

Forbes

State Lawmakers Take On Local Regulations That Inflate Housing Costs

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March 13, 2023

Governors and legislators across the country continue to propose and implement policies to create a more competitive tax and regulatory climate, in part to attract investment that will bring in employers and high-paying jobs. However, if there isn't sufficient and affordable housing supply to accommodate an influx of families supported by new jobs, then state officials have another problem on their hands. That is the challenge policymakers are now grappling with in many fast growing states.

For example in North Carolina, among the top 10 fastest growing states last year, members of the state General Assembly are now considering legislation to "deannex," or remove from local zoning jurisdiction, property in Summerfield, a town located just outside Greensboro, where local officials have repeatedly rejected proposed development. Legislators consider the matter of statewide interest because Summerfield sits in a part of the North Carolina where the housing supply needs to be increased in order to accommodate multiple massive economic development projects that are scheduled to bring many newcomers to the area. This move and related proposals in other states demonstrate how the debate over housing costs and zoning is one that tends to get heated and scrambles traditional political coalitions.

Summerfield, which incorporated in 1996 in order to avoid becoming part of Greensboro, has exclusionary zoning such that, in much of the town, only single-family housing can be built and on 1.3-acre lots. The move to pass state legislation to deannex part of Summerfield in order to permit the construction of new housing follows years of formal requests to loosen said restrictions and even an acknowledgment from Summerfield government officials that their zoning policies need to change.

Summerfield's Town Lawyer warned the Town Board in 2021 that its exclusionary zoning practices invite Fair Housing Act litigation. "If you want to avoid potential liability, create

options in your ordinance that will allow affordable housing somewhere in Summerfield,” the Town Lawyer advised. “You don’t even have to identify where right now,” Summerfield’s lawyer added. “All you have to do is create the zoning framework that would allow some developer to come in and say, ‘You know what, I would like to put more dense housing’.” Summerfield officials declined to take that advice.

Insufficient housing supply and rapidly growing housing costs are not limited to Summerfield and the surrounding area. A Cato Institute study released in December 2022 highlighted how North Carolina’s population growth has been exceeding the rate of new housing construction. While restrictive local zoning impedes housing supply growth in many other parts of the state, the need to rectify the matter is particularly imperative in Greensboro and the surrounding region, often referred to as the Triad.

Greensboro, which abuts Summerfield, ranked number one in the nation last year for largest increase in rental costs, with rent for a one-bedroom apartment in Greensboro jumping 74% in one year. Toyota, Boom Supersonic, Publix, and others are investing billions in the region on new production and distribution facilities that will bring in thousands of well-paid workers. The desire to ensure these workers and their families have access to affordable housing, coupled with local officials’ refusal to remove or ease regulatory impediments to the development of more housing, has led state legislators in Raleigh to conclude they must act.

Boom Supersonic is investing half of a billion dollars to build a supersonic jet manufacturing facility located 11 minutes from Summerfield by car. This facility will employ more than 2,000 people. Toyota is spending \$3.4 billion to build a lithium battery manufacturing plant located 35 minutes from Summerfield. That battery plant, which will be Toyota’s first in North America, is projected to employ 3,875 people. Publix, meanwhile, is spending \$400 million to build a more than two million square foot distribution complex nearby that will supply grocery stores throughout North Carolina and Virginia. That project will create 1,000 new jobs.

The significant economic development occurring in the region and the need it creates for additional housing has not caused members of the Summerfield Town Board to change course. After initially proposing a new apartment complex with 1,161 units in 2021, a developer scaled back his proposal to a 600-unit project. The Town Board rejected that proposal in a vote held on February 22. Senate President Pro Tempore Phil Berger (R) explained in a statement why continued local level intransigence is now prompting a state legislative response:

"I don't know if the plans submitted by a local developer should or should not be approved by the local board," Senator Berger stated. "What I do know is the Triad is attracting billions of dollars in new economic development and as our area continues to grow, additional housing is urgently needed so the nurses, teachers, first responders, and construction workers our area relies on can live in the communities they serve."

A move by the General Assembly to deannex part of Summerfield is sure to be met with vehement resistance from local officials. “It would be a great injustice and set a dangerous precedent for our General Assembly to ignore the local elected officials and make such a change to our town,” says Summerfield Mayor Tim Sessoms.

Aside from the way in which they increase housing costs and depress supply, critics of Summerfield's local zoning regulations contend the restrictions also jeopardize environmental health and public safety. With approximately 12,000 residents, Summerfield is the most populous North Carolina town without any water or sewer infrastructure. In fact, it's the largest town in North Carolina, South Carolina, and Virginia to be fully on septic systems. As they have done in the past, Summerfield officials are again using this as an excuse to block proposed housing development.

"The town has neither a water nor a sewer system to support over three times the density our development ordinances currently allow," Mayor Sessoms wrote in a public letter released March 9, which explains his rejection of the aforementioned development. "Summerfield doesn't have the infrastructure to address the burden that the proposed density would place on our already overcrowded schools and congested roadways."

Yet the developer of the recently-rejected 600-unit project would've installed the needed water and sewer infrastructure in Summerfield. Summerfield officials have declined proposed sewer and water infrastructure investment in the past. This lack of water infrastructure has been used as a reason to oppose development and growth for years.

David Couch, owner of the land proposed for development, said in a statement that "the Summerfield Town Council has adopted zoning policies that have served to exclude residents of modest means, and they've done so with great effect."

"The Greensboro and Guilford County area ranked number one in the country last year in rental increases," Couch added. "We desperately need more housing supply, especially with the successful job recruitment efforts by many, and the billions of dollars in economic development in the immediate vicinity."

Couch and other critics of Summerfield officials' aversion to development contend that keeping 12,000 people exclusively on private septic systems, in addition to making housing more expensive, poses as risk to environmental health because such septic systems can leach into local water supplies. Aside from the environmental risks that stem from a lack of water infrastructure, there are also increased risks to public safety. That's because firefighting capability is diminished when there is no local water infrastructure system for first responders to utilize.

Summerfield Fire Department Chief Chris Johnson tells this author that a water infrastructure system would allow his department to more effectively respond to emergencies. "If we had a hydrant system, we would have more people doing the actual firefighting and fewer people pulled away to work on securing a positive water source," Chief Johnson says.

Mayor Sessoms says efforts are underway to bring water infrastructure to his town. "Summerfield has been and is working on a plan for water for the future of our town," he wrote in an email to this author. Asked when his plan is projected to have a water infrastructure system operational in Summerfield, Mayor Sessoms did not respond.

North Carolina may move forward with a bill to take the Summerfield Town Council out of the equation on whether to approve new housing on a large swath of property that's currently in the town's jurisdiction. Many believe the state should go further. Senate Majority Leader Paul Newton (R), for example, introduced legislation in the previous session that would preempt local zoning in North Carolina that restricts the development of additional housing.

"This is a supply problem created directly by government," Senator Newton said during a December 8 event on housing policy hosted by the John Locke Foundation, a Raleigh-based think tank. Newton added that "the private sector will address this if we unleash it."

State lawmakers and governors in other states have proposed reforms similar to what Newton has called for in North Carolina. Montana Governor Greg Gianforte (R), for example, is one of the most vocal proponents of state legislation preempting local zoning restrictions that impede growth in the housing supply.

"Strict zoning and other housing supply regulations are really a wet blanket on construction, on responsible development. They increase costs and limit supply," Governor Gianforte told members of his housing task force last year. "We've got to get government out of the way, where we responsibly and safely can. We need regulations for public safety and to protect the environment, but in other areas we need to figure out how to streamline."

Exorbitant and rising housing costs are wreaking havoc on family budgets across the U.S. and pricing many out of the housing market, so much so that the issue has garnered significant national media attention over the past year. The New York Times, for example, published a widely discussed September article pondering what happened to the starter home. Prior to that, the New York Times published an article last July documenting how the housing crisis is no longer limited to the coasts.

"It's arguably the worst time ever to rent an apartment in Manhattan at the same time that home-buying affordability in metros like Austin is the worst it's ever been," a September 20 Bloomberg analysis noted. "In mid-2020, both monthly rents and mortgage payments were cheap, but today it's the opposite."

"The cost to rent or buy a home is too expensive," Virginia Governor Glenn Youngkin (R) said in an August 2022 address to the Virginia Senate Joint Money Committee, echoing a message heard from governors and lawmakers in many other states. "We must tackle root causes behind this supply and demand mismatch; unnecessary regulations, overburdensome and inefficient local governments, restrictive zoning policies, and an ideology of fighting tooth and nail against any new development."

Reining in high housing costs will remain among the top priorities for governors and lawmakers in many states for the foreseeable future. As has been demonstrated, partisan affiliations and ideological inclinations don't indicate a governor's or lawmaker's preference on this matter, contrary to the case in many other issue areas. The debate over local zoning restrictions and whether state lawmakers should override them is not going anywhere. In fact, it's likely to escalate, producing unconventional political coalitions in the process.