

Right to Build Zones Concept Paper

By Adam Ozimek, Jess Remington, and Tina Lee

Introduction

A tangle of regulations has made it impossible to build enough housing in America, a problem that has been worsening for decades. The result is a nationwide shortfall of millions of homes, rising housing costs, and growing pressure on federal policymakers to address an affordability crisis that is largely driven by rules set at the local level.

This paper introduces **Right to Build Zones**, a new federal policy tool designed to help municipalities unlock housing supply while preserving local control.

Right to Build Zones (RBZs) are motivated by two persistent challenges that have undermined recent zoning reform efforts:

1. Municipality-wide zoning reforms are frequently stalled by a small but highly motivated group of opponents who resist changes they believe will affect their immediate neighborhoods.
2. Even when local governments enact nominal reforms — such as legalizing duplexes or Accessory Dwelling Units — the impacts are often blunted by a complex and bureaucratic web of zoning and permitting processes rife with chokepoints and poison pills.¹

These dynamics have repeatedly limited the scale and durability of local reform, but we believe there is a path to solving the housing crisis in spite of them.

In many jurisdictions, opposition to new housing is not uniformly distributed geographically. Cities and towns often have specific areas where new development is broadly desirable, or at least palatable: they range from central business districts and transit stops to vacant shopping centers and greenfields.

Municipality-wide zoning debates can and should continue, but in the meantime we should also take advantage of novel tools to accelerate progress in places that already have consensus.

Right to Build Zones are designed to do exactly that.

What are Right to Build Zones?

RBZs are essentially special economic zones for housing. While this paper will explore several ways that the concept could be implemented, there are four essential features to any viable RBZ program:

- **TARGETED:** RBZs are intentionally **limited in geographic scope**. Rather than requiring sweeping, citywide changes, they allow jurisdictions to implement deep reforms in targeted areas where local support for new housing is the strongest.
- **VOLUNTARY:** RBZs are **opt-in, not top-down**. Local governments would apply to participate in the program and then designate the areas in which a standardized, pro-growth zoning and permitting framework would go into effect. This in turn would dramatically reduce the time and cost of building new housing in participating areas.
- **FLEXIBLE:** RBZs are a **flexible and permissive tool**. The policy is designed to expand the scope of potential housing outcomes rather than *mandating* specific outcomes, making it well suited to address a range of housing challenges across urban, suburban, and rural communities. In practice, that could mean an office-to-residential conversion in an urban core struggling with post-pandemic vacancy; a greenfield townhome development at the edge of a fast-growing suburb; or reinvestment in a vacant shopping center near a small town or rural community experiencing long-term disinvestment. In the end, local conditions — land values, construction costs, and local demand — would remain the primary determinants of what gets built.
- **OUTCOMES-BASED:** RBZs pay for successful local reforms. Local governments that opt into the program would receive a federal payment for each eligible home they permit within those zones, helping offset local infrastructure, service, or administrative costs associated with growth. The result is a policy that directly ties federal support to **real housing outcomes**. In addition to incentivizing the creation of more new homes overall, RBZs would also enable faster, denser, and more affordable construction than local rules typically allow.

The common thread is not a prescribed building form, but the removal of regulatory barriers that prevent housing from being built where it is wanted.

Why involve the federal government in local zoning reform?

Right to Build Zones rely on federal incentives to reshape local land-use outcomes. It is therefore important to situate the proposal within the broader history and current politics of federal housing reform.

Although zoning is primarily governed by states and local governments, federal engagement with land-use policy is not new. As cities rapidly adopted zoning ordinance in the early twentieth century, the U.S. Department of Commerce stepped in to provide legal and conceptual guidance through the Standard State Zoning Enabling Act and an accompanying Zoning Primer. These materials did not mandate zoning practices, but they offered a voluntary framework and shared legal language that states and municipalities could adopt. That guidance helped standardize local land-use regulation nationwide and, over time, contributed to a regulatory system that increasingly constrained housing supply.

Right to Build Zones depart fundamentally from this earlier federal role. Where prior federal guidance focused on legitimizing and scaling land-use restrictions, RBZs are explicitly *deregulatory* in nature. They are also grounded in decades of empirical research linking specific zoning and permitting constraints to higher housing costs, lower construction rates, and reduced economic mobility.

Importantly, the current political environment is ripe for federal housing reform. Housing affordability has become a national concern affecting urban, suburban, and rural communities alike, cutting across income levels and partisan lines. Recent initiatives — including the Biden administration’s PRO Housing program, the Trump administration’s interest in leveraging the federal government to lower housing costs, and bipartisan proposals such as the ROAD to Housing Act and Housing for the 21st Century Act — reflect a growing willingness to link federal resources to local housing outcomes.

Taken together, these developments suggest that a carefully designed, incentive-based, and deregulatory federal approach to land-use reform is not only plausible, but timely.

Scope and Structure of the Paper

While the core concept of Right to Build Zones is straightforward, translating it into an effective federal program requires a series of careful design choices. What should the model zoning and permitting standards include? Should federal payments be tied to permits issued or homes completed? How should implementation and oversight responsibilities be allocated across levels of government?

Where the evidence supports a clear policy choice, we take a position. Where uncertainty remains, we identify open questions for the housing research and policy community. Our goal is to invite scrutiny and refinement to help us arrive at the right design.

The flow chart below provides a visual overview of the RBZ process and serves as a reading guide for the sections that follow. Specific steps — particularly those related to the opt-in process — may vary depending on policy choices discussed later in the paper.

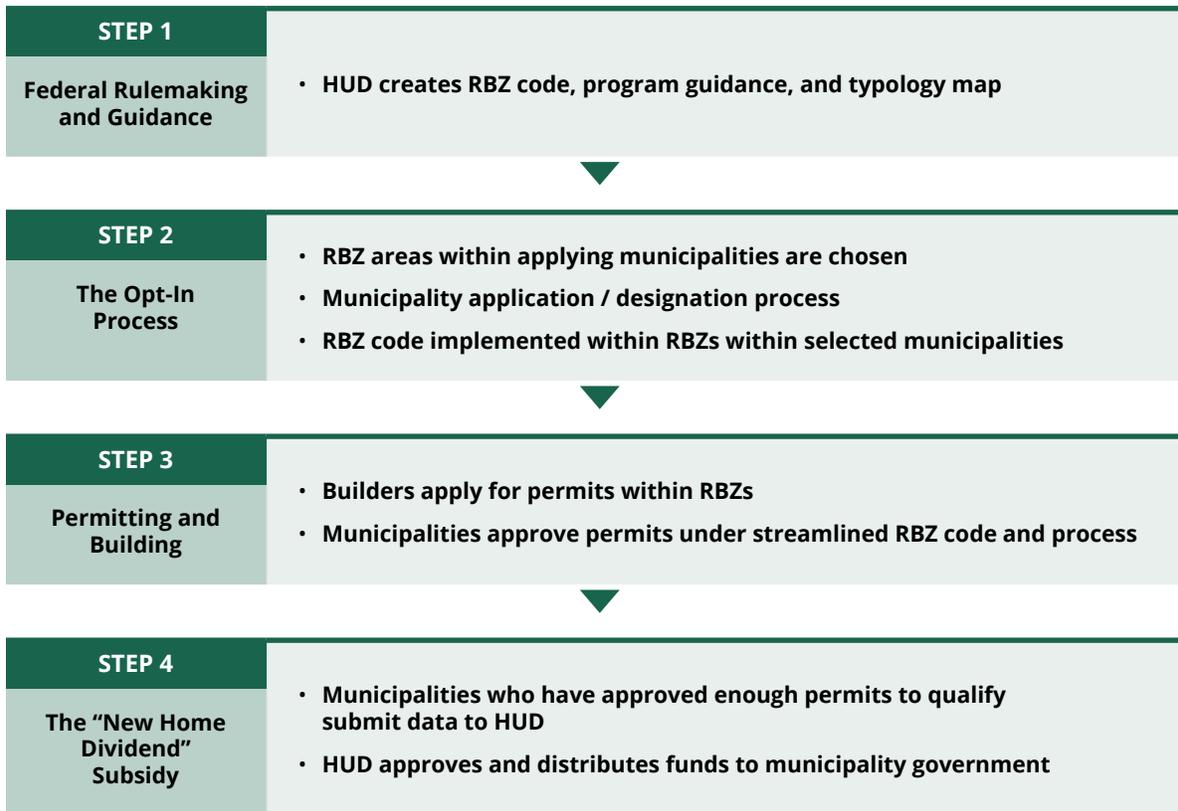


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PART 1.

Federal Rulemaking and Guidance

This section describes the foundational federal guidance required to launch Right to Build Zones. It introduces the three Right to Build Zone Codes and explains how to decide which code will be applied to a given municipality. It also elaborates on which elements should be included in Right to Build Zones, and which policymakers would be responsible for developing them.

What are Right to Build Zone Codes?

Right to Build Zone Codes are zoning and permitting standards that local governments may voluntarily adopt within designated areas of their jurisdiction. The codes are designed to reduce regulatory barriers to housing production by legalizing a broad range of housing types by-right, streamlining permitting, and prohibiting discretionary review processes that commonly delay or suppress development. We outline a hypothetical RBZ case study in [Appendix B](#).

A common misconception among the public is that loosening zoning laws is a way to force density on communities. This does occasionally happen, such as when cities impose rules like parking maximums.²

But so long as zoning changes are focused on deregulation, they do not mandate community change; they simply allow homebuilders to provide the types of homes demanded by the market. Removing height limits in an isolated rural town would not cause high-rise apartments to appear any more than eliminating parking minimums forces the construction of car-free buildings. Market conditions — land values, construction costs, and local demand — remain the primary determinants of what is ultimately built.

Right to Build Zone Codes would target the most common restrictive and distortionary land-use regulations and offer a framework for municipalities that want to loosen those constraints in specific, politically viable areas. In short, RBZs expand legal capacity and leave actual development decisions to local markets and local choice.

Recent state legislation in Florida and Texas offers a useful model for how Right to Build Zone Codes could accommodate wide local variation between communities, while still establishing meaningful and administratively simple minimum standards. In 2023, both states passed laws that established by-right density and height floors for residential properties in commercial districts throughout the state. Florida's Live Local Act prohibits counties from restricting the height of qualifying affordable housing developments below "the highest currently allowed height for a commercial or residential development located in its jurisdiction *within 1 mile of the proposed development* or 3 stories, whichever is higher."³ Texas SB 840 similarly limits density restrictions by requiring that mixed-use or multifamily projects in

cities not be capped below the greater of either the *highest residential density allowed in the municipality* or 36 units per acre.⁴ Together, these approaches provide a promising template for RBZs: they show that zoning reforms can be structured around clear, enforceable baseline standards while remaining adaptable to widely differing local zoning regimes and community character.

We propose three distinct RBZ Codes tailored to rural, suburban, and urban communities. Tailoring RBZs by place type aligns expectations around density and building form with local conditions while maintaining a consistent national framework — encouraging both participation and effectiveness.

How should urban, suburban, and rural areas be classified?

Municipalities will be categorized as urban, suburban, or rural, with each designation corresponding to a specific Right to Build Zone code. The U.S. Department of Housing and Urban Development (HUD) will release a final map as guidance prior to program implementation. Jurisdictions must adopt the code associated with their designation to be eligible for funding, but may opt into a higher-intensity designation if they choose. For example, a municipality that is designated as rural but wants suburban type development in the areas they select as RBZs can opt into suburban designation. Because participation hinges on local buy-in, it's important that local officials and residents view their classification as accurate and intuitive.

We offer two possible recommendations for classification: (1) a typology common in demography research, or (2) a typology derived from the Urbanization Perceptions Small Area Index.

1. Demography research approach

Distinguishing between urban and suburban places is challenging because there is no universally accepted metric. In demography research, urban areas are defined as principal cities or municipalities with populations of at least 100,000 within a metropolitan statistical area (MSA).^{5,6,7} Suburban areas are defined as the remaining municipalities within MSAs that fall outside these urban cores.

Rural areas are easier to define because there is greater consistency. They are typically interchangeable with nonmetropolitan areas, which include a mix of open countryside, small towns (fewer than 5,000 residents), and larger communities that are not integrated into a major regional labor market.⁸

Urban	Principal cities, or cities with a population >100k (as per 2024 Census)
Suburban	All other places within a Metropolitan Statistical Area
Rural	All places in a non-metropolitan area

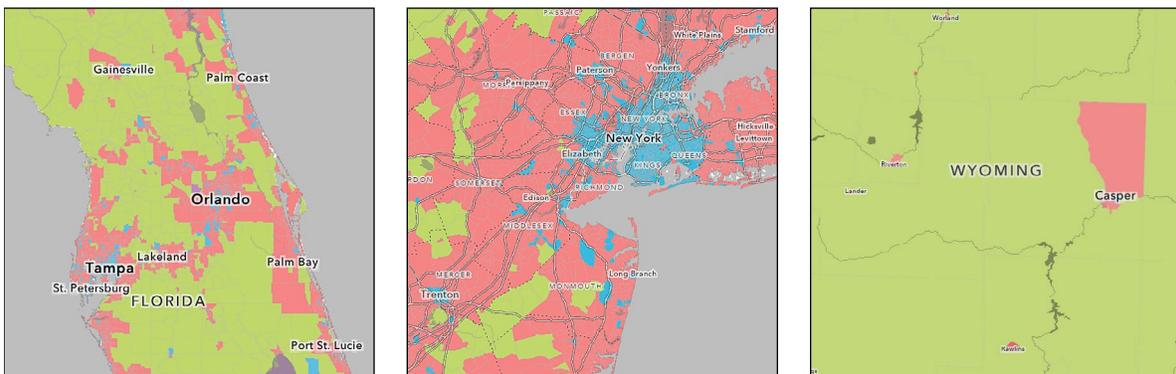
2. Urbanization Perceptions Small Area Index (UPSAI)

This index classifies areas as either urban, suburban, or rural based on how residents perceive their own neighborhoods. In 2017, the American Housing Survey included a new question asking residents to describe their community;⁹ HUD published a dataset with tract-level classifications.¹⁰ This gives us an idea of the average density level that residents believe corresponds to different place types, which we can use to assign labels to neighborhoods in municipalities at the tract level. Alternatively, we could population-weight tract results and assign them to municipalities, although this poses some issues because tracts do not align perfectly with place boundaries.

This approach better captures the amorphous sentiments that people have about what qualifies their community as urban, suburban, or rural. It also does a better job of ensuring that small or medium-sized dense communities outside of the region's principal city are classified as urban, while appropriately labeling sparsely populated large cities in an MSA as suburban.

See maps below for a few samples of areas as defined by their UPSAI classification (Florida, the New York City-New Jersey-Philadelphia metropolitan area, Wyoming):

UPSAI Classification of Urban, Suburban, and Rural Areas



Urban Suburban Rural

Who decides the Right to Build Zone Codes?

Right to Build Zones would be established through federal legislation outlining core elements that each Right to Build Zone Code must include, such as standards related to minimum lot size, parking requirements, and other key dimensions of zoning permissiveness. The legislation would further require that any adopted RBZ Code be written in a manner that increases development permissiveness relative to any adopting municipality's current code.

Within these statutory guardrails, the final Right to Build Zone Codes would be developed by a panel of experts and stakeholders convened by the Policy Development and Research (PD&R) office in the U.S. Department of Housing and Urban Development.

The panel could include:

- Representatives for local government interests
- State officials responsible for housing or land-use policy
- Academic and think tank researchers specializing in zoning and land-use best practices
- Affordable housing, community development, and fair housing advocates
- Public housing authorities and transit agencies
- Planners and architects
- Representatives from the homebuilding industry, including market-rate, affordable, and manufactured housing developers

This structure balances technical expertise, political feasibility, industry considerations, and local perspectives, while grounding the codes in nationally recognized best practices.

While it is important to include a broad range of voices, we recommend that HUD prioritize the selection of individuals and groups that buy into the legitimacy of the project and the goal of deeply reforming zoning codes. Since RBZs are entirely voluntary, it will be most impactful to organize a Committee that reflects the values and understands the needs of communities that would be interested in participating.

While HUD and stakeholders would ultimately be responsible for determining the final RBZ codes, we have drafted a sample set of codes for urban, suburban, and rural areas based on best practices that we believe would serve as a good template. These are outlined in [Appendix A](#).

Should RBZ Codes set core principles or prescriptive standards?

Under one approach, RBZ Codes could articulate a set of **core zoning principles**, paired with a baseline standard, rather than prescribing precise numerical requirements. These principles would focus on zoning and permitting elements shown to have an outsized impact on housing production.

For example, instead of specifying an exact minimum lot size, the code would establish a baseline requirement, such as prohibiting minimum lot sizes above 1,400 square ft, while allowing flexibility below that threshold. This approach would also prohibit a defined set of “poison pill” provisions that undermine reform by delaying or blocking development even when the headline zoning reforms are adopted.

The advantage of this approach is its focus on the highest impact barriers, making the code more targeted and politically durable. This structure significantly reduces the pressure on the federal government to calibrate every technical detail perfectly, while still signaling that only serious reform will be rewarded. It also preserves a degree of local discretion, which may make participation more politically feasible for jurisdictions wary of federal overreach. One tradeoff, however, is enforceability. Verifying compliance becomes more complex when jurisdictions are not adopting specific language.

A second approach would offer a **fully prescriptive RBZ code**, including specific numbers on the core principles such as the exact parking requirement, minimum lot size, FAR, setbacks, and related provisions. Under this model, jurisdictions could theoretically adopt the code verbatim, minimizing the need for local drafting or interpretation and ensuring a high degree of consistency across participating jurisdictions.

This approach may lower the administrative barriers to participation and reduce the likelihood of accidental loopholes. It would also offer stronger guarantees of uniformity across jurisdictions. A lack of uniformity in zoning and permitting is today an important obstacle to greater scale and efficiency in the construction industry. When RBZs rely on a fully prescriptive and consistent code, it creates a large total area around the country on which builders can trust that they know exactly what they can build.

However, crafting precise zoning language that works across diverse municipal legal frameworks is inherently difficult, and small errors could have dramatic consequences on the efficacy of this program. Politically, an exact code may be perceived as a greater intrusion of local control.

Will the Right to Build Zone Codes include the building code?

No, RBZs would focus exclusively on zoning and some permitting. Localities would continue to use their existing building code, subject to state requirements and any local adopted amendments, if present. While many of the same arguments for RBZs apply to building codes, requiring building code modifications (most of which are done at the state level) would add a second highly technical layer of reform on top of local zoning changes, making the program significantly more complex, reducing the likelihood of participation.

Keeping RBZs focused on zoning and permitting creates a cleaner, more administratively feasible pathway to opt in. We acknowledge that building code provisions can pose meaningful barriers to missing-middle and small multifamily development. While these issues lie outside the RBZ framework, they may warrant future exploration through federal guidance.

PART 2.

The Opt-In Process

Once the federal government has published the RBZ Code and classification map, there are several pathways to determining participation. This section outlines what those opt-in models could be, including a local- and state-based opt-in model, and assesses how each interacts with key design choices, including program duration and competitive versus first-come first-serve eligibility.

What is the pathway for adopting RBZs?

A core design question for RBZs is the pathway through which opt-in occurs. There are two potential adoption models.

1. Local governments opt in.

Local governments would choose whether to participate by updating their zoning code (through the appropriate legislative route) to align with the federal code. This approach ensures that any zoning changes that are made through RBZs are permanent and fully integrated into local land-use law. However, this requires jurisdictions to go through the process of a zoning text amendment and map amendment, both of which may be subject to additional local regulations dictating public hearing processes which could take years to complete and will significantly slow down the adoption process and impact of this program.

This is also misaligned with political cycles. A city council member would be unlikely to advocate for participation in this program, if the benefit of the program (the New Home Dividend) is potentially years away.

2. States opt into the program, while enabling jurisdictions within participating states to designate their RBZs voluntarily.

When a state opts in, the RBZ Code automatically applies to the areas the jurisdictions designate, functioning as a form of voluntary state preemption of local zoning authority. State participation would allow municipalities to avoid the typical zoning change process involving a zoning text amendment and map amendment. Scholars at the Niskanen Center have proposed a similar mechanism for HOME and Housing Trust Fund programs.¹¹

While states will not be eligible for any funding, they have an incentive to unlock funding for their municipalities and address regional housing needs. Opting into this program would functionally require no additional administrative work on the state's part, effectively rendering the administrative barrier to participate null.

The key design element is that neither states nor localities would be *required* to participate: it is entirely opt-in on both levels of government. This pathway would substantially reduce the administrative barriers to adoption by avoiding the need for each jurisdiction to enact full zoning amendments, and better align the program benefits with local electoral politics. The downside to this approach is that zoning changes would not be made permanent unless jurisdictions subsequently codified them locally or states enacted complementary legislation.

Both of these implementation pathways also interact with the design of the RBZ Code itself.

A more prescriptive model code is compatible with both local adoption and state pass-through approaches, because it is clear in both cases exactly what is being adopted and is permissible, and it can be administered regardless of the adopting authority. A framework based on core zoning principles affords greater flexibility and faster implementation, but raises additional questions about who is responsible for interpretation, how compliance is evaluated, a challenge especially acute under a core principles-based state framework.

Careful consideration should therefore be given to the interaction between the implementation pathway and RBZ code.

How will the program be structured?

We will explore how RBZs could be initially established either as a short-term pilot in a handful of geographies or as a full-scale national program. But in either case, we estimate needing a minimum of five years for the various phases of the program to run their course, including the application process, designating participating areas, issuing the applicable permits used to determine federal subsidies, and the payouts for local success.

An RBZ **pilot** could be used to test the efficacy of the concept, build public support, and generate evidence to inform future expansion. A pilot structure lends itself more towards state-based implementation pathways that rely on the state opt-in mechanism to fast-track RBZ Code implementation.

Given the more limited funding and duration of a pilot, this structure aligns naturally with a competitive application process, allowing the federal government to concentrate resources and incentivize early and ambitious participation. While a pilot approach would reduce near-term costs and enable learning and iteration, its shorter time horizon would limit overall scale and impact.

Alternatively, RBZs could be established as a **full-scale program** emphasizing durability and longer-term transformation over speed. A longer timeline would give jurisdictions — regardless of whether the program is administered through jurisdictions or through states — sufficient time to undertake formal legislative changes to their zoning code, ensuring that the land-use reforms are permanent and persist beyond the program window. Under this structure, state-based implementation is still advantageous, since jurisdictions would still

be able to undertake formal legislative changes to their zoning code after the RBZ code has essentially taken effect.

While a full-scale program would better maximize long-term benefits, it would require greater federal investment and may be more challenging to advance politically in an initial legislative effort.

What is the application/designation process?

There are three options for the application/designation process regardless of the program structure.

1. HUD administers a competitive application process.

Under this model, a limited number of municipalities across urban, suburban, and rural geographies would be selected to participate based on predefined criteria, such as the share of municipal land to be included, projected housing production, and indicators of regional housing need. Jurisdictions would be evaluated based on a weighted assessment of these factors.

This approach leverages competition to incentivize more ambitious behavior, while providing jurisdictions with some assurance of funding availability before they undertake permitting or zoning changes. Competitive selection is to help maximize the use of limited funding and scale early impact.

2. Reward jurisdictions that formally adopt the RBZ Code on a first-come first-serve basis.

Once RBZ Code adoption is verified, jurisdictions would become eligible for funding up to a cap.

This model prioritizes legal permanence and long-term commitment but involves slower uptake due to the time required for zoning amendments. It may be difficult to discern how much funding would be available before the permitting process begins.

3. Link funding directly to housing permits issued within RBZs on a first-come first-serve basis.

This structure strongly rewards speed and simplifies administration by tying payments directly to measurable outcomes, without relying on projected production or legislative changes to the zoning code.

This approach is agnostic to how much municipal land is included in an RBZ and how severe the housing need is, which may be a downside if the program aims to

be more targeted in its impact. Because it provides no upfront assurance that funds will remain available, it may generate frustration if jurisdictions act but funding is exhausted before permits are issued.

Decisions about how RBZs are structured are closely linked to how jurisdictions are selected and designated to participate, as shown in the chart below:

	Pilot	Full-Scale Program
Competitive Application	Strong fit: Supports the selection of a diversity of jurisdictions to maximize impact, provides guarantee of funding, and maximizes use of time-limited funding.	Strong fit: Supports the selection of a diversity of jurisdictions to maximize impact, provides guarantee of funding, and through greater funding and a longer timeline than a pilot allows for more jurisdictions to participate.
First-Come First-Serve RBZ Code Adoption	Moderate fit: Incentivizes speed of zoning code adoption, guarantee of funding, but does not allow for selection of jurisdictions to maximize impact.	Moderate fit: Rewards durable zoning reform, and supports broad participation over time, but does not guarantee funding.
First-Come First-Serve Permitting	Weak fit: Lack of upfront funding assurance may discourage participation and undermine the goals of the time-limited pilot.	Weak fit: Rewards durable zoning reform and supports broad participation over time, but does not guarantee funding which may discourage participation.

After opt-in, which areas are eligible for site selection?

A central design question is how broadly or narrowly municipalities should be allowed to define the boundaries of Right to Build Zones. Allowing for the following options for site selection would accommodate differences in local planning practices while minimizing opportunities for fragmentation or gaming.

Municipalities may designate Right to Build Zones using one of three geographic units:

- **Pre-existing zoning districts** as shown on local zoning maps,
- **Census blocks**
- **Contiguous areas** that meet a minimum size threshold

Allowing jurisdictions to use pre-existing zoning districts leverages boundaries that already reflect local political, economic, and physical constraints. This would help to streamline adoption. Cities could, for example, designate their most permissive residential districts to encourage infill, or select commercial and industrial districts for redevelopment. The primary drawback is analytical: these districts lack standardized population and housing data, complicating evaluation and cross-jurisdictional comparison.

Census blocks offer clearly defined boundaries with consistent population and housing data, simplifying evaluation and enabling HUD to more easily verify local building counts. However, Census blocks will not always make sense as a zone: in rural areas they can be very large (up to 800 square miles in Montana) and in urban areas they often do not align with pre-existing zone boundaries.

Finally, municipalities may designate new or planned development areas, such as greenfield sites or large redevelopment parcels, provided they meet a minimum acreage requirement. This approach offers the most flexibility, while also prohibiting municipalities from fragmenting the zones into very small parcels. Gaming, however, is still a concern under this approach. Carefully calibrating minimum size requirements will be necessary to ensure that RBZ designations generate genuinely new housing.

PART 3.

The “New Home Dividend” Subsidy

The *New Home Dividend* is a per-unit federal payment to municipalities for each home that they permit within a Right to Build Zone, designed to offset the fiscal and political costs of zoning and permitting reform. This section describes how the subsidy should be structured, the density thresholds for eligibility, and how municipalities may use the funds.

How much funding should jurisdictions be eligible to receive?

The success of Right to Build Zones hinges on identifying a funding threshold that meaningfully shifts a jurisdiction’s likelihood of opting in.

We believe that a base rate of **\$10,000 per unit** is likely to meaningfully motivate RBZ adoption because this is similar to the national average impact fee. Conceptually, impact fees reflect a municipality’s implicit price for accommodating new development, making this a reasonable benchmark for setting incentives. In 2019, the average impact fee was \$8,034 for multifamily homes and \$13,627 for single-family homes.¹² Adjusting for inflation in construction costs, the average impact fee in 2024 is estimated to be roughly 20 percent higher.¹³

Since we expect most RBZ development to be denser than the typical single-family property built today, the estimated impact on infrastructure should fall in the lower range.

We recommend a **flat-rate structure**, in which every participating jurisdiction would receive the same per-unit payment regardless of their characteristics. This approach minimizes administrative complexity and avoids the political risks of rewarding some jurisdictions more than others. However, a uniform payment is unlikely to be equally motivating across all markets; in high-cost jurisdictions, \$10,000 per unit may be insufficient to meaningfully offset the perceived costs of regulatory reform. Conversely, developing greenfields in suburban or rural areas will have higher infrastructure costs than urban infill.

Another option is to **vary the per-unit payment by place type**. Because development costs, infrastructure needs, and political constraints differ systematically across urban, suburban, and rural contexts, differentiated payments could better align incentives with local conditions and increase participation where reform is otherwise most difficult. The tradeoffs are greater administrative complexity, a still-blunt approach that cannot fully account for local variation, and the risk that jurisdictions may perceive different payment rates as inequitable.

What is the timeline for disbursement?

The timing of funding disbursement is important because it shapes the political and administrative incentives facing local governments. It affects whether rewards align with local political cycles, which stages of the development process jurisdictions are held accountable for, and how success or failure of the program is perceived by policymakers and the public.

Our preferred approach is to **disburse all funding when permits are approved**. Tying payments to permit approval creates a clean and powerful incentive by rewarding jurisdictions within political cycles, rather than requiring them to wait years for projects to be completed. It places responsibility squarely on local governments to reform zoning and move permitting efficiently: the faster local bureaucracies act, the sooner jurisdictions receive funding.

The primary drawback is that some permitted units may ultimately not be built, particularly if macroeconomic or financing conditions deteriorate. In practice, this risk is likely limited, as jurisdictions are incentivized to designate RBZs in areas with strong market demand. Broader macroeconomic forces — interest rate shocks, construction cost volatility, a housing market downturn — could impact how quickly housing gets built and cause a gap between permits and construction. But such an outcome would actually suggest that RBZs have succeeded in their goal of reducing local zoning, land-use, and permitting barriers that prevent housing from being approved in the first place. Ensuring everything that is permitted gets built is beyond the scope of the program and outside the control of local governments.

A second possible approach is to **disburse funding only after a certificate of occupancy is issued**. This ensures that payments are tied exclusively to completed units and is straightforward to administer and monitor. However, it significantly weakens the incentive effect. Given typical construction timelines, especially for large multifamily buildings, jurisdictions may not receive any funding for two to five years or longer. In addition, broader economic conditions or capital market constraints — factors largely outside local control — could delay or stall development, undermining the policy's intent to reward regulatory reform.

A third approach would **split disbursement**, with a portion of funding provided at permit approval and the remainder issued upon completion. This hybrid structure allows jurisdictions to receive some funding earlier while still conditioning part of the subsidy on actual construction outcomes. However, it introduces additional administrative complexity and monitoring requirements. More importantly, dividing the payment may reduce the salience of the incentive at the permitting stage, potentially weakening the policy's ability to motivate meaningful zoning reform.

Given these considerations, we believe that disbursing funds at the time of permit approval best aligns incentives with local government authority, political timelines, and administrative capacity, and is therefore the most effective approach for accelerating housing production.

Who disperses funding?

Municipalities are the recipients of the New Density Dividend, and the funds may be disbursed either *directly* from the federal government to participating municipalities or *indirectly* from the federal government to participating municipalities through participating states.

Under a municipal opt-in model, participating local governments would report the number of housing units permitted within designated RBZs, and the federal government would disburse payments directly to those municipalities based on verified outcomes.

Under a state opt-in model, states would voluntarily participate in the program and enable jurisdictions within their borders to designate RBZs. In this framework, funding could either be disbursed directly from the federal government to participating municipalities, or routed through the state. Routing funds through states would reduce the administrative burden on the federal government by limiting direct federal-municipal transactions and leveraging states as intermediaries responsible for verifying participation and distributing payments to eligible jurisdictions.

What are the conditions on receiving and spending the New Home Dividend?

The central goal of the Right to Build Zones (RBZ) program is to meaningfully change the trajectory of housing production relative to what would occur in the absence of the program. The program is intentionally structured as opt-in, reflecting the expectation that jurisdictions will generally designate RBZs in places where development is plausible — areas with market demand, developer interest, and political feasibility. In most cases, jurisdictions have strong incentives to select “good” RBZ locations, since designating zones that fail to attract development would yield little benefit.

At the same time, opt-in participation alone is not enough to guarantee meaningful outcomes. While the Right to Build Zones Code expands the realm of possibilities, it does not by itself ensure that a jurisdiction will permit substantially more housing. Jurisdictions could draw RBZ boundaries very narrowly or select sites where they already know that a development is already going to be built, and where loosening of zoning restrictions will therefore have no impact. Over time, these choices can dilute the impact of the program, resulting in housing production that differs little from what would have occurred without federal involvement.

To address this risk, eligibility for the New Home Dividend should be conditioned on meeting a **minimum threshold of new housing supply per acre**. The purpose of this threshold is not to mandate specific building types, but to serve as a guardrail, ensuring that participation in the program results in a meaningful increase in permitted housing relative to what would otherwise occur, and that federal funds reward genuine reform.

Several approaches could be used to define this minimum threshold, each with distinct tradeoffs.

1. Relative to Existing Density

RBZ eligibility could be conditioned on permitting at or above a specific percentile of density (for example, the 90th percentile) relative to peer jurisdictions using the Urbanization Perceptions Small Area Index (UPSAI). As discussed earlier in the concept paper, UPSAI allows us to calculate the average density level that residents believe corresponds to different place types.

The primary advantage of this approach is administrative simplicity. It is straightforward to calculate, easy to communicate, and automatically adjusts expectations based on jurisdiction type. Under this model, jurisdictions are held to a minimum threshold grounded in resident perceptions of density, rather than externally imposed standards.

2. New Permit Target

A new permit target could be set to a minimum number of net-new units permitted per acre within RBZs, calibrated by typology and determined by HUD. This could be set relative to peer performance — for example, by requiring jurisdictions to meet or exceed a rolling three-year average of permitting outcomes achieved by the top-performing jurisdictions of the same typology. This approach ensures that targets reflect feasible, demonstrated performance, but would require more administrative capacity to calculate and maintain.

3. Relative to Existing Density Allowed by Law

The minimum threshold could also be anchored to existing land-use regulations. A jurisdiction-specific target could be anchored to existing local conditions. For example, the target could reflect the densest housing type currently allowed in the jurisdiction's most permissive zoning district under existing law. This approach is more administratively straightforward, as it relies on adopted zoning codes, but may risk locking in relatively low expectations where denser forms of housing already exist as nonconforming or legacy development.

What would the minimum threshold look like in practice?

In practice, meeting a permit target would most often involve enabling and permitting “missing middle” housing, not skyscrapers. For example, a suburban community that designates a downtown Right to Build Zone might meet its permit target by permitting small apartment buildings, or mixed-use developments consistent with housing forms already present elsewhere in the region. Larger, higher-density cities would face higher permit targets, while smaller or less dense communities would be subject to more modest expectations.

Importantly, permit targets would never require jurisdictions to permit housing at densities greater than those already present in comparable communities or within their own boundaries. Thresholds would be anchored to peer-city performance or existing local density levels, ensuring that the program rewards feasible, context-sensitive growth rather than imposing unrealistic or one-size-fits-all mandates.



Finally, it is important to note that permitting targets would not require or allow municipalities to mandate specific levels of building. The policy would simply require that the market be allowed to provide new building if there is demand for it, and reward municipalities where net new building has been approved.

Conditioning incentives on permitting outcomes adds some administrative complexity, including the need to compare permits issued within RBZs against a jurisdiction-specific threshold. These tradeoffs are intentional and necessary to preserve the integrity of the incentive. Without an outcome-based eligibility screen, the program would risk rewarding nominal participation rather than reforms that meaningfully change housing production patterns.

Use of Funds

We recommend that New Home Dividend funds be disbursed as **unrestricted** direct deposits into participating jurisdictions' general funds. This structure would preserve local flexibility to allocate resources based on community needs while minimizing administrative complexity and compliance burden. By contrast, restricting funds to specific eligible uses could trigger additional federal requirements — including environmental review, procurement, or labor standards — under statutes such as the National Environmental Policy Act (NEPA), the Davis-Bacon Act, or the Build America, Buy America Act. Where applicable, these mandates would slow implementation and reduce the overall effectiveness of Right to Build Zones.

In addition to these federal requirements, other state and federal laws could also interact with Right to Build Zones. Those considerations are outlined in [Appendix C](#).

PART 4.

Budget and Impact

This section examines the potential cost and housing supply impact of Right to Build Zones. Because the causal effects of zoning reform are difficult to estimate, and no direct precedent exists at the scale envisioned here, we present a set of stylized scenarios grounded in observed housing production outcomes. These scenarios illustrate the range of impacts RBZs could plausibly deliver at different levels of scale.

What would RBZs cost and what would they deliver?

Estimating the causal impact of zoning reform is inherently difficult due to several methodological challenges, including the endogeneity of zoning policy changes, municipalities implementing a bundle of multiple zoning changes at once, confounding macroeconomic conditions, and differences in implementation timelines and enforcement. In addition, there are no direct case studies of comprehensive zoning overhauls implemented at the scale and scope envisioned under Right to Build Zones (RBZs).

That said, existing evidence strongly suggests that jurisdictions with more permissive zoning and permitting regimes produce more housing.¹⁴ Many of the highest-production municipalities in the United States over the past decade share these characteristics. To illustrate the potential range of impacts, we present three stylized scenarios — a small pilot, a medium-scale expansion, and a large “moonshot” benchmark — grounded in observed housing production outcomes.

1. Pilot Program

A pilot program is an attractive option for Right to Build Zones because it combines political feasibility with meaningful policy learning. Pilots are easier to authorize and fund than permanent programs — and easier for skeptical stakeholders to support — because they are time-limited and designed to generate evidence. A pilot would allow policymakers to test RBZ design, evaluate uptake, and surface implementation constraints, such as local administrative capacity, code barriers, permitting bottlenecks, and developer responsiveness. If successful, Congress would be positioned to renew and scale the program based on concrete results rather than theory alone.

To generate meaningful outcomes, we propose that a pilot be authorized for five years. Housing development timelines and municipal decision-making cycles mean that the typical federal pilot timeline of two to three years would be insufficient. Participating jurisdictions need time to designate Right to Build Zones, adopt code and map changes as necessary, complete procurement processes, issue permits, and ideally, advance projects far enough along the pipeline to observe construction activity and completed units.

The pilot should aim to generate measurable housing output by enrolling a small cohort of ambitious small, medium, and large communities across urban, suburban, and rural settings. One way to evaluate success is whether participating jurisdictions raise annual per capita housing construction toward the levels achieved by today's highest-performing places. Using these municipalities as a benchmark demonstrates what is feasible when local market conditions and regulatory frameworks are strong.

The gap between high- and low-production places is substantial. EIG research finds that the top 5 percent of high-production urban municipalities over the past decade (from 2014 to 2024) added roughly 10 homes per 1,000 residents annually, while top suburban municipalities added about 25. High-production rural areas added around 200 homes per 1,000 residents (often through annexation by neighboring high-growth suburbs). By contrast, the bottom 5 percent of communities across geography types added zero new homes per year, and the bottom quartile added only 1 to 5 homes per 1,000 residents annually.

If a pilot cohort adopted reforms at sufficient scale to move their production toward these high-performing benchmarks, it would lead to the construction of around 50,000 new homes per year. At a rate of \$10,000 per home, this implies an annual budget of \$500 million, or \$2.5 billion over five years. Put differently, a pilot-sized cohort of ambitious jurisdictions could generate housing output comparable to a citywide transformation in a major market — for example, producing as many homes as if the entire city of Los Angeles built new housing per capita at the same rate as Austin, Texas.

2. Full-Scale National Program

While a pilot provides political feasibility and design learning, the long-run value of Right to Build Zones would come from scaling the model nationally. A full-scale program would aim not merely to prove the concept, but to deliver sustained housing supply gains across a broad set of jurisdictions — especially those where supply constraints are most binding.

It can be instructive to benchmark RBZs against other successful federal place-based housing supply policies. One such program, Opportunity Zones (first proposed by EIG), is estimated to have causally created 416,000 new housing units over 6 years.¹⁵ To achieve a similar scale with RBZs, we estimate a total program budget on the order of \$5 billion over the life of the initiative.

3. Moonshot Scenario

Finally, it is useful to consider an upper-bound benchmark that reflects the scale of the national housing shortage. Recent research from the Brookings Institution estimates that the United States faced a shortfall of roughly 4.9 million “missing housing units” in 2023.¹⁶ Fully closing this gap through a policy like RBZs would imply a program budget on the order of \$50 billion.

In addition to New Home Dividend payments, Right to Build Zones would require a modest appropriation to HUD to support technical assistance and administrative capacity. We estimate this funding need at under \$1 million annually, primarily to cover staffing and program support functions.

PART 5.

Recommended Policy Design

This paper has presented multiple options for the design of Right to Build Zones. Based on the research conducted to date, we recommend a policy design anchored by two core elements: a state opt-in framework and a competitive application process.

A state opt-in approach would significantly accelerate the implementation of RBZs while preserving core principles of federalism. Under this model, states would voluntarily opt into the program, and local jurisdictions within participating states would retain the option to designate RBZs. At no point would any level of government be compelled to take action. Instead, the program is structured to help states and localities overcome self-imposed procedural barriers that often delay housing production.

Importantly, this framework does not preclude local governments from formally adopting the RBZ model code through legislative amendments to their zoning ordinances. Such adoption would be encouraged through program guidance as a best practice. However, the state opt-in model would also allow housing development to proceed prior to the completion of local legislative processes, enabling faster on-the-ground impact.

This approach is not without precedent. It draws inspiration from Texas's SB 840, which permits multifamily and mixed-use housing by right in certain nonresidential zones in large cities without requiring rezoning or discretionary approvals. It also reflects elements of Washington State's HB 1110, which requires jurisdictions to legalize missing middle housing and provides that, if a locality fails to adopt compliant zoning by the statutory deadline, the state's model ordinance supersedes and preempts conflicting local regulations. In both cases, state law operates as a backstop to ensure housing can proceed even when local legislative action lags.

Pairing a state opt-in framework with a competitive application process would help ensure that RBZ funding is directed towards jurisdictions with the most ambitious and credible plans for increasing housing supply. A competitive structure would allow HUD to prioritize applications based on criteria such as the share of municipal land included in RBZs, projected housing production, and indicators of regional housing need.

Without competition, this structure would open the program to all jurisdictions regardless of the scope or ambition of their reform. In contrast, the competitive approach leverages competition to encourage jurisdictions to pursue bolder reforms, while also providing applicants with greater certainty about funding availability before undertaking zoning or permitting changes. By aligning financial incentives with meaningful regulatory action, a competitive process would help maximize the program's impact while ensuring ease of implementation.

Taken together, a state opt-in framework and a competitive application process offer a pragmatic and scalable path for implementing RBZs. This design balances speed, ambition, and respect for local control, while ensuring that federal resources are targeted toward jurisdictions most likely to deliver substantial increases in housing production. Below, we summarize all recommended policy decisions, and outline the proposed RBZ policy framework.

Recommended Decisions

<p>STEP 1</p> <p>Federal Rulemaking and Guidance</p>	<ul style="list-style-type: none"> • How should urban, suburban, and rural areas be classified? Urbanization Perceptions Small Area Index (UPSAI) • Who decides the Right to Build Zone Codes? A panel of experts and stakeholders convened by HUD's PD&R • Should RBZ Codes set core principles or prescriptive standards? Core principles • Will RBZs include the building code? No
<p>STEP 2</p> <p>The Opt-In Process</p>	<ul style="list-style-type: none"> • What is the pathway for adopting RBZs? States opt into the program, enabling jurisdictions within participating states to designate RBZs voluntarily • How will the program be structured? A 10-year program • What is the application/designation process? Competitive application process • After opt-in, what areas are eligible for site selection? Pre-existing zoning districts, census blocks, or contiguous areas that meet a minimum size threshold
<p>STEP 3</p> <p>Permitting and Building</p>	<ul style="list-style-type: none"> • How much funding should jurisdictions be eligible to receive? \$10,000 per unit permitted with a per-jurisdiction cap
<p>STEP 4</p> <p>The "New Home Dividend" Subsidy</p>	<ul style="list-style-type: none"> • What is the timeline for disbursement? When permits are approved • What are the conditions on receiving the New Home Dividend? Jurisdictions must meet a minimum density threshold set as a minimum number of units or by the jurisdiction's densest permitted type in the densest zone under current law — whichever is greater • What are the conditions on spending the New Home Dividend? No restrictions, funding will be sent to the jurisdiction's general fund

Ideal Right to Build Zones Policy Design

<p>STEP 1</p> <p>Federal Rulemaking and Guidance Year 1</p>	<p>HUD publishes:</p> <ul style="list-style-type: none"> • RBZ Code. Created with support from taskforce, and focuses on core principles. • Typology map. Based on UPSAI. • Program guidance. Includes competitive application criteria.
<p>STEP 2</p> <p>The Opt-In Process Year 2</p>	<p>States voluntarily opt-into RBZ program</p> <p style="text-align: center;">▼</p> <p>Municipalities within opt-in states apply to HUD to participate</p> <p style="text-align: center;">▼</p> <p>HUD competitively accepts municipalities to participate</p> <p style="text-align: center;">▼</p> <p>Municipalities implement RBZ code in one of three geographic units: pre-existing zoning districts, or census blocks or contiguous areas.</p>
<p>STEP 3</p> <p>Permitting and Building Year 2-10</p>	<p>Builders apply for permits under RBZs</p> <p style="text-align: center;">▼</p> <p>Municipalities within opt-in states apply to HUD to participate</p>
<p>STEP 4</p> <p>Fund Distribution Year 2-10</p>	<p>Municipalities who have approved enough permits to meet density threshold (unit per acre or densest allowed housing in code - whichever is greater) submits permit data to HUD</p> <p style="text-align: center;">▼</p> <p>HUD distributes fund to municipalities' general funds as they submit proof of permits.</p>

Conclusion

Right to Build Zones offer a pragmatic and scalable approach to addressing America's worsening housing shortage. By concentrating zoning reform in politically viable areas, RBZs enable faster and more meaningful increases in housing production while preserving local control. At a moment of growing bipartisan interest in zoning reform and land-use policy, RBZs provide a durable federal framework for translating that consensus into measurable gains in housing supply.

Appendices

Appendix A. Additional Questions for Further Discussion

New cities. Could Right to Build Zones be eligible to assist in the creation of new municipalities, such as California Forever? If so, what typology would they fall under? What other special considerations might they need?

Right to Build Zone code creation. How confident can we be that HUD and stakeholders will create RBZ codes that align with best practices? What steps can we take via legislation to ensure this happens without being overly prescriptive up front?

Impact fees. Should the elimination of impact fees be included in RBZ model code requirements? Pros: Impact fees can be extremely burdensome for developers and are often a way to block development. In some municipalities, impact fees have grown to over \$100,000, which effectively prevents building affordable new homes. Cons: This substantially reduces the incentivizing effect of the \$10,000 per-unit reward.

Funding Amount. A central design question for Right to Build Zones is calibrating the per-unit funding level to balance incentive strength and fiscal scalability. While a \$10,000 per-unit subsidy may be sufficient to motivate meaningful reforms and enable additional housing output, it may also limit the number of jurisdictions that can be supported under realistic budget constraints. Is \$10,000 per unit set too high to achieve the program's intended results at scale?

Allocating funds. It will be difficult to balance the inherent conflict between municipalities' desire to have assurances that they will be eligible for funding before beginning a zoning overhaul or permitting process with the limited pot of money available via Congressional funding allocations. We have provided some options to address this tension, but are open to considering other iterations as well.

Permanency vs speed. Right to Build Zones must balance two objectives that can sometimes conflict: ensuring participating jurisdictions enact durable zoning reforms that persist beyond political cycles, while also creating an expedited pathway to unlock near-term housing production. What is the appropriate trade-off between requiring permanent, codified code changes versus emphasizing speed — particularly in setting eligibility criteria for subsidies and the timing of disbursements?

Clawbacks. Should there be a clawback provision? For instance, if a municipality permits a building, but construction doesn't begin or a certificate of occupancy is not issued within a particular timeframe, would the government be eligible to claw back the funds?

HUD Technical Assistance. How much additional funding will be required to fund operational/technical assistance work from HUD? These tasks will include: creating model codes, managing the disbursement of funds, providing technical assistance to participating municipalities, and managing the monitoring and enforcement of eligibility.

Subsidized affordable housing. Would federal or state requirements tied to public subsidy — such as special permitting, environmental review, or additional compliance obligations — undermine the “by-right” framework of Right to Build Zones and make subsidized affordable housing infeasible within RBZs?

Appendix B. Right to Build Codes

The following draft of the Right to Build Zone Code is not intended to represent final legislative language. Rather, it is meant to illustrate a general vision for what the Right to Build Zone Codes could look like, and to invite further discussion with policymakers, practitioners, and experts in zoning and land use.

To inform the selection of target permissibility thresholds, we recommend a data-driven approach based on existing zoning practices. A lot of readily accessible public data makes this difficult to do without further research or partnership with institutions that have access to this information. Specifically, targets could be set using the 90th percentile of current regulatory allowances within each urban, suburban, and rural typology.

For instance, we presently state that urban municipalities “must allow FAR in a range of at least 0.0 – 5.0.” The upper bound of 5.0 is based on a preliminary review of FAR maximums in a subset of urban jurisdictions. However, a more comprehensive national data would allow policymakers to calculate the 90th percentile of FAR for urban municipalities across the country. Depending on the resulting value, this could yield a target that is both more ambitious and defensible, grounded in a more consistent methodology that could be applied to other core principles (e.g., lot minimum size, etc.).

In a Right to Build Zone, the municipality shall permit by-right...

Core Principle	Urban	Suburban	Rural
Lot size minimum ¹⁷	Must permit residential lots as small as 1,200 square feet OR up to the smallest permissible lot size within 1 mile of the RBZ (whichever is smaller)	Must permit residential lots as small as 1,400 square feet OR up to the smallest permissible lot size within 1 mile of the RBZ (whichever is smaller)	Must permit residential lots as small as 1,800 square feet OR up to the smallest permissible lot size within 1 mile of the RBZ (whichever is smaller)
Multifamily ¹⁸	Must allow at least 60 units per acre OR up to the highest permissible density within 1 mile of the RBZ boundaries (whichever is greater)	Must allow at least 40 units per acre OR up to the highest permissible density within 1 mile of the RBZ boundaries (whichever is greater)	Must allow at least 30 units per acre OR up to the highest permissible density within 1 mile of the RBZ boundaries (whichever is greater)
Parking minimums	No parking minimum	.5 per unit for multifamily >4 units, 1 per unit for multifamily <=4 units	At most 1 parking space per unit
Subdivisions	Permitted	Permitted	Permitted
FAR	Must allow FAR in a range of at least 0.0 – 5.0 OR up to maximum allowed FAR within 1 mile of the RBZ boundaries.	Must allow FAR in a range of at least 0.0 – 2.0 OR up to maximum allowed FAR within 1 mile of the RBZ boundaries.	Must allow FAR in a range of at least 0.0 – 1.5 OR up to maximum allowed FAR within 1 mile of the RBZ boundaries.
Lot Coverage/ Occupancy	No maximum lot coverage requirement shall apply or, if applied, lot coverage limits shall be set sufficiently high to ensure that maximum permitted FAR remains achievable.	No maximum lot coverage requirement shall apply or, if applied, lot coverage limits shall be set sufficiently high to ensure that maximum permitted FAR remains achievable.	No maximum lot coverage requirement shall apply or, if applied, lot coverage limits shall be set sufficiently high to ensure that maximum permitted FAR remains achievable.
Height	Must allow 96 ft OR up to the highest permissible height within 1 mile of the RBZ boundaries (whichever is greater)	Must allow 60 ft OR up to the highest permissible height within 1 mile of the RBZ boundaries (whichever is greater)	Must allow 30 ft OR up to the highest permissible height within 1 mile of the RBZ boundaries (whichever is greater)
Setbacks (front, rear, side)	No setback requirements	No setback requirements	No setback requirements
Mixed-use	Must allow mixed-use development, which includes both vertical and horizontal mixed-use	Must allow mixed-use development, which includes both vertical and horizontal mixed-use	Must allow mixed-use development, which includes both vertical and horizontal mixed-use
Design Review	No discretionary design review is permitted. For by-right design review, must apply codes from the municipality's pre-existing design review requirements. In the absence of that, rely on the state or national building code.	No discretionary design review is permitted. For by-right design review, must apply codes from the municipality's pre-existing design review requirements. In the absence of that, rely on the state or national building code.	No discretionary design review is permitted. For by-right design review, must apply codes from the municipality's pre-existing design review requirements. In the absence of that, rely on the state or national building code.
Historic Review	No historic review	No historic review	No historic review
Environmental Review	Necessary environmental review for RBZs shall occur at the time of zone adoption, rather than at project approval stage. Development consistent with RBZ standards shall be allowed by-right.	Necessary environmental review for RBZs shall occur at the time of zone adoption, rather than at project approval stage. Development consistent with RBZ standards shall be allowed by-right.	Necessary environmental review for RBZs shall occur at the time of zone adoption, rather than at project approval stage. Development consistent with RBZ standards shall be allowed by-right.

Appendix C. Hypothetical Case Study: Urban Office-to-Residential Conversion in a Right to Build Zone

Imagine a downtown commercial district in a large or mid-size city — the post-COVID recovery is sluggish, as dozens of office buildings continue to sit mostly empty amid the shift to hybrid and remote work. The office buildings are structurally sound and centrally located near amenities, but they remain empty even as demand for housing in the region has surged. Local officials and residents support converting them to apartments, but there are significant regulatory and financial blockers to moving these redevelopments forward. The cost of retrofitting mechanical systems is high, while the permitting timeline is cumbersome, approvals are slow and uncertain, and zoning limits both the number and type of homes that can be added. The city has considered offering temporary property tax abatements or reducing impact fees to developers to incentivize the redevelopment, but doing so would contribute to a growing budgetary shortfall.

To address these barriers, the city designates a few blocks along the commercial corridor as a Right to Build Zone. Under this new framework, residential use is allowed by-right, discretionary review is eliminated, density caps are removed, and additional building height is permitted. Parking requirements and unit mix rules are relaxed to better fit the constraints of existing office buildings. Together, these changes replace a multi-year approval process with a predictable, administrative pathway.

Additionally, the New Home Dividend payments allow the city to pare back on taxes and fees, which makes the project more financially viable for a developer while backstopping local fiscal risk. The reduction in density and height constraints also allows more homes to be added to each converted building. Faster delivery — enabled by by-right approvals — further reduces carrying costs and financing risk, translating regulatory reform into both higher housing output and lower rents for residents than would otherwise be possible.

Appendix D. Interaction with Federal and State Laws

The effectiveness of Right to Build Zones will depend not only on local zoning reform, but also on how RBZs interact with existing federal and state legal frameworks. While RBZs are designed to streamline local land-use regulation, other laws governing environmental review, labor standards, procurement, and state-level zoning can affect whether RBZ-enabled projects move quickly from approval to construction and remain financially viable.

Anticipating these interactions is essential to preserving the by-right nature of RBZs and ensuring durable implementation.

Permitting Requirements

Environmental, labor, and procurement statutes at the federal level could affect RBZ-enabled development if they are triggered, introducing review, cost, or administrative complexity that would undermine the program’s core objectives. As previously explained, laws such as the National Environmental Policy Act, Davis-Bacon prevailing wage requirements, and Build America, Buy America can materially slow project timelines and raise costs — particularly for small-scale multifamily and missing-middle housing.

Because homes built within Right to Build Zones would not rely on federal funding for construction, these requirements should generally not apply. However, policymakers should anticipate how courts and agencies may interpret the relationship between the New Home Dividend and RBZ-permitted housing, especially if subsidy payments are used to support associated infrastructure investments. Clear statutory language and guidance clarifying the applicability of existing exemptions, thresholds, or phased compliance frameworks will be important to preserving regulatory certainty and project feasibility. To that end, municipalities should also be restricted from using federal funds subject to these requirements for the direct construction of housing within RBZs.

RBZs would also operate alongside a wide range of state-level permitting regimes, with effects that vary substantially by state. In some cases, state law may reinforce RBZ objectives. For example, the California Environmental Quality Act (CEQA) applies only to projects requiring discretionary approval; by making development by-right within RBZs, participating jurisdictions would largely avoid CEQA review.¹⁹

In other states, however, state permitting requirements could interfere with local adoption. Vermont’s Act 250, for instance, requires a state-level permit for any developments of ten or more homes within a five-mile radius, even when those homes are permitted by-right locally.²⁰

Clear guidance on how RBZs interact with state permitting statutes — and which standards control in the event of conflict — will be essential.

Zoning Requirements

Compared to permitting and environmental review, direct federal and state zoning constraints are relatively limited and should not materially interfere with Right to Build Zones in most jurisdictions. Nonetheless, a small number of state and federal rules could conflict with RBZ adoption in specific contexts.

The most prominent federal example is the Height of Buildings Act, which caps building heights at 90 feet in residential areas and 130 feet in commercial areas in Washington, DC.²¹ If the Right to Build Zoning Code were designed to permit heights above these thresholds in urban contexts, the District would be unable to participate without the federal government’s commitment to make statutory changes.

Additionally, some states impose zoning mandates that override local rules for environmentally sensitive areas. In North Carolina, for example, the Water Supply Watershed Protection Program requires low-density development in designated watershed areas.²² Wisconsin sets minimum lot sizes and building setbacks in shorelands.²³ That said, we assume that these types of communities would not be prime candidates for RBZ selection, so the state regulations are not likely to meaningfully interfere.

Building Codes

Building codes present a related but distinct consideration. While RBZs intentionally focus on zoning and permitting rather than construction standards, building code requirements can still affect the feasibility of certain housing types, particularly small multifamily and missing-middle forms. Although these issues fall outside the immediate scope of RBZs, they may warrant monitoring or future policy coordination as the program evolves.

Some federal and state housing laws impose additional review, labor, or procurement requirements that can introduce cost, delay, and legal uncertainty. There are also some cases where states impose zoning requirements that municipalities must abide by, such as mandatory minimum lot sizes.

Endnotes

- 1 Christian Leonard, "This liberal city sees San Francisco as a role model for home building failure," *San Francisco Chronicle*, December 16, 2025. <https://www.sfchronicle.com/realestate/article/san-francisco-portland-homes-21130046.php>
- 2 City of Minneapolis. "Minneapolis 2040 Parking, Loading and Mobility Regulations." <https://minneapolis2040.com/implementation/parking-loading-and-mobility-regulations/>
- 3 *Live Local Act*, S.B. 102, Sess. of 2023 (Florida, 2023), <https://www.flsenate.gov/Session/Bill/2023/102/BillText/er/HTML>
- 4 S.B. 840, Sess. 2025 (Texas, 2025). <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/SB00840H.PDF>
- 5 Hyujung Lee, "Are Millennials leaving town? Reconciling peak Millennials and youthification hypothesis," *International Journal of Urban Sciences*, 26(1), 68-86. <https://doi.org/10.1080/12265934.2020.1871061>
- 6 William H. Frey, "American cities saw uneven growth last decade, new census data show," *Brookings Institution*, May 26, 2020. <https://www.brookings.edu/articles/new-census-data-show-an-uneven-decade-of-growth-for-us-cities/>
- 7 George Masnick, "Despite Upswing in City Population Suburbs Still Outpace Cities in Numerical Growth" *Harvard University Joint Center for Housing Studies*, August 21, 2013, <https://www.jchs.harvard.edu/blog/despite-upswing-in-city-population-growth-rates-suburbs-still-outpace-cities-in-numerical-growth>
- 8 Kathleen Kassel, "Defining rural areas: "Nonmetro" is based on counties," *USDA Economic Research Service*, February 29, 2024, <https://ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=58274>
- 9 US Census, "2017 American Housing Survey Computer Assisted Instrument Items Booklet," June 2017, <https://www2.census.gov/programs-surveys/ahs/2017/2017%20AHS%20Items%20Booklet.pdf>
- 10 HUD GIS Helpdesk, "Urbanization Perceptions Small area Index," *Department of Housing and Urban Development*, July 29, 2025, <https://hudgis-hud.opendata.arcgis.com/datasets/urbanization-perceptions-small-area-index/about>
- 11 Alexander Mechanick, Aaron Shroyer, and Alex Armlovich, "HOME field advantage: Leveraging HUD dollars to build more housing," *Niskanen Center*, October 8, 2025, <https://www.niskanencenter.org/home-field-advantage-leveraging-hud-dollars-to-build-more-housing/>
- 12 Clancy Mullen et al., "National Impact Fee Survey: 2019" *Duncan Associates*, <https://www.impactfees.com/publications%20pdf/2019survey.pdf>

- 13 Carter T. Froelich, "Impact Fee Primer" *National Association of Home Builders*, March 2025, <https://www.nahb.org/-/media/NAHB/advocacy/docs/industry-issues/land-use-101/infrastructure/impact-fee-primer.pdf?rev=3e7e64e0db16426590ff0649439a6a03>
- 14 Salim Furth and Olivia Gonzales, "California Zoning: Housing Construction and a New Ranking of Local Land Use Regulation" *Mercatus Center at George Mason University*, August 28, 2019, <https://www.mercatus.org/research/research-papers/california-zoning-housing-construction-and-new-ranking-local-land-use>
- 15 Benjamin Glasner, Adam Ozimek, and John Lettieri, "The Impact of Opportunity Zones on Housing Supply," Economic Innovation Group (working paper), February 2026, <https://eig.org/opportunity-zones-housing-supply/>
- 16 Elena Patel, Aastha Rajan, and Natalie Tomeh, "Make it count: "Measuring our housing supply shortage," Brookings Institution, November 26, 2024, <https://www.brookings.edu/articles/make-it-count-measuring-our-housing-supply-shortage/>
- 17 Lot size minimum dictates the smallest amount of land on which a home can be built. Typically, these numbers are in the thousands, and only allow for large single-family developments, which are not only most costly to build, but prevent the construction of smaller, more affordable "starter homes." Organizations such as the [American Enterprise Institute](#) and [Mercatus Center at George Mason University](#) have written about this issue extensively.
- 18 Organizations such as the [Metropolitan Area Planning Council](#) and [Municipal Research and Services Center](#) have created resources that show what different levels of unit per acre density look like in real-world developments.
- 19 *Cal. Code Regs.* tit. 14, § 15268 (2025) ("Ministerial Projects"). <https://www.law.cornell.edu/regulations/california/14-CCR-15268>
- 20 State of Vermont, "Act 250 Program & History," <https://act250.vermont.gov/act250-program>
- 21 National Capital Planning Commission, "Heights & Views," <https://www.ncpc.gov/topics/heights/>
- 22 Water Supply Watershed Protection Model Ordinance, North Carolina Department of Environmental Quality, March 9, 2023 (<https://www.deq.nc.gov/energy-mineral-and-land-resources/stormwater/water-supply-watershed/2023-water-supply-watershed-protection-ordinance/open>)
- 23 Wis. Admin. Code NR 115.05 (Minimum zoning standards for shorelands), https://docs.legis.wisconsin.gov/code/admin_code/nr/100/115/05