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Keeping North Carolina's Housing Affordable

A Free Market Solution

BY MICHAEL TANNER

EXECUTIVE SUMMARY

North Carolina is struggling to keep housing affordable. The state's population growth now exceeds the production of housing. The result has been rising housing prices and economic strain for North Carolinians. Since 2010, the price of a house has increased by 31.5 percent, while rents have risen by 14.6 percent. The average fair market rent, which represents the 40th percentile of gross rent, for a two-bedroom apartment in North Carolina now exceeds $960 per month, or more than $11,500 per year. State officials estimate that North Carolina needs 900,000 additional homes over the next decade to meet the demands of a growing population. Trends suggest that the state won't come close.

In many ways, North Carolina is beginning to resemble California at the end of the last decade or Florida in recent years. In both states, prosperity drove an increasing demand for housing that their markets failed to meet, exacerbating a scarcity in supply that could not be easily resolved.

While no single factor is responsible for North Carolina's scarcity of housing, many communities in the state have exacerbated the problem by making it difficult to build enough housing to meet growing demand. Restrictive and exclusionary zoning limits the type and amount of housing that can be built. These regulations include prohibiting multifamily housing, setting minimum lot sizes and parking requirements, mandating setbacks, and limiting the height of houses. Basic economics suggest that artificially restricting supply in the face of growing demand will lead to higher prices.

North Carolina must build more housing now to avoid even greater hardship later. To do this, the state must reduce the artificial barriers imposed by overregulating the housing market, particularly exclusionary zoning. Lawmakers at the state and local levels should move quickly to remove all forms of this practice.

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INTRODUCTION

North Carolina is one of the nation's fastest growing states, adding almost 1 million residents over the past decade, a population increase of 9.7 percent.[1] Of course, this growth is not evenly distributed. Figure 1 shows the counties that grew faster or slower than the statewide average. By 2030, the number of households in the state is expected to hit 4.7 million, up from 3.8 million in 2015.[2] Urban areas have seen the most rapid population growth—roughly 54 percent in Mecklenburg and Wake counties since 2010 and another 24 percent in 14 other urban and suburban counties.[3] There was even some growth (22 percent of the total) in rural counties, two of which, Onslow and Johnston, grew so much that they have been reclassified from rural to suburban by the state Office of Budget and Management.[4]

This growth in population has occurred during a period of solid economic growth (roughly 2.6 percent annually since 2010) that has seen the creation of almost 1 million new jobs and a 26 percent reduction in poverty rates.[5] However, the expanding population has also planted the seeds for a housing affordability crisis that could undermine these and other gains.

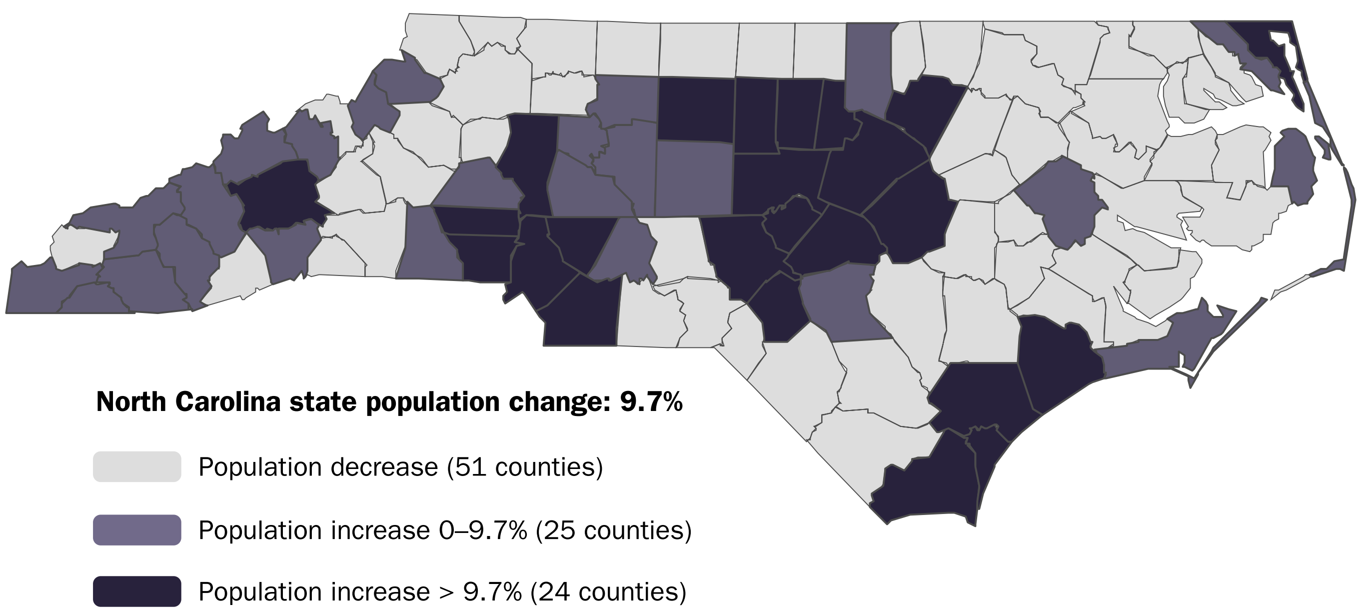
Given North Carolina's rapid growth in population, we would expect to see an increase in housing demand and concomitant increases in housing prices, even in the best-run state. North Carolina will need more than 900,000 new homes over the next decade, according to state officials.[6] Realistically, given uncertainties and the deterioration of existing housing stock, North Carolina will actually need more than a million units. These new dwellings will need to (1) include both single-family and multifamily units, (2) encompass the full range of quality and type, and (3) be in all parts of the state.

Unfortunately, new housing construction has failed to keep up with North Carolina's growing population. North Carolina once built new homes at a faster rate than its population increased. But this rate of increase has been declining since 2010. As shown in Figure 2, new housing has grown in the past decade by only 8.8 percent compared with a 9.7 percent growth in population.[7] And evidence suggests that without fundamental changes in housing policy, this trend will grow worse in coming years.

Predictably, a limited supply set against a growing demand has driven up housing prices to the point at which they have become burdensome for much of North Carolina's population. Since 2010, the inflation-adjusted price of a house has increased by 31.5 percent, while rents have risen by 14.6 percent.[8] The average fair market rent for a two-bedroom apartment in North Carolina now exceeds $960 per month, or more than $11,500 per year.[9]

Figure 1

From 2010–2020, 24 out of 100 North Carolina counties grew faster than the statewide average



Source: "Projected Population Change in North Carolina Counties: 2010–2020," North Carolina Office of State Budget and Management, updated February 1, 2022.

As Figure 3 illustrates, counties in which the population grew the most were most likely to fall short of building enough new homes to keep pace. As one would expect, this outcome has meant extremely low housing vacancy rates in those counties compared to less populous counties within the state.[10] The statewide housing vacancy rate fell as well. It was only 0.7 percent in 2021 compared with 2.5 percent a decade ago in 2011.

Rental vacancy rates have also dropped—at both the county and the state level. In 2019, Union County had a vacancy rate of 3.6 percent, which was more than 46 percent below the state average of 6.6 percent (see Figure 4). In the past two years, the statewide rental vacancy rate has fallen to 5.3 percent.[11] It is noteworthy that rental vacancies are not evenly spread throughout the entire state; counties such as Durham and Union, where fewer units are available for rent, face the most severe difficulties.[12]

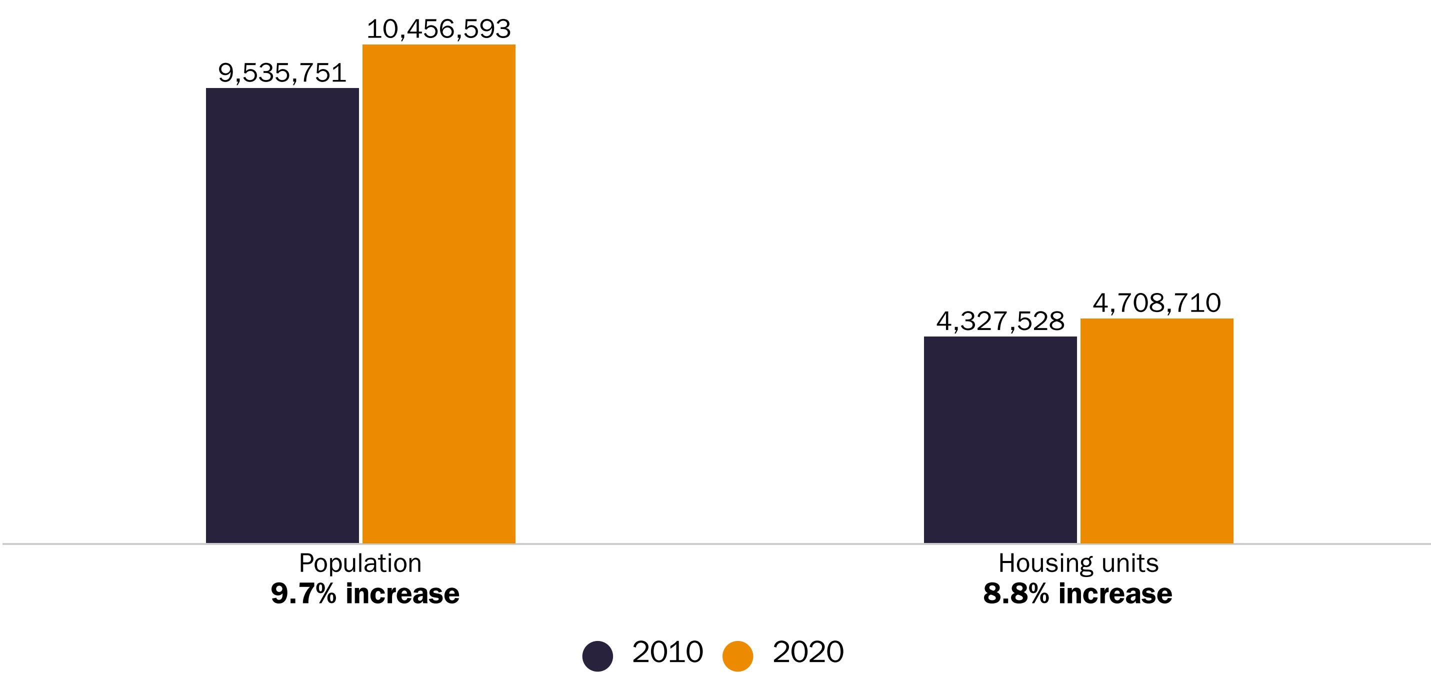
In many ways, North Carolina is beginning to resemble California at the end of the last decade or Florida in recent years. In both states, prosperity drove an increasing need for housing that their markets failed to meet, eventually augmenting a scarcity in housing to the extent that it could not be quickly or easily addressed.[13] In addition, the housing markets in both states reflected the sentiment that prosperous times could continue forever, even in the face of bad policy. We can now see that the states' failure to act while the sun was shining set the stage for the problems that are growing today.

Given the long-standing rule of thumb that families should spend no more than 30 percent of their income on housing, a worker would need to earn $18.46 per hour to afford a two-bedroom apartment in North Carolina today.[14] These numbers reflect the situation statewide—rents are far higher in urban and suburban areas. As a result, roughly one-quarter of North Carolina renters are "rent burdened," which means that they are paying more than 30 percent of their income in rent.[15] And while rent burden is obviously more likely to affect low-income families, high rents can burden the middle class as well. The National Low Income Housing Coalition classifies 14 percent of middle-income families as rent burdened.[16] Figure 5 shows the percent of the population that is rent-burdened in selected counties in North Carolina.

While 35 percent of North Carolinians (some 1.3 million households) rent, nearly two-thirds of North Carolina households own their own home.[17] And homeowners are being buffeted by the same rising prices faced by renters.[18] The average house in North Carolina sold for $546,140 in the

Figure 2

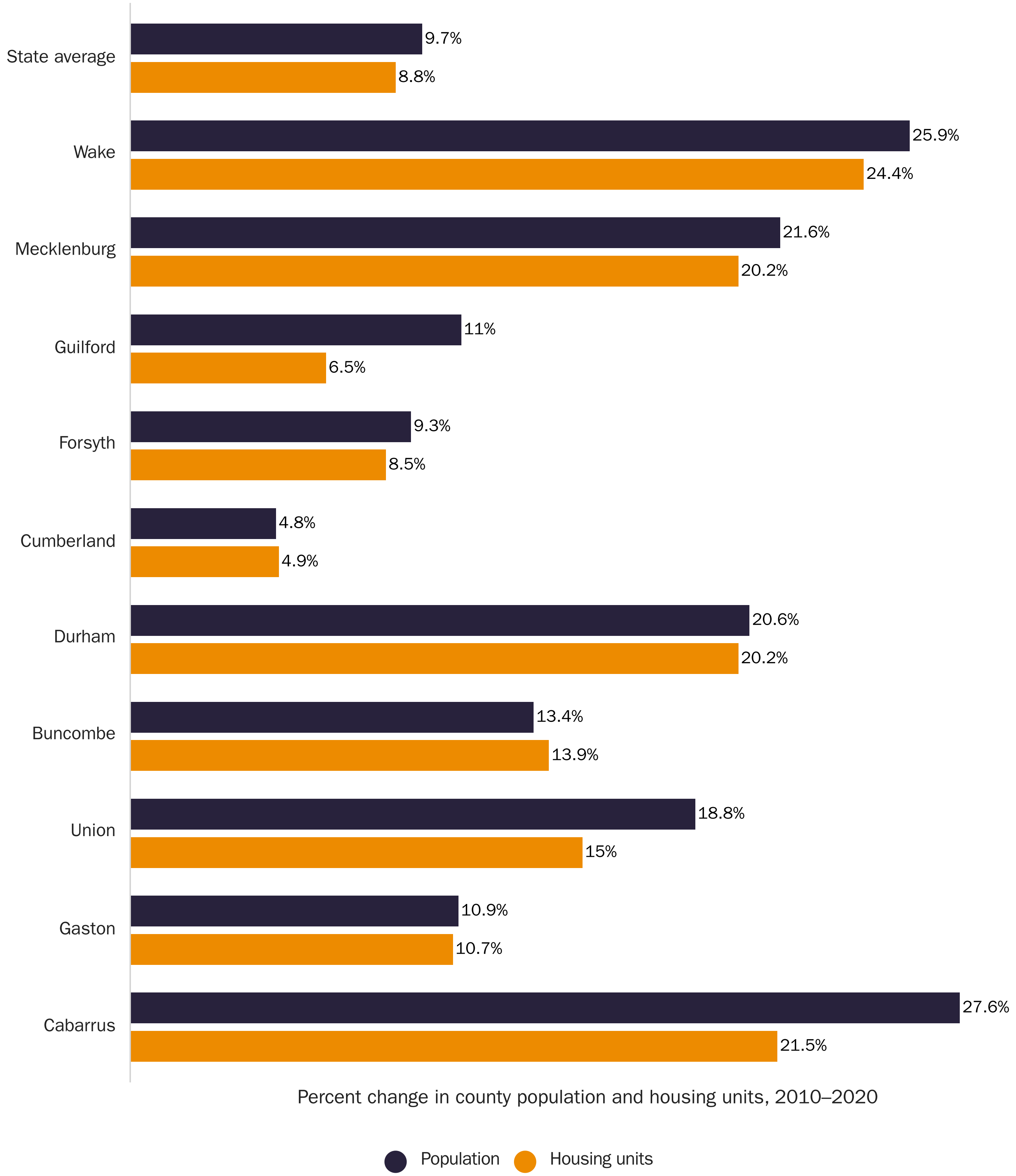
From 2010–2020, both population and housing units have increased in North Carolina statewide



Sources: "County/State Population Projections," North Carolina Office of State Budget and Management, updated February 15, 2022; America Counts Staff, "North Carolina Gained around 900,000 People Last Decade," U.S. Census Bureau, last revised October 8, 2021; and *2010 Census: Population and Housing Unit Counts* (Washington: U.S. Census Bureau, 2012).

Figure 3

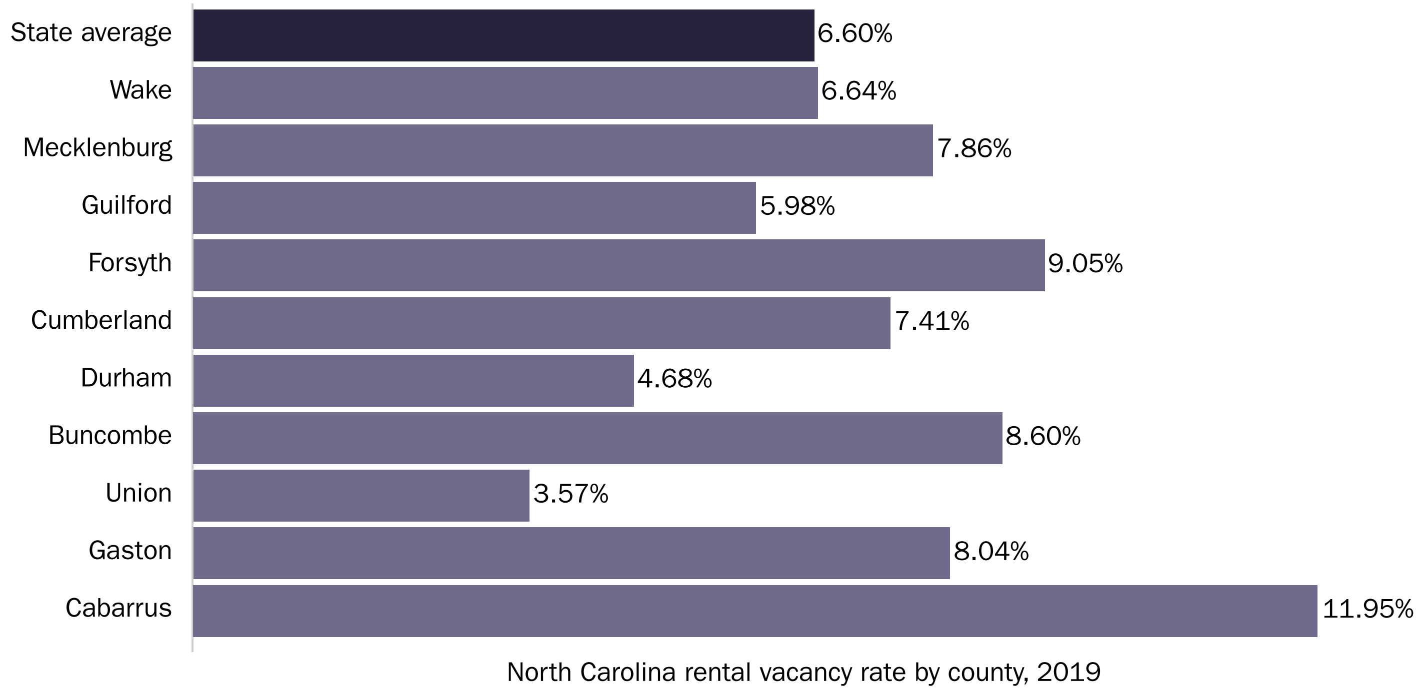
Housing units have lagged behind population in North Carolina counties experiencing the greatest population growth



Sources: "County/State Population Projections," North Carolina Office of State Budget and Management, updated February 15, 2022; America Counts Staff, "North Carolina Gained around 900,000 People Last Decade," U.S. Census Bureau, last revised October 8, 2021; and *2010 Census: Population and Housing Unit Counts* (Washington: U.S. Census Bureau, 2012).
Note: Counties are ordered from most to least populous.

Figure 4

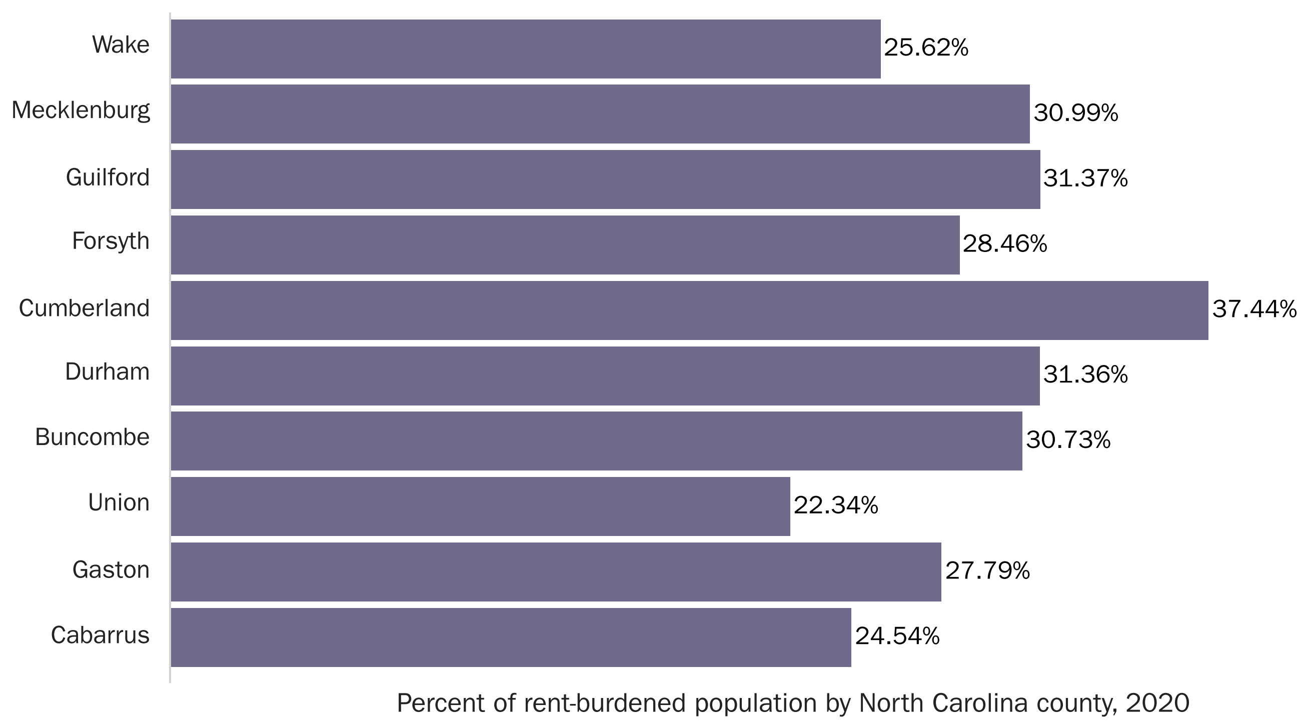
Some of North Carolina's most populous counties have rental vacancy rates near or below the statewide average



Source: "North Carolina Residential Rent and Rental Statistics," Department of Numbers, updated 2019.
Note: Counties are ordered from most to least populous.

Figure 5

A significant part of the population is rent-burdened in each of North Carolina's 10 most populous counties



Source: "Burdened Households by Counties, Annual: North Carolina," Federal Reserve Economic Data, updated 2020.
Note: Counties are ordered from most to least populous.

first quarter of 2022. When adjusted for inflation, the average selling price of a home statewide has risen by $176,000 since 1975 (see Figure 6).[19] While North Carolina's predicament is not a unique one, the state's rising housing costs and limiting supply can and should be corrected.

EXCLUSIONARY ZONING

No single factor is responsible for North Carolina's housing scarcity. But too many communities in the state have exacerbated the problem by making it difficult to build new housing, largely because of restrictive or exclusionary zoning regulations.

Zoning generally refers to a form of land-use regulation that restricts the type, size, design, and use of structures that can be built on certain plots of land.[20] Roughly 550 North Carolina cities and 80 counties have adopted zoning ordinances, meaning that more than 90 percent of the state's population lives in an area that has at least some zoning restrictions.[21]

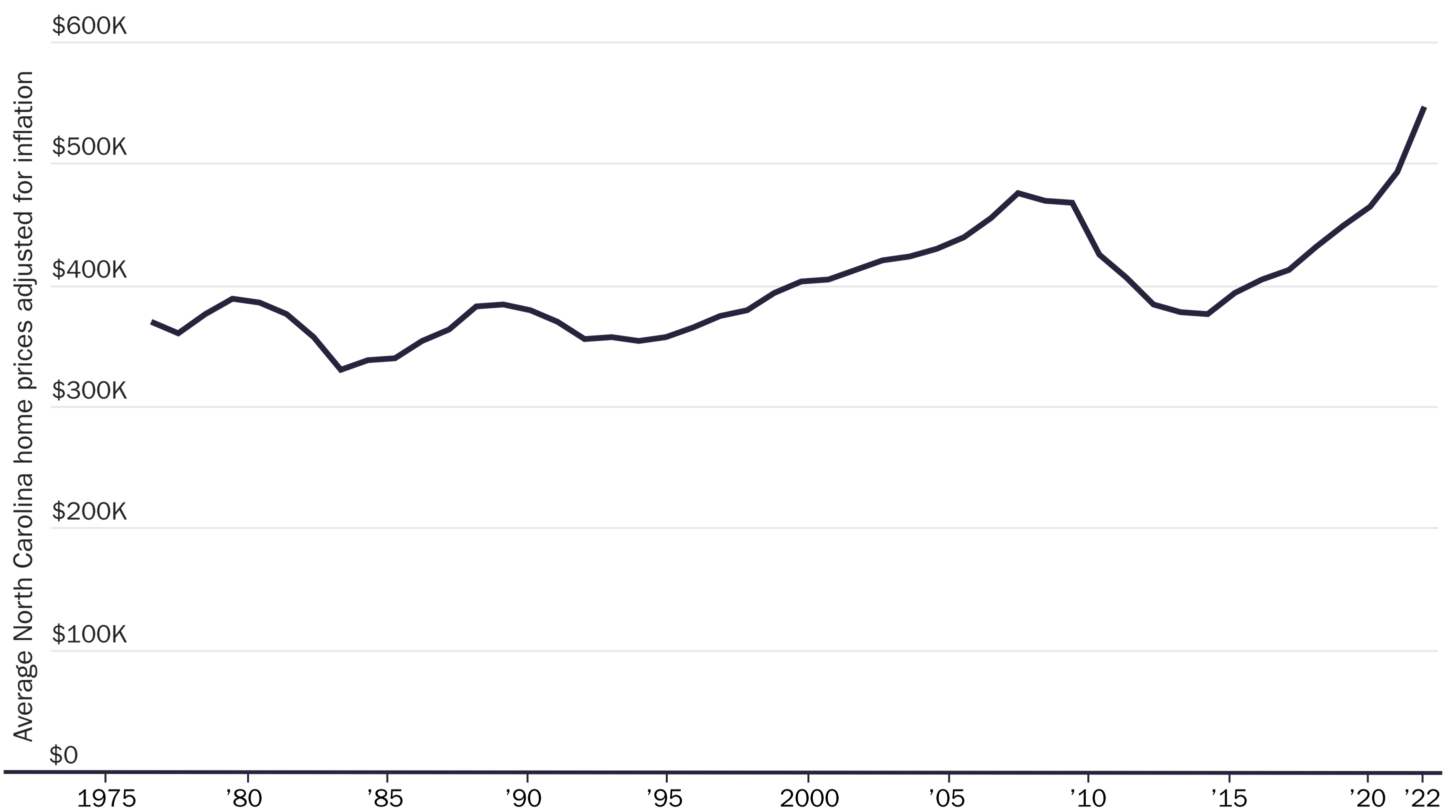
The term "exclusionary zoning," as used here, refers to the use of zoning to keep certain types of housing out of a community. And while all zoning *excludes* to some degree, some zoning is designed specifically to preserve the prevailing neighborhood character by locking out diverse housing options, and in particular, higher-density or lower-priced housing.

North Carolina's zoning has, in general, grown increasingly complex over the years. In 1958, the zoning code for a big city like Charlotte was just 20 pages. Today, Charlotte is North Carolina's largest city; it has a population of more than 903,000 and a zoning ordinance that runs 889 pages.[22] The state's second largest city of Raleigh has a population of more than 480,000 and a 418-page zoning ordinance.[23] Even a small town like Banner Elk, which has a population of 1,500, has more than a few hundred pages of rules and regulations.[24] Originally, most zoning codes divided land into three types: residential, commercial, and industrial. Today, most zoning ordinances in North Carolina divide land into a dozen or more categories.[25]

The overwhelming majority of residential land in North Carolina, especially in urban areas, is zoned as R1, which is restricted to detached single-family homes.[26] As a result,

Figure 6

Adjusted for inflation, the average selling price of a North Carolina home has risen by $176,000 since 1975



Source: Author's calculations based on "All-Transactions House Price Index for North Carolina," Federal Reserve Bank of St. Louis, updated August 30, 2022.

88 percent of residential land in Raleigh, 84 percent of residential land in Charlotte, and 84 percent of residential land in Greensboro is reserved for detached single-family homes.[27]

> "88 percent of residential land in Raleigh, 84 percent in Charlotte, and 84 percent in Greensboro is reserved for detached single-family homes."

Regardless of how an area is zoned, there are often additional restrictions, such as minimum lot sizes, minimum and maximum floor plans, height limits, setback specifications, and parking requirements. For instance, the rules for new residential construction may require each dwelling to be built on a lot of at least 10,000 square feet with a setback of at least 50 feet from the front property line and 20 feet from the rear property line. Other common restrictions include minimum lot widths and minimum and maximum street frontage. It is also common for communities to require at least two parking spaces for every bedroom unit in an apartment complex.[28] Moreover, at least since the state Supreme Court decision in 1982 (*State v. Jones*) authorized the practice, local governments have been able to consider aesthetics in zoning and planning decisions.[29]

Many communities in North Carolina also have provisions for "conditional use," which allows departures from zoning rules if certain conditions are met. For example, multifamily housing might be permitted on R1-zoned parcels but only if the lot is large enough and there is a buffer between this housing and adjacent single-family homes.[30]

Changing a zoning designation is extremely difficult, costly, and time-consuming. There must be a public hearing (with at least two public meeting notices beforehand); the planning board must perform a review; a majority of city council members must approve the rezoning; and the city council must produce a public statement that outlines why a zoning change would constitute "a public necessity."[31] Conditional-use approval also requires a public hearing. Approval is ultimately at the discretion of the local planning board or the board of adjustment.[32] While the timeline for the rezoning process varies from one jurisdiction to another because of different requirements, the process can take anywhere from a few months to a few years in the city of Raleigh.[33]

The courts are limited in their ability to affect zoning designations. There is a general legal presumption in favor of zoning rules, and North Carolina courts tend to defer to elected officials on the issue unless the application of a rule is clearly "arbitrary and capricious." One exception is "conditional use," for which the courts have occasionally weighed in on the appropriateness of the conditions.[34] Overall, however, local zoning authorities tend to have the final word. This practice and the state's restrictive zoning regulations in general have made it harder and harder to build enough housing to meet the demands of a growing North Carolina population.

EXCLUSIONARY ZONING AND THE COST OF HOUSING

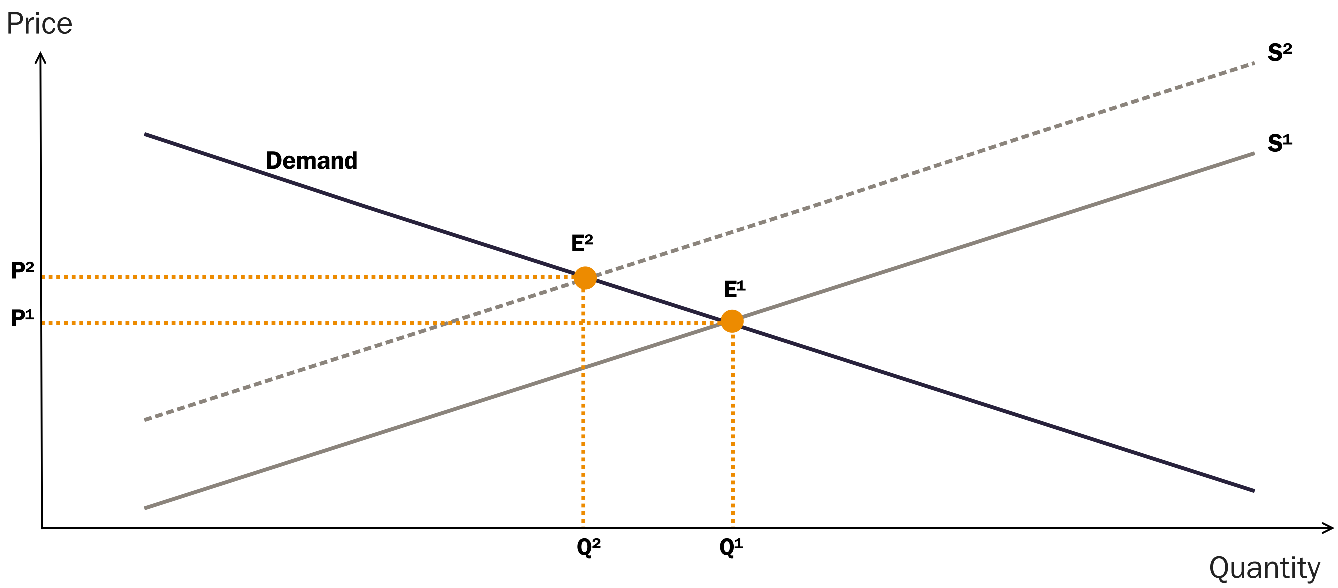
Figure 7 illustrates the basic economics of housing prices. The supply and demand curves for housing meet at point (E^1), where the quantity supplied and quantity demanded are at point (Q^1), and the price is at point (P^1). If zoning regulations were to be increased, the supply curve would shift left from S^1 to S^2, decreasing the quantity of housing to point (Q^2) while increasing the price of housing to point (P^2). The same holds true in reverse; a decrease in zoning restrictions would increase supply and reduce price.

Duke University's Michael Munger notes that in a functioning market, there are generally three responses to rising prices: (1) consumers buy or use less, (2) producers make more, or (3) entrepreneurs come up with substitutes.[35] Munger points out that exclusionary zoning practices effectively prohibit option 2 and actively discourage option 3 by blocking innovations such as accessory dwelling units (ADUs) or micro-housing.[36]

Harvard University's Edward Glaeser looks at the issue of rising prices in a slightly different way but reaches a similar conclusion. Glaeser notes that housing prices are based on three elements: (1) the value of the land, (2) the cost of construction, and (3) the value of the right to build on that piece of land.[37] All three are on the rise. Land values have risen by an average of 2.6 percent annually over the past 20 years.[38] Meanwhile, supply chain problems, lumber tariffs and other tariffs that increase the price of construction inputs, and growing demand have increased the cost of construction to

Figure 7

Increasing zoning regulations reduces housing supply, driving up the equilibrium price of housing



a 50-year high.[39] And finally, the value of the right to build on land is being driven up artificially by zoning and similar housing regulations.

The degree to which any particular zoning regulation affects housing prices is difficult to quantify. In particular, the broad variation in the type and stringency of zoning ordinances, the strictness of enforcement, construction regulations not related to zoning (such as environmental restrictions), zoning changes over time, and demand pressures on housing supply combine to make it difficult to parse the precise impact of a particular regulation on housing prices. However, the academic literature overwhelmingly concludes that restrictive zoning decreases the supply of housing, raises the cost of construction, and increases housing prices.

A study by the Cato Institute's Vanessa Brown Calder found a relationship between the stringency of zoning regulations and rising housing prices in at least 36 states. The states with the most intensive zoning regulation saw the largest impact on price.[40] The studies discussed below yielded similar results.

A study by Jonathan Rothwell for the Brookings Institution found that exclusionary zoning accounts for as much as 20 percent of the variation in housing growth in metropolitan areas, leading to a significant spike in housing prices in cities with stricter zoning when demand increases.[41] John Quigley and Stephen Raphael's study of California's housing market in the *American Economic Review* found that every new zoning or land-use restriction increased the price of owner-occupied housing by 4.5 percent and rental prices by 2.3 percent.[42] Kristofer Jackson also looked at California's housing markets from 1970 to 1995 and found that each additional regulation reduced permits not only for new residential construction by roughly 4 percent annually but also for multifamily dwellings by as much as 6 percent.[43] The result was an overall decline in the total housing stock and an associated increase in housing prices. Similarly, a study by the California Legislative Analyst's Office found that each additional zoning requirement or restriction added 3 to 5 percent to the price of a home in California.[44] And a study by Glaeser and others estimated that in some locations, such as San Francisco and Manhattan, zoning added as much as 50 percent to the price of a home.[45]

Moreover, the experience in deregulated housing markets also suggests that zoning drives up housing prices. The price elasticity of housing supply measures the change in the quantity of housing in response to a change in housing prices. A more elastic housing supply means that the quantity of housing supplied adjusts well to changes in price. That is, the more elastic the supply of housing is, the more that builders will respond to increased prices by building more homes.

For example, in Houston, which does not have the traditional zoning categories seen throughout the United States, the average elasticity in housing supply was 0.42 from 1996 to 2016, almost 2.5 times the national average of 0.17.[46] This means that a 1 percent increase in the price of housing in

Houston resulted in an increase in the quantity of housing supplied by 0.42 percent, whereas the same increase in the price of housing nationwide increased the quantity of housing by only 0.17 percent. Even in Houston, the supply of housing is relatively inelastic because a 1 percent increase in the price resulted in less than a 1 percent increase in the quantity of housing supplied. However, because the supply of housing in Houston was not encumbered by traditional zoning or other land-use restrictions as much as it was in other cities in the United States, it was *more* elastic there than elsewhere. As a result, Houston's housing supply has increased steadily as the city's population increased from 1.6 million in 1980 to 2.3 million in 2020.[47] In fact, a comparison of Houston with Charlotte—the largest cities in their respective states—shows that housing prices in Charlotte were 4.5 times higher in 2020 than they were in 1980, whereas housing prices in Houston were just 3.2 times higher over the same period.[48] There is little doubt that zoning was and continues to be an important factor behind the state's rising price of housing.

EXCLUSIONARY ZONING AND RACE

No meaningful discussion of exclusionary zoning can ignore the ways in which this practice has been influenced by the history of racial segregation in the United States.

Although the country's very first zoning law was enacted in Los Angeles in 1908 with the intent of dividing residential from industrial areas of the city, it wasn't long before many cities found that such ordinances could be used to enforce the separation of the races.[49] It is likely that the first race-based zoning ordinance was enacted in Baltimore in 1910, where among other provisions, the city's zoning ordinance prohibited people of one race from purchasing a home or renting an apartment on a block in which the majority of residents were of a different race. The ordinance also required builders to specify as part of the application process what race would be allowed to purchase property.[50] In signing the law, Mayor J. Barry Mahool claimed that it was needed to "reduce the incidence of civil disturbances, to prevent the spread of communicable diseases into nearby White neighborhoods, and to *protect property values* among the White majority."[51]

Baltimore's innovation was quickly imitated in Richmond, Virginia, and Birmingham, Alabama, and then throughout the South. As one historian put it, "Racial zoning in the Southern cities was as much a foundation for overall land use regulations as were regulation of the garment industry in New York City or encroaching industrial uses in Los Angeles."[52]

> "While the timeline for the rezoning process varies from one jurisdiction to another, the process can take anywhere from a few months to a few years."

Among the North Carolina localities that followed Baltimore's lead were Mooresville and Winston-Salem in 1912 and Greensboro in 1914. Mooresville's Ordinance 62 not only prohibited African Americans from living in certain parts of town but also imposed a $50 fine on any African American who attempted to buy property or live in a majority white area. Winston-Salem's restrictions applied to both black and white residents, prohibiting both races from living in areas where they were not already the majority race.[53] Greensboro barred black people from living in or opening a business in white-designated areas.

The courts, however, took a more skeptical view of race-based zoning, and in *Buchanan v. Warley*, the Supreme Court in 1917 struck down such laws, holding that race was an insufficient reason for violating the right to contract.[54] Yet many local governments remained determined to enforce racial segregation through zoning and land-use regulations. In 1930, for instance, Winston-Salem simply passed a new ordinance decreeing racial separation in housing in defiance of the Court's precedent.[55] That law remained in effect until it was struck down in 1940 by the North Carolina Supreme Court in *Clinard v. Winston-Salem*.[56]

Despite efforts to sustain segregation, the era of legally sanctioned and explicitly racial restrictive zoning was relatively short lived. But zoning remained an important tool in the segregationists' arsenal. By 1930, more than a dozen localities had enacted some form of zoning regulation, and though none were as explicit as Winston-Salem's ordinance, most took some steps to enforce racial segregation.[57] These restrictions were often neutral on their face, limiting the types of housing in white areas and driving up prices in ways that made it difficult for African American families to afford. This was not, however, an unfortunate side effect; it was a deliberate policy with the specific goal of making housing in white areas so expensive that people of color could not afford to live there.

> "Even after the Fair Housing Act of 1968 was passed, communities in North Carolina continued to use exclusionary zoning that made it difficult for black families."

Even after the Fair Housing Act of 1968 was passed, communities in North Carolina continued to use exclusionary zoning that made it difficult for black families to live in majority white neighborhoods. For example, a study of zoning in Durham found that down-zoning, which makes new construction more restrictive, was disproportionately likely to occur in white areas, while up-zoning, which makes new construction less restrictive, was far more likely to occur in black areas. In addition, more than 80 percent of Durham's public housing was located in majority black areas of the city at the time of the study.[58]

Few of those arguing against zoning reform today are motivated by racial animus or a desire to keep their neighborhoods segregated, and explicitly racial zoning is a thing of the past. However, many communities in North Carolina remain overwhelmingly monoracial. From its analysis of 2020 census data, the Othering and Belonging Institute at the University of California at Berkeley categorized the cities of Charlotte, Greensboro, Raleigh, and Winston-Salem as being highly segregated (though this analysis does not correct for income- or class-based housing patterns).[59] Exclusionary zoning may be able to explain some of the continued racial housing patterns.

Many neighborhoods may have developed their demographic makeup when minority entry into some neighborhoods was prevented by law or custom. The nature of these communities—single-family homes on large lots with parking and other zoning-mandated limitations—make the houses there more expensive than they would otherwise be. This effectively keeps out many poorer, demographically diverse families.

As Cato's Calder explains:

> Take the example of a low-income-household head who would like to find housing near city amenities, like quality schools and park space. He or she knows that nothing is available in high-amenity geographies; as a consequence of regulation, apartment buildings are prohibited in his or her neighborhood of choice. Ostensibly, without the hindrance of the zoning law, an opportunistic private developer would find it profitable to build multifamily housing in this area. A free market would both provide more choices for housing and result in more demographically balanced areas.[60]

In contrast, Calder points out that if zoning restrictions were loosened or removed, "Over time, a natural mixing of development will occur via free-market exchanges, allowing greater choice in housing for people of all backgrounds."

THE ECONOMIC CONSEQUENCES OF EXCLUSIONARY ZONING

By driving up housing prices, exclusionary zoning imposes consequences on North Carolinians that extend far beyond the boundaries of the local jurisdictions that create those regulations. For instance, the state's economic growth is slower than it might otherwise be. Poverty is more concentrated and more difficult to escape. And landlord-tenant relationships are disrupted. Exclusionary zoning also imposes environmental costs and can benefit newcomers to the state at the expense of native North Carolinians. In short, the consequences of exclusionary zoning are vast and costly.

Fewer Jobs and Slower Economic Growth

When deciding where to locate a business, employers consider a wide range of factors. North Carolina's relatively low taxes and business-friendly regulatory climate undoubtedly attract businesses to the state. But other factors matter as well, such as reliable infrastructure, an educated workforce, and the quality of life. And an adequate, affordable supply of housing is becoming an increasingly important consideration for employers in deciding where to locate.

For example, a survey of 471 local small businesses in western North Carolina found that affordable housing was one of their biggest concerns. According to Mountain BizWorks, which conducted the survey, "An affordability crisis is squeezing local businesses. Across the region, respondents shared a pressing need for more affordable housing. Local businesses directly connected this issue to the challenges of being able to find workers and pay living wages."[61]

National surveys have yielded similar conclusions. One survey of 300 medium to large employers found that two-thirds of them believed that a lack of affordable housing in their communities had made it harder for them to recruit and retain entry- and mid-level employees. More than half indicated that they had lost their current employees because of long commuting times.[62] And state-level surveys from California and Florida have shown similar results.[63]

> "A lack of affordable housing in their communities had made it harder for businesses to recruit and retain entry- and mid-level employees."

As Brian Leary, chief operating officer at Highwoods Properties in Raleigh, told the North Carolina Chamber of Commerce at its most recent Economic Forecast Forum, "It's not just a housing issue, it's an access to talent issue . . . talent needs to be able to live near where they work." Several studies have shown a strong correlation between rising housing prices and slower economic growth. In their 2018 study, Harvard's Edward Glaeser and the University of Pennsylvania's Joseph Gyourko found that the population in cities with highly regulated housing supplies grows more slowly. The authors reported that substantial portions of the labor forces have elected to move from these highly regulated metropolitan areas to cities in which housing prices and wages are lower.[64] In 2019, Chang-Tai Hsieh and Enrico Moretti noted that despite a demand for labor, constraints on the supply of housing limit employment growth and can lead to negative economic outcomes for the United States as a whole.[65]

Given the findings from the preceding studies, it is unlikely that North Carolina can maintain its current economic growth if housing becomes increasingly scarce.

Poverty and Homelessness

North Carolina's lack of affordable housing is also making it harder for thousands of the state's most vulnerable residents to climb out of poverty.

Rising housing prices affect low-income North Carolinians in several ways. First, and most obviously, high housing prices put an enormous strain on limited budgets: 86 percent of extremely low-income families are cost burdened, which means that they spend more than 30 percent of their income on housing, 69 percent are severely cost burdened, which means that they spend more than half their income on housing; 75 percent of very low-income families are cost burdened, and 28 percent are severely burdened; and 43 percent of low-income families are cost burdened, and 5 percent are severely burdened (see Figure 8).[66]

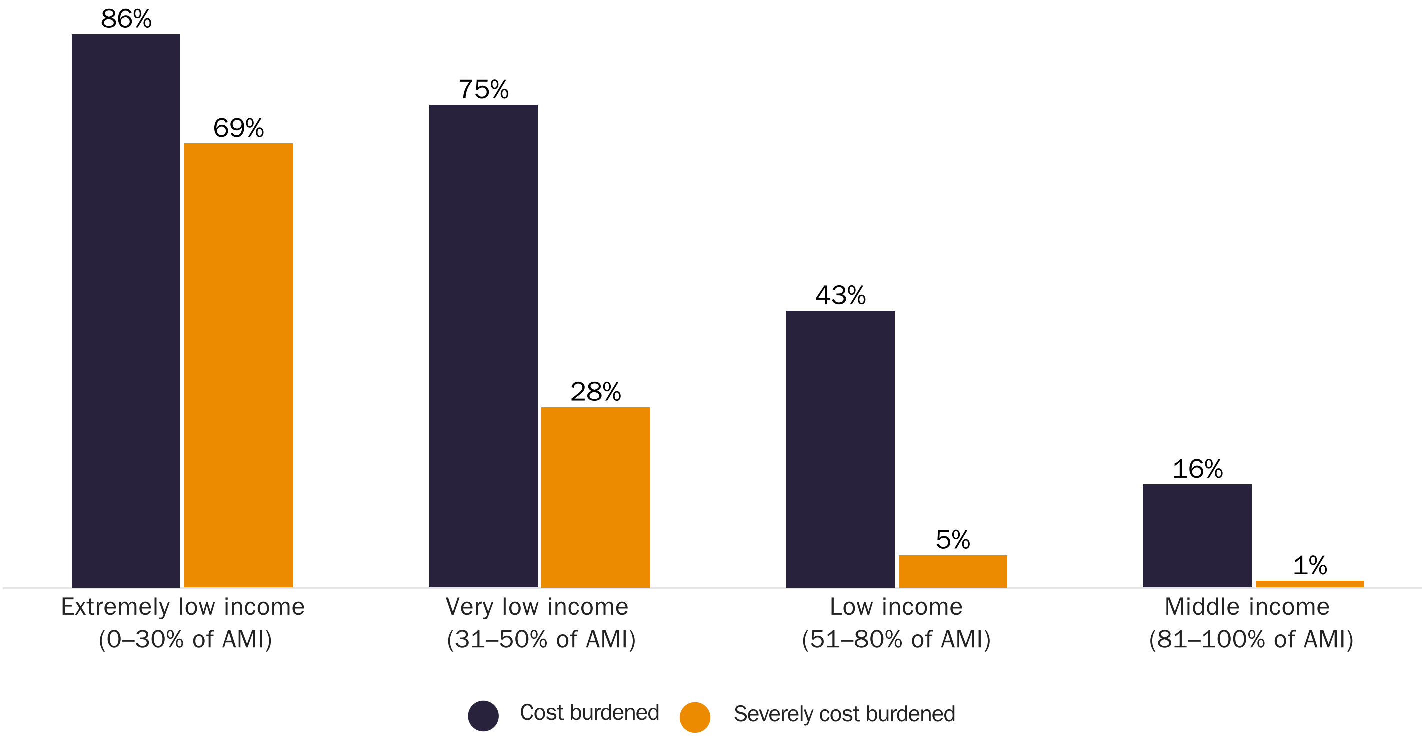
Common sense tells us that a home in a safe neighborhood with good schools and close proximity to employment opportunities can serve as a springboard for economic success. On the other hand, a lack of affordable housing can confine poor families to dangerous neighborhoods with substandard schools and few jobs or other economic opportunities.

Harvard's Raj Chetty, Nathanial Hendren, and Lawrence Katz, for example, used a randomized voucher lottery to analyze the impact of a family moving to a better neighborhood on childhood development. The researchers found that children whose families moved before they were teenagers into low-poverty areas away from housing projects went on to earn 31 percent more later in life than children in comparison families that remained in high-poverty areas. Beyond higher earnings, children in families that moved saw a wide range of other positive outcomes. They were more likely to attend college, less likely to be single parents, and more likely to live in better neighborhoods when they grew up and left home.[67]

Rising rents also make housing more unstable for low-income North Carolinians. Low-income families move far more frequently than higher-income families, driven by eviction, changes in family circumstances, or unsuitable living conditions. An analysis of data from the American Housing Survey found that 55 percent of children in low-income families move every year compared to 31 percent in higher-income families. The analysis also found that more than 20 percent of low-income families move at least six times in six years.[68] This lack of stability can make it much harder for workers to keep their jobs. A study by Harvard's

Figure 8

Low-income groups are disproportionately affected by high housing costs



Source: "Housing Needs by State: North Carolina," National Low Income Housing Coalition.
Note: AMI = Area Median Income.

Matthew Desmond and Carl Gershenson found that workers who had been forced to move were 11 to 22 percent more likely to lose their jobs.[69] And a study in Milwaukee found an even larger impact: workers who lost their housing were 20 percent more likely to subsequently lose their jobs.[70]

Children suffer the consequences of housing instability as well in that uprooting them from their schools makes learning more difficult. As Heather Sandstrom and Sandra Huert at the Urban Institute concluded from their study, "Children experiencing residential instability demonstrate worse academic and social outcomes than their residentially-stable peers, such as lower vocabulary skills, problem behaviors, grade retention, increased high school drop-out rates, and lower adult education attainment. . . . Residential instability is related to poor social outcomes across age groups." Because residential instability is so closely connected to economic, employment, and family instability, it is not possible to calculate the effect of residential instability alone on the academic and behavioral outcomes of children.[71] However, when the aforementioned Harvard and Urban Institute findings are considered in tandem, it is clear that stable housing environments in highly rated neighborhoods have a positive effect on the educational and social outcomes of children.

The lack of affordable housing may also be a factor in North Carolina's homelessness problem. On any given day, more than 9,000 North Carolina residents are homeless. In terms of gross homeless population, North Carolina ranks 14th in the nation.[72] While the state has made progress over the past decade in reducing homelessness, those numbers are beginning to tick upward again in the wake of the pandemic.[73]

Many, if not most, homeless adults have mental illness or substance abuse problems, but evidence also suggests that many others have simply fallen to the street because they could not find affordable housing. The fact that so many North Carolinians at the bottom of the income scale are severely rent burdened means that any temporary financial crisis or loss of income—a lost job, an illness, a family emergency—could leave them without realistic housing options. According to the White House Council of Economic Advisers, every 1 percent increase in median rent results in a 1 percent increase in the rate of homelessness.[74]

Worsening Landlord-Tenant Dynamics

In a functioning market, both buyers and sellers must be sensitive to the needs and desires of the other. In the case of rental housing, landlords must compete for tenants when vacancy rates are high. Not only do they have to offer lower rents, but landlords also have to keep current tenants satisfied lest they take their business elsewhere.

Obviously, the converse is true as well. When vacancy rates are low, as they are today, tenants have fewer options, and their bargaining power decreases substantially. As the U.S. Government Accountability Office notes, "Low-income renters [in particular] have fewer affordable options and, as a result, may end up in units with deficiencies out of necessity."[75]

Nor is this a situation that is likely to benefit landlords over the long run. Deteriorating rental conditions are an open invitation for greater regulatory intervention. It is much better for the market, not the state, to address such imbalances.

Environmental Concerns

Several environmental concerns are raised by the lack of affordable housing in cities and other high-employment areas, which is forcing employees to move farther and farther away from downtown cores in search of lower-priced homes. This trend has increased the commuting time for workers who must travel long distances to their jobs. Fewer than half of the workers in North Carolina are employed in the county in which they live. In 2003, 53 counties had a majority of residents who commuted to another county for work. In 2017, this number rose to 86.[76] On average, North Carolinians commute 24.5 minutes to work one way. More than 6 percent have a one-way commute of more than an hour.[77] All of this time in cars adds significantly to air pollution. Consider that every 10-mile increase in a commute dumps an additional 1.07 metric tons of carbon into the atmosphere per year.[78]

Moreover, the lack of affordable housing in the downtown core drives would-be buyers and renters farther out, increasing urban sprawl and all the environmental consequences that it brings. It can disrupt cultivated land, damage crucial wetlands, increase the contamination of groundwater, and harm endangered habitats and species.[79]

Of course, the pandemic has changed commuter dynamics. And while there is much ongoing debate about the degree to which work-from-home will continue, projections about travel and commuting must be considered when evaluating the effects of zoning policy. Still, the evidence suggests that an increase in the scarcity of housing in urban and suburban areas is not beneficial for the environment.

Displacing Native North Carolinians

Roughly 361,000 people moved to North Carolina in 2019, more than 4.3 million over the past 15 years, while 3.3 million people left the state.[80] In fact, the majority of the state's population growth in recent years has been driven by a net in-migration. Given a functioning housing market, this is a good thing because it contributes to the state's diversity and economic dynamism.

> "When vacancy rates are low, as they are today, tenants have fewer options, and their bargaining power decreases substantially."

But as mentioned, zoning is keeping the supply of housing artificially low—even in the face of this influx. This imbalance sets up a competition for scarce resources, and because many of the newcomers are in a better financial position than the locals, they are often able to bid up housing prices, forcing current residents out of the most desirable locations. As a result, in cities like Charlotte, roughly half of the residents were born outside the state.[81] Similarly, in Raleigh and Greensboro, newcomers to the state make up more than 40 percent of residents.[82]

Obviously, not everyone will find this a matter of concern. In general, people come and go, and we shouldn't worry overmuch about how this plays out. But those who do have concerns should recognize the role that exclusionary zoning plays in exacerbating the outflow of native North Carolinians.

"Taking" Property Rights

Property rights have long been recognized as essential to the American experiment in ordered liberty. At the Constitutional Convention in 1787, Alexander Hamilton noted that "one great obj[ect] of Gov[ernment] is the personal protection and security of property."[83]

Zoning, by definition, is a restriction on property rights because it prevents property owners from doing what they would like to do with *their* property. They cannot build on the property or make use of it in the way they choose. In effect, there has been a regulatory "taking" of the property or at least a partial taking even though the courts rarely recognize it as such. Moreover, this taking of property can lower the value of the property to the property owner even if it increases the price of the property.

Of course, property rights are not absolute. The law recognizes and we accept all sorts of restrictions on how we can use our property; reducing nuisances is a good example. Still, it should be recognized that eliminating exclusionary zoning expands property rights and individual liberty.

TIME FOR REFORM

The times we live in may be politically divisive, but one issue on which the majority of North Carolinians of all persuasions agree is that the Tar Heel State is facing a crisis of housing affordability. Fully 59 percent of the voters in North Carolina believe that "the lack of affordable housing is a major problem in my community," according to a poll conducted in May 2021 by Carolina Forward. Democrats (78 percent) overwhelmingly feel this way, but so do a majority (57 percent) of Independents and even a substantial minority (40 percent) of Republicans. Urban voters (75 percent), unsurprisingly, agree that it's a problem, but suburban voters (57 percent) and even rural voters (51 percent) also agree that more affordable housing is needed (see Figure 9). This geographic variation partly reflects the fact that high housing costs are objectively more of a factor in urban and suburban areas of the state, but it reflects local perceptions as well. Democrats express more concern about housing prices and are more likely to live in urban areas in comparison with Republicans, who live in more rural areas and express less concern about the issue.[84]

In response to these concerns about the cost of housing, a handful of local jurisdictions have begun to take the first tentative steps toward zoning reform. Durham, for instance, has amended its zoning code to allow duplexes and ADUs to be built citywide, including on plots zoned as R1. Durham also reduced its minimum lot size to 2,000 square feet and allowed larger lots to be subdivided into two smaller lots (front and back).[85] Raleigh also made it easier to build duplexes and townhouses in many areas of the city, moving to a by-right approval process for these types of units; under the process, authorities *must* approve an application for construction if it meets relevant zoning and other regulations.[86] Additionally, Raleigh has moved to eliminate minimum parking requirements throughout the city.[87] And Charlotte increased the maximum sidewall height for duplexes and triplexes to allow for two-story duplexes and triplexes in some lower-density neighborhoods.[88]

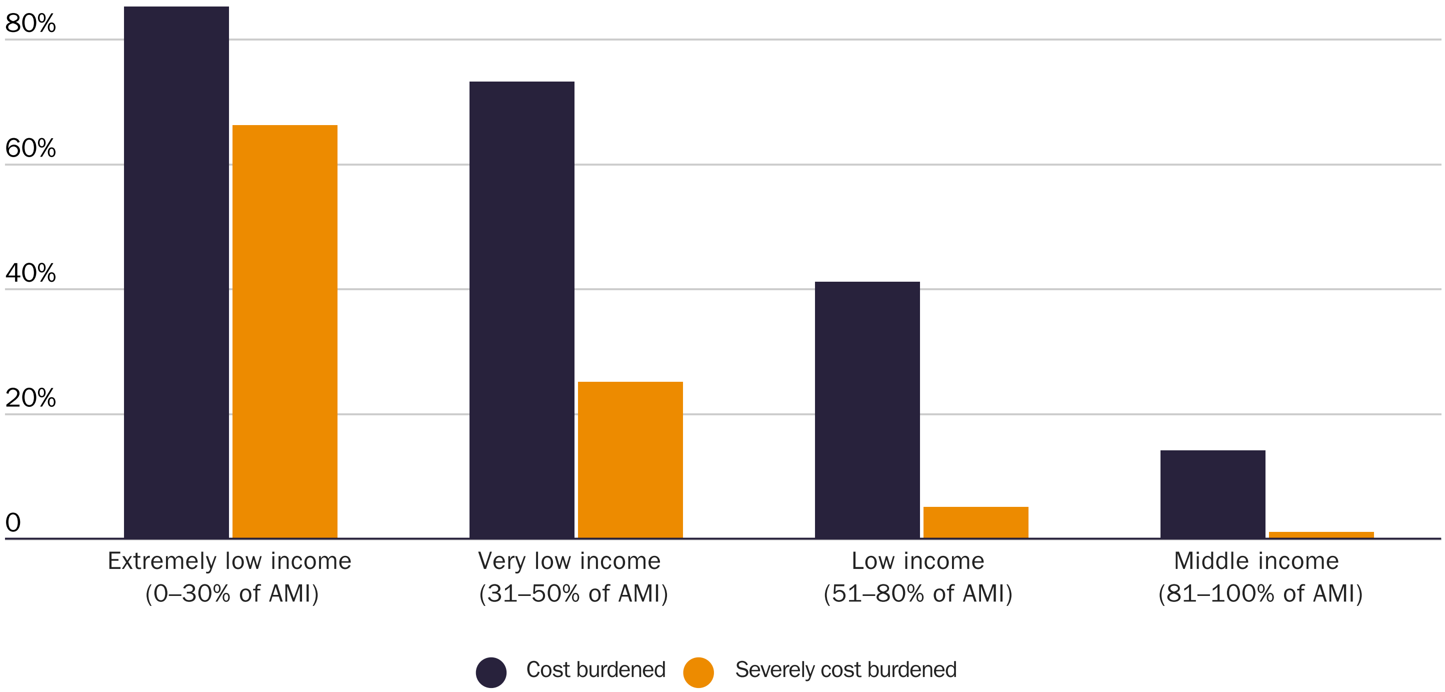
> "Zoning, by definition, is a restriction on property rights because it prevents property owners from doing what they would like to do with *their* property."

Despite these small victories, the continued resistance to zoning reform at the local level makes it necessary for the state government to act. It would be preferable, of course, if zoning reform was initiated at the local level without the intervention of the state government. In general, there should be a preference for local action over state mandates. In the same way that states can manage the conditions that are unique to them better than the federal government can, localities can generally deal with their issues and the tradeoffs involved better than the state legislature can.

However, such subsidiarity is a means to an end, not an end in itself. In this case, the "end" is an expansion of property rights, an increase in net liberty that will ultimately lead to lower housing prices. Indeed, the limits of subsidiarity are even more recognizable when it comes to property rights. As George Mason University law professor Ilya Somin writes in a paper for the University of Chicago, "Property owners are unlikely to 'vote with their feet' . . . because, if they move out, they cannot take their land with them. Exit rights are little help in protecting assets that you can't take with you when you leave."[89]

Moreover, North Carolina is generally considered a "Dillon Rule" state, meaning that local authority in North Carolina flows from the state government, though some observers and the courts have begun to suggest that

Figure 9
Housing cost burden by income group



Source: "Housing Needs By State: North Carolina," National Low Income Housing Coalition, March 12, 2021.
Note: AMI = Area Median Income.

localities have more extensive and intrinsic "home rule" authority.[90] This shift has led some to suggest that North Carolina might best be considered a semi-Dillon Rule or a quasi-Dillon Rule state.[91] Regardless, the state's legislative history suggests that the legislature has a measure of power and responsibility to intervene on the otherwise local issue of zoning.

The state government has already begun to take some steps toward reforming its zoning practices. In 2019, lawmakers simplified the statewide zoning authorization, consolidating city and county authorities. They also banned third-party downzoning without the property owner's consent. Finally, they limited restrictions on so-called tiny houses.[92] But much more is needed.

A good starting point for discussion would be the bipartisan legislation (Senate Bill [S.B.] 349) introduced in 2021.[93] This legislation would have required communities to allow duplexes, triplexes, quadraplexes, and townhouses to be built on all lots zoned for residential use, including lots previously zoned as single-family only. The regulation of triplexes and quadruplexes would have been revised to match the regulations for single-family units and duplexes.

S.B. 349 would have also removed many restrictions on the construction of ADUs on these lots. For instance, ADUs would no longer be subject to parking requirements and owner-occupancy restrictions. Nor would local governments be able to require ADUs to connect to the primary dwelling's existing utilities, charge fees that exceed those charged for single-family dwelling units, or establish development setbacks that are not in line with those for other residential lots.[94]

Several exclusionary zoning practices would have been prohibited as well. For example, communities could no longer require a minimum square footage for single-family housing or duplexes (although such restrictions could be maintained for triplexes and quadruplexes).[95]

Any remaining zoning regulations would have to be the same for each kind of building throughout a zoning district, though they could differ between districts. Likewise, development standards would be included only if they apply uniformly throughout the jurisdiction.[96]

The bill would also have taken steps to streamline the process for approving applications for development, moving toward a more ministerial or by-right approval mechanism.[97] Applications that substantially comply with zoning ordinances would have to be deemed as sufficient, and then accepted and processed for a development permit—minor mistakes in the application would not be sufficient to deem the application ineligible. However, after a development permit is issued, local governments could still inspect and review the project to ensure that it complies with the applicable land-development regulations.[98]

> "In general, lawmakers at both the state and local levels should move quickly to remove all forms of exclusionary zoning."

While this permitting process would have both marked the most significant reform of North Carolina's zoning laws since their inception and gone a long way toward expanding housing availability and affordability, ideal reform would go even further. For example, under S.B. 349, local governments would still have been permitted to continue regulating the following: building height, number of stories, size, location, and use; percentage of lots that may be occupied; size of yards; density of population; and use of land. There is no reason that these restrictions shouldn't be addressed as well.

Also of concern, the reforms in S.B. 349 would not apply to areas designated as local historic districts.[99] While protecting historic properties and districts is understandable, it is a loophole that has been abused in California, New York, and elsewhere.[100] Indeed, there is a strong case to be made for abolishing historical preservation laws altogether. As George Mason economist Alex Tabarrok notes, "Buildings of little historical worth are [often] preserved by rules and regulations that are used as a pretext to slow competitors, maintain monopoly rents, and keep neighborhoods in a kind of aesthetic stasis that benefits a small number of people at the expense of many others."[101]

Nor does S.B. 349 address environmental regulation. New construction can clearly have an impact on the environment, and it should be taken into account when approving new construction. But in some states that have attempted to reform zoning, such as California and Minnesota, environmental reviews have been used to reduce the extent to which the reforms apply.[102] North Carolina does not have an environmental law that is equivalent to the California Environmental Quality Act, which can be weaponized against almost any new construction. A thorough review of existing environmental regulations is likely to be well beyond the scope of legislation that would reform zoning, but lawmakers should still be aware of how these regulations could be used to undercut their efforts.

CONCLUSION

North Carolina has been fortunate. Good weather, tolerable taxes, and an educated workforce have attracted people and business to the state, bringing with them prosperity that many other states must envy. But if lawmakers want to maintain that prosperity, they will have to ensure that housing remains widely available and affordable to both newcomers and native North Carolinians. Simply put, North Carolina needs more housing. And in order to meet this need, the state must reduce the artificial barriers imposed by the overregulation of the housing market, particularly exclusionary zoning.

In general, lawmakers at both the state and local level should move quickly to remove all forms of exclusionary zoning and return it to its original goal of regulating "public nuisances" rather than maintaining property values or preserving "neighborhood character." This change means more than simply rezoning R1 districts or permitting ADUs or multifamily units in these districts. It means removing all barriers to new housing construction, including minimum lot sizes, minimum and maximum floor plans, height restrictions, setback specifications, parking requirements, and similar regulations. Such reform should also establish a by-right or ministerial approval process establishing a presumption in favor of approval.

If it fails to reform housing regulation, North Carolina risks going down the path that, as shown by states like California and Florida, leads to exploding housing prices, slower growth, and increased poverty and homelessness.

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