

Table of Content

[About the Authors](#)

[Acknowledgments](#)

[Introduction](#)

[The Shortage of Affordable Housing in Colorado](#)

[Recognizing Regulatory Barriers to Affordable Housing](#)

[Appreciating the Value of Land-Use Regulations](#)

[Purpose of this Report](#)

[Structure and Contents](#)

[Chapter I. Responding to Regulatory Barriers](#)

[The 1988 Rouse Report](#)

[The 1991 NIMBY Report](#)

[The Federal response to the NIMBY Report](#)

[State and Local Responses](#)

[Chapter II. How Land Development Regulations Can Affect the Cost of Housing](#)

[Regulatory Tools That Can Act as Barriers to Affordable Housing](#)

[Infrastructure Financing Mechanisms](#)

[Zoning and Subdivision Controls](#)

[Building Codes](#)

[Development Processing and Permitting](#)

[Environmental and Cultural resource Protection](#)

[Other Laws and Regulations](#)

[Non-Regulatory Barriers to Affordable](#)



Colorado Department of Local Affairs



Division of Housing - DOH

Reducing Housing Costs Through Regulatory Reform



About the Authors

Clarion Associates is a national real estate and land-use consulting firm with offices in Denver, Chicago, and Philadelphia. No firm in the country can match the combination of land use law, real estate economics, and community development and planning of its principals--over 70 years combined experience with both public and private sector clients.

Clarion is particularly known for its expertise in:

- **Plan Implementation Strategies.** Clarion has participated in large area plans for newly developing areas along major transportation nodes and major public improvements, and has assisted numerous local governments to select the most effective tools to make those plans a reality. Our expertise includes interim development controls, tiered service systems, creative development incentives, transferable development rights, and other cutting edge implementation tools.

[Housing](#)

[Regulatory Costs Compared to the Overall Cost of Housing](#)

[Potential Savings in Housing Costs from Regulatory Reform](#)

[San Diego's 1992 Inclusionary Housing Analysis](#)

[The Joint Venture for Affordable Housing](#)

[Potential Costs of Regulatory Reform](#)

[Chapter III. Reagulatory Barriers in Colorado: Six Case Studies](#)

[Steamboat Springs and Routt County](#)

[Denver](#)

[Broomfield](#)

[Mesa County](#)

[Longmont](#)

[Summit County](#)

[Chapter IV. Overcoming regulatory Hurdles](#)

[Infrastructure Financing Mechanisms](#)

[Zoning and Subdivision Controls](#)

[Reforms to Building Codes and Construction Techniques](#)

[Processing and Permitting Improvements](#)

[Resource Protection Statutes](#)

[Other Local-Level Strategies](#)

[Chapter V. User's Guide: Tips And Advice for Community Implementation](#)

[A user's Guide to Identifying & Addressing Regulatory Barriers to Housing Affordability](#)

[What Is the Appropriate Vehicle to Ask and Answer These Questions?](#)

- **Zoning and Development Code Revisions.** Clarion Associates has written, revised, and analyzed numerous development codes, zoning ordinances, and land-use regulations for communities across the United States, including Fort Collins, Mesa County, the City of Denver, and the City of Longmont in Colorado, the City of Pittsburgh, Pennsylvania; Park City, Utah; the City of Henderson, Nevada; and the City of Hudson, Ohio. In this work, the firm has emphasized writing codes that are not only modern from a substantive perspective, but also customer-friendly and efficient from a procedural point-of-view.
- **Legal Issues and Growth Management.** Members of the firm have gained a national reputation for their understanding of and practical approaches to difficult constitutional and legal questions involved in growth management and land use regulation such as the taking issue, due process, defensible impact fee and land dedication systems, and First Amendment issues involved in regulating signs and properties owned by religious institutions. A growth management system drafted by Clarion for the City of Hudson, Ohio, was recently upheld by the federal Sixth Circuit Court of Appeals. This background is invaluable and essential in drafting legally defensible as well as workable development codes and regulations.

Perhaps the most distinguishing feature of our work in land use and development regulations is an understanding of the dynamics of the real estate market that we believe is crucial to crafting programs that will work in practice. Our years of experience analyzing the economics of real estate developments and local and national markets helps us establish a sound economic as well as legal and planning basis for the regulations we draft.

Additionally, members of the firm bring significant political and administrative savvy to every project, having served as elected officials, appointed members of planning, preservation, and other land-use-oriented commissions and boards, and government agency directors and employees. Again, this practical experience helps us assist clients in drafting programs that will work in the real world.

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As this report demonstrates, there is an exciting, enthusiastic dialogue underway in various Colorado communities regarding the extent to which land use regulations unnecessarily increase the cost of housing. We continue to enjoy participating in this dialogue, and we hope that this report encourages others to seek new ways to reduce housing costs while also utilizing land use regulations to pay for and wisely manage growth.

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Introduction

This report discusses how Colorado communities can best mitigate the extent to which land-use and other regulations sometimes drive up housing costs, and at the same time utilize such regulations to pay for and wisely manage growth. Two different, and potentially competing, public policy goals are at issue. On one hand is the pressing need for an adequate supply of affordable shelter for citizens of all income levels. On the other hand are the significant public benefits to be realized through regulations, including the protection of human health and safety, the provision of adequate public facilities for new growth, and the preservation of sensitive environmental and cultural resources. A local jurisdiction may need to perform a delicate balancing act to reconcile these different policy goals, which are not mutually exclusive, but which nevertheless sometimes work at cross-purposes.

The Shortage of Affordable Housing in Colorado. Colorado's population is growing--quickly--and the demand for affordable housing continues to increase as well. From a 1990 population of 3.3 million, the state has reached a 1997 population of 3.785 million. Growth will likely continue at an average annual rate of 1.6 percent, with the population reaching 4 million in 2000 and over 5 million by 2020.⁽¹⁾ Housing construction has increased rapidly to shelter all these new residents. From 1990 to 1995, the total number of single-family residential building permits issued annually in the state almost tripled, from 10,095 to 28,748. Multifamily building permits issued annually over the same period increased from 1,802 to 10,795.⁽²⁾

And yet, despite all the new construction, Colorado continues to have a shortage of affordable housing. Median sales prices of single-family homes have risen dramatically, with the metro Denver area, Summit County, and Fort Collins seeing the greatest increases. Income growth, while strong, has not kept pace with rising home prices. Fort Collins illustrates the problem: The city grew from 88,000 in 1990 to 103,000 in 1996. Over the same period, the median income for a family of four rose from \$37,000 to \$47,800, an increase of about 30 percent, yet the cost of housing has jumped 49 percent over the same period. The 1996 median home sale price was \$136,367.⁽³⁾

Certain segments of the population are being hit especially hard by rising home prices. Housing costs for 40,000 elderly households have increased, on average, to more than 50 percent of income. Young families increasingly are unable to move out of the rental market and purchase starter homes. A working family making \$20,000-\$25,000 per year qualifies for a mortgage on a \$80,000 home, yet very little housing exists in that price range in the major population centers in Colorado. Rents are increasing as well. From 1990 to 1994, rents increased 26 percent in Boulder County, 31 percent in the metro Denver area, and 46 percent in Douglas County.⁽⁴⁾ In 1990 almost 80,000 Colorado residents paid more than 50 percent of their income to rent a home; today, that number is estimated at over 146,000.⁽⁵⁾

Everyone in the state ultimately is affected by rising home prices. Notes one senior Colorado official: "It's not just finding affordable housing to help poor people. It's to make sure there is affordable housing to keep the economy healthy so that companies and workers can come to Colorado and stay here."⁽⁶⁾

Recognizing Regulatory Barriers to Affordable Housing. "Excessive" and "unnecessary" regulations often are targeted as the prime culprits behind the shortage of affordable housing. Without question, regulations can add to the cost of housing. Zoning ordinances, building codes, various fees and charges, growth limits, and environmental protection ordinances each can add hundreds--and, potentially, thousands--of dollars to the cost of an average new home. All together, the net effect of regulations can make an otherwise affordable house unaffordable. A 1997 report found that regulations--building codes, impact fees, use taxes, etc.--contributed approximately \$11,000 to \$13,000 to the price of new homes in the \$150,000 to \$160,000 price range in the Denver metro area.⁽⁷⁾ And the cost of complying with regulations keeps going up in some jurisdictions, as more rules and restrictions are implemented to address the impacts of growth, preventing new homes from being affordable, and keeping more and more people out of the home-buying market. According to a 1994 report by the National Association of Home Builders (NAHB), each additional \$1,000 in costs on a \$125,000 house knocks 10,000 potential buyers out of the market for that house.⁽⁸⁾

A "regulatory barrier" to affordable housing is defined by the U.S. Department of Housing and Urban Development (HUD) as:

...Either a deliberate or de facto action that prohibits or discourages the construction of affordable housing *without sound reasons directly related to public health and safety*; a federal, state, or local statute, ordinance, policy, custom, practice or procedure that excessively increases the cost of new or rehabilitated housing, either by improperly restricting the location of housing or by imposing unjustifiable restrictions on housing development *with little or no demonstrated compensating public benefit* (emphasis added).⁽⁹⁾

The idea of "regulatory barriers to affordable housing" has been extensively publicized, and politicized. The issue was of so much concern to Republican Jack Kemp during his tenure as HUD Secretary that he regularly showed audiences a flow chart demonstrating how various regulations can add \$40,000 to the price of an average new home in Orange County, California.⁽¹⁰⁾ Regulatory barriers threaten our very way of life, believed Kemp, who claimed that "government rules and red tape are regulating the [American] dream out of existence."⁽¹¹⁾ Kemp commissioned a highly publicized report on the topic in 1991. Other conservative organizations also have embraced the issue as an example of government run amuck. The Heritage Foundation, for example, a conservative think tank, issued working papers publicizing Kemp's efforts and complaining how "excessive regulation" undercut the expansion of the housing supply triggered by Ronald Reagan's economic policies.⁽¹²⁾ Affected industries such as NAHB have conducted their own extensive research and produced volumes on the subject as well.

Specific estimates of the costs of regulatory barriers vary widely. Kemp's report concluded that regulations add approximately 20 to 35 percent to the cost of a new home, while others have speculated the figure to be as high as 50 percent. Such figures often, however, represent mere guesses and frequently are not substantiated with actual data from builders and local governments. The most methodologically sound studies indicate that regulations of all kinds contribute anywhere from seven to 20 percent of the cost of an average new home, depending on a large number of highly fluctuating variables, including the strength of the local real estate market, whether the jurisdiction has enacted growth controls, the community's fee system for new development, and the cost of land. (13) Non-regulatory factors--including the cost of lumber and other building materials, land costs, and interest rates--also can constitute a significant percentage of a home's final sales price.

Beyond simply raising housing prices, regulatory barriers can have other economic consequences for a community. A lack of affordably priced housing in one community can force local employees to seek housing in other communities, aggravating both traffic congestion and air pollution problems. A community's economic development efforts suffer, also, when potential employers who worry their workers will have no place to live choose to locate their businesses elsewhere. Lack of a diverse housing stock leads to limited diversity within the population. And a homogeneous housing stock within a city drives population out into the suburbs or rural areas, creating additional stress on the natural environment and agricultural lands.

Appreciating the Value of Land-Use Regulations. Yet, despite high costs and other troublesome issues associated with regulations, municipalities (and also states and the national government) continue to restrict the means by which land is developed and the types of houses that are built. This should not be surprising, since there are abundant valid and rational reasons for adopting regulatory tools. Growth management tools such as urban growth boundaries ensure wise, measured growth. Impact fees raise money to pay for the infrastructure needed to support that growth. Zoning restrictions help maintain livable communities and keep property values high by separating potentially incompatible land uses, such as heavy industry and residences. Resource protection laws ensure clean air and water and also protect important environmental and cultural resources, such as open space, agricultural lands, wildlife habitat, and historic buildings. Building codes benefit human health and safety by ensuring structurally sound buildings.

In sum, economic costs to localities and their taxpayers would increase and quality of life would significantly decrease in the complete absence of land-use controls. The best regulatory systems attempt both to achieve sound regulatory goals and also maintain a healthy economy, which includes a diverse, affordable housing stock. As Professor David Godschalk has noted, "The hallmark of growth management is its *balance* among competing objectives. This is not only a goal of government. Few homebuyers would be interested in cheap houses without roads, water, sewers, parks, and other urban amenities." (14)

Thus, land-use regulations, in particular, should not be unfairly singled out for criticism as "unnecessary" impediments to affordable housing, because: 1) the regulations have significant policy benefits; 2) the broad-based political support for land-use regulations ensures that complete deregulation will never happen, and 3) even complete deregulation would not guarantee universal access to affordable housing--the problems of poverty and homelessness run much deeper than unnecessarily strict land-use controls.

Purpose of this Report. This report seeks to show how to promote affordable housing by reducing regulatory barriers while still accomplishing valid land-use and planning goals. This report concentrates principally on the impacts on housing costs caused by *local land-use regulations*, defined broadly to include infrastructure financing mechanisms, zoning and subdivision controls, building codes, permitting and procedural rules, and resource protection ordinances.

True, regulatory activity is also driven from the federal and state levels. National statutes such as the Clean Water Act and the Endangered Species Act, and state legislation such as zoning enabling acts and building codes, all can be significant factors affecting the time and expense needed to complete a housing project. Yet, in many cases, the regulatory factors that can contribute to rising housing costs are matters of local concern. And, fortunately, local communities in Colorado have a wide range of powers to affect housing costs by modifying such regulations. Indeed, Colorado communities increasingly are being prompted to study the regulatory barriers issue through passage of such measures as House Bill 1093, adopted April 1997, which specifically encourages counties and regional planning commissions to "examine any regulatory impediments to the development of affordable housing" in their communities.[\(15\)](#)

Structure and Contents. The report is arranged into five chapters. Chapter I examines the major studies of the issue of regulatory barriers to affordable housing, including the 1988 Rouse and the 1991 Kemp reports, the federal legislative and administrative measures taken in response to those reports, and also individual state and local responses.

Chapter II provides an overview of a variety of ways in which land development regulations can drive up the cost of housing unnecessarily, based on national reports and Colorado experiences. The report discusses regulatory costs in relation to other housing costs and presents several national case studies.

Chapter III describes the impacts that land development regulations have had on affordable housing in six Colorado communities. Drawn from both the Front Range and rural areas of Colorado, these case studies cover a diverse range of topics, from large-lot zoning and impact fees, to building code modifications and streamlined development processing. The report addresses methods being used to offset potential impacts, as well.

Chapter IV outlines a variety of regulatory reform techniques that local governments can

use to attempt to reduce barriers to affordable housing. Finally, Chapter V is structured as a "user's guide," and presents tips and step-by-step guidance for communities interested in analyzing the impacts their land development regulations may have on the provision of affordable housing.

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Chapter I.

Responding to Regulatory Barriers

A tremendous amount of literature has been generated over the past two decades addressing the relationship between housing costs and land-use controls. Many reports have been produced by think-tanks like the Heritage Foundation or regulated industries such as NAHB. Others have been the products of official government task forces, such as the highly publicized 1969 Douglas Commission Report, *Building the American City*. Between 1967 and 1991, at least 11 major, federally sponsored task forces and conferences addressed the issue of regulatory barriers to affordable housing.

The 1988 Rouse Report. The reports of two official task forces from the late 1980s and early 1990s proved to be especially influential in considering the lack of affordable housing from a national perspective. The first of these, *A Decent Place to Live*, was produced by the National Housing Task Force (NHTF) in 1988. Led by the late James Rouse, chairman of The Enterprise Foundation, and David Maxwell, then chairman of the Federal National Mortgage Association (Fannie Mae), the NHTF was composed of 26 persons of diverse backgrounds who undertook a comprehensive review of the nation's housing policy at the request of congressional leaders. Examining existing housing conditions and needs, the NHTF found the number of impoverished people without housing to be high, the supply of affordable housing--especially rental housing--to be low, and the number of families able to enjoy the opportunities of homeownership to be declining.

The NHTF responded with *A Decent Place to Live*, which contained 45 detailed recommendations aimed at implementing a new national housing agenda. The task force called on the federal government to "reaffirm its role as a leader in finding solutions to the country's housing problems."⁽¹⁶⁾ The ambitious set of recommendations included: 1) creating new federal programs to stimulate state and local support for affordable housing, 2) creating new sources of capital for low-income housing, 3) preserving and improving the nation's existing low-income housing stock, 4) restoring and revitalizing existing public housing, 5) using tax policy to support low-income housing, 6) adopting a series of measures to expand opportunities for homeownership, 7) renewing the federal commitment to support fair housing, and 8) improving housing conditions in rural areas.

In 1990, Congress responded to the Rouse report by passing the Cranston-Gonzalez

National Affordable Housing Act (NAHA), the first major national legislation dealing with affordable housing. The NAHA requires local governments to prepare a Comprehensive Housing Affordability Strategy (CHAS) that explains how the jurisdiction is taking steps to make its own housing more affordable, in order to receive HUD money for affordable housing projects, including CDBG funds and HOME funds. The CHAS has 17 required elements, including a strategy to remove regulatory barriers to the production of affordable housing. However, approval of the CHAS by HUD may be conditioned on the adequacy of any of the 17 elements *except* this barrier-removal plan.⁽¹⁷⁾

The 1991 NIMBY Report. Another heavily publicized national report on the issue was *"Not in My Back Yard": Removing Barriers to Affordable Housing*, also known as the "NIMBY report," or the "Kemp report," produced in July 1991 by the Advisory Commission on Regulatory Barriers to Affordable Housing. Known as the "Kemp Commission," after the U.S. Secretary of Housing and Urban Development who created it, this commission was staffed mostly by Kemp's conservative kindred spirits, resulting in a report that vigorously emphasizes deregulation while failing to acknowledge the numerous and substantial public policy benefits of the regulatory process.

The Kemp report does a good job outlining the principal regulatory barriers to affordable housing, breaking its analysis down geographically by focusing on barriers in both suburbs--such as large-lot zoning--and in cities--such as conflicting building codes. In both areas, the report found the "basic problem" to be the same: "because of excessive and unnecessary government regulation, housing costs are too often higher than they should and could be."⁽¹⁸⁾

The Kemp Commission issued 31 detailed recommendations for addressing the problem at the federal, state, and local levels. At the federal level, the Commission recommended: 1) integration of barrier removal strategies into federal housing programs; 2) making affordable housing an explicit federal priority, primarily by amending existing federal legislation; and 3) encouraging the development of model codes and ordinances. State-level priorities included: 1) making housing affordability an explicit state goal, especially through state-level zoning reform and development of state barrier-removal plans; 2) instituting administrative reform; and 3) reforming state standards and requirements for development regulations, such as building codes, subdivision ordinances, and impact fees. A third set of recommendations focused on local and public-private efforts, including coalition-building and educational assistance.

Thanks to widespread publicity and extensive dissemination, the Kemp report became, for a time, a force to be reckoned with for growth management practitioners. In a 1993 discussion of the report's effectiveness, planner/attorney Patricia Salkin found that the document "is no doubt raised frequently in developer and community negotiations related to land-use and environmental controls.... Professional planners and lawyers who wish to preserve local control over the process and over land uses must step forward and confront the advisory commission report."⁽¹⁹⁾

Many other professionals stepped up to the task and subjected the Kemp report to intense critique and comment, most frequently because of the implicit political bias of the commissioners themselves. Housing policy expert Chester Hartman dismissed the report as "a political document, not a true study."⁽²⁰⁾ Planner/attorney Mark White found the report one-sided because it uses "strident, value-laden terminology" to make its case, and is "peppered with inflammatory rhetoric that could provoke confrontation and counter-rhetoric rather than lasting reform."⁽²¹⁾ Professor David Godschalk debated the report's merits with Commission member Anthony Downs in a pair of dueling articles published in 1992. Godschalk asserted that the report's "direction was set by HUD Secretary Kemp's position long before the commission was convened." Remarked Godschalk, "The report...would have us believe that the affordable housing villains all work in the growth management agencies of state and local governments. ...[This argument] conveniently overlooks the funding role of the federal government, which has systematically starved housing subsidy programs over the last decade. ...If you are looking for a well-researched, balanced treatment, look elsewhere."⁽²²⁾

The Federal Response to the NIMBY Report. In 1992, Congress passed amendments to the NAHA, calling for additional reforms based upon the findings of the Kemp report. The Removal of Regulatory Barriers to Affordable Housing Act of 1992 was intended to "encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers."⁽²³⁾ Under the Act, HUD was authorized to make grants to states and localities to develop removal strategies for regulatory barriers, including drafting model legislation and simplifying and consolidating administrative procedures. The Act also set up a clearinghouse to collect and process information regarding both state and local regulatory barriers to affordable housing.

State and Local Responses. In response to escalating housing prices across the country, and to take advantage of federal grants available under the Removal of Regulatory Barriers to Affordable Housing Act, numerous state and local governments have initiated reform efforts similar to those seen at the federal level. Officials are examining their own policies to identify regulatory barriers to affordable housing, and new state and local laws and programs are springing up in response to the types of concerns documented in the Rouse and NIMBY reports. Two examples are discussed below.⁽²⁴⁾

California. In California, state officials enacted a variety of laws in the 1980s and early 1990s to confront barriers to affordable housing. The statutes established state-wide standards for accessory apartment units; prohibited local bans and excessive design reviews on manufactured housing and mobile home parks; and required incentives, such as density bonuses, for developers who build affordable housing. Also, a new state law required all localities to identify and reform "governmental constraints" to affordable housing as part of the housing element of their comprehensive plans.

Yet, because local officials were clever about finding ways around these restrictions, the state was forced to embark on a new round of regulatory reform in the mid-1990s. For instance, in May 1997 the California Senate passed the "Affordable Rental Housing Supply Act of 1997," which still awaits house and floor votes. This bill (S.B. 1156) would prohibit cities and counties from using low-density zoning, height limitations, parking requirements, and other restrictions to thwart construction of apartment complexes. The bill was driven by the state's serious shortage of new affordable multifamily housing, as well as escalating prices on existing housing. The bill is just one of a bundle of measures sponsored by the California Housing Council and others to promote construction of more multifamily housing.

Other efforts at reform in California have included creation of the Interagency Council on Growth Management and the California Council on Competitiveness, both of which work to reduce all impediments to growth, including those inhibiting the construction of new housing; reform of the required housing element in comprehensive plans, to make them more meaningful documents and less exercises in paperwork; and expansion of the amount of technical assistance provided to localities to develop strategies to reduce the costs of housing.

Oregon. Oregon's ambitious statewide planning framework provides an excellent example of how a state's comprehensive growth management legislation can work to ensure an adequate supply of affordable housing in all local communities. Oregon's Statewide Planning Program requires growth-management planning by all cities and counties in the state. Each locality must draw an Urban Growth Boundary (UGB), within which all of its growth will occur over the next 20 years, and also must plan for a variety of housing alternatives, including single-family, multifamily, manufactured housing, and publicly assisted housing. The state requires that communities plan for the housing needs of *all* their future members, and that they provide for a fair share of their *region's* affordable housing needs, rather than shifting the burden to surrounding areas.

Other, complementary state actions have included establishment of a separate dispute resolution process for land-use conflicts. The Land Use Board of Appeals hears local zoning disputes, and its decisions are appealed to the State Court of Appeals. Also, the state capped the time localities may take to process permits, requiring that all building approvals and zoning changes be decided within 120 days. In addition, the state has actively sought citizen input on how best to reduce regulatory barriers to affordable housing. The Oregon Dept of Land Conservation and Development hired a regulatory reform coordinator and set up a "barriers" hotline to respond to calls from developers in the Portland metro area who have complaints about the development process.

The Oregon program has led to a drastic reduction in exclusionary zoning across the state and a trend toward lower average lot sizes within urban areas. Developers have begun developing at higher densities within the UGBs, thus adding to the overall supply of affordable housing.

Local Responses. The issue of regulatory barriers to affordable housing also has been studied extensively at the local level. Many municipalities have hired consultants to examine the problem, as was the case with the 1992 San Diego Inclusionary Housing Analysis discussed above. In Colorado, the Metro Denver Home Builders studied regulatory barriers in 1990, examining the component costs of affordable homes and projecting increases in base prices from increased development fees, construction costs, and subdivision processing fees. More recent efforts to address regulatory barriers in Colorado include a current Denver-area study by King & Associates, described in Chapter II.

Chapter II examines different ways in which local land-use regulations can raise housing costs, and discusses the magnitude of regulatory costs in relation to other components of a house's sales price. Later chapters present six Colorado case studies, and describe different techniques a local government might select to mitigate the financial impacts caused by regulations.

Chapter II .

How Land Development Regulations

Can Affect the Cost of Housing

Federal, state, and local regulations can adversely affect the supply of affordable housing in three general ways. First, they may contribute *direct costs* to housing by imposing particular requirements above and beyond what a builder/developer would provide in an unregulated market. For example, a building code might require the use of special materials or certain construction techniques, or a local impact fee might be imposed to offset a city's costs of providing infrastructure and public facilities for new development.

Second, regulations may in some way lengthen or delay the *permitting and approval process* for housing, indirectly adding to the developer's costs (and the ultimate sales price) by requiring additional financing over an extended period.

And third, regulations can directly restrict the *kinds and amount* of new housing that may be built, either by imposing site-specific limitations on new development or by capping the overall amount of allowable housing construction. For instance, a local zoning ordinance might impose a large minimum lot size on new development, effectively excluding purchasers who cannot afford the type of home built on such a large lot. Or, a growth control ordinance could impose a cap on the number of new homes built in a high-growth area, driving up the price of new housing, and placing it out of the reach of low- and moderate-income families.

This chapter examines how and to what extent specific regulations--and especially local land-use controls--can affect the supply of affordable housing. The first section below outlines those regulations most frequently cited as impediments to the provision of affordable housing. Subsequent sections consider the direct financial impacts of those

regulations in relation to other housing costs, and also the potential savings were regulatory barriers to be removed. Later chapters discuss the particular problems faced in several Colorado communities, the national debate over the issue of regulatory barriers to affordable housing, and opportunities for regulatory reform.

Regulatory Tools That Can Act as Barriers to Affordable Housing

Five general categories of land-use regulations frequently are cited as barriers to the provision of affordable housing. These include: 1) infrastructure financing mechanisms, such as development impact fees and land dedications; 2) zoning and subdivision controls; 3) building codes; 4) permitting and procedural rules; and 5) regulations protecting natural and cultural resources. Descriptions of these categories are below, followed by a brief discussion of other relevant laws and regulations and also some important non-regulatory barriers.

1. Infrastructure Financing Mechanisms

Local jurisdictions may employ a variety of tools to finance the expansion of infrastructure. They may, for instance, condition approval of new development on the payment of impact fees, on the making of certain on-site or off-site improvements, or on the dedication of land. Each technique shifts the burden of paying for new development from the general population to the new development itself. Specific examples include:

- *Development impact fees.* Also known as service extension fees or capital expansion fees, impact fees are one-time charges against new development to recover the costs of construction or expansion of infrastructure and public facilities necessitated by new development. Only a small subset of the population--builders, developers, and new homebuyers--pay impact fees, as opposed to the general population. The fees typically have been used to pay for new roads, extension of public utilities, and parks, but increasingly are also used to provide for trails, schools, and public safety facilities and equipment.
- *Exactions.* The local government may condition approval of new development on on-site or off-site improvements, to offset the impacts of the development on existing infrastructure.
- *Land dedications.* The jurisdiction may require developers to set aside land, either on-site or off-site, for roadways, trails, or recreational facilities. Larger developments might also be required to donate land for schools, police and/or fire stations, or other public facilities.
- *Adequate public facilities (APF) ordinances.* APF regulations allow new development only if adequate public facilities will be available at certain service

levels at the time the development is complete.

- *Rationing of building permits.* A community may limit the number of housing permits that are issued each year, capping the annual growth rate to one or two percent. Such growth caps make new housing more scarce and thus drive up housing prices. Though, strictly speaking, growth caps are not infrastructure financing techniques, they nevertheless ensure that new development does not outpace a community's ability to extend its infrastructure.

The advantages of these mechanisms are significant: Since the general public no longer must shoulder the entire cost of new development, opposition to that development decreases. There is, also, a comforting sense of equity achieved in requiring new development to pay its fair share for the services it generates. Because they shoulder the greatest up-front financial burden, the development community often is especially resistant to such tools, considering them the culprits most responsible for driving up new home costs. Especially in competitive markets, builders and developers may be unable to pass the entire costs of the exactions, dedications, or fees on to homebuyers.

The costs added to home prices can be substantial. The NAHB estimated that development impact fees average more than \$600 per home nationally, and may rise to as much as \$20,000 to \$30,000 per home in some high-end, fast-growth communities. The study found that in Santa Maria, California, for example, impact fees accounted for more than \$11,000 in the purchase price of a new 1,500-square foot single-family home, or eight percent of the total sale price. Similarly, in San Luis Obispo, California, fees accounted for \$22,000 of the purchase price of a similar 1,500-square foot home, or about 12 percent of the total sale price.⁽²⁵⁾

In Colorado, impact fees, exactions, and land dedications increasingly are being used to finance new infrastructure. A typical case is Longmont, where impact fees for parks, transportation, and public buildings improvements can total over \$2,000 for a single-family house valued at about \$110,000.⁽²⁶⁾ The increased use of such mechanisms results, in part, from the difficulties associated with traditional methods of collecting revenue, such as special districts, which used to be a popular means of raising funds for roads and utilities yet lost favor because of several widely publicized district failures, and also the passage of the Taxpayer's Bill of Rights (TABOR) in 1992, which strictly limits local governments' ability to raise property taxes.

2. Zoning and Subdivision Controls

Traditional land-use controls such as zoning ordinances (which regulate the general placement and density of land uses in a community) and subdivision regulations (which govern site-specific development) can have significant impacts on the price of housing. While zoning generally is intended to separate incompatible land uses, the use of exclusionary criteria in defining the term "incompatible" can lead to overly strict restrictions or prohibitions on housing types that are most likely to be affordable, including manufactured housing and multifamily housing. Specific examples include:

- *Restrictions on land zoned and available for multifamily housing or manufactured housing.* Multifamily and manufactured housing traditionally are two of the most affordable types of housing. Restricting their placement or development through zoning disproportionately affects low-income persons.
- *Minimum house size, lot size, or yard size requirements.* These restrictions often are designed to ensure large homes are built on large lots. Since only those with higher incomes generally can afford such properties, the restrictions result in higher property values, a healthy tax base, and increased public safety. Almost always, such restrictions also act to exclude low-and moderate-income persons from locating in a particular area.
- *Prohibition on accessory dwelling units (ADUs).* Examples of ADUs might include a living space over a detached garage or a basement apartment with a separate entrance. Many families choose to rent out such spaces to extended family members or others who cannot afford to buy a home, or else do not want the responsibilities of homeownership for some reason (e.g., the elderly). Communities reduce the amount of affordable housing in their jurisdiction when they ban such apartments, either directly through zoning restrictions or building codes, or indirectly through, for instance, strict off-street parking regulations.
- *"Excessive" subdivision standards.* Since cities eventually assume ownership of many public facilities in subdivisions, the ordinances regulating subdivision development often call for those facilities to be developed at a level of quality well above and beyond that which the developer would provide absent the regulation. Sometimes called "gold-plated" standards, they require a higher level of service than is really necessary or expected from area residents. For instance, many ordinances require excessively wide streets in new subdivisions, even in low-traffic areas. The developer attempts to pass the costs of such features onto homebuyers, driving up housing costs and reducing the overall supply of affordable housing. One 1982 study found that the cost savings from reducing street and right-of-way width requirements was about \$700 per lot (Joint Venture for Affordable Housing, discussed below).

3. Building Codes

State and local building code requirements are a third type of regulation likely to affect a community's supply of affordable housing. Code requirements undoubtedly serve an important public purpose, protecting building occupants from fire, poor construction, and other unsafe conditions. Yet builders and affordable housing advocates often criticize various code provisions as excessive and unnecessary for the basic safety and health of the occupants, and thus inflating housing costs needlessly.

Also, in urban areas, modern building code provisions may frustrate infill or rehabilitation projects, since state-of-the-art methods and materials may be inappropriate or prohibitively expensive for use in older structures. Regulations controlling the use and renovation of historically significant buildings also can be an impediment to providing affordable housing in urban areas. Further, state and local code provisions may sometimes conflict, resulting in administrative headaches and project delays.

In both urban and suburban areas, requirements for the use of certain materials or methods may translate into substantial additional costs. For example, a recent change in stair geometry was adopted in model building codes in over 20 states. This change--a slight lowering of the rise and lengthening of each step--is projected to increase the cost of an entry-level townhouse by between \$2,000 and \$3,000, if the home must be made larger to accommodate a longer stairway, according to NAHB.⁽²⁷⁾

4. Development Processing and Permitting

Administrative regulations which in some way lengthen the amount of time and effort required to obtain approval for a housing development also may constitute barriers to an adequate supply of affordable housing. Lengthy and open-ended permit approval procedures may add months or years to the time it takes to approve a typical subdivision, which translates into additional money needed by the developer and builder to cover higher interest costs in carrying the land. These higher costs may be passed on to home buyers, pushing otherwise affordable homes out of the reach of low- and moderate-income families.

In addition, permit approval procedures can overlap between agencies or jurisdictions, resulting in similar substantive reviews being required more than once. The Kemp report noted that, in some jurisdictions, as many as seven different agencies may review the adequacy of storm drains in a new residential subdivision.⁽²⁸⁾

The permitting process can be expensive. Separate fees may be charged for issuance of valid building, electrical, plumbing, heating, and gas permits. In addition, fees may be charged simply to review builder plans to ensure compliance with various rules and regulations. In Colorado, the total cost of permit and review fees may run over \$1,000 per house. In 1995, various processing fees in Fort Collins ran \$860, while in Longmont the total was \$1,099.⁽²⁹⁾ Since most of this cost is passed directly from the builder into the price of the home, overall home prices rise and the overall supply of affordable housing decreases.

5. Environmental and Cultural Resource Protection

Probably the most commonly recognized, and potentially the most far-reaching, resource protection statutes that can affect affordable housing are the major federal laws such as the Clean Water Act and the Endangered Species Act. These statutes are generally unpopular to builders and advocates for affordable housing because of their potentially large impact on housing construction. Such statutes tend to require significant amounts of time and/or money for compliance, because of their unpredictability and because of their

poor coordination with each other and with state and local programs. They also lack any standard dispute resolution process, other than federal courts.⁽³⁰⁾ Examples include:

- *Clean Water Act (CWA)*. The nation's primary water quality protection statute affects planning and development for housing construction in a number of ways. First, it contains strict prohibitions on any construction activity potentially affecting wetlands. NAHB estimates that completion of the U.S Army Corps of Engineers individual compliance procedure for the CWA wetlands permitting process takes an average of 373 days and can cost hundreds of thousands of dollars for a typical development project.⁽³¹⁾ The Act also controls storm water runoff and non-point source discharges, which can impose additional strict requirements on housing construction.
- *Endangered Species Act (ESA)*. The ESA protects endangered and threatened species and their habitat. Listing a species as endangered or threatened occasionally can remove thousands of acres from development, though this is rare. Frustrated home builders question whether the government really wants to work in good faith with the development community to find common ground. NAHB cites an example of a developer in Chico, California, who proposed certain mitigation measures to protect endangered plant and shrimp habitat. The federal government responded with even stricter requirements, which would have cost an additional \$2.6 million, or added an additional \$3,600 to the price of each home, thus making the project not viable as affordable housing.⁽³²⁾ In recent years, developers and local governments have begun working cooperatively to avoid such tense standoffs by designing and implementing habitat conservation plans.
- *National Environmental Policy Act (NEPA)*. NEPA requires environmental impact statements (EIS) to be prepared prior to construction for certain projects involving federal funding or approvals. Preparation of an EIS may take months or even years to complete, depending on the size and complexity of the proposed project and the development site.⁽³³⁾
- *National Historic Preservation Act (NHPA)*. The NHPA and its implementing regulations recommend potentially lengthy and complicated mitigation procedures for archaeologically, historically and/or architecturally significant sites or structures that may be impacted by development, but only when federal funds or approvals are involved. Special, potentially expensive materials and/or construction methods may be suggested for rehabilitation projects, in addition to applicable local building code provisions. The Act is triggered only by federal action, however, and the opinions are advisory rather than mandatory.

In addition to the major federal statutes, states and local governments have their own resource protection statutes and ordinances covering much of the same ground and sometimes imposing additional requirements. In Colorado, state environmental laws and regulatory programs include: the Colorado Air Quality Control Act; the Colorado Water Quality Control Act, which governs the quality of state waters and regulates individual sewage disposal systems, regional wastewater treatment programs, and activities of the Water Quality Control Commission; control of hazardous waste control and disposal; control and disposal of domestic sewage sludge; and water supply and runoff programs. Local jurisdictions have complementary programs, and many also have additional goals such as wildlife protection and stream setback requirements, to name just a few.

6. Other Laws and Regulations

Other laws and regulations may sometimes act as barriers to affordable housing yet do not fit into the traditional, broad categories listed above. These include:

- *Legal restrictions on raising revenue to pay for growth.* State constitutional provisions, statutes, or local ordinances may prohibit local governments from raising property taxes or increasing spending enough to provide the infrastructure necessary to accommodate population growth. This issue has become especially important in Colorado following passage of the Taxpayer's Bill of Rights (TABOR) in November 1992. This far-reaching amendment to the Colorado Constitution strictly limits spending increases and requires advance voter approval for "any new tax, tax rate increase, ...or tax policy change directly causing a net tax revenue gain to any district."
- *Labor regulations.* Labor regulations can be a significant impediment to the construction of affordable housing. For example, federal worker safety regulations may fail to distinguish between development projects of different sizes, forcing the developer of a small urban housing infill project to follow more complicated, and more expensive, regulations designed for much larger commercial projects. Such regulations are recognized as contributing to housing costs, but are beyond the scope of this report.[\(34\)](#)

Non-Regulatory Barriers to Affordable Housing

Many of the most significant determinants of housing cost are actually non-regulatory in nature. They include:

- *Costs of lumber and other building materials.* Lumber costs doubled from 1991 to 1993, raising the cost of lumber and wood products for a typical 2,000-square foot, single-family home by as much as \$4,500.[\(35\)](#)
- *Land costs.* High land costs usually are a major factor driving up the cost of a new home, accounting for perhaps 25 percent of final housing costs, or more, in most markets.
- *Interest rates.* Every increase in interest rates eliminates a larger segment of the population from being able to secure a mortgage on a new home.
- *Lending practices.* Lenders' reluctance to lend to certain groups or to invest in certain geographical areas often disproportionately impacts low- and moderate-

income housing consumers, reducing the overall amount of affordable housing available to them.

- *Societal attitudes.* Economic interests and social preferences lie at the heart of the affordable housing problem in many communities. The "not in my back yard" (NIMBY) syndrome can create fierce neighborhood opposition to denser, affordable housing projects. A community might even "over-enforce" certain regulations, such as application processing time, as a means to bar undesirable land uses, including affordable housing. And, regardless of the reality, the mere perception of inhospitable attitudes in a community can influence a developer's decision whether or not to locate a new affordable housing project there.

Regulatory Costs Compared to the Overall Cost of Housing

The 1991 Kemp report found that regulations, in general, add 20 to 35 percent to the cost of an average new home. Housing policy expert Anthony Downs went even further in a 1991 article, claiming that up to 50 percent of the cost of a new home comes from regulatory requirements. Like many such estimates, however, Downs' figure seems to have been little more than an educated guess. Obtaining accurate, precise estimates of financial impacts is extremely difficult because of the highly variable nature of regulations across jurisdictions and varying market conditions that dictate whether costs can be passed on in higher prices. Though federal law is consistent across the country, state and local regulatory systems may vary widely, and regulations even within a single community will vary depending on the type of housing being produced. And non-regulatory considerations vary widely and can have significant, independent impacts on housing costs. Despite these methodological challenges, however, efforts have been made to quantify the specific economic impacts of regulations in Colorado and other jurisdictions.

One technique commonly used to estimate the portion of housing construction costs attributable to regulatory barriers has been to track the various costs associated with the production of roughly the same house over time. For example, in 1994, NAHB attempted to assign costs to regulations for average homes in three different jurisdictions, tracking the differences in costs and fees over 20 years, from 1974 to 1994. The study found regulatory costs make up a significant portion of the overall home cost. For a typical "starter home" in the Cincinnati metropolitan area, valued at \$104,950 in 1995, regulatory costs went from \$3,000 in 1974 to \$16,975 in 1994. For a \$320,000 custom home in a Pittsburgh suburb, costs increased from \$5,545 to \$33,075 over the same 20-year period. And for a \$240,000 "ranch home" in Santa Fe, the costs of regulations jumped from \$1,694 in 1974 to \$20,710 in 1994. Note, however, that these figures have *not* been adjusted for inflation and so the increases are not quite as dramatic as they may first appear. A detailed breakdown of the regulatory costs for each home is shown in Table 1.1.

Table 1.1: Rising Regulatory Fees for Three Homes Over 20 Years

Source: National Association of Home Builders, c.1994

Regulatory Cost	Cincinnati Starter Home		Pittsburgh Suburb Custom Home		Santa Fe Ranch Home	
	1974	1994	1974	1994	1974	1994
Water and Sewer Tap Fee	285	3,000	0	775	190	300
Building Permit	165	475	145	300	64	1,250
Street and sidewalk costs per unit	2,300	6,500	5,000	22,000	1,300	6,700
Impact Fees	0	1,500	0	0	0	610
Estimated value land exactions	0	0	0	0	0	2,500
Legal and Engineering costs per home required to gain subdivision approval	250	2,500	400	1,500	60	300
Soil sedimentation and erosion controls	0	1,000	0	1,000	0	0
Storm water runoff controls	0	1,000	0	4,500	50	2,000
Off-site improvements	0	500	0	0	30	800
Tree Preservation/reforestation	0	500	0	3,000	0	750
Wetlands mitigation	0	0	0	0	0	0
Time from start of subdivision review process to start of construction	3 mos.	9 mos.	3 mos.	8 mos.	4 mos.	30 mos.
Government approvals required	3	12	3	6	6	8
Other Regulations	--	--	--	--	--	5,500
TOTAL	3,000	16,975	5,545	33,075	1,694	20,710
Total Sales Price (\$)	29,950	104,950	49,625	320,000	40,000	240,000
Percent of Sales Price	10.02%	16.17%	11.17%	10.34%	4.24%	8.63%

Note: The Cincinnati home is a 1,200-square-foot, bi-level, single-family home with three bedrooms, two full baths, and a two-car garage. The suburban Pittsburgh home is a 2,900-square-foot, two-story custom home with two-car garage. The Santa Fe home has between 1,600 and 2,200 square feet of living space, three bedrooms, and two baths. Costs have not been adjusted for inflation.

A second way to estimate the financial impact of regulatory barriers is to compare the costs of building nearly identical houses in different jurisdictions with different regulatory systems. *Builder* magazine published such a study in its August 1993 issue, comparing the construction of one house in San Diego, a highly regulated market, to that of a very similar house in Cobb County, Georgia, a pro-growth suburb of Atlanta which is relatively un-regulated. In each jurisdiction, the study estimated regulatory costs

associated with building a 2,200-square foot, single-family detached home. The results were striking. In Cobb County, regulatory costs added \$15,532 to the cost of the home, roughly eight percent of the total home price of \$195,000. Yet in San Diego, regulatory fees and costs added \$35,952 to the price of the home, or about 15 percent of the \$240,000 total home price. Significantly, the author of the *Builder* article noted that, "we do not judge the merits or benefits of an impact fee or rule, like sturdier houses or prettier parks, not to mention reduced builder liability for construction defects." The article also contained an insightful quote from a developer: "Regulation isn't the enemy. The enemy is the lack of teamwork between builders and regulators that leads to 'over-regulation.'" ⁽³⁶⁾ A breakdown of the *Builder* study results appears in Table 1.2.

Table 1.2: Regulatory Costs for Same Home in Different Jurisdictions

Source: *Builder*, August 1993

	Cobb County	San Diego
Development Fees	\$23	\$840
Fees, Hook-ups, and Permits	\$3,380	\$20,586
Building Code Compliance	\$9,540	\$8,534
TOTAL	\$15,532	\$35,952
Total Sales Price	\$195,000	\$240,000
Total Regulatory Costs as		
Percentage of Sales Price	8%	15%

More recently, the *Washington Post* conducted a similar study in January 1997, examining the construction of two versions of roughly the same house, the Colonial-style "Hancock II." The homes were built in two different Maryland suburbs in the Washington, D.C., metro area. The newspaper found that different local regulations, especially different fee and permit systems, contributed to a striking dissimilarity in the ultimate sales prices: \$160,000 in Upper Marlboro in Prince George's County, versus \$195,000 in Dale City in Prince William County. Note that land costs were a much more significant component of total sales prices than regulatory costs in both jurisdictions. The results are summarized in Table 1.3

Table 1.3: Comparison of Costs for Similar Houses

In Same Metro Area, Different Local Jurisdictions

Source: *Washington Post*, January 11, 1997

	Dale City, Prince William County	Upper Marlboro, Prince George's County
Type of Cost		
Square Footage	2,050	1,800

Land Cost	\$49,920	\$39,010
Water/Sewer Connection Fees	\$8,500	\$4,000
Other Fees	Development Impact Fee \$1,200	Sprinkler Installation \$2,400
		Street Restoration and Driveway Apron \$2,100
		Tree Preservation \$800
Total Sales Price	\$195,000	\$160,000
Land Cost as % of Sales Price	25.6	24.3
Land Cost per Square Foot	\$24.04	\$21.67
Fees as % of Sales Price	5.0	5.8
Fees per Square Foot	\$4.73	\$5.20

Similar studies have been undertaken in Colorado. At the request of the Colorado Association of Home Builders, the Denver-based consulting firm of King & Associates currently is compiling data from six Front Range communities, examining the costs imposed by regulations as compared to other housing costs. The study focuses on development fees for single-family housing. For example, in Westminster, regulatory costs for a \$161,000 home are \$13,000, or 8.3 percent of the total sales price. In Highlands Ranch, the development fees for a slightly less expensive home are \$11,299, or 7.4 percent of the total sales price. See Table 1.4. For the study, regulatory fees include: water and sewer tap fees, building permit costs, sales and use taxes, and any other fees assessed at the building permit stage (e.g., impact fees). Fees or costs imposed at the land development stage (e.g., land dedications) are absorbed into the lot cost. Such fees are hard to measure on an average basis (e.g., parks, roadways) and thus are not quantified in these tables. King & Associates obtained figures for the costs such as labor, materials, and overhead directly from builders.

Table 1.4: Average Regulatory Costs in Two Colorado Communities

Source: *Real Estate Market Trends*, King & Associates, April 1997

Housing Cost Component	Highlands Ranch		Westminster	
	Cost	% of Sales Price	Cost	% of Sales Price
Labor/Materials/Overhead	\$92,001	60.0	\$97,355	60.2
Lot Cost	\$25,000	16.3	\$22,500	13.9
Marketing/General Administration	\$11,497	7.5	\$11,500	7.1
Finance	\$3,100	2.0	\$4,450	2.8
Profit	\$10,400	6.8	\$12,525	7.7
Regulatory Costs	\$11,299	7.4	\$13,470	8.3

TOTAL Sales Price

\$153,300

\$161,800

Potential Savings in Housing Costs from Regulatory Reform

The general benefits of regulatory reform to promote affordable housing are those associated with having a diverse housing stock since, as noted earlier, the health of the housing market and the health of the local economy are tightly linked. As the Colorado Division of Housing has noted, there is a "significant level of interactivity and interdependence between different facets of a community: economic development, environmental, transportation, and housing."⁽³⁷⁾ Regulatory reforms to promote affordable housing could lead to a direct economic stimulus resulting from the generation of jobs for those in the design, building, construction, and real estate industries, along with increased wages, tax revenues, and demand for goods and services. NAHB has estimated that the construction of 100 new single-family homes generates 270 full-time jobs in construction and related industries and over \$7 million in wages and combined federal, state, and local revenues and fees. In Colorado, it is estimated that residential construction will directly generate at least \$2 billion of wage income per year between 1997 and 2000; each year, at least 50,000 people are employed in the residential construction industry. There also is a multiplier effect, as the initial economic impact is multiplied when that money is recycled through local economies.⁽³⁸⁾

Yet, beyond recognizing the general economic benefits created by an improved housing market, it is difficult to quantify the project-specific savings associated with regulatory reform. Two studies are discussed below that have attempted to address just this issue: First, a 1992 study from San Diego identified and quantified the value to developers of various regulatory modifications designed to encourage affordable housing; and second, the Joint Venture for Affordable Housing, a collaborative effort from the early 1980s that involved numerous demonstration projects around the country, attempted to estimate the savings from reforms in building codes and development permit processing.

San Diego's 1992 Inclusionary Housing Analysis. In 1992 San Diego was attempting to design an inclusionary housing program to increase the city's supply of affordable housing. The program involved setting affordable housing quotas for all new residential development and designing incentives to help offset the additional costs incurred by developers. The city's Housing Commission hired David Paul Rosen & Associates to identify and quantify the value of various incentives to developers, including: 1) zoning code reform, 2) a density bonus program, 3) development fee waivers or deferrals, 4) accelerated development processing, and 5) modest affordable unit design modifications.

Overall, the consultant found that the costs of providing affordable housing *could* be offset through a package of incentives to the developer. Potential cost savings from each incentive were calculated for each of six basic housing prototypes. These total potential cost savings were considered along with the "affordability costs" (i.e., the costs of complying with the recommended levels of production of affordable housing) to obtain a

net project savings for each housing prototype. The consultants found that, given the incentives, developers would be able to produce each housing prototype and still either break even or make a slight net profit. The consultant also noted the relationship of government regulations to land prices, finding that a new regulation with a cost impact of \$15,000 per unit represented the equivalent of about a two year-increase in land prices. [\(39\)](#)

Though somewhat limited by its age and geographic specificity, the San Diego study is nevertheless noteworthy for its methodology. The attempts to quantify the benefits of various types of regulatory reform suggest techniques Colorado communities might want to use to estimate the value of regulatory reform in their own communities. In the area of zoning code reform, for example, the consultants examined reducing required parking stall depths by three feet, reducing the required amount of supplemental (guest) parking by 30 percent, rescinding the ban on shared parking, and reducing minimum street widths by ten feet. Estimated savings per unit from the bundle of reforms ranged from \$165 to \$3,860.

The Joint Venture for Affordable Housing. Another attempt at assessing the potential savings from regulatory reform was the widely publicized Joint Venture for Affordable Housing (JVAH) study begun by HUD, the American Planning Association, NAHB, and other groups in 1982, and administered by NAHB's National Research Center. The project involved finding ways to reduce housing costs through administrative reform and building code modifications. Housing industry representatives and state and local officials cooperated on 132 demonstration projects around the country, attempting to reform regulations to reduce housing costs and to quantify the savings achieved. One of these demonstration projects--in Mesa County, Colorado--is the subject of a case study later in this report. The JVAH received no federal funding, other than technical assistance. Builders came up with potential cost-saving ideas, and local officials agreed to those ideas they considered good for their community.

Regulatory reforms in four principal areas were tested in the demonstration projects: 1) land use regulations (density restrictions, mostly); 2) development standards (e.g., street width, sidewalk requirements, less expensive sanitary and water pipes); 3) construction innovations in building the structure (e.g., wider spacing of studs, new plumbing and electrical materials); and 4) streamlined administrative processing. The average savings per unit in land and construction costs resulting from all four types of reform was \$8,573. Of the four categories, reforms in land use regulations accounted for three-quarters of the total savings. This makes sense: Since more units were allowed to be built on a parcel of land, the developer could take advantage of economies of scale and the price per unit for each buyer could be reduced.

Final products of the JVAH included two volumes of findings: one devoted to cost-saving suggestions in land planning and development, and the other serving as a guide for home builders containing "proven cost-saving construction techniques." Whether or not lasting lessons were learned from the JVAH is open to debate. A May 1989 report in *Housing Economics* noted that the "demonstrations have been of limited effectiveness. Even in those communities where demonstrations have occurred, the relaxation of regulations has not always extended beyond the demonstration. Despite widespread

media attention to housing affordability, the JVAH is rarely mentioned and is not well known." Some of the JVAH's specific suggestions for reforms in land development and building construction are discussed below in Chapter IV.

Potential Costs of Regulatory Reform

The San Diego and JVAH projects suggest that regulatory reform could result in clear financial savings for developers and builders. Some of these savings likely would be passed on to home buyers, thereby increasing the overall supply of affordable housing. On the other hand, however, significant *costs* could be imposed by deregulation, or even modest regulatory reforms, that must not be overlooked. These include the substantial public expenditures necessary to pay for new infrastructure, including parks, roads, and schools, to serve new development in the absence of impact fees, charges, or growth controls; the loss of agricultural lands to sprawl; increased traffic congestion and air pollution; declining property values in the absence of zoning controls to separate incompatible land uses; and declining property values and loss of economic assets (e.g., for tourism) resulting from the destruction of scenic and environmentally sensitive lands and historically significant buildings in the absence of resource protection laws.

In short, discarding all regulations that have adverse effects on housing prices could be an impulsive move resulting in problems potentially far more serious than inflated housing prices. As housing policy expert Chester Hartman has noted, "virtually any land-use control worthy of the name imposes some costs on someone." The challenge is to address the various trade-offs involved in deregulation openly and honestly, "rather than wildly attacking the regulations as cost increasers."⁽⁴⁰⁾

The next chapter addresses regulatory barriers in six Colorado communities. Chapter IV describes in broad terms the different tools that may be appropriate for a local government wishing to mitigate the financial impacts of land-use regulations.

Chapter III.

Regulatory Barriers in Colorado: Six Case Studies

In 1988 Colorado Governor Roy Romer established the Governor's Unified Housing Task Force and charged it with developing a statewide housing agenda for Colorado. The group was instructed to establish a framework for addressing many statewide housing concerns, including regulatory barriers to affordable housing. Within six months, the Unified Housing Task Force had developed 11 recommendations, many of which were soon achieved. Others, however, including an assessment of the cost-effectiveness of housing-related regulations, were begun but never finished.⁽⁴¹⁾

Though it left behind some unfulfilled recommendations, the Unified Housing Task Force inspired continuing efforts to reform housing policy in Colorado and, more specifically, to reform regulatory barriers to affordable housing. This chapter presents six recent Colorado case studies in which local officials, residents and the development community have recognized, and in some cases overcome, regulatory barriers to affordable housing. These case studies cover many of the categories of barriers noted above and are drawn from both the Front Range and rural areas of the state, including Mesa County, Steamboat Springs/Routt County, Broomfield, Denver, Longmont, and Summit County.

Rough estimates of costs associated with regulations are included. However, since it is difficult to quantify the project-specific impacts of individual regulations, we have included reliable, methodologically sound estimates of such costs only in a few instances. Many other cost estimates are anecdotal in nature.

1. Steamboat Springs and Routt County

In the mountain resort town of Steamboat Springs, developers say building affordable housing is difficult because of the slow pace of the development approval process and the amount of discretion given to city staff. In response, the town and Routt County have formed a Regional Affordable Housing Committee, which is striving to modernize both the city and county land use codes and to increase the area's overall supply of affordable housing.

While Steamboat Springs and surrounding Routt County currently are not experiencing an acute shortage of affordable housing, the jurisdictions nevertheless want to take steps now to ensure there won't be a problem in the future. In addition, developers are frustrated with the slow local approval process for housing development applications. To address both concerns, the town and county have come together in an unusual joint effort. The Regional Affordable Housing Committee (RAHC) is working to increase affordable housing opportunities for area residents by promoting regulatory reform, proposing innovative production methods, and developing alternative financing techniques.

Costs of obtaining approval for affordable housing development in Steamboat. To estimate procedural costs associated with building affordable housing in the Steamboat area, the consulting firm MJ Landers & Associates prepared a report in April 1997 explaining the various costs involved in obtaining city approval for a hypothetical, multifamily housing project. Costs and cost implications are tracked from plan application to issuance of building permit and plat recordation. Exact estimates for approval time and cost are difficult to predict since multifamily dwellings are conditional uses in Steamboat, and also because allowable density varies depending on the town's Residential Density Bonus System. Nevertheless, the Landers report found that the

average applicant spends approximately 24 weeks working his way through the four-part review process, which includes: conceptual plan, major development permit, building permit, and minor development permit (for final plat).

The report tracks a hypothetical project consisting of 100 multifamily units in eight buildings on an unplatted, 10-acre parcel within the city limits, on land zoned for residential multifamily. Initially, the applicant must meet with city planners to discuss a sketch plan for the development; costs here are assumed to be negligible, since the applicant can get by with an informal sketch. Next is the conceptual plan review process, which takes a minimum of six weeks and costs almost \$5,200, the bulk of which goes toward professional fees for preparation of 15 copies of a site plan, three copies of an existing conditions plan, a preliminary grading plan, and a drainage study. At this stage, the developer has invested weeks and several thousand dollars in project planning with no assurances of a return on his investment.

Next, the major development permit stage of the approval process lasts about 10-12 weeks and costs over \$27,000 for the hypothetical development. Again, most of this sum pays for professional services, this time to produce 15 revised copies of the site plan, three copies of updated information submitted during conceptual review, an engineered utility plan, a detailed grading plan, a shadow plan, a landscape plan, building sketches and architectural guideline information, engineered road profiles and cross-sections, a traffic impact analysis, site profiles, floor plans, a phasing plan, soils information, geologic information, covenants, and a physical model of the development.

After approval of the major development permit, the applicant obtains a building permit and begins construction either prior to, or concurrently with, approval of the final plat. The various fees assessed as part of the building permit process for the hypothetical development total \$340,808, assuming a total project valuation of \$2,400,000. The largest portion of this total goes to sewer and water tap fees, which total \$235,000.

Finally, the final plat and development agreement are prepared, filed, and recorded. This process, called minor development review, takes approximately six weeks and costs roughly \$9,122 for the hypothetical development. Major costs at this stage include the professional services of an engineer and surveyor for preparing the final plat (\$5,000), and posting of surety at 125 percent of the cost estimate of the improvements (e.g., landscaping, common areas, water and sewer mains), which the city holds until the improvements are inspected and approved (\$4,000). Table 2.3 summarizes the costs from all four stages of the approval process for the hypothetical development.

The Landers report criticizes several requirements of the Steamboat process as "expensive luxuries," contributing unnecessary costs and delay and driving up home prices. In particular, the report complains about the time and effort required to prepare information (e.g., the physical model) and also the lack of certainty in allowable uses and density, which forces a developer to expend significant amounts of time and money before knowing precisely what he will be allowed to build.

Steamboat housing developer and contractor Steve Cavanaugh, a member of the RAHC, considers the cost and time estimates in the Landers report to be very conservative. Also, he notes, the numbers should be seen in perspective: In his experience, roughly one-third of a house's final sales price in Steamboat represents the cost of the land, and only about one-half to one percent of the sales price is attributable to delays in the approval process.

Table 2.3: Summary of Approval Costs for Typical Multifamily Development in Steamboat Springs

Source: MJ Landers & Associates, April 1997

REQUIREMENT	AMOUNT
Conceptual Review (6 weeks)	
Processing Fee	\$100
Notice Publication	\$75
Mailing Labels	\$20
Professional Services	\$5,000
Total	\$5,195
Major Development Review (10-12 weeks)	
Processing Fee	\$2,050
Notice Publication	\$150
Mailing Labels	\$40
Professional Services	\$25,000
Total	\$27,240
Building Permit (6 weeks)	
Permit Fee	\$10,720
Plan Review Fee	\$6,960
County Use Tax	\$9,600
City Use Tax	\$53,568
Tap Fees	\$235,000
Professional Fees	\$25,000
Total	\$340,848
Minor Development Review (6 weeks)	
Processing Fee	\$75
Recording Costs	\$47
Surety	\$4,000
Professional Services	\$5,000
Total	\$9,122
GRAND TOTAL	\$382,045

Another developer's experiences. Another affordable housing developer, Jeff Spanel of Wintergreen Development, has been frustrated in his dealings with Steamboat Springs. About 90 percent of Wintergreen's projects are affordable housing. The company has completed projects throughout Colorado, including Steamboat Springs, Eagle County, Avon, and Summit County. In Steamboat, Spanel believes that streamlining the

application and approval process is the single most important thing the city can do to facilitate the construction of housing and keep housing costs from rising unnecessarily. The city must "cut the bureaucratic red tape," according to Spanel. That partly means eliminating the large amount of discretion currently given to city staff, but mainly involves reducing the amount of time required for application review and approval.

Developers such as Wintergreen are able to deliver affordably priced homes by producing in large quantities, taking advantage of economies of scale. The faster Wintergreen can move through the city's approval system, the faster the company can build a house. And at least part of the savings Wintergreen enjoys through a speedy construction process will be passed on to the homebuyer. Yet any extra sums caused by a protracted approval process increase Wintergreen's costs and add to the amount the buyer ultimately must pay.

According to Spanel, the extra time involved in producing housing in Steamboat Springs can translate into several thousand additional dollars per unit. On one Steamboat project, Wintergreen built 108 two-bedroom condominium units, ranging in sales price from \$124,000 to \$185,000 (affordably priced in that area). Development delays caused by the city's slow approval process pushed the final approval of the project from August to October. Wintergreen had to cover higher carrying costs for the land for that period. More significantly, since Wintergreen could not begin construction in October at the start of winter, the company had to delay start-up until the following spring and lost an entire construction season. This cost the company an estimated five percent in new construction costs, through additional labor, equipment, and materials costs. This five percent translated into an additional two to three percent added to the cost of each unit. Table 2.4 illustrates the approximate additional costs added to the prices of houses at the low and high end of the project's range, according to Spanel, who maintains that the additional \$3,000 to \$5,550 effectively pushed some buyers out of the market for those homes. As Spanel notes, at this end of the market, each additional hundred dollars added to the cost of a home can drive several potential homebuyers out of the market.

Table 2.4: Additional Costs (Approximate) Caused by Construction Delays

Source: Wintergreen Development, August 1997

	Low end of range	High end of range
Original price per unit	\$124,000	\$185,000
Three percent additional costs caused by construction delay	\$3,720	\$5,550
Ultimate sales price per unit	\$127,720	\$190,550

Public action to encourage affordable housing. Spanel and Cavanaugh are not the first persons to criticize the pace of affordable housing development in the Steamboat Springs area. Local efforts to address the issues of affordable housing and code reform began in the mid-1990s, when the Chamber of Commerce formed an Affordable Housing Advisory Committee to address perceived difficulties the area was having in attracting a qualified workforce, due to the high cost of living. The committee's diverse membership

included high-level representatives from important local industries and organizations (e.g., the ski companies, banks, and construction industry), public services (e.g., schools), realtors, and city and county officials and staff. The intent was that public-private cooperation might stimulate the production of new affordable housing and keep rents on existing housing from rising too rapidly.

Rather than encouraging more government involvement, the committee wanted to facilitate the private production of new affordable housing. The committee served as a sounding board for development projects and lobbied on behalf of projects they believed would increase the diversity of the local housing stock. They supported, for example, requests for waivers of county use taxes for certain projects. The committee also lobbied for or against new ordinances that would affect housing affordability. The group considered a range of regulatory reform measures, including fee waivers, linkage programs, density incentives, and modifications to site development standards. There was some internal dissension among those emphasizing a more hands-on approach from government (e.g., by requiring linkage programs) and those advocating for support for private-sector initiatives. Over the years the committee evolved into a more ad hoc group, and eventually merged into the new RAHC.

Creation of the RAHC. In 1995 a new comprehensive plan was approved, which included a new housing element. To implement the plan's objectives, the City Council and the Board of County Commissioners agreed on a joint resolution to establish the Regional Affordable Housing Committee (RAHC). The RAHC has 14 members and includes many of the same citizens that served on the earlier committee. Whereas the earlier committee had no administrative support, relying on overworked city and county staff, the RAHC hired a part-time administrative coordinator, paid for jointly by the city and the county.

RAHC members created four focus areas/subcommittees, including: 1) regulatory reform, 2) innovative production techniques, 3) finance, and 4) public awareness. The regulatory reform working group consists of the RAHC administrative coordinator and two planners, one each from the city and the county. This group currently is working to streamline inefficient regulations both at the county and city levels. At both levels, the working group's efforts to modernize their codes illustrate the difficulties involved in balancing economic concerns with land-use regulatory goals.

County initiatives. In Routt County, the working group is concentrating on reform of regulations dealing with accessory dwelling units (ADUs) (also called "caretaker's houses" or "accessory apartments"). ADUs in that area generally are freestanding, smaller houses located adjacent to larger homes and mansions. Because of the number of such units and their distinct features, county planners consider ADUs to be one of the most locally appropriate sources of affordable housing.

The need for reform arose two years ago when the county changed allowable densities in certain districts from one dwelling unit per 15 acres to one dwelling unit per 35 acres.

The change encountered strong opposition from the local real estate community. A compromise was worked out in which the county allowed "guest units" under certain restrictions in exchange for the lower overall density. The restrictions allowed freestanding ADUs only on properties of 30 acres or more, and the units themselves had to be no more than 800 square feet. Property owners could receive no compensation from occupants of the units, and no one could occupy such a unit for more than 30 days at a time (i.e., the units were designed solely for short-term stays of friends and family). Property owners were required to sign documents agreeing to these restrictions.

Allowing the guest units was an interim compromise that expired in July 1997. The county currently is deciding how to deal with such units on a permanent basis. First, as a policy matter, should ADUs be allowed in new development in order to increase the supply of affordable housing? Second, if they are allowed, what standards are appropriate, especially regarding size and degree of separateness from the main house? Third, how should the county identify and grandfather in the large number of such structures built in violation of the existing code? And finally, a related issue, how should the county deal with the hundreds of illegally constructed units of various types built in the area in the last few years (e.g., apartments above garages) that do not constitute formal ADUs under the code, but nevertheless are being used for dwelling purposes and beneficially contribute to the area's affordable housing stock?

The final regulations adopted by the county represent an attempt to respond to the need for affordable housing while continuing to closely regulate the character of the structures built within its boundaries. The new regulations, approved in the fall of 1997, allow one 800-square-foot attached secondary unit on tracts of between 35 to 50 acres. On tracts of 50-140 acres, one 800-square-foot unit is allowed and may be detached if it is within 300 feet of the primary unit and located on a common driveway. On tracts over 140 acres, the county will sign a large lot administrative agreement with the owner and issue building permits to allow up to four units, which may be up to 2000 square feet in size. Separate, slightly more liberal regulations apply within a designated Commuter Zone, which includes those areas near communities with employment opportunities (such as retail, schools, and other services) which are more appropriate for higher densities. Those units already built prior to 1972 and/or under a development agreement are considered legal, and those existing units built between 1972 and 1995 may become legal through a registration process.⁽⁴²⁾

City reforms. The RAHC's regulatory reform working group also is concentrating on reforms and updates to Steamboat Springs's Community Development Code aimed at making the code more conducive to the production of affordable housing. The group recognizes that developers such as Cavanaugh and Spanel dislike existing code provisions because they take too much time and give too much discretion to city staff.

The work group has proposed a broad set of code reforms that hopefully will provide more specificity. The reforms aim to provide the broadest housing mix possible to accommodate all income groups. The current, first round of suggested reforms, submitted to the City Council in July 1997, includes zoning measures that planners feel will be the least controversial (e.g., smaller minimum lots). Later the group will push for reforms

that may be harder sells, including PUD reform and linkage requirements.⁽⁴³⁾

The list below summarizes some of the proposed code reforms, including modifications of existing zone districts, creation of new zone districts, and general modifications applicable throughout the city. The city currently is working to implement each of the reforms listed. The suggested reforms are the product of extensive discussions over how best to regulate land use in Steamboat Springs and yet still encourage the production of affordable housing. The list illustrates typical strategies a jurisdiction should consider when attempting to mitigate the effects of regulatory barriers to affordable housing. More detail on some of the suggested reforms is included in Chapter IV.

Reforms to existing zone districts.

- Allow secondary dwelling units in certain residential areas;
- In commercial districts, allow residential apartments above or below street level as a use by right (with nightly rentals prohibited);
- In industrial districts, allow employee/caretaker units as uses by right, if associated with compatible industrial use and are no safety concerns; and
- Reform mobile home uses throughout all zone districts, including: grandfathering existing mobile home parks, reducing the minimum lot size requirement for mobile home lots, and allowing modular construction in all single-family zone districts so long as permanent foundation is provided.

Proposed new zone districts.

- Planned Development Zone Districts, which would allow for a variety of land uses on a property and allow variations from normal zoning standards (e.g., setbacks, parking requirements); and

Changes to the general provisions of the code.

- Liberalize certain definitions (such as "family", increasing the number of unrelated persons allowed per single-family dwelling) and "dwelling unit";
- Include alternative forms of housing as conditional uses in appropriate zone districts (i.e., dormitories, hotels, group homes);
- Expedite review for projects meeting certain criteria (possibly including affordable housing projects); and
- Reduce road standards for certain approved applications.

Linkage programs (not being implemented yet, but reserved for later discussion).

- Require commercial/lodging projects beyond a threshold size to provide a related percentage of employee housing;
- Require multifamily developments to provide a related percentage of housing for employees or managers;
- Waive use tax and tap fees for any required employee units;
- Allow cash-in-lieu to providing required housing that would go into acquisition fund for

housing; and

- Require a percentage of lots/units in new residential subdivisions to be set aside for "more affordable" housing; e.g., smaller lots, resale restrictions, occupancy restrictions, max unit size restrictions.

2. Denver

According to some developers, Denver's development approval system is slow and inefficient, and various code requirements impose unnecessary costs on new housing development. The Renaissance Project is dedicated to overhauling the city's processing and permitting systems, which some maintain are overly complicated. A separate task force is concentrating on affordable housing issues, examining ways to reduce housing costs through streamlined processing, design and construction modifications, and alternative financing techniques.

The need for reform. While home prices in Denver are not the most expensive in the state (housing in the mountain resort towns is much more costly, on average), prices in the capital city nevertheless have increased dramatically in recent years. The average home price in Denver was a record \$178,583 in July 1997.⁽⁴⁴⁾ Average rents in Denver hit a record \$638 per month during the second quarter of 1997.⁽⁴⁵⁾ Just five years ago, Denver was one of the most affordable housing markets in the western U.S., ranked 12th out of 181 markets in housing affordability. Today, though, the metro area ranks 79th out of the same number of markets. Denver's "housing opportunity index" (i.e., the average house cost divided by the median income) dropped over the same period from 81.6 percent to 66.4 percent. In other words, while in 1993 a family in the Denver metro area earning the median income could afford to buy 81.6 percent of the homes on the market, a family earning the median income in 1997 could afford to buy only 66.4 percent of the homes on the market.⁽⁴⁶⁾

According to developer Pat Hamill of Oakwood Homes, the largest homebuilder in Denver, there are two main concerns driving up the cost of new housing in the Denver area. The first is the inefficiency of the current development review process. The problem lies not only with the procedures themselves, but also with the way they are administered. Hamill asserts that developers frequently must submit to multiple, time-consuming reviews of the same documents by numerous different city agencies. Extended review times can translate into extra costs for the developer and the consumer, as documented earlier in this report.

Hamill states that the second major problem driving up the cost of housing in Denver is a lack of emphasis on affordability concerns on the part of various city agencies and departments. For instance, Oakwood Homes recently proposed a new residential single-family development to Denver officials. The development proposal duplicated a very successful feature of one of Oakwood's projects in the Highlands Ranch area in the south metro area, in that the site design utilized 20-foot paved easements for water lines, as opposed to the standard 30-foot paved easements required under the Denver code. The modification proposed by Oakwood would have allowed the developer to realize cost

savings of \$1,800 per unit and would have meant lower prices for homebuyers. Yet the Denver Water Board refused to consider modifying their traditional requirements, even in the face of evidence that the proposed change would not impact the reliability, effectiveness, or maintenance costs associated with the lines.

The Renaissance Project. Denver's Renaissance Project is attempting to address the concerns of Hamill and others regarding the inefficiency of the city's development review and approval system. Initiated by the Manager of Public Works and enjoying strong support from the mayor, the project has been underway for about a year and will be active through at least 1999. Advisory groups--including builders/developers, homeowners, and city employees-- are currently meeting to brainstorm and formulate new approaches to processing and permitting development applications. Major system improvements adopted so far include the creation of an "Early Assistance and System Entry" (EASE) Counter in the Planning Office that encourages the use of counter and field permits, provides comprehensive information to persons considering development projects, and provides a single point of contact for various types of review.

Other recommendations adopted by the Renaissance Project include creation of a "unified data base" which reduces paperwork and allows for the sharing of information across city agencies; issuance of single "authorizations to proceed" instead of issuance of multiple licenses and permits; and training and certification of building inspectors to cover a wide range of inspection requirements. In general, the city is looking for ways to delete unnecessary programs, consolidate activities, and delete duplicative tasks.

Affordable Housing Task Force. The second major area of concern identified by Hamill is a lack of affordable housing and, especially, code provisions and agency requirements that inhibit the production of such housing or unnecessarily raise housing costs in some way, such as the water easement requirement mentioned above. A separate, recently created task force is dealing exclusively with these issues. Whereas the Renaissance Project is examining process reforms in general, the "Reducing the Cost of Housing" task force is focusing specifically on Denver housing affordability issues. Chaired by Hamill, the task force met for the first time in June, 1997, to identify goals, create a list of anticipated work products, review basic barriers to affordable housing, and define affordable housing in the Denver area. The task force hopes to complement, rather than duplicate, the Renaissance Project.

The task force met weekly during the summer of 1997 to trade ideas and examine housing affordability strategies used in other jurisdictions. The task force's diverse participation includes city staff, developers, realtors, lenders, and the homebuilding industry. Six subcommittees include: 1) land development and site design, 2) architecture and building design, 3) regulatory reform, 4) infrastructure condition, 5) building construction, and 6) financing.

General recommendations of the task force, still in draft form, focus on the establishment of an expanded city housing office to advocate for housing affordability issues;

development of a clear statement of housing-related goals and objectives for endorsement by the Mayor and City Council; adoption of a housing impact analysis requirement for new city ordinances; and modifications to the Denver Water Board's flat fee schedule to make it more equitable for affordable housing development. Summaries of selected possible actions developed by the subcommittees are contained in Table 2.5. These recommendations address both regulatory and non-regulatory issues.

Table 2.5: Selected Draft Committee Recommendations from

Denver's "Reducing the Cost of Housing" Task Force

Source: Reducing the Cost of Housing Task Force, September 1997

Issue	Current Policy/Standard	Possible Changes
Underlying zoning/allowable density	Current single-family detached zone districts do not provide for lot size consistent with housing affordability; 6,000 square foot minimum lot size; to achieve higher densities, you must rezone to PUD or submit to the PBG process, both of which are costly and time-consuming	Create a specific residential zone district to accommodate a 3,500-square foot lot without having to go through the PUD or PBG processes.
Strengthen Denver's goals for housing affordability	Goals for affordability are lost as they filter down through the review/approval process	<ul style="list-style-type: none"> • Mandatory housing affordability impact analysis • Implementation of cost-saving measures within the subdivision/zoning code, with mandatory department participation
Public participation process	Public participation allowed/encouraged at every step of approval process; neighborhood planners allowed to make their own requests on a development, many of which are not generally required by the city.	<ul style="list-style-type: none"> • Recognition that general public input is appropriate at rezoning; subsequent participation limited to issues related to non-conformance with uses and intensities of established zoning • Recognition that if a proposal conforms to one or both of the city's comprehensive plan or neighborhood plan, discussion and dissension from public should be limited
Impact Fees	Fees are sometimes excessive, undefined, arbitrary	Try to avoid excessive fees. Look for alternative methods to raise revenue that are of least cost, define up-front costs, and determine ways to spread them out

Lot-size setbacks	Specific lot sizes and specific setbacks are required unless reductions are negotiated as part of rezoning to PUD or submittal of PBG	<ul style="list-style-type: none"> ● Provide specific criteria for smaller lots with a (new) standard small lot zone district ● Reduce front setbacks for driveways to 18 feet and to building front (non-driveway) to ten feet
Open Space/ Parks	<ul style="list-style-type: none"> ● Policies and regulations are not well-defined or standardized ● Definition of acceptable open space/parks is too narrow ● Drainage requirements impose significant costs 	<ul style="list-style-type: none"> ● Expand definition of acceptable open space/ parks to include tot lots, natural open space, useable detention, and other undeveloped areas ● Allow detention and other non-traditional elements be credited to open space/parks requirements
Streets	<ul style="list-style-type: none"> ● Excessive width standards ● Excessive parking requirements on collectors 	<p>Reduction in required right-of-way and street-width based on level of traffic and parking requirements</p> <ul style="list-style-type: none"> ● Elimination of requirement that collector roads be "unloaded" with lots; leave up to specific site design ● Elimination of collector road parking requirements for unloaded collectors ● Extend allowable length of cul-de-sacs to a maximum of 800 feet
Utilities/ Easements	<ul style="list-style-type: none"> ● Water Department requires 30 foot unobstructed pavement for easement ● Current policy of minimum separation criteria adds costs ● Excessive easement width requirements 	<ul style="list-style-type: none"> ● Allow 20 foot unpaved easement ● More creative approach to joint trenching ● Make utility easements width more consistent with today's technology
Pedestrian Ramps	Colored pedestrian ramps are required at all street intersections	Require colored pedestrian ramps at mid-block ramp locations only

High cost of raw land due to limited supply	No established policy to identify sites specifically for affordable projects	<ul style="list-style-type: none"> ● Designation of CDBG funds to be used to help "buy down" the cost of expensive properties ● Designation of affordable sites on the city's vacant land inventory ● Make city-owned vacant sites available on a non-profit basis, or create new incentives to encourage use of the sites
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The task force also has identified new city policies that raise housing costs, such as the Denver Water Board's July 1997 increase in the size of pipe required to service each new dwelling unit, from 3/4 inch to 1 inch; changes in street light spacing requirements and increases in fixture costs (about \$50 per lot); increases in trail standards from 8 feet to 10 feet and from asphalt to concrete; and new minor local street standards with mandatory tree lawns which add landscape costs to each unit.

According to one developer who served on the task force, perhaps the most valuable aspect of the discussions was the frank, open dialogue opened up between city staff and the development community. This developer found it eye-opening and informative to hear city staff explain the rationales behind various regulations, some of which he felt had not been adequately justified in the past.

3. Broomfield

The comprehensive fee system in place in Broomfield illustrates the typical way in which a Colorado city finances the growth and maintenance of its infrastructure, and the potential costs added to a housing project. In addition, one developer's experiences indicate how a city's deference to neighborhood pressure can derail an otherwise viable housing project.

The costs of developing housing in Broomfield. A growing suburb to the northwest of Denver, Broomfield extends across portions of Adams, Boulder, Jefferson, and Weld counties. The city faces development pressures similar to those seen in Westminster, Thornton, and other Front Range suburban communities.

Broomfield uses a comprehensive system of fees and taxes to pay for the development

and maintenance of its public infrastructure that is typical for Colorado cities. A charge for the expansion of various public utilities and infrastructure is called a service expansion fund tax. Broomfield imposes additional fee requirements that cover a wide range of public services, including city staff time to review building permit applications and development plans, a city use tax, tap fees, and a tax imposed by Boulder County to provide for acquisition and maintenance of open space. Table 2.5 summarizes the various charges applied to a new housing unit in Broomfield.

Table 2.5: Permit Fee and Tax Information for Residential Properties

Source: City of Broomfield, July 1997

Type of Fee	Calculation Methodology
Building Permit, Electrical, Plumbing, and Mechanical Fees	Based on project's total construction valuation (essentially, the building replacement cost). (Ranges from \$16.50 for a project valued at \$500, to over \$2,200 for a project valued at at least \$500,000)
Plan Review Fee	65% of building permit fee
Electrical, Mechanical, and Plumbing Review Fees	65% of the electrical, mechanical, and plumbing permit fees
Other Permit Fees (e.g., grading, utility lines, streets, curb & gutter, walks)	Determined on per project basis
City Use Tax	3.75 %
Boulder County Open Space Tax (for Boulder County properties only)	Valuation X 50% X 0.35%
Water Tap Fees	Based on hydraulic requirements and annual consumption estimates. (Ranges from \$9,181 to \$1,753,581)
Sewer Tap Fees	Based upon hydraulic requirements and annual consumption estimates
Service Expansion Fund Tax	\$1 per square foot assessed on all residential building permits

These charges are typical of those applied to new residential development in Colorado. One developer is currently completing a small project in Broomfield made up of several 1,200-square foot, two- and three-bedroom townhomes. For these units, various city charges will add approximately ten percent to the final sales price of the homes, just slightly less than the land costs per unit.

Table 2.6: Cost Estimates for Broomfield Townhome Development

Source: Broomfield developer, August 1997

Type of Cost	Amount	% of Sales Price
City Fees and Taxes	\$12,000	10%
Land Cost	\$13,000	11%

Other Costs (including construction and developer's overhead)	\$95,000	79%
TOTAL Average Sales Price	\$120,000	

Extra costs imposed by city's deference to neighborhood pressure. This developer also noted how in Broomfield--as well as in numerous other Colorado communities in which he has development experience--local politics can severely impede the completion of an affordable housing project. Frequently this happens when housing is a conditional use, rather than a use by right. The governing body with approval power over conditional uses says it will approve a particular project only after the developer has secured the blessing of affected property owners (i.e., neighbors of the proposed project). Some deference to community concerns is understandable, given the fact that new projects should be compatible with existing land uses. Yet a city can abdicate its decisionmaking responsibility if it fails to assert parameters for these discussions with neighbors. In particular, in cases where the developer is proposing an amendment to an already-approved project, city staff should emphasize the fact that the developer may choose to go ahead with the project as approved, regardless of neighborhood opposition. Otherwise, local opposition can effectively prevent an otherwise viable project from proceeding.

In such situations, a developer may end up dropping the modification or abandoning the project entirely because of the added frustration, headaches and expense involved in dealing with the community. If the developer does choose to seek neighborhood approval, the extended public participation could take months and will drive up the carrying costs on the land. This particular Broomfield developer estimates that securing approval from neighborhood residents prior to construction is taking him roughly twice as long as if he had just completed the project as originally approved. His extra costs will be passed on to the homebuyers, despite the fact that he sought the modification partly *in order to make the units more affordable*.

Apart from the cost implications, an informal city policy to defer judgment on housing applications to affected neighborhood residents has implications for the city's physical development. The practice encourages sprawl, in that it is easier for developers to build on the urban fringe where there will be little opposition, rather than an urban site with many neighbors and greater potential opposition. The practice discourages urban infill projects for this reason. Even if the project might be more appropriate for the market, or favorable for the city and the neighborhood in some other way, the added expense, effort and time required from the developer often results in the project not being built.

4. Mesa County

An experimental project in Mesa County in the 1980s continues to serve as an excellent example of how the use of innovative construction and design techniques can reduce the

costs of housing, even in a relatively conservative jurisdiction that favors little government intervention in the homebuilding market.

Located in western Colorado just east of the Utah border, Mesa County was the site of a demonstration project undertaken in the early 1980s by the Joint Venture for Affordable Housing (JVAH), described above. At the time, the cost of living in Mesa County was running about ten percent above the national average, and there was a scarcity of affordable housing. County officials agreed to participate in the JVAH after they already had begun internal reviews of county regulations that might constitute barriers to affordable housing. Also, the county had hired a national planning consultant to undertake a comprehensive review of the county's development regulations and application procedures and to suggest revisions.



Developer/builder Roger Ladd and Company built the Coventry Club subdivision in Mesa County as the JVAH demonstration project. Located immediately south of Grand Junction, Coventry Club is a 50-unit development sitting on 2.87 acres, with an overall density of 17.4 units per acre. Buildings are either six-plex or four-plex townhouses. Initial sale prices ranged from \$39,000 to \$47,500. The one- and two-bedroom units were designed for singles and young professionals who wanted to move out of the rental market, but who until that time had few affordable local options.

Participants in the JVAH projects experimented with reforms in four general areas: streamlined processing, construction design innovations, development standards, and land use regulations. Coventry Club's principal savings came in the areas of streamlined administrative processing and building design and construction innovations.

Streamlined processing. The normal eight-to-ten week processing cycle was pared down to 30 days for the Coventry Club project. A previous working relationship between Ladd and county officials facilitated accelerated processing, as did the county's readiness to reform their review procedures, as evidenced by their recent hiring of a consultant for that purpose.

Building design and construction innovations. Buyers of homes in Coventry Club enjoyed significant savings thanks to changes in both building design and construction, and also in direct construction materials. In terms of building design and construction, units were designed for the efficient use of labor and materials. For example, exterior dimensions of all units were designed in four-foot increments, thus allowing for efficient use of lumber and other building materials. Also, open room layouts minimized the need for interior partitions, so the units had about half the national average length of interior partitions.

In terms of direct building construction, the Coventry Club units used much less lumber in both exterior and interior walls than the national average. For instance, the national average for exterior walls at the time was 8.6 board feet of lumber per linear foot of wall, whereas Coventry Club used only 7.2 board feet per linear foot, a 16.3 percent reduction. Coventry Club also used single-layer plywood siding and single-layer plywood floor sheathing to reduce overall materials costs. For roof framing, 3/8-inch plywood sheathing was used instead of the more typical 1/2-inch sheathing. Polybutylene water supply pipe was substituted for copper pipe, resulting in savings of \$145 per unit. Table 2.1 shows a summary of direct construction cost savings for Coventry Club.

Table 2.1: Direct Construction Cost Savings

Source: JVAH, "Affordable Housing Demonstration Case Study:

Mesa County, Colorado," 1984

	Cost Savings/Unit
Framing	\$237
Siding and Sheathing	\$9,310
Plumbing	\$145
Total Savings per unit	\$1,313

Reduced fees. The Coventry Club developers, Roger Ladd and Company, successfully

argued for reduced water and sewer fees for the units on the grounds that the smaller units would place less strain on the county's water supply and infrastructure than larger, more typically sized homes. Sewer expansion fees were reduced from \$750 per unit to \$540 per unit, and water tap fees were reduced from \$2,800 per unit to \$2,240 per unit, resulting in a total savings of \$770 per unit.

Site planning and development. The developer was able to utilize the raised edges of sidewalks as curbs instead of installing roll curbs and gutters, thus saving \$5,566 overall, or \$111 per unit. Also, polybutylene piping was used for underground water service, instead of Mesa County's standard asbestos cement pipe, resulting in overall savings of \$3,152, or \$174 per unit.

Savings from higher density. For most JVAH demonstration projects, reforms to land-use regulations such as density restrictions were the biggest source of savings, accounting for about three-quarters of total savings on average. While no such reforms were proposed for Coventry Club, the project's high density nevertheless led to lower per unit home costs than for other, less dense subdivisions in Mesa County. This was principally because higher density led to lower land costs per unit. Land for Coventry Club was expensive: the 2.87 acre site cost approximately \$52,000 per acre. Yet utilization of the county's existing allowable density of 17.4 units per acre resulted in land costs of only \$3,000 per unit. This was noticeably lower than land costs in lower-density subdivisions. For example, a density of 14.0 units per acre would have resulted in land costs per unit of \$3,750; and a density of 9 units per acre would have resulted in land costs of \$6,000 per unit--double that of Coventry Club. Table 2.2 compares various unit costs at Coventry Club's higher density to the same costs for a subdivision built at the more typical nine units per acre.

Table 2.2: Comparative Unit Costs: Low Density versus High Density

Source: JVAH, "Affordable Housing Demonstration Case Study: Mesa County, Colorado," 1984

Costs	Cost Per Unit (\$)		
	Conventional Density (9 units per acre)	Demonstration Project (17.4 units per acre)	Savings
Direct Construction			
- Building	\$22,216	\$20,902	\$1,314
- County Fees	\$4,550	\$3,780	\$770
- Land Development	\$2,814	\$1,409	\$1,405
Undeveloped Land	\$6,000	\$3,000	\$3,000
Landscaping	\$2,806	\$1,459	\$1,347
Community Facility	\$962	\$500	\$462
Total Direct Cost	\$39,348	\$31,050	\$8,298

Today, Coventry Club remains one of the most affordable residential subdivisions in the

county, but the marketability of the homes has slipped somewhat. The exact reasons for this are unclear, but the current Mesa County Planning Director speculates that the development's higher densities may not be attractive to homebuyers in the western part of the state. He notes that there is somewhat of a "stigma" associated with higher density properties in that particular region.

5. Longmont

Builders and developers in the Longmont area criticize cumbersome plan review requirements and complicated PUD regulations as unnecessarily expensive, time-consuming, and unfriendly to new housing construction. In response, the city has adopted code revisions intended to clarify the development process and to increase the supply of affordable housing. The city also has crafted an affordable housing requirement for all new annexation agreements and has convened a series of workshops with private citizens to consider PUD and other development review reform.

The need for affordable housing in Longmont. Longmont has not yet experienced a severe shortage of affordable housing. The city has not seen the rapid rise in housing prices that has occurred elsewhere in Colorado. New housing generally comes into the city at affordable levels. According to one Longmont housing developer, who also has experience in other Colorado cities, Longmont is generally a good place to develop affordable housing because of the open-mindedness and creativity of the city's planning and community development staffs. Nevertheless, some developers contend that their costs have unnecessarily increased because of city regulations.

Excessive subdivision standards. Kiki Wallace originally intended his Prospect project, a residential development being built on Longmont's southern edge, to feature a variety of housing types and prices, including both single-family detached housing and garage apartments. At buildout, Prospect will contain 505 dwelling units, of which 320 will be single-family homes and the balance will be garage apartments. Wallace designed Prospect using neotraditional urban design principles, which emphasize houses on small lots, off-street parking, sidewalks, alleys, a pedestrian-friendly scale, and a mix of housing types. He hoped to keep the costs on at least a portion of the single-family homes at a very affordable level. Yet delays have forced his costs up, increasing Wallace's carrying costs on his land and ultimately requiring increases in the prices of all the units.



The most contentious issue for Wallace in dealing with Longmont has been the road-width standards to be applied in Prospect. The standard width for new public roads in Longmont and many other cities is 36 feet, including parking on both sides of the street. Wallace, however, preferred narrower, 20-foot streets, in keeping with neotraditional design principles. Wallace spent three years battling Longmont's fire department and transportation engineers over what type roadways would be allowed in Prospect. He estimates that the city's normal street-width regulations would increase street costs by approximately 30 percent over the narrower streets Wallace was proposing.

Wallace eventually won approval for 20-foot-wide streets. He estimates that overall he will not save any money over the city's standard 36-foot requirement, however, because of his added costs in building alleys, though he will save money by having fewer driveways than is typical. Nevertheless, he felt the narrow streets were worth fighting for, to maintain a neighborhood character, for aesthetic reasons, and to avoid sprawl. The extra costs attributable to the development delay will be added to the home prices, which currently average about \$275,000. The only really low-cost housing units in the development will be the 700-square-foot garage apartments which Wallace has begun renting for about \$750 per month.



City Council efforts to address regulatory barriers. There is a strong disposition on the part of the city council to support the production of new affordable housing, both by reconsidering subdivision standards in response to complaints by developers like Wallace, and also through other types of regulatory reform. In response to the work of a citizen task force formed in 1994, the council has enacted various changes and programs designed to encourage the private sector to construct affordable housing.⁽⁴⁷⁾ First, they created incentives for developing affordable housing, such as reductions in the types and amount of landscaping and parking required for affordable housing projects. Second, they began requiring land for affordable housing be set aside in all new annexation agreements. Third, the city convened a series of workshops to consider general code reforms, partly for the purpose of encouraging the development of affordable housing. City planning officials decided *not* to pursue growth management tools, such as growth caps, which they feel inflate the price of new housing. Believing that high housing costs in nearby Boulder are traceable to that city's growth limitations, Longmont officials consciously decided to avoid similar strategies that might unnecessarily inflate housing costs in their own city.

Creating incentives to develop affordable housing. Established in 1992, the Housing Incentive Program (HIP) originally provided various fee waivers to private developers who built lower-cost multifamily housing. The program was expanded in 1995 to waive fees for developers of single-family housing as well. The normal maximum waiver is 75%, but special requests can be made to the City Council for higher waivers. One Longmont developer of multifamily housing we spoke with strongly supports the program and estimates the waivers have saved him roughly \$4,000 to \$5,000 per unit, allowing a reduction in rental rates. The fee waiver program is described in detail in Chapter IV as an example of fee waiver programs.

As further incentives, the council modified development standards for projects meeting certain affordability standards. These reforms included reductions of minimum landscaping requirements, reductions of minimum lot sizes, and allowing zero-lot-line development.

Annexation Agreements. Along with establishing incentives, the council passed an ordinance requiring that land for affordable housing be set aside as part of all new annexations. The idea was the brainchild of a local city council member who believed a direct linkage requirement would be the best way to ensure the production of affordable housing was a non-negotiable issue. The requirement has been in place for just under two years and so far has been used only a few times.

There have been problems implementing the requirement. For instance, the ordinance originally required "at least ten percent of land for residential use be for affordable housing." This vague wording could be interpreted in two ways: either ten percent of the total number of units was required, or else ten percent of the total land area was required. The amended ordinance requires that "at least ten percent of the residential dwelling *units*...be for affordable housing."

Another problem was that developers of relatively small projects (four to five acres) complained that the requirement prevented their projects from being cost-effective. Specifically, the Bosch Land Company, developer of the Hover Ridge Town Homes project, argued that the requirement, coupled with other design requirements imposed by neighborhood groups, would cause the company to lose \$65,000 per townhome. Also, the company argued, selling five of 50 units at substantially below cost would devalue all of the remaining units. The city agreed to a compromise allowing a payment-in-lieu option for developers of projects of between five and ten acres. The developer pays \$12,000 per unit, rather than setting aside ten percent of the units as affordable. Thus far, the Bosch Land Company has been the only developer to opt to pay the money instead of producing the units.

A third implementation problem has been the failure of the city to set a deadline by which time developers must complete the affordable portion of their overall development. So, developers backload their affordable units (i.e., they postpone construction of the affordable housing as long as possible). According to the city's chief planner, the planning staff has not yet drafted an enforcement mechanism to prevent the problem, but has recognized the issue and has it under review.

Code reform workshops. Finally, the Longmont Council and staff have encouraged code reform through a series of citizen workshops. The workshops grew out of the meetings of a technical advisory group of design and development professionals who meet periodically to review and update technical standards for new development and infrastructure. In the fall of 1996, several members of this group complained about the

development review process, especially the planned unit development (PUD) process. Community Development Director Phil Delveccio responded by widening the focus of the group to consider a variety of development review process reforms. There was little overlap between the affordable housing task force and these workshops, other than the institutional overlap provided by Phil Delveccio. The workshops have led to proposed reforms to the city's PUD review criteria and standards, including recognizing the merit of bonuses for affordable housing.

The PUD regulations are considered a large problem in Longmont and are a frustrating impediment to many builders, including those producing affordable housing. The general problems include a lack of definition and inconsistent interpretations by city staff. Another problem has been inflexible public utility requirements, such as the road width standards mentioned above. The PUD requirements mandate, for instance, large turnarounds in cul-de-sacs to accommodate city service vehicles. Developers challenge this example of inflexibility in a PUD, a tool which, in theory, should allow some deviation from normal development standards. Since going through the Longmont PUD process takes so much time, producing a regular subdivision is usually much easier, even if that means a less creative end product.

Frustrated with the slow pace of change in Longmont, some private developers avoid the city's regulations altogether by testing alternative techniques to produce affordable housing. The McStain development company, for example, is developing a modular housing community outside Longmont in Weld County (in a designated urban services area under the county's master plan). Home costs are kept low in this development through the use of long-term ground leases and less expensive land.

6. Summit County

Summit County, a mountain resort area west of Denver, has a shortage of housing that is affordable to low- and moderate-income persons working within the county. Builders and developers point to a slow project approval process as one cause. Despite such criticism, the county seems committed to increasing the local supply of affordable housing. A county work group has studied regulatory "hindrances" to affordable housing. Also, the county is working with the state Division of Housing and private investors to develop and market its own affordable condominiums.

The need for regulatory reform to reduce housing costs. There is a shortage of affordable housing in Summit County. The average sale price of all housing units from April 1996 through March 1997 was \$214,417, while the average wage for the same period was just \$18,885. Almost four average wages are required to qualify for a mortgage to purchase an average-priced home. Rental rates are high as well: The average rent for a one-bedroom apartment is \$629 and for a two-bedroom apartment is \$1,185. The area has only a 2.5 percent vacancy rate.⁽⁴⁸⁾ Like other mountain resort communities, the luxury vacation and second homes in Summit County dramatically skew average home prices up, far out of the reach of many local employees. One

business owner noted that his own employees probably could never afford to buy homes in the county and are forced into either renting or commuting from nearby towns such as Leadville.

Noting that the economic impact of regulations on housing costs is a very complex issue, the developer was unable to provide even a ballpark estimate of the financial impact of regulatory barriers on his specific projects. He said it could be anywhere from five percent to 20 percent or more, depending on the regulations at issue. Nevertheless, he believes excessive regulations are a major obstacle to his business.

Identification of regulatory "hindrances." Summit County is actively involved in eliminating barriers to affordable housing, despite some claims to the contrary. In 1996, the county's community development director solicited recommendations for regulatory reform from over 350 area builders, contractors, engineers, and architects. The resulting report, "Housing Hindrances Review and Response," identifies the county's most problematic development standards, but does not attempt to assign specific costs to regulatory compliance.

Most of the suggestions received from the development community have already been acted upon or are currently being pursued. Examples of actions already taken include: elimination of a \$40 fire hazard mitigation plan fee, amendment of the Development Code to facilitate the transfer of development rights, adoption of code amendments increasing the number and size of accessory apartments, and development of consistent guidelines to allow shared parking. Ongoing actions include encouragement of new innovations in building products and methods and identification of sites or general criteria for affordable housing locations in basin master plans.

Public construction of affordable housing. The Summit County government also is working with the state and private investors on a unique project intended to add to the county's stock of affordable housing. The Ophir Mountain development is a 28-condominium project being managed by the two-person Summit County Housing Authority. It is located on a county owned site reserved for affordable housing by the Summit County Board of County Commissioners. Fourteen two-bedroom units are selling for \$90,000 each, and 14 three-bedroom units are selling for \$110,000 each. The units are considered affordably priced in the area, where similar condominiums may sell for \$180,000 or more. Homebuyers make approximately 80 percent of the area's median income and must work year-round in the county. Accepted applicants so far include a bus driver, teacher, and employees of a local insurance company. To keep the units affordable in the long term, all residents must sell their homes through the housing authority, and must do so at the lesser of either three percent per year over what they initially paid, or at the percentage increase in income limits specified by HUD.

Several features of the project have allowed the authority to keep prices low. First, the land belongs to the county, which is leasing it to the housing authority for 99 years. Thus, home costs are not increased by 15 percent or more due to the cost of land. Second, the

Town of Frisco and the Frisco Sanitation District (the local jurisdictions in which the project is located) are deferring tap fees to lower the required up-front costs. Sewer tap fees for the project total \$168,000, one half of which was deferred from the building permit stage until issuance of the certificate of occupancy. The other half is deferred for 30 years at three percent interest. Homeowners will make regular payments to a homeowners' association to cover this payback. Water tap fees total \$89,600, and are being deferred in the same manner.

Other features are helping keeping costs down at Ophir Mountain. Summit County waived all building permit and inspection fees for the project (similar projects also will be granted waivers in the future). The county provided a \$90,000 line of credit to cover various pre-construction costs, including soil tests and professional fees to hire attorneys to draft the land lease agreements. The construction money came from four sources at low interest rates, including: Norwest Bank (which loaned at the prime rate, rather than its normal rate of prime plus two percent); the State of Colorado Division of Housing (which loaned at three percent); Mercy Housing, the regional affordable housing development branch of the Sisters of Mercy charitable organization (five percent); and the Mercy Housing Rural Development Loan Fund (five percent).

Ophir Mountain is the county's only venture into new construction. Yet there are other ongoing activities aimed at keeping housing affordable for local residents. The county has instituted a down-payment assistance program, for instance, that so far has helped 135 county employees make down payments on new homes. The program provides a cash subsidy of \$1,500 per unit (the approximate cost of a building permit) for newly constructed units occupied by local employees.

Chapter IV.

Overcoming Regulatory Hurdles

Experience across Colorado and the US makes clear that the most effective long-term approach to regulatory reform to reduce housing costs is not blind deregulation, but rather selective modification or streamlining such that regulations still accomplish their goals without unnecessarily inhibiting the production or maintenance of affordable housing. Regulations that contribute unnecessarily high costs to housing development should be priority targets for reform. But, as documented earlier in this report, it is important to remember that numerous factors that can substantially contribute to housing costs are non-regulatory in nature, especially the costs of land and building materials and the availability of investment capital for potential homebuyers.

A variety of techniques may be used by local governments to reduce housing costs through regulatory reform. These are addressed below, including Colorado examples where possible. Many strategies are drawn from the local responses described in Colorado studies above. While recognizing that meaningful reform can take place at the federal and state levels, this chapter concentrates on reforms to be undertaken by local governments.

Five general types of tools are discussed, related to the five principal types of regulations mentioned above:

- Reforms to infrastructure financing mechanisms,
- Changes in zoning and subdivision controls,
- Reforms to building codes and construction requirements,
- Streamlining of development permitting and processing, and
- Changes in resource protection requirements.

Some additional techniques not falling within these categories also are discussed. Table 4.1 summarizes these techniques.

Table 4.1: Summary of Techniques for Reducing Housing Costs

Through Regulatory Reform

Category	Tool
Infrastructure Financing Mechanisms	Waive or modify fee requirements.
Zoning and Subdivision Controls	Reduce road and improvement standards.
	Allow accessory dwelling units.
	Reduce site development standards.
	Reduce minimum street widths.
	Decrease minimum lot sizes.
	Zone districts within city that allow higher density.
	Create affordable housing overlay zones.
	Increase amount of land available for multifamily housing.
Reforms to Building Codes and Construction Techniques	Reduce or eliminate land-area requirements for Planned Urban Developments.
	Modify requirements for materials and construction methods.
	Develop rehabilitation-tailored codes.
Processing and Permitting Improvements	Modify quality standards.
	Decrease discretionary review for affordable housing projects.
	Accelerated processing for affordable housing applications.
	Consolidate permitting/sign-off requirements.
	Provide clearer guidelines for PUDs and subdivisions.
	Limit appeals.
	Develop uniform administrative guidelines to educate staff.

	Prepare comprehensive fee schedule and timeline.
Resource Protection Statutes	Allow flexible development standards.
	Encourage the use of Transferable Development Rights .
	Provide adequate definition of protected resources.
	Formalize dispute resolution procedures.
Other Local-Level Strategies	Annexation agreements.
	Exempt affordable housing from growth controls.
	Institute affordable housing linkage programs.
	Use development agreements to require affordable housing.
	Dedicate special funds to affordable housing.
	Encourage creation of local private housing advocacy groups.

Infrastructure Financing Mechanisms

- Waive or modify fee requirements.** A local government may wish to waive or modify fee requirements for housing projects meeting certain affordability standards as an incentive to stimulate private-sector production of affordable housing. Modifications other than waivers might include providing partial rebates or fee deferrals. The impact fee system, as modified, still must be legally defensible (i.e., it must not violate equal protection or proportionality standards of the state or federal constitutions). Also, it is helpful if there is authority in a state's impact fee enabling legislation to modify fees for affordable housing.⁽⁴⁹⁾ Colorado does not have specific impact fee legislation, but authority for certain types of fees, such as tap fees, is contained in state law.

A fee waiver can mean significant revenue loss for the local jurisdiction and should be carefully analyzed prior to enactment. For instance, as part of the San Diego Inclusionary Housing Analysis, consultants estimated the value of various special exemptions for affordable housing projects, including waiver of development impact fees. The study noted that full implementation of this incentive would cost the city between \$45 to \$75 million over ten years in lost revenues.

Example: Longmont's Housing Incentive Program is an example of a fee waiver program. The program is structured on a point basis, with points added for various development characteristics (e.g., income characteristics of the tenant population, agreement to give priority to families on the Public Housing Waiting List; percentage of tenant population with special needs, such as elderly, homeless; and project characteristics, including energy conservation and increased amenities). A variety of fees are eligible for the waiver, including: all permit fees (gas, plumbing, etc.), plan check fee, sewer inspection fee, transportation and public buildings investment fees, city sales tax,

and grading permit. A minimum of 12 points is needed to be considered for a fee reduction for a multifamily development. Applications with 24 points or more qualify for the maximum 75 percent reduction. For single-family houses, the minimum point value is six, with 13 points required for the maximum 75 percent fee waiver. As an example of the value of the program to developers, a 1995 applicant for a 17-unit multifamily project was able to waive \$24,429 out of a total fee amount of \$116,134. For more information on the Longmont Housing Incentive Program, contact the City of Longmont at (303) 776-6050.

Example: In the Mesa County project, the Coventry Club developers argued for reduced water and sewer fees since the project's units placed less strain on the county's water supply and infrastructure than larger, more typically sized homes. They achieved a total savings of \$770 per unit.

Zoning and Subdivision Controls

- **Reduce road and improvement standards.** The jurisdiction may be willing to waive or modify certain development standards for roads, curbs and gutters, stormwater management features, water/wastewater lines, or other public improvements to encourage the production of affordable housing.

Example: In the Coventry Club project, Mesa County allowed the developer to utilize the raised edges of sidewalks as curbs instead of installing standard roll curbs and gutters. The developer achieved a total cost savings of \$111 per housing unit.

- **Allow accessory dwelling units (ADUs).** ADUs can be an excellent solution to a local government's shortage of affordable housing. Their numerous benefits include producing extra income for homeowners, dispersing the supply of low-cost housing more uniformly throughout a community, contributing to the local property tax base, reducing sprawl by providing more concentrated urban housing opportunities, and providing a means for extended family members to live together on a single site.[\(50\)](#)

New regulations concerning ADUs must address a number of issues related to both the permitting of new units and the potential legalization of illegally constructed units. For instance, where should ADUs be allowed: in all zone districts, for example, or in all residential zone districts, or perhaps in all residential zone districts except those restricted to single-family homes? Other concerns include the type of approval process to be used for ADUs, the potential need to redefine "dwelling unit" in the code, the identity and number of persons who may occupy the units, and the required dimensional standards.

Example: Routt County officials consider allowing ADUs to be an ideal means of increasing the local supply of affordable housing. In determining how to permit the units, the county's planning department has grappled with issues such as new physical

development standards, the grandfathering of illegally constructed units, and the need for a county residency requirement for ADU occupants. The proposed new regulations allow approximately 800 square-foot units (including basements, but not garages) on tracts of 50 acres or more. Those units already built on 30 acres or more will become legal, and there will be no residency requirement. Additional ADUs will be allowed within a designated Commuter Zone. For more information on accessory dwelling units in Routt County, contact the Department of Planning at (970) 879-6050.

- Reduce site development standards.** The jurisdiction may be willing to waive or modify certain site development standards to encourage the production of affordable housing. Standards eligible for modification might include landscaping requirements or street widths. Changes to parking requirements could allow developers to save money by building more dwelling units and devoting less space to asphalt. Lower-cost units may be suitable for shared parking options, for smaller spaces reserved for compact cars, or a reduced number of required parking spaces per unit (assuming fewer cars per unit). Modifications to site development standards must be balanced against other considerations such as impact on neighboring properties or potential loss of community character.

Example: Longmont has reduced the minimum amount of landscaping required for development of projects containing at least 20 percent affordable housing. Fewer and smaller trees and shrubs are required.

Example: Longmont also modified its parking standards for affordable housing to require 1.25 off-street parking spaces for each low/moderate single-family dwelling unit (as opposed to two spaces for single-family dwellings not qualifying as affordable). For low/moderate income multifamily units, 1.5 spaces are required (as opposed to 1.75 or two spaces for multifamily units not qualifying as affordable).

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Reduce street widths. Large minimum street widths often are required under standard zoning codes, with narrower streets only possible through negotiation with the local government, such as through the Planned Unit Development process. The requirement often is intended to provide adequate right-of-way for large public service vehicles, such as fire trucks. However, many neighborhoods could be adequately served by smaller public service vehicles, provided such vehicles are available and acceptable to public works officials. Developers of affordable housing should meet with public works officials to better understand the minimum requirements of public service vehicles, and to negotiate reduced street widths if appropriate for the neighborhood.

Allowing reduced street widths by right for certain types of projects, such as those meeting set density requirements or affordability criteria, would allow a higher percentage of the development site to be devoted to housing, and thus increase the likelihood that affordable units will be built. More importantly, building at higher densities allows developers to lower overall costs and thus the sales price per unit. Figure

2 in Chapter IV shows an example of reduced street widths (20 feet) in Prospect, Colorado.

- Decrease minimum lot sizes. Large minimum lot sizes often encourage the construction of larger single-family houses and discourage the production of smaller homes that are more affordable. Minimum lot sizes over 5,000 square feet generally are considered excessive for affordable housing.⁽⁵¹⁾ In addition to reducing minimum lot size requirements, a local government can require higher overall densities in order to promote the construction of more affordable housing.

Example: In its new land use code, Fort Collins requires higher overall residential densities in certain zone districts. For example, the Medium-Density Mixed-Use Neighborhood District must have an overall minimum average density of 12 dwelling units per net acre of residential land, and the minimum residential density of any phase in a multiple-phase development plan must be seven dwelling units per net acre of residential land. For more information on the new Fort Collins code, call the Department of Advance Planning at (970) 221-6500.

- **Zone districts within city that allow higher density.** The jurisdiction may rezone certain urban areas to allow higher densities. Such areas would stimulate the private development of lower cost housing, encourage infill development, and also reduce sprawl. Areas that are especially appropriate for higher density housing include those areas located near transit stops and/or major employment centers.
- **Create affordable housing overlay zones.** The jurisdiction can add an affordable housing overlay zone to its zoning ordinance that provides density bonuses and relaxes site development standards for the provision of affordable housing.
- **Increase amount of land available for multifamily housing.** Multifamily housing traditionally is highly suitable for low- and moderate-income persons. Yet most of the residential units in a city traditionally are dedicated to single-family use. A 1992 national study of 12 cities found that single-family housing constituted an average of 73 percent of each city's total housing stock, with multifamily and mobile homes averaging just 14 percent and three percent, respectively. Ideally, the amount of land devoted to multifamily housing could be increased to a more significant percentage of the city's total housing stock, such as 20 or 25 percent. This is not an unreasonable figure; the amount of housing dedicated to multifamily housing in the surveyed cities ranged from eight to 41 percent.
- **Reduce or eliminate excessive land area requirements for Planned Urban Developments (PUD).** A land area requirement for the use of PUDs discourages PUD development except on the urban fringe where land is widely available. Smaller, more centrally located PUDs are more likely to offer greater affordable housing options. Lower minimum land requirements, or elimination of the requirement altogether, will encourage the development of PUDs in urban areas. Staff must ensure that modifications to any PUD development standards do not impact the protection of surrounding uses, however.

Reforms to Building Codes and Construction Techniques

- **Modify requirements for materials and construction methods.** Less expensive building materials and/or construction methods should translate into lower prices for renters and homebuyers.

Example: As noted earlier, the JVAH project in Mesa County achieved lower costs by using less lumber in both exterior and interior walls than the national average. For instance, the national average for exterior walls at the time was 8.6 board feet of lumber per linear foot of wall, whereas Coventry Club used only 7.2 board feet per linear foot, a 16.3 percent reduction. Coventry Club also used single-layer plywood siding and single-layer plywood floor sheathing to reduce overall materials costs. For roof framing, 3/8-inch plywood sheathing was used instead of the more typical 1/2-inch sheathing. Polybutylene water supply pipe was substituted for copper pipe, resulting in savings of \$145 per unit.

Units also were designed for the efficient use of labor and materials. For example, exterior dimensions of all units were designed in four-foot increments, allowing for the efficient use of lumber and other building materials. Also, open room layouts minimized the need for interior partitions, so the units had about half the national average length of interior partitions.

- **Adopt rehabilitation-tailored codes.** Building codes should be updated to be more conducive to the renovation and rehabilitation of older structures. State-of-the-art electrical and plumbing materials and construction techniques may not be appropriate for many older homes and may prohibit the re-use of such buildings for affordable housing purposes. Encouraging the renovation of such buildings encourages urban infill and discourages new construction on the urban fringe and potential sprawl.

Example: Building codes generally are adopted and enforced at the state level, and many local jurisdictions are required to follow state-adopted building codes. Several of these state laws are tailored to encourage the rehabilitation of historic buildings. Such codes can serve as useful models for local governments which may be not be bound by a state code for certain historic buildings or historic districts. For example, Article 22 of the Massachusetts State Building Code creates "compliance alternatives," or ways in which historic buildings can compensate for code deficiencies through alternative means. Georgia has adopted the similar "Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings." Many of that state's largest communities, and those with the largest concentrations of historic properties, have adopted the code, including: Athens, Atlanta, Augusta, Columbus, Macon, and Savannah. Other states that have adopted building codes geared toward the rehabilitation of historic structures include California, Connecticut, New York, North Carolina, Ohio, Washington, and Wisconsin.⁽⁵²⁾

- **Modify quality standards.** Modest design changes to affordable housing units, concerning such features as overall size, interior finish, and building product type, may reduce the costs of the dwellings without substantially reducing the health and safety of the units or impairing the overall quality of life of the occupants. This issue has been heavily debated in the affordable housing literature. Housing policy analyst Anthony Downs, for instance, believes that "current housing quality and density standards in many communities are set unrealistically high in relation to the true economic capabilities of millions of American households."[\(53\)](#)

Example: As an example of how people in many communities gladly accept smaller, lower quality housing, Downs points to the single-room occupancy hotels (SROs) being successfully operated in cities such as San Diego. SROs typically offer each resident one room, measuring approximately 140 square feet, with communal baths and kitchen facilities. SROs are an excellent housing option for very poor, single persons who otherwise might become homeless. For more information on single-room occupancy hotels in San Diego, contact the Department of Development Services at (619) 236-6270.

Example: For information about the Renaissance Forum SRO project in Denver, funded by the Colorado Coalition for the Homeless, contact Steve Gordon of the Denver Department of Planning and Development at (303) 640-4780.

Processing and Permitting Improvements

- **Decrease discretionary review for affordable housing projects.** A local government can speed up the development process for affordable housing projects by decreasing the levels of review that each project must go through. By allowing staff to approve housing uses in certain zone districts upon a showing that certain standards are met, projects are able to bypass potentially time-consuming review and comment procedures by elected bodies such as the planning commission.

Example: Fort Collins's new land use code increases the amounts and types of housing uses considered "by-right." For example, the Medium-Density Mixed-Use Neighborhood District allows many residential uses to be approved by staff if they meet certain standards, without going through hearings before the Planning Commission. These uses include: single-family detached dwellings on lots containing no more than 6,000 square feet, two-family dwellings, single-family attached dwellings, multifamily dwellings, group homes for up to eight developmentally disabled or elderly persons, and boarding and rooming houses.

- **Accelerate ("fast-track") processing for affordable housing.**

Example: In Fort Collins, an informal but effective means of fast-track processing has been adopted in which city planners accelerate affordable housing applications

to the top of their review stacks. Staff also try to assign "double priority" to those projects with external deadlines and thus need to proceed quickly. The planning director estimates the procedure has shaved processing time for those applications by about three-quarters of typical review time. The city has not modified its substantive review standards, however.

- **Consolidate permitting.** The consolidation of various permitting tasks into one central location can greatly reduce the time and legwork involved in gaining approval for a housing project. Such a system can be a good way of providing comprehensive information to the public and ensure development applicants need deal with only a single point of contact for various types of review.

Example: Denver's recently established "Early Assistance and System Entry" (EASE) Counter in its planning office is an example of consolidated permitting. The counter provides comprehensive information to persons considering development projects, and provides a single point of contact for various types of review. For more information on Denver's EASE Counter, contact the Department of Planning at (303) 640-5917.

Example: In 1996, Montgomery County, Maryland, established a similar one-stop center, called the Department of Permitting Services, in which all staff members who issue development permits are located under one roof (e.g., fire code, stormwater management, plumbing). For more information, contact the County's Department of Permitting Services at (301) 217-6280.

- **Provide clearer guidelines for PUDs and subdivision.** Clearer guidelines for PUD development and subdivision would eliminate confusion and time delays, thus reducing development costs and, hopefully, housing prices. Repetition is one area for reform: certain topics (e.g., grading, landscaping) that are covered elsewhere in the municipal code do not need to be addressed separately in the PUD ordinance if there are no substantive changes. Other potential reforms include more precise definitions and more consistent decisionmaking procedures by staff. PUD and subdivision regulations may also require certain "excessive" standards that might be reconsidered by staff and local officials.

Example: Longmont has held a series of workshops for city staff and the development community to discuss, in part, revisions to the city's PUD review criteria and standards. Suggested reforms include permitting variances from excessive public infrastructure requirements, such as road width standards. For example, existing PUD standards generally require large turnarounds in cul-de-sacs to accommodate city service vehicles, but developers want more flexibility to vary such standards in order to keep costs--and housing prices--down. Other suggested reforms included less-detailed architectural requirements, a more targeted bonus density system--including bonuses for higher density and affordable housing--and more streamlined processing.

- **Limit appeals.** Appeals of discretionary decisions on all housing projects should be limited to the minimum amount allowed by state law.
- **Develop uniform administrative guidelines to educate staff.** Uniform guidelines for staff review of development applications will ensure consistency in the processing of those applications and provide certainty to developers what will and will not be allowed. Such guidelines also will reduce the amount of education time spent in formal training sessions.
- **Adopt comprehensive fee schedule and timeline.** As another measure to provide certainty to developers and reduce staff discretion, city staff should prepare a comprehensive fee schedule which outlines all charges and deadlines applicable to applications for housing development. This schedule should correlate to the actual amount of time and effort involved in processing an application.

Resource Protection Statutes

- **Allow flexible development standards.** For certain desirable projects, such as affordable housing construction, staff (including planners and engineers) could allow minor variances from local environmental protection standards. For example, setback requirements for streams and wetlands could be modified by a certain percentage (e.g., 10-25 percent) for affordable housing projects.
- **Encourage the use of Transferable Development Rights (TDR).** TDR systems, in which development rights are transferred from more sensitive areas to less sensitive areas, can be an effective means of both protecting environmental resources and allowing for the construction of higher density housing.

Example: Summit County amended its development code in October 1996 to facilitate the use of TDRs. The county hopes that by doing so it can protect sensitive sites (e.g., slopes, wetlands, wildlife habitat) and also allow increased opportunities for the development of affordable housing. For more information on the TDR systems, contact the Planning Department at (970) 668-4200.

- **Provide adequate definitions of protected resources.** Local jurisdictions wishing to protect sensitive resources should be clear exactly which resources are afforded protection. Regulations must avoid ambiguity and provide certainty to the development community about areas that are and are not acceptable for housing development. The jurisdiction should, for example, adopt official maps identifying slopes, wetlands and/or historically significant buildings to be protected. Failure to clearly identify such resources may cost a developer time and money in preparing a development application for a protected site.
- **Formalize dispute resolution procedures.** Many of the most contentious

battles fought over environmental protection statutes might be resolved earlier and with less cost if there were impartial referees designated to handle policy disputes. When housing affordability issues conflict with a local environmental ordinance, a neutral agency might possibly help the parties reach a compromise without resorting to costly and time-consuming litigation.

Other Local-Level Strategies

- **Require affordable housing as part of annexation agreements.** A local jurisdiction can make the provision of affordable housing units a condition of approval for the annexation of new lands. A fee-in-lieu may be paid by developers unable or unwilling to provide the required number of units.

Example: Longmont requires that land for affordable housing be set aside as part of all new annexations. Ten percent of the new residential units must be for affordable housing. Developers of small projects (four-five acres) may, in the alternative, make a cash payment of \$12,000 per unit.

- **Exempt affordable housing from growth controls.** Certain growth control measures may be directly linked to affordable housing requirements. In jurisdictions that restrict the number of building permits issued per year, a percentage of those permits may be reserved for affordable housing. Or, affordable housing units may be exempted out of the permit system altogether. Communities that have experimented with such measures have met with mixed success. Sometimes no developers bother to apply for the affordable housing permits, as has been the case in Napa, California.

Example: Boulder has had a permit allocation system since 1977. Applicants are granted a proportional share of available building permits. The city requires that at least 15 percent of the units in all new residential developments be moderate-income units, or 7.5 percent be low-income units. For more information on the permit allocation system, contact the Department of Planning at (303) 441-3270.

- **Create affordable housing linkage programs.** Affordable housing "linkage requirements" mandate that a certain amount of low-cost housing be provided per unit of new development: the new development is inextricably "linked" to the provision of the affordable housing. Linkage requirements may, for example, require that a set percentage of new single- or multifamily housing meet certain affordability standards, or may require new commercial development beyond a threshold size to include a related amount of employee housing. Such a linkage requirement often is called an "inclusionary zoning" program.

Example: The majority of affordable housing linkage requirements are based upon new residential construction, though some programs are based upon the construction of new commercial or industrial development. As an example, San Francisco's Office Housing Production Program, begun in 1980, links the amount of

new office space and the quantity of housing an office developer must provide. Using a set formula, each new office development is assigned a housing requirement. Incentives encourage developers to produce housing of a certain type. Specifically, the developer receives two housing credits for one affordable unit for moderate-income households built using government financial assistance; three housing credits for one affordable unit for moderate-income households built without government financial assistance; and four housing credits for one affordable unit for low-income households provided without government financial assistance.⁽⁵⁴⁾ For more information on the program, contact the Office of Housing at (415) 252-3101.

- Use development agreements to require affordable housing. A development agreement is a negotiated contract between a developer and a local jurisdiction outlining the respective responsibilities of each party. The agreement ensures that development of a particular site will occur in a mutually agreed-upon manner. The agreement may be used to secure special exemptions (e.g., from density limits) for the developer in exchange for the production of lower-cost housing units.⁽⁵⁵⁾
- Dedicate special funds to affordable housing. Either working alone or with private funding sources, the local jurisdiction can set aside funds to be used exclusively for the construction or maintenance of affordable housing. The funds might be given directly to the developer as a construction subsidy, or might be distributed to homebuyers to help them make down payments.

Example: In Eagle County, Colorado, Wintergreen Development created a fund of \$200,000 to help qualified applicants make down payments on affordable homes constructed by Wintergreen. When recipients sell their homes, they must pay the money back to the county, which will use the money to help fund purchases by others. Wintergreen proposed the fund as an alternative to the county's idea of using deed restrictions to maintain affordability. For more information on the affordable housing fund, contact the Eagle County Division of Housing at (970) 328-8876.

Example: Thornton, Colorado, has started a home loan program for first-time homebuyers. For more information, contact the Department of Economic Development at (303) 538-7538.

- Encourage creation of local private housing advocacy groups. Such groups should actively monitor and participate in the city's decision making regarding all policies and procedures related to the development of housing. This is a no-cost option for the city, and hopefully will result in a housing mix that is better suited to the needs and desires of residents in the particular jurisdiction.

Chapter V.

A User's Guide:

Tips And Advice for Community Implementation

This report provides a good basis for assisting Colorado communities and their decision-makers in assessing the nature and scope of regulatory barriers to affordable housing. As shown, while local land-use regulations can play a role in driving up local housing costs, by no means should they be indiscriminately scrapped. In addressing the role regulations may play in aggravating a housing affordability problem, a community's goal should be selective and thoughtful modification to ensure that goals embodied in zoning and other land use standards are preserved.

Most important, the benefits from local land use regulations *must* be weighed against any adverse impacts on housing affordability. In some instances, a regulation's community-wide benefit--whether it be recouping the cost of public infrastructure investments or preserving locally cherished natural or cultural resources--may well outweigh the attendant impacts on the costs of housing. Ultimately, of course, that determination is for a community's elected officials. In making such tough choices, however, those officials should have the benefit of full information.

Accordingly, communities interested in analyzing the impacts their local regulations may have on the provision of affordable housing can follow the approach presented in this chapter, which is intended to provide a community with the fullest range of information possible. In sum, the methodology described here should allow a community to:

- Recognize typical regulatory hurdles in each of the categories discussed in this report;
- Generate estimates of the costs associated with the regulation using available local and industry sources of information;
- Account for countervailing individual and community benefits;
- Look at alternative regulatory approaches that remove barriers without sacrificing community goals; and
- Contact Colorado local governments that have modified land-use policies in order to encourage housing affordability.

A User's Guide to Identifying & Addressing Regulatory Barriers to Housing Affordability

Chapter V offers a process for reviewing existing regulations and weighting the benefit of their costs against the need for affordable housing. The chapter is designed as a "User's Guide" for local elected officials, local government staff, and community organizations to lead a discussion on how local land-use regulations impact housing affordability (assuming the community has decided to identify the primary, contributing factors to the problem of housing affordability).

Land-use restrictions are one of many factors that contribute to the cost of developing housing. Other factors that are not controlled by developers that increase the cost of housing or limit the amount of income from a property are:

- **Building materials costs;**
- **Land costs;**
- **Lack of developable land (i.e., land with access and utilities). The lack of developable land can render a project infeasible from the start;**
- **Prevailing low wages and low rents. Often market-rate rents produce sufficient income to offset the revenue loss of affordable rents, but this advantage is eliminated in areas with low market-rate rents; and**
- **Limited project size and lower site densities. This limitation reduces a developer's ability to construct more units to pay for fixed costs like land, on- and off-site improvements, and utility extensions.**

When these factors are combined with the variety of fees and other exactions, the ability of a developer to build affordable housing may be severely limited. Recently, many communities have embraced the principle that development should pay for itself. Yet while passing increased costs on to consumers may be financially feasible for market-rate housing, it is financially infeasible for housing developments that restrict their rents or profits. Certain amenities can add to the value of market-rate housing: parks, schools, larger lots, curvilinear streets. However, the value is realized through price appreciation and eventual sale of the property. This increased value runs counter to maintaining housing affordability for an extended time period.

This Chapter outlines a methodology by which a community may assess the impact land use policies have on the cost of developing housing. The methodology consists of a series of three tasks, including:

- 1. Determining the components of housing prices in the community;**
- 2. Identifying local regulatory barriers; and**

3. Modifying regulations to encourage housing affordability.

These steps are discussed below. This chapter begins with the assumption that your community has decided to identify the primary, contributing factors to the problem of housing affordability.

Step One: Determine Components of Housing Prices in the Local Economy. This step attempts to identify and quantify the relative contributions of land, materials/ labor, regulations, financing , and other contributors to the total cost of a typical housing product in your community. It is very important to pin down, to the maximum extent feasible, the relative impacts of these contributing factors so that appropriate, targeted responses can be shaped. In addition, this type of analysis will lend substance to the often-heated political debates over changes in policy or regulations.

To quantify the contributions of each of these components to total housing development costs, draw upon the expertise of local developers, mortgage bankers, homebuilders association members, and your community's public work's/ engineering departments as resources. This information can be compared on a per unit or square footage basis for the project under study.

Table 5.1 suggests a methodology for understanding the various components of housing cost, based on developers estimates. The categories of Land Cost, Hard Costs, Soft Construction Costs, and Development Fees have been selected to categorize these components and their impact on per unit and square footage costs.

- **Land Cost:** These estimates assume the acquisition of "raw land." On-site improvements and utilities are included in the hard construction cost estimates.
- **Hard Costs:** These costs include the building shell, interior finishes, site utilities, parking, and landscaping.
- **Development Fees:** These cost estimates include processing fees, development impact fees, sewer and water hookup fees, school fees, and building permit fees.
- **Soft Costs:** These costs are itemized. Taxes and insurance are estimates of costs during construction. Interest costs are for land and construction financing.
- **Profit and Overhead:** Ten percent of the total development cost should be included as profit and overhead for the project's developer.

Table 5.1 also allows for a comparison between a developer's estimate of project costs and adjusted project costs based on land-use regulations and fees that have been modified in the ways discussed in this report.

Table 5.1: Comparing Housing Costs

	DEVELOPER ESTIMATE	ADJUSTED ESTIMATE (based on modified land-use regulations and fees)
Number of Dwelling Units: _____		
Gross Building Square Footage: _____		
Land Costs		
<ul style="list-style-type: none"> • Total • Per Dwelling Unit • Per Square Foot (Site Area) 		
Hard Costs		
<ul style="list-style-type: none"> • Total • Per Dwelling Unit • Per Square Foot (Site Area) 		
Development Fees		
<ul style="list-style-type: none"> • Total • Per Dwelling Unit • Per Square Foot (Site Area) 		
Soft Costs		
<ul style="list-style-type: none"> • Architecture, Engineering/Design • Legal and Closing • Taxes and Insurance • Interest at Construction: 		
- Land		
- Building		
<ul style="list-style-type: none"> • Financing Fees • Other Costs 		
<ul style="list-style-type: none"> • Total Soft Costs • Per Dwelling Unit • Per Square Foot (Site Area) 		
Total Development Costs		

Profit And Overhead
TOTAL PROJECT COSTS
TOTAL COST PER DWELLING UNIT
TOTAL COST PER SQUARE FOOT

Step Two: Identify Local Regulatory Barriers. Assuming the above analysis identifies local regulations (most likely reflected under "Development Fees" and/or "Soft Costs") as contributing a significant amount to total housing costs (in the community's estimation), the next step should be to undertake a more detailed study of the impact of individual land development policies and regulations on housing costs.

How to get started? We suggest subjecting local land use regulations to a checklist of questions that HUD has compiled for this purpose, which is reproduced as Appendix 1 to this report. The HUD checklist is useful in pinpointing typical problem areas and potential regulatory barriers. However, we suggest supplementing the HUD checklist with the analysis summarized in Table 5.2, which lists five general categories of regulation from Chapter II, *How Land Development Regulations Can Affect The Cost Of Housing*. This table provokes a more in-depth analysis by focusing on a regulation's countervailing public benefit, which must be weighed before concluding that a regulatory modification is in order. This table and each of the questions can provide a format for informing a committee looking at these issues, as discussed later in this chapter.

Across the top of Table 5.2 are four questions that help evaluate the cost or benefit of existing land use rules or policies. We will discuss each of these questions in more depth.

Table 5.2: Suggested Chart for Analysis of the Impact of Local Land-Use

Regulations on Housing Affordability

Category of Regulation (with examples of specific regulations)	A: Does Regulation Restrict Housing Size, Amount, Type, Location?	B: Does Regulation Add Review Time to Development Approval?	C: Does Regulation Add to Housing Cost? If So, How Much?	D: Can Regulation be Modified Without Violating Its Intent?

Infrastructure Financing

- Impact Fees
- Exactions
- Land Dedications
- Permit Rationing
- Adequate Public Facility Ordinances

Zoning/Subdivision Control

- Restricted Locations
- Size Limitations
- Prohibition of Accessory Dwellings

Building Codes

- Materials Requirements
- Method Requirements

Permit Process

- Length of Approval
- Review Coordination
- Comparable Fees
- Level of Plan Detail

Environmental Protection

- Historic Preservation
- NEPA

Question A: Does the regulation restrict housing size, amount, type, location? Land-use regulations frequently dictate the size, location, type and number of allowed housing units in a development. Question A is designed to draw attention to the "degree" that such restrictions limit a developer's options for building lower priced housing. Options to be considered in mitigating the impact of such restrictions include, but are not limited to:

- Small lot sizes
- Increased density
- Smaller square footage
- Fewer amenities

- Less costly exterior finishes
- Alternative building sites

Question B: Does the regulation add review time to development approval? Each development project is time-sensitive. Entering the market place at the right time can make or break the profitability of a housing development. Extended time frames also add to the carrying cost of a project and the uncertainty of the projects final approval. Answers to this question should consider the following:

- Are plans reviewed simultaneously by various departments?
- Can preapplication meetings be held with all municipal departments to reduce reviews?
- Can the number of separate permits, hearings, and approvals be reduced or consolidated?
- Is there a set time limit for the review process?

There are more questions directed at the development review process at the Administration and Processing Section of Appendix A. Note that these questions are the most directly targeted at the "Permit Processing" category of regulations in Table 5.1.

Question C: How much does the regulation add to housing costs? This question may be the most difficult to answer, but the answers are critical in assessing the cumulative financial impact individual regulations and reviews add to the cost of housing. This question may be answered in terms of fees or the value of assessments. Different variables are required, depending on the type of regulation at issue.

To illustrate, in selecting a housing site, developers are more likely to compare the value of land and the required development fees as a ratio. They will use this fee/land value ratio to measure comparable sites in other communities. So long as this ratio compares with the norm within a real estate market, it is likely to warrant further consideration. Investors can justify a high land cost due to market pressures. But, if land values are inflated beyond the norm for an area due to fees, purchase of that land for housing development cannot be justified. The same is true for land with low values and low fees. More often than not, this land lacks certain development amenities and services. A comparative study of land values and development fees between jurisdictions will identify whether certain parcels will be attractive to housing developers.

Another factor to be considered is *when* fees are paid. Some fees, exactions, or other levies are paid in cash up-front, others can be paid as in-kind, and some communities allow fees to be deferred. The timing of a payment is critical to the cost of housing. The initial lease up period for an apartment can be unpredictable. Up-front cost limits a property manager's flexibility to meet unforeseen changes in the market. Deferred payments allow a property manager to bridge more unstable periods of limited cash flow.

To determine the cost of zoning limitations and building codes different types of

buildings, sizes, and construction standards must be compared. What if an amended provision of the building code was used or a zoning variance allowing two more apartments would this result in cost reduction or revenue increases? Examples of this comparison could be alternative landscaping plans, reduced parking standards, or eliminating amenities like porches or balconies.

If the cost of fees, codes, or permits are calculated using these various methods the cost and benefit of modifying these various standards can be measured.

Question D: May the regulation be modified without violating its intent? The fourth question gets at the issue of whether an existing land-use regulation might be modified without violating the original intent of the regulation, in order to facilitate the development of more affordable housing. To fully answer this question, the community should identify exactly what it might receive in return for granting an exemption to, or modification of, existing regulations. Is the potential benefit monetary, receipt of a physical asset, performance of a needed service, or some externality?

An example is the rebate of development fees. If a housing developer limits profits and maintains rents at affordable levels for certain units for a prescribed time period, should the community grant a rebate of certain development fees for those units? The community agrees to rebate a portion of fees so long as the apartments continue to be rented at affordable rates. The community receives its stated fees at the start of the project, and the local workforce benefits from the availability of additional affordable housing. Does this modification of the community's fee structure violate the intent behind the fees? Many would argue it does not because, in return for rebating fees over time, the community receives housing that benefits the community's future economic development prospects and alleviates the demand for adequate housing for municipal employees.

Another example is impact fees, which usually are assessed to fund development of services for new residents. If occupancy of new affordable units is to be restricted exclusively to existing residents already employed and living in the community, an exemption from certain impact fees might make sense for such units.

There are a number of similar actions both sides--the community and the developer--could take to compensate each other for the benefit of increasing the number of affordable housing units.

Step Three: Modifying Regulations to Encourage Housing Affordability. Table 5.2, "Suggested Strategies for Regulatory Modifications," provides examples of modified policies for each category of regulation. The second column, "Sample Policies that Reduce Housing Costs," provides examples of types of regulatory modifications being used by local governments in Colorado and in other states to encourage affordable housing development. The third column identifies local governments in which the policies have been enacted, and which might be able to provide information regarding specific policy changes and their impacts on housing affordability.

Table 5.3: Suggested Strategies for Regulatory Modifications

Category of Regulation	Sample Policies that Reduce Housing Costs	Local Government Resource
Infrastructure Financing Mechanisms	Waive or rebate fee requirements for developers of affordable housing.	- Longmont, CO, Department of Community Development, (303) 776-6050 (Housing Incentive Program). - Fort Collins, CO, Department of Advance Planning, (970) 221-6500.
Zoning and Subdivision Controls	Reduce road and improvement standards.	Mesa County, CO: In the early 1980s Coventry Club project, jurisdiction allowed lesser sidewalk and gutter standards for affordable housing demonstration project; see discussion earlier in this report.
	Allow accessory dwelling units.	Routt County, CO, Department of Planning, (970) 879-6050 (New regulations under consideration to allow ADUs).
	Reduce site development standards.	Longmont, CO, Department of Community Development, (303) 776-6050 (Reduced landscaping and parking standards for affordable housing projects).
	Decrease minimum lot sizes.	Fort Collins, CO, Department of Advance Planning, (970) 221-6500 (Higher overall residential densities required in certain zone districts (e.g., Medium-Density Mixed-Use Neighborhood District)).
	Zone districts within city that allow higher density.	Denver, CO, Department of Planning and Community Development, (303) 640-5917.
	Increase amount of land available for multifamily housing.	Oregon's state land-use planning legislation requires jurisdictions to ensure they have adequate supplies of affordable housing within their urban growth boundaries.

		Award density bonus for development of affordable housing.	California Housing Finance Authority, (916) 322-1482.
		Lease or sell public land below market to affordable housing developers.	- Burlington, CO, Department of Community Development, (719) 346-8397. - Summit County, CO, Housing Authority, (719) 453-3556.
	Reforms to Building Codes and Construction Techniques	Modify requirements for materials and construction methods.	Mesa County, CO: In the early 1980s Coventry Club project, builder used less lumber in walls than national average, and polybutylene water supply pipe instead of copper; see discussion earlier in this report.
		Develop rehabilitation-tailored codes.	Generally a state-level issue: See Georgia and Massachusetts state building codes for examples.
		Modify quality standards.	- San Diego, CA, Department of Development Services, (619) 236-6270 (Allow SRO's as alternative housing option). - Denver's Forum SRO project, Steve Gordon, Denver Department of Planning and Community Development, (303) 640-4780.
	Processing and Permitting Improvements	Decrease discretionary review for affordable housing projects.	Fort Collins, CO, Department of Advance Planning, (970) 221-6500 (New code increases the types of housing allowed by-right).
		Accelerated processing for affordable housing applications.	Fort Collins, CO, Department of Advance Planning, (970) 221-6500 (Fast-tracking for affordable housing applications).

	Consolidate permitting.	- Denver, CO, Department of Planning and Community Development, (303) 640-5917 (Established Early Assistance and System Entry (EASE) counter to consolidate various types of permitting). - Montgomery County, MD, Department of Permitting Services, (301) 217-6280.
	Provide clearer guidelines for PUDs and subdivisions.	Longmont, CO, Department of Community Development, (303) 776-6050 (Held series of workshops with developers and staff to discuss needed revisions to PUD review criteria and standards).
	Prepare comprehensive fee schedule and timeline.	Denver, CO, Department of Planning and Community Development, (303) 640-5917.
Resource Protection Statutes	Encourage the use of Transferable Development Rights.	Summit County, CO, Planning Department, (970) 668-4200 (Amended code in 1996 to allow use of TDRs to protect sensitive areas and allow increased opportunities for development of affordable housing).
Other Local-Level Strategies	Require affordable housing as part of annexation agreements.	Longmont, CO, Department of Community Development, (303) 776-6050 (Requires ten percent of land in all new annexations be set aside for affordable housing).
	Give affordable housing priority in administering growth controls.	Boulder, CO, Department of Planning, (303) 441-3270 (Requires certain percentage of allocated development permits be used for affordable housing).
	Create affordable housing linkage programs.	San Francisco, CA, Mayor's Office of Housing, (415) 252-3101 (Office Housing Production Program links amount of new office space to the quantity of new affordable housing an office developer must provide).
	Dedicate special funds to affordable housing and/or first-time homeowners.	Thornton, CO, Department of Economic Development, (303) 538-7538.

As this report and the case studies show, a combination of non-regulatory and regulatory factors usually contribute to a community's housing affordability problem. The above analysis may have identified several local land development regulations that unnecessarily contribute to high housing costs, without any countervailing public benefits. In such cases, selective modification of the regulation--for example, by waiving or exempting its applicability to affordable housing development--may be the answer. However, other contributing factors, such as high land costs, high financing costs, and fluctuating labor and material costs, are more directly a function of a hot housing market and competition, and are only exacerbated by land-use regulations such as density limits or growth management controls. Thus, complete deregulation should not, and probably will not, be the only answer to solving a community's housing affordability problems.

Accordingly, creative alternatives to regulatory change should be investigated and pursued where feasible. These might include, as discussed in more detail in Chapter IV and earlier in this chapter, deferral of collection rather than an absolute waiver of impact fees (e.g., defer collection from building permit stage to certificate of occupancy stage); demonstration projects; public/private development ventures; tax-exempt financing programs which lower interest costs (and thus total development costs); long-term land leases or land cost write-downs; and first-time homebuyer mortgage assistance programs.

What Is the Appropriate Vehicle to Ask and Answer These Questions?

We recommend that a local community select and convene an affordable housing advisory committee or commission. This group should be comprised of local business people, home building industry representatives, community planners, affordable housing advocates and organizations, and citizen stakeholders. The purpose of this committee would be to offer expertise and recommendations for reducing the housing affordability barriers outlined in this study. The committee would be engaged in this process for each of the steps outlined above. In addition, while still providing the advantages of an outside group's perspective, recommendations for change coming from a committee comprised of local residents are often more politically palatable. A local committee can also support community-wide coalition building to address affordable housing issues and can provide important political support when tough decisions must be made by elected officials.

Whatever the vehicle used to undertake an analysis of regulatory and other factors contributing to housing affordability problems, it is important that the end product be as action-oriented and specific as possible. Ideally, final recommendations to community decision-makers should include a checklist of action strategies, each with a specific, assigned priority (e.g., strategies to be undertaken within the next year, within the next 2 - 3 years, 5-plus years, etc.). In this way, all concerned players have at hand a built-in accountability tool to use as a check on the community's progress in addressing housing affordability problems.

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Appendix 1

From "Creating a Local Advisory Commission on Regulatory Barriers to Affordable Housing." September 1992. U.S. Department of Housing and Urban Development.

Regulatory Barriers Checklist

Appendix 2

From Colorado Division of Housing. *Housing Colorado: A Guide for Local Officials*. 1996.

Chapter II -- Supply and Demand: Housing Market and Housing Costs

1. Projection by Colorado Division of Local Government, *Housing Colorado: A Guide for Local Officials*. 1996.
2. Colorado Housing Finance Authority, March 1996.
3. Colorado Division of Housing. *Housing Colorado: A Guide for Local Officials*. 1996. P.1-8.
4. Colorado Housing Finance Authority report March 1996.
5. Estimate by the Colorado Division of Housing. See Sanko, John. "Housing pinch squeezes middle class." *Rocky Mountain News*, Monday, August 18, 1997.
6. Larry Kallenberger, executive director of the Colorado Department of Local Affairs. Quoted in Sanko, John. "Housing pinch squeezes middle class." *Rocky Mountain News*, Monday, August 18, 1997.
7. *Real Estate Market Trends*, King & Associates, April 1997.
8. German, Brad. "Under Siege: What Regulations Cost Builders and Buyers." *Builder* August 1993: 46.
9. For purposes of this report, "affordable housing" means housing affordable to a family making 80 percent of the median income level in a particular community. A housing affordability problem exists when a household earning 100 percent or less of area median income cannot afford to rent or buy safe and sanitary housing in the market without spending a substantial portion (e.g., 30 percent) of its income. The report concentrates on

reducing unnecessary regulatory costs to make all housing more generally affordable.

10. "Taming the Exclusionary Effects of Growth Controls." *Zoning News*, American Planning Association, September 1989.

11. Advisory Commission on Regulatory Barriers to Affordable Housing. *"Not in My Back Yard": Removing Regulatory Barriers to Affordable Housing*. Washington, D.C.: U. S. Government Printing Office, 1991. "Mandate to the Commission."

12. See Horowitz, Carl F. "Deregulating the Housing Market: What Congress Can Do." *Background Update* No. 177. The Heritage Foundation, April 10, 1992.

13. The Advisory Commission on Regulatory Barriers to Affordable Housing concluded that barriers add 25 to 35 percent to the cost of a new house. See *"Not in My Back Yard": Removing Regulatory Barriers to Affordable Housing*. Washington, D.C.: U.S. Government Printing Office, 1991. Anthony Downs estimated potential savings from deregulation to be 50 percent or higher. See "Regulatory Barriers to Affordable Housing." *Journal of the American Planning Association* 58 (Autumn 1992): 419.

14. Godschalk, David R. "In Defense of Growth Management." *Journal of the American Planning Association* 58 (Autumn 1992): 422.

15. C.R.S. 30-28-106(3)(e) now includes the following language: "In creating the master plan of a county or region, the county or regional planning commission may take into consideration the availability of affordable housing within the county or region. Counties are encouraged to examine any regulatory impediments to the development of affordable housing."

16. *A Decent Place to Live*, 9.

17. 42 U.S.C.A. 12705(c)(1).

18. Advisory Commission on Regulatory Barriers to Affordable Housing. *"Not in My Back Yard": Removing Regulatory Barriers to Affordable Housing*. Washington, D.C.: U. S. Government Printing Office, 1991.

19. Salkin, Patricia E. "Barriers to Affordable Housing: Are Land-Use Controls the Scapegoat?" *Land Use Law & Zoning Digest* 45 (April 1993): 7.

20. Hartman, Chester. "Comment on Anthony Downs's 'The Advisory Commission on Regulatory Barriers to Affordable Housing: Its Behavior and Accomplishments.'" *Housing Policy Debate* 2 (1991): 1161.

21. White, S. Mark. *Affordable Housing: Proactive & Reactive Planning Strategies*. PAS Report No. 441. Chicago, Illinois: American Planning Association, 1992. P.4.

22. Godschalk, David R. "In Defense of Growth Management." *Journal of the American Planning Association* 58 (Autumn 1992): 423.

23. 42 U.S.C.A. 12705a.

24. See also Washington state statute RCW § 43.63A.660, which provides technical

assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing.

25. Note: many examples of specific costs associated with the individual regulations come from reports produced by the National Association of Home Builders. These reports vary in their reliability because of inconsistent referencing of source material.

26. See Longmont Community Housing Committee. *Affordable Housing: Issues & Solutions*. December 1994. Appendix H.

27. National Association of Home Builders. "The Truth About Regulations and the Cost of Housing." No date. (c.1995).

28. Advisory Commission on Regulatory Barriers to Affordable Housing. *"Not in My Back Yard": Removing Regulatory Barriers to Affordable Housing*. Washington, D.C.: U. S. Government Printing Office, 1991. P.2-13.

29. Clarion Associates.

30. See Buchsbaum, Peter A. "Reforming the Federal, State, and Local Land-Use Regulation Connection." *Modernizing State Planning Statutes: The Growing Smart Working Papers, Volume I*. PAS Report No. 462/463. Chicago, Illinois: American Planning Association, 1996.

31. National Association of Home Builders. "The Truth About Regulations and the Cost of Housing." No date. (c.1995). P.9.

32. National Association of Home Builders. "The Truth About Regulations and the Cost of Housing." No date. (c.1995). Pp. 14-15.

33. Some states, *not* including Colorado, have their own versions of NEPA that impose independent, state-level EIS requirements.

34. The principal labor law criticized in this regard is the 1931 Davis-Bacon Act, which requires prevailing union wages to be paid for construction on housing projects when federal funding is involved. The Act drives up the cost of building housing, especially in rural areas where wages generally are low. Davis-Bacon's threshold of just \$2,000 has not been adjusted for inflation since 1931, and thus the Act is criticized for forcing many small builders to comply with a standard originally intended to apply only to much larger construction projects. See generally Recommendation 6-9. Advisory Commission on Regulatory Barriers to Affordable Housing. *"Not in My Back Yard": Removing Regulatory Barriers to Affordable Housing*. Washington, D.C.: U.S. Government Printing Office, 1991.

35. National Association of Home Builders. "The Truth About Regulations and the Cost of Housing." No date. (c.1995). P.10.

36. German, Brad. "Under Siege: What Regulations Cost Builders and Buyers." *Builder* August 1993: 46.

37. Colorado Division of Housing. *Housing Colorado: A Guide for Local Officials*. 1996.

Pp. 1-1 through 1-3.

38. Colorado Division of Housing. *Housing Colorado: A Guide for Local Officials*. 1996. Pp. 1-1 through 1-3.

39. Rosen, David Paul, & Associates. Executive Summary of "Inclusionary Housing Analysis: Balancing Affordability and Regulatory Reform, City of San Diego." Oakland, California: David Paul Rosen & Associates with KDG Development Consultants, July 28, 1992. P.39

40. Hartman, Chester. "Comment on Anthony Downs's 'The Advisory Commission on Regulatory Barriers to Affordable Housing: Its Behavior and Accomplishments.'" *Housing Policy Debate* 2 (1991): 1165.

41. See Governors Unified Housing Task Force. *Report of the Governors Unified Housing Task Force: State of Colorado*. November 1988.

42. See "Secondary Unit Regulations." Routt County Regional Planning Department. July 1998.

43. In general, the term "linkage requirement" refers to a requirement that a certain amount of affordable housing be provided per unit of new development that is not affordable housing. Linkage requirements may, for example, require that a set percentage of new single- or multifamily housing meet certain affordability standards, or may require new commercial development to include a certain amount of employee housing.

44. See Sanko, John. "Housing pinch squeezes middle class." *Rocky Mountain News*, Monday, August 18, 1997.

45. From report by Apartment Association of Metro Denver. Referenced in Rebchook, John. "Average rent up sharply." *Rocky Mountain News*, Wednesday, July 16, 1997.

46. See the September 1997 draft report of the Denver Housing Task Force: "Reducing the Cost of Housing." Addendum E.

47. See Longmont Community Housing Committee. *Affordable Housing: Issues & Solutions*. Report to the Longmont City Council, December 1994.

48. See comments of Jane Harrington, Executive Director, Summit County Housing Authority, in "How are mountain resort communities responding to the need for affordable housing?" *Colorado Real Estate Journal*, July 2-July 15, 1997. P.21

49. See S. Mark White, "Impact Fee Exemptions for Affordable Housing." *Urban Land*, August 1991.

50. See Cobb, Rodney L. "Zoning for Accessory Dwelling Units." *Zoning News*, American Planning Association, January 1997.

51. See generally the matrix on pp. 44-45 in White, Mark. *Affordable Housing: Proactive & Reactive Planning Strategies*.

52. Beaumont, Constance E. *Smart Places, Better Communities*. Washington, D.C.,

National Trust for Historic Preservation, 1996. Pp. 142-150.

53. Downs, Anthony. "The Advisory Commission on Regulatory Barriers to Affordable Housing: Its Behavior and Accomplishments." *Housing Policy Debate* 2 (1991): 1095. P. 1111.

54. Paul H. Sedway. "The San Francisco Downtown Plan: Office Boom Brings Housing Boon." *Inclusionary Zoning Moves Downtown*. Edited by Dwight Merriam, David J. Brower, and Philip D. Tegeler. Chicago: American Planning Association, 1985.

55. See White, Mark. Affordable Housing, p.55. For a general discussion of the use of development agreements in Colorado, see *Development Agreements: Analysis, Colorado Case Studies, Commentary*. Erin J. Johnson and Edward H. Ziegler, editors. Research Monograph Series No. 1, Rocky Mountain Land Use Institute. 1993.



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