

DUPLEX REFORM WOULD ASSIST HOUSING AFFORDABILITY IN NEBRASKA

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LB 1165, Provide requirements for zoning regulations and duplex housing

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Chairperson McKinney, Vice Chairperson Hunt, and members of the Urban Affairs Committee, thank you for allowing me to offer informational testimony relating to Legislative Bill 1165 about allowing duplexes in areas zoned for single-family homes. I am Charles Gardner, and I am a research fellow at the Mercatus Center at George Mason University. I study housing policy and affordability across the country and how reforms like those proposed in this bill have affected housing market outcomes.

HOUSING AFFORDABILITY AND DUPLEXES

Legislative Bill 1165 would give property owners across Nebraska the right to build two homes anywhere that local zoning rules currently allow only one. Allowing duplexes to be built where currently only single-family homes are permitted is a market-driven approach to improving affordability. Although Nebraska cities have allowed mid- or high-rise multifamily housing to be built in certain areas, they have generally frozen development in built-out neighborhoods that are zoned exclusively for single-family housing. In Omaha, for example, approximately 80 percent of residential land allows only single-family homes.¹

Omaha and other Nebraska cities have not yet seen the same degree of redevelopment pressure in these older, built-out neighborhoods that certain other cities such as Nashville and Houston have experienced. Relaxing these zoning constraints would help ensure that when these pressures become acute, they will result in an increase in the number of homes, with those homes offered at fairly reasonable prices.² Where

¹ Savannah Behrends, "Suburban Zoning Codes: Modifications Could Accelerate Number of Units," *Midlands Business Journal*, September 1, 2023. <https://mbj.com/suburban-zoning-codes-modifications-could-accelerate-number-of-units/>

² As in many other American states, housing prices have increased rapidly in Nebraska in recent years. See Nate Kauffman and John McCoy, "Nebraska Home Prices Surging Amid Strong Demand and Limited Supply," Federal Reserve Bank of Kansas City, January 13, 2022. <https://www.kansascityfed.org/omaha/nebraska-economist/Nebraska-Home-Prices-Surging-Amid-Strong-Demand-and-Limited-Supply/>

greater density is not allowed in a high-demand area, such as in Arlington, Virginia, many older single-family houses are simply replaced by larger single-family homes sold at prices affordable only to the wealthiest residents.³

The examples of Nashville and Houston also point to the importance of allowing duplexes to be built as two detached units rather than solely as two units within the same structure. Allowing flexibility in how two units may be situated on the same lot has, in Nashville's case, encouraged creative and efficient architectural design, the re-use and improvement of neglected alleys, and the offering of homes for sale as well as for rent, thereby increasing opportunities for homeownership.⁴

Legislation concerning accessory dwelling units (ADUs) and legislation concerning duplexes frequently have overlapping provisions that may not always clearly harmonize. In the case of Legislative Bill 1165 and Legislative Bill 1166, were both bills passed and enacted, it appears that any lot allowing a single-family home would be entitled to build a second unit as well as an ADU. Cities that have reformed their land-use regulations to allow three units where they had formerly allowed one, such as Houston, have seen particularly significant increases in infill housing production, while keeping homes affordable.⁵

THE STATE ROLE IN ALLOWING DUPLEXES AND ADUS TO BE BUILT

Local government authority to regulate housing density is based upon the state-granted power to protect health, safety, and the general welfare.⁶ The effects of local rules that prevent homes from being built in one locality are not confined to that locality, however, but spill over to the next. Local land-use regulations that limit population growth, economic growth, and income mobility within one municipality limit growth and opportunity for the state as a whole.

When local authority is employed in a manner that interferes with state housing goals and the urgent housing needs of state residents, lawmakers have the responsibility to consider interventions tailored to advancing the welfare of all state residents. Legalizing ADUs and duplexes are two proven means of providing greater housing choice and allowing for a more abundant and flexible housing supply of affordable housing options.

³ Jeff Clabaugh, "Want a House in Arlington? \$1.3 million Should Do," WTOP News, January 17, 2022. <https://wtop.com/business-finance/2022/01/want-a-house-in-arlington-1-3-million-should-do/>

⁴ Mark Kelly, "Why the Tall-skinny Is So Popular in Nashville," WKRN, August 24, 2023. <https://www.wkrn.com/special-reports/why-the-tall-skinny-is-so-popular-in-nashville/>

⁵ Houston, which in 1998 cut the minimum lot size in certain areas by more than a third, has in recent years been the second most affordable of ten major sunbelt metropolitan areas in terms of cost alone, and the most affordable when adjusted for income. See Emily Hamilton, "Learning from Houston's Townhouse Reforms" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, April 2023). <https://www.mercatus.org/research/policy-briefs/learning-houstons-townhouse-reforms>

⁶ See Nebraska Revised Statute § 19-901.