaking process.

Second, policies should provide adequate resources for implementers. State agencies and local governments may not have the staff expertise or enough personnel to pursue new requirements. Investments in data and technology can help a state measure the impact of its policies. The same investments may help localities implement those policies.

Third, policymakers should recognize the trade-offs they are making with different approaches. For example, universal rules are often simpler for a state to administer. But housing needs are not consistent across a state. With a one-size-fits-all approach, states may wind up spending resources to assist towns that don't have an acute housing problem.

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*Staff from the Federal Reserve Bank of Minneapolis compiled these summaries as background information for "Reforming Land Use Regulation to Encourage Housing Supply," an event at the Minneapolis Fed on October 1, 2024.*