



LB866 Biennial Report Affordable Housing, Lincoln, NE

Submitted to State of Nebraska, Urban Affairs Committee - June 2021

Leirion Gaylor Baird, Mayor
City of Lincoln, Nebraska

Table of Contents

Page

Introduction	2
(a) Overview of the City’s current residential zoning requirements:	2
(b) Percentage of areas zoned for residential use permitting construction of multi-family and missing middle housing:	4
(c) New residential construction in the City over the previous five years, including the percentage of such construction that was single-family housing, multi-family housing, and middle housing:	5
(d) A breakdown of residential units annexed by the City over the previous five years, including the percentage of such units that were single-family housing, multi-family housing, and middle housing:	5
(e) An estimate of the per unit cost of housing in the City:	5
(f) Whether such zoning codes, ordinances, and regulations provide for density bonuses or other concessions or incentives which encourage residential density, and the frequency with which such bonuses, concessions, or incentives are utilized:	6
(g) Whether such zoning codes, ordinances, and regulations allow the construction of accessory dwelling units:	6
(h) What incentives the city applies to encourage the development of affordable housing, including both direct incentives and regulatory relief:	6
(i) A demographic analysis of the city with trends and estimates of the housing need classified by housing type and price range:	7
(j) Efforts to adopt an affordable housing action plan as required under section 5 of this act:	8

Introduction

In the 2020 session of the Nebraska Legislature, LB866, known as the “Municipal Density and Missing Middle Housing Act” was passed. It was signed into law by the Governor on August 17, 2020. The intent of the bill is to provide zoning regulation requirements for certain cities that permit varied types of housing, provides greater availability of affordable housing, and increases residential density, ultimately to promote more efficient and effective land use and creating conditions for successful mass transit, bikeability, walkability, and affordability in residential neighborhoods. Housing stock known as “middle housing,” while prominent in the early 1900s, has largely been missing since the mid-1940s. Middle housing means duplexes, triplexes, quadplexes, cottage clusters, and townhouses. Zoning that permits middle housing increases density and can provide affordable housing.

The Municipal Density and Missing Middle Housing Act requires cities to submit a report to the Urban Affairs Committee of the Legislature detailing its efforts to address the availability of, and incentives for, affordable housing through its zoning codes, ordinances and regulations. Reports are due on or before July 1, 2021, and every two years thereafter.

This report from the City of Lincoln represents the first required report and was completed in partnership with staff from the City’s Urban Development Department and the Lincoln-Lancaster County Planning Department. The report is organized to respond to items as identified and in the same order as Sec. 4 of LB866.

(a) Overview of the City’s current residential zoning requirements:

The table on the following two pages includes the City’s residential zoning requirements. There are ten residential districts. Although some commercial districts allow limited residential such as second floor housing in business districts, they are minimal and not included here. Approximately 95 percent of the residential land area allows only single and two-family housing by right. However, Community Unit Plans (CUPs) and Planned Unit Developments (PUDs) provide the opportunity for higher density housing and are allowed in these districts. Most new developments in Lincoln that include townhouses and multi-family are within a CUP or PUD.

City of Lincoln Residential Zoning Districts

Zone	Acres	Square Miles	Area Percent	Area % of Residential	Dwellings/Acre	Notes
AGR	973	1.52	1.5%	2.8%		low-density, acreage residential development
R-1	5,853	9.15	9.2%	17.0%	3 to 5	3 to 5 dwelling units per acre, the district permits single- and two-family dwellings
R-2	10,347	16.17	16.2%	30.1%	3 to 5	3 to 5 dwelling units per acre, this district permits single- and two-family dwellings
R-3	13,353	20.86	20.9%	38.8%	3 to 5	3 to 5 dwelling units per acre; mix of housing types and socio-economic groups with a CUP
R-4	2,321	3.63	3.6%	6.7%	3 to 5	3 to 5 dwelling units per acre, single- and two-family dwellings
R-5	743	1.16	1.2%	2.2%	6 to 10	6 to 10 dwelling units per acre, single-family, two-family, and multiple and townhouse residential uses
R-6	644	1.01	1.0%	1.9%	11 to 14	11 to 14 dwelling units per acre, single-family, two-family, multiple and townhouse residential uses, private clubs, fraternities and sororities
R-7	122	0.19	0.2%	0.4%	15	15 dwelling units, gross, per acre, single-family, two-family, multiple, and townhouse residential uses, apartment hotels, private clubs, fraternities and sororities

R-8	22	0.03	0.03%	0.1%	15+	High density residential uses; apartment hotels; private clubs; civic, cultural, educational, labor, professional, trade and fraternal membership organizations
R-T	29	0.04	0.05%	0.1%	6 to 10	Primarily office and small-scale commercial uses close to existing residential uses.

The maximum CUP density for each district is included in the table below, from the City’s Zoning Code. Beginning with the R-3 district, the potential CUP density increases well above the base zoning density. Adding potential density bonuses allows even greater density. PUDs use the CUP density as a guide but have no limit.

1.1 Maximum Density

A. General density. The maximum density within the boundaries of a C.U.P. shall be calculated as follows:

1. AG Agriculture District - 0.055 dwelling units per acre.
2. AGR Agriculture Residential District - 0.27 dwelling units per acre.
3. R-1 Residential District - 3.87 dwelling units per acre.
4. R-2 Residential District - 5.80 dwelling units per acre.
5. R-3 Residential District - 6.96 dwelling units per acre.
6. R-4 Residential District - 13.93 dwelling units per acre.
7. R-5 Residential District - 29.04 dwelling units per acre.
8. R-6 Residential District - 48.4 dwelling units per acre.
9. R-7 Residential District - 62.23 dwelling units per acre.
10. R-8 Residential District - 79.20 dwelling units per acre.

(b) Percentage of areas zoned for residential use permitting construction of multi-family and missing middle housing:

In Lincoln today 60% of all land is zoned to allow for two-family or more units. Much of that, 92%, caps densities at five dwelling units per acre (R1 to R4 zones). Zones that allow more than two-family include R-5, R-6, R-7, R-8, and R-T. These zones comprise 4.7% of residential zoning. It should be noted, however, that 41% of land zoned R1 to R4 has a Planned Unit Development (PUD) or Community Unit Plan (CUP) which often allow densities higher than five units per acre.

Of note is many newer developments have Homeowner Association covenants that limit density, have square footage requirements, and height limitations. These private covenants restrict higher density and a variety of housing types. Zoning code amendments to allow higher density and housing types

could be superseded in neighborhoods with private covenants and would disproportionately affect older areas of the city where private covenants do not exist.

(c) New residential construction in the City over the previous five years, including the percentage of such construction that was single-family housing, multi-family housing, and middle housing:

As indicated in the table below, the largest percentage of residential construction in the past five years has been multi-family, slightly exceeding single family detached by 32 units. The percent of single-family detached has reduced from 49.9% in 2016 compared to 48.1% in 2020 with a more significant reduction in single family attached and duplex (20.8% in 2016 and 15.2% in 2020). These housing types are defined as: duplex includes two attached units on the same parcel, single-family attached is 3 to 12 attached units on their own parcels, and multi-family is three or more units in the same building. All of these housing types are included in the definition of Missing Middle. The greatest percentage increase is in multi-family construction, increasing from 29.4% to 36.7% in the same period. Most of the multi-family construction is not characterized as Missing Middle, however, and is typically a 12 plex or larger.

The City does not currently have a separate category for tracking Missing Middle housing units, but they are included in the housing categories below. Moving forward, Missing Middle units along with approved density will be tracked.

	2016	2017	2018	2019	2020	2016-2020
Single Family Detached	632	728	621	658	807	3,446
	49.9%	40.5%	41.7%	32.6%	48.1%	41.8%
Single Family Attached & Duplex	263	288	256	260	256	1,323
	20.8%	16.0%	17.2%	12.9%	15.2%	16.0%
Multi-Family	372	781	611	1,098	616	3,478
	29.4%	43.5%	41.1%	54.5%	36.7%	42.2%
Total	1,267	1,797	1,488	2,016	1,679	8,247

(d) A breakdown of residential units annexed by the City over the previous five years, including the percentage of such units that were single-family housing, multi-family housing, and middle housing:

A total of 131 existing single-family homes were annexed between 2016-2020. These units were nearly all located on lots greater than 1 acre in size. There were no other existing housing types existing in annexed areas annexed by the City. However, this number does not include vacant land that is annexed, platted, and then built upon with a variety of housing types.

(e) An estimate of the per unit cost of housing in the City:

New construction costs per 2020 building permit data are (note that these do not include land costs):

Single Family Detached: 807 units, \$214,219,000 = \$265,541 per unit

Single Family Attached: 220 units, \$41,392,252 = \$188,146 per unit

Duplex: 36 units, \$5,813,000 = \$161,472 per unit

Multifamily: 616 units, \$84,213,000 = \$136,709 (this includes costs associated with mixed-use buildings)

Average Cost for All Unit Types: 1,679 units, \$345,637,252 = \$205,859 per unit

Sales data for existing housing in 2020 identifies the following average costs per units:

Single Family Detached: \$167,867

Single Family Attached: \$158,609

Duplex: \$121,871

Multifamily: \$64,500 (median)

(f) Whether such zoning codes, ordinances, and regulations provide for density bonuses or other concessions or incentives which encourage residential density, and the frequency with which such bonuses, concessions, or incentives are utilized:

Chapter 3.40 of the Lincoln Design Standards allows density bonuses for low income housing. For each four low income units provided, one additional unit may be permitted. In addition, waivers for density items such as lot area, height, and parking can be allowed through Planned Unit Development (PUD) and Community Unit Plan (CUP) subdivisions, along with multiple different types of Special Permits. Waivers associated with PUDs, CUPs, and other Special Permits are common and are granted frequently throughout the year.

(g) Whether such zoning codes, ordinances, and regulations allow the construction of accessory dwelling units:

ADUs are permitted in all residential districts provided they can meet the per-unit land area requirements for the district. About 26% of parcels in residential districts have sufficient size for two units which could include a single-family home and attached or detached ADU.

(h) What incentives the city applies to encourage the development of affordable housing, including both direct incentives and regulatory relief:

Incentives:

- Tax Increment Financing (TIF): The City of Lincoln has been requiring construction of affordable rental units, (affordable to households at 60% Area Median Income (AMI) paying no more than 30% of their income) when housing projects receive Tax Increment Financing (TIF). To date this requirement has been applied on a case-by-case basis; however, the City is currently developing a policy.
- Extremely Blighted Designation: The City's Urban Development Department has completed an analysis of areas declared Blighted and Substandard for qualification as Extremely Blighted. Fourteen areas have been found to meet the qualifications and have been declared Extremely

Blighted by the Lincoln City Council with two more scheduled to be considered in June, 2021. Qualifying households are eligible for a \$5,000 state tax credit for purchasing a home in an Extremely Blighted Area,

- Gap Financing: For Low Income Housing Tax Credit (LIHTC) projects, Urban Development has provided gap financing with HOME funds.
- Assistance to Non-Profits: Urban Development assists non-profits in developing affordable housing by providing CDBG and HOME funds to agencies including NeighborWorks-Lincoln, the South of Downtown Community Development Organization, Affordable Housing Initiative, Habitat for Humanity, and Nebraska Housing Resource.

Regulatory Relief:

- Density bonus: as stated in (f) above, Chapter 3.40 of the Lincoln Design Standards allows density bonuses for low income housing. For each four low income units provided, one additional unit may be permitted.
- Exemption/reduction in impact fees: the impact fee ordinance provides a 100% exemption from impact fees for eligible low-income individuals. Low income is defined as having a household income that is 60% or less of the area median gross income, adjusted for household size. The impact fee ordinance provides a 50% exemption from impact fees for eligible moderate-income individuals, defined as having a household income of more than 60% but less than 80% of the area median gross income, adjusted for household size.

In Process:

Current efforts underway include:

- Development of an Affordable Housing Consortium: The City is currently working with the private sector, non-profits, philanthropic organizations and others to develop the Consortium. Its purpose will be to provide gap financing for constructing affordable housing, rental rehab, and to coordinate, advocate, and provide resources and education related to affordable housing. The Consortium aims to launch in the fall of 2021.
- Zoning Code Amendments: Staff are working on a package of amendments to reduce barriers to construction of affordable housing including items such as reduced set-backs, reduced parking requirements and uses-by-right. The goal is to move the package through the public engagement and approval process in 2021.

(i) A demographic analysis of the city with trends and estimates of the housing need classified by housing type and price range:

The City has completed a robust demographic analysis as part of its *Affordable Housing Coordinated Action Plan* (see item (j), below). As a result of that analysis and building on a housing demand model, the development program in the Plan forecasts production targets for owner and renter occupied units, see the Figure below, based on the following assumptions (verbatim from page 44 of the Plan):

- Owner-occupied units will be distributed roughly in proportion to the income distributions of the households for whom owner occupancy is an appropriate strategy.

- Most low-income residents will be accommodated in rental units.
- The city currently has a split of approximately 60% owner-occupied and 40% renter-occupied units. Since 2014, single-family units have been 40% of new construction. The increasing cost of construction and land will likely continue to support construction of higher density owner-occupied configurations and rental units. To meet this demand, the demand model assumes a 50/50 split between rental and ownership units.
- Approximately 2,200 new rental units should rent for less than \$500 a month.
- Approximately 3,800 additional owner-occupied units should be priced under \$200,000. Products being constructed today will not meet this demand. This demand will only be met through older existing units and the construction of products in denser configurations with assistance with land or infrastructure costs.

FIGURE 1.22: Housing Development Program

	2025	2030	2017-2030
Total Owner Occupied			
Affordable Low: <\$125,000	611	650	1,261
Affordable Moderate: \$125-200,000	1,236	1,315	2,551
Moderate Market: \$200-250,000	801	852	1,653
Market: \$250-350,000	961	1,023	1,984
High Market: Over \$350,000	539	574	1,113
	4,148	4,414	8,562
Total Renter Occupied			
Low: Less than \$500	1,071	1,140	2,211
Affordable: \$500-1,000	1,362	1,450	2,812
Market: \$1,000-1,500	1,040	1,107	2,147
High Market: \$1,500+	674	717	1,391
	4,148	4,414	8,562
Total Need	8,296	8,827	17,123

Source: RDG

(j) Efforts to adopt an affordable housing action plan as required under section 5 of this act:

As an entitlement city for CDBG, HOME, and ESG funds, the Urban Development Department conducts planning efforts and identifies community development needs. Throughout the course of the federally required Consolidated Plan, the number one need identified through the public engagement process was quality affordable rental housing. In addition, data analysis also indicated an overarching need for affordable housing. Concurrently, local non-profits and community groups began expressing an increasing concern over affordable housing in Lincoln, along with the Lincoln Chamber of Commerce.

Recognizing that the City alone cannot solve the affordable housing issue, the City’s administration did see a role for the City in bringing stakeholders and residents together to coordinate efforts. An RFP was issued and RDG Planning and Design was retained in 2019 to assist in developing the *Lincoln Affordable Housing Coordinated Action Plan*. The planning process was complete in early 2020; however, as public

review was underway, COVID-19 delayed the process. Later in the year when the Legislature adopted LB866, the Plan was reviewed to ensure all required elements were included. Most requirements were already there but the Plan was delayed further to add missing elements. Ultimately the Lincoln-Lancaster County Planning Commission recommended the City Council approve the *Lincoln Affordable Housing Coordinated Action Plan* as a subarea plan to *LPlan 2040*, the Lincoln-Lancaster County Comprehensive Plan. The Lincoln City Council agreed and adopted the Plan on December 21, 2020.

The Plan has been submitted to the Legislature's Urban Affairs Committee and implementation has begun.