



City Council

March 14, 2023
Packet Addendum #1

From: [Robert Cozart](#)
To: [City Council](#)
Subject: SB23-213 CONCERNING STATE LAND USE REQUIREMENTS
Date: Monday, April 3, 2023 9:58:06 AM

Some people who received this message don't often get email from cozarb@q.com. [Learn why this is important](#)

SB23-213 is a disaster. It takes away local control/governance with the goal of eliminating single family neighborhoods in the name of housing "equity". ADU's are bad enough, but this is orders of magnitude worse. The neighborhood we lived in for 32 years was destroyed in the Marshall Fire. It is just starting to come back to life. Now Governor Polis wants to destroy it again. The idea that a developer could jam a duplex, triplex, or even a fourplex into the lot across the street from the house we are rebuilding is infuriating.

If the goal is to actually increase the housing stock, there are numerous vacant or underused parcels in Louisville that could be developed. The Storage Tech property has been vacant for years. The block that used to house Lowe's has one viable business. That whole area could be developed, and it is close to public transportation. Across the street, the old Sam's Club building and the adjacent huge parking lot are vacant for most of the week. I'm sure an accommodation with the Church could be reached, and that whole area developed. There must be equal possibilities/opportunities for development across the state, without destroying single family home neighborhoods.

Robert and Patricia Cozart
914 Sunflower St.
Louisville
303-919-4894

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From: [Joshua Cooperman](#)
To: [City Council](#)
Subject: Another resource on SB23-213
Date: Monday, April 3, 2023 10:29:43 AM
Attachments: [SWEEP Colorado land use bill explainer \(Mar 2023\).pdf](#)

Dear members of the Louisville City Council,

The packet for tomorrow night's City Council meeting states that City staff could not find resources on SB23-213 beyond that produced by the Colorado Municipal League. Please find linked and attached an analysis of SB23-213 from the Southwest Energy Efficiency Project.

https://drive.google.com/file/d/1ZRSIWrmI4kIBXJWfFIT0udgB7vXS_2oc/view

Best,
Josh

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Colorado’s Historic “More Housing Now” Bill, Explained

By Matt Frommer & Grace Hood

Note: SWEEP will continuously update this bill explainer as the legislation evolves.

A bill introduced last week at the Colorado General Assembly is aimed at solving the state’s escalating housing affordability and climate crises by allowing more housing options like accessory dwelling units, duplexes, triplexes, and multifamily homes near jobs, transit, and other services. By combining zoning reforms that enable compact development in urban centers with policies that prevent exurban sprawl, [Senate Bill 23-213](#) will lower housing costs while reducing traffic and pollution, and protecting our precious natural resources.

The policy package, dubbed “More Housing Now”, is a “greatest hits” of state housing and land use policies. Here’s a high-level breakdown of what’s in the bill and how these policies will deliver a more affordable, sustainable, and equitable future for Colorado:

- [1. Housing Needs Planning: Setting our “North Star” for Housing.](#)
- [2. How will this bill support more Affordable Housing?](#)
- [3. Accessory Dwellings Units](#)
- [4. Middle Housing: Legalizing two- to six-unit multiplexes, townhomes, and cottage clusters in single-family zones.](#)
- [5. Transit-Oriented Areas and Key Corridors.](#)
- [6. Geographic Scope: Different approaches for urban and rural resort communities.](#)
- [7. Strategic Growth and Sprawl Prevention: Integrating transportation, land use, and water planning.](#)
- [8. Parking Reform](#)
- [9. Other Provisions to Remove Barriers to Affordability](#)
- [10. Implementation Timeline](#)

1. Housing Needs Planning: Setting our “North Star” for Housing.

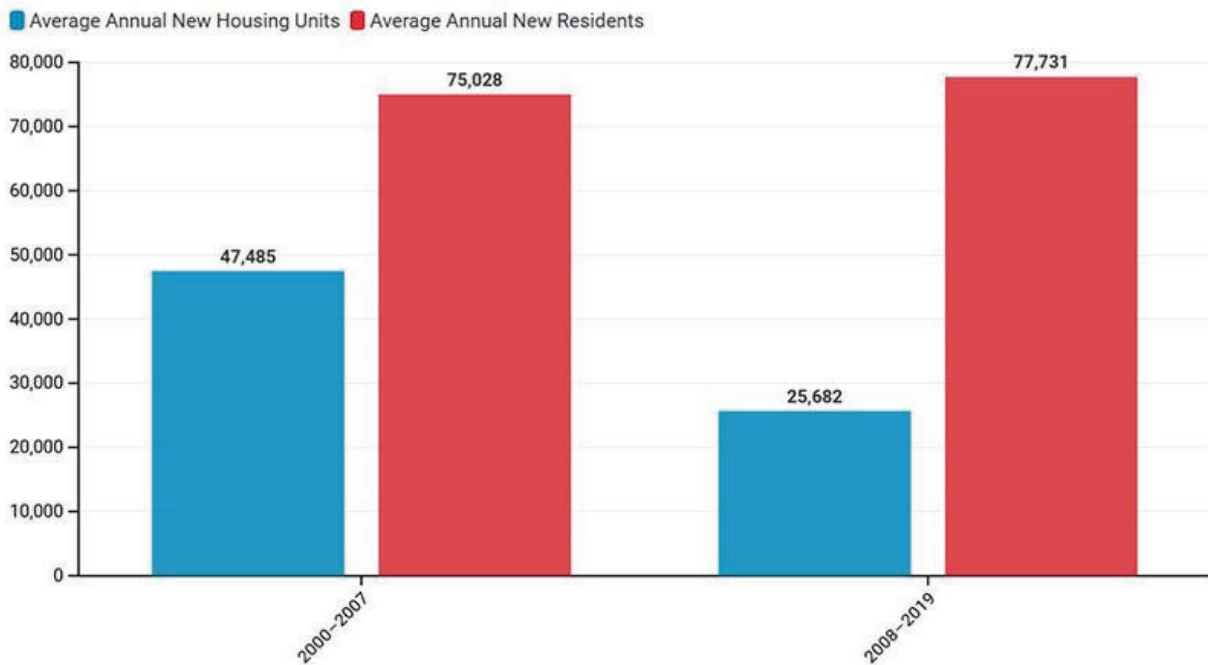
What’s the problem we’re trying to solve?

Colorado is experiencing a severe housing crisis, in part because we have [not built enough homes](#) to keep pace with population and job growth. In the decade before the 2007 financial crisis, Colorado was producing 48,000 new homes per year, but since 2007, that number has dropped to 26,500 despite even faster population growth. As a result, we’re 175,000 homes short of a stable housing market.

This underproduction creates scarcity, which has made Colorado one of the most expensive housing markets in the nation. Rising housing costs force low-income renters out of their homes and make it difficult for businesses to find workers. To stabilize the market and avoid going the way of California, where the average home costs \$200,000 more than in Colorado, we need to double annual housing production in the coming years.

New Construction Is Not Meeting New Demand

After the Great Recession, construction of new housing in Colorado fell by an annual average of 46% even as population growth accelerated by an annual average of 3%



Source: Common Sense Institute's [Transforming the blueprint for housing development in Colorado](#).

It's not just about how many homes we build; it's also about where we build them and who can afford to live in them.

The housing crisis hits low-income families the hardest, the [majority of which are now "housing-cost burdened."](#) meaning they spend over one-third of their income on housing and, therefore, have less to spend on other life necessities like food, medicine, and transportation. The market will not deliver new housing at prices that are affordable to low-income residents on its own, so we need to couple supply-side policies like zoning reform with strategies that preserve and produce more affordable housing.

On top of the affordability challenges, the current mix of housing types doesn't reflect Colorado's changing demographics. In the Denver region, [the average number of people per household is steadily declining](#) as the population ages and fewer families have children. By 2050, only 25 percent of households in the Denver region are expected to have children, down from 50 percent in 1970. At the same time, the number of households with older adults aged 65 and over is expected to double in the next

30 years. And yet, the majority of our residential land is restricted to single-family homes, many of which have 4 or 5 bedrooms and sit on large lots. We need to diversify our housing stock with a wider range of housing types, sizes, and price points to meet our changing demographics.

➤ ***SB23-213 requires state and local governments to quantify their current and future housing needs by income level and take steps to meet housing targets over time.***

We cannot address the housing crisis without understanding the scale of the challenge. It'd be like trying to solve climate change without knowing how much greenhouse gas pollution we're producing and from where. Or trying to solve the water crisis without knowing how much water we're using and how much we have left. Without it, we're flying blind. The basic elements of Housing Needs Planning are:

1. **Step 1 – Housing Needs Assessments:** The bill directs state agencies to determine how many homes are needed in each community for a range of income levels, household sizes, and household types based on a standard set of population and job growth data. Once a city knows its housing shortage – say 20,000 additional units for low-income families making 50-80 percent of the average median income by 2030 – it can adjust its land use regulations and affordable housing policies to meet that target.
2. **Step 2 – Local Housing Plans:** Communities in urban areas and the most expensive rural resort areas must develop Housing Plans to demonstrate progress toward meeting their housing targets with a combination of zoning reform, affordable housing programs, infrastructure investments, economic and financial tools, anti-displacement provisions, and other strategies. The bill sets aside \$15 million for state and local planning assistance to complete this work.
3. **Step 3 – Data Reporting:** Local governments will submit housing production data to the state alongside a list of local affordable housing and anti-displacement policies, and the state will upload this information to a publicly available dashboard. This transparency allows the public to hold cities accountable to their housing targets.

Plenty of other states have Housing Needs Assessments and Plans, from [Oregon](#) to [Utah](#) to [New Hampshire](#). Currently, many Colorado communities are independently conducting Housing Needs Assessments, but they're not required to, and there are no standards to ensure each city is using the same data set and methodology to calculate how many homes are needed at different income levels. Without consistency in methodology, timelines, implementation, and reporting, the potential is limited. Statewide housing needs planning will bring state agencies into the conversation and support regional collaboration to grow more strategically.

2. How will this bill support more Affordable Housing?

Allowing more housing options will increase the overall housing supply and take some pressure off the low-income housing market, but reducing housing costs for low-income families requires more public and private investment in Affordable Housing. The bill takes several concrete steps to encourage the creation

of Affordable Housing – units that are subsidized at below-market-rate to low- and middle-income Coloradans. (Notice the capital A to avoid confusion with broader, lower-case *housing affordability*).

However, this bill won't fix everything on its own, and we should consider both the specific provisions in the bill and how they will interact with the broader policy landscape. Colorado has taken historic action on Affordable Housing in the last couple of years. SB23-213 comes on the heels of several major Affordable Housing policies and investments, including [\\$550 million from the 2022 legislative session](#) and up to \$300 million per year from the voter-approved, [Proposition 123](#). In addition, [House Bill 21-1117](#) allows local governments to require developers to set aside a percentage of multifamily units for Affordable Housing – a policy known as “inclusionary zoning” that roughly 25 cities and counties have now adopted.

10 ways that SB23-213 supports Affordable Housing:

1. The bill creates a **“Housing Needs” framework** to quantify the gap in housing for low-income residents and requires cities to develop Housing Plans to close those gaps.
2. The bill directs the state to create a **menu of affordable housing strategies** from which cities have to choose two strategies (three if they have rail stations) to support Affordable Housing production. The menu will be developed in partnership with local governments, advocates, and community groups and could include strategies like affordable housing overlay zones, direct funding, community land trusts, streamlined permitting, reduced fees, and infrastructure funding. ([Here's a full list of example policies](#) from the Colorado Sustainable Housing Coalition.)
3. The bill **complements and augments local Inclusionary Zoning Ordinances**. A growing list of local governments, including Denver, Boulder, Littleton, and Longmont, require a percentage of homes in new multifamily buildings to be Affordable. By rezoning urban communities to allow for more multifamily housing, these cities will automatically increase the production of Affordable units or, alternatively, collect more money from linkage fees or “cash in lieu” from developers to fund their own Affordable Housing. Consistent with [HB21-1117](#), the bill encourages cities to develop their own inclusionary zoning ordinances based on the local market dynamics. For example, “hotter” housing markets like [Boulder](#) have set their inclusionary zoning threshold at 25 percent of new units, while less expensive markets like [Littleton](#) chose 5 percent. The [Denver policy](#) gets even more granular with different requirements for “typical” and “high-cost” markets.
4. The bill **sets a floor of affordability in the Transit-Oriented Areas model codes** at 10 percent of units for families making 80 percent of Area Median Income (AMI) or less. We expect most cities to opt for the “local flexible option” instead of the state model code and set their own affordability requirements based on the findings from the Housing Needs Assessments (more on that below).
5. The bill **removes costly parking mandates** for new development near transit and job corridors. Parking is very expensive – [between \\$10,000 and \\$50,000 per parking space](#) – and yet, [over half of the parking spaces near transit sit empty](#). By reducing or eliminating parking mandates, we can direct our limited resources toward the creation of more affordable homes instead of car storage, one reason that Denver decided to [slash parking requirements for affordable housing in 2022](#).

6. The bill **helps to stretch our public and private funding further** by legalizing lower-cost housing types like ADUs, duplexes, triplexes, fourplexes, and multifamily housing. With greater economies of scale and land use efficiency, [these units cost 25-50 percent less to build](#) than single-family homes and, therefore, require less subsidy per unit to make them Affordable. When we combine zoning reform with affordable housing investments, it allows us to stretch our dollars further across more units. Hypothetically, if the public subsidy required to keep a 3-bedroom home affordable for a family making 60 percent of AMI is \$500,000 for a single-family home and \$200,000 per unit in a fourplex – then our public investment goes 2.5 times further for the smaller, attached units.
7. The bill **allows “by-right” development**, which lowers development costs by streamlining the permitting process.
8. The bill **lowers combined housing and transportation costs** by aligning state funding programs with new “strategic growth objectives” to encourage more affordable, transportation-efficient development. Transportation is the second largest household expense after housing, and by enabling affordable housing in walkable, transit-rich communities, this bill reduces combined housing and transportation costs. The cost of owning a new car in Colorado is almost \$900 per month, and households in sprawling car-dependent areas pay [twice as much per year on transportation](#) as those in more walkable, transit-rich areas.
9. The bill **maximizes the potential impact of Colorado’s historic Affordable Housing investments** from the 2022 legislative session. Current zoning restrictions limit how much housing we can build where. By relaxing them, we can unleash the full potential of our new funding programs and build Affordable Housing where it makes sense - near jobs, grocery stores, schools, transit, and other key destinations.
10. The bill **takes some pressure off the low-income housing market** by increasing overall housing supply and stabilizing home prices. Without increasing supply, prices will continue to escalate, adding more families to the ever-growing waitlist for below-market-rate Affordable Housing.

Preventing involuntary displacement. The status quo is fueling the involuntary displacement of low-income households by driving up rents. [A 2020 study](#) found that Denver was the second fastest-gentrifying city in the country. Increasing housing supply should alleviate some of the economic displacement pressure, but we must also introduce specific guardrails to protect vulnerable communities, particularly as we see larger investments and redevelopment in transit-oriented areas.

➤ **SB23-213 requires local governments to identify neighborhoods at high risk of involuntary displacement and implement strategies to protect those households.** To assist in this work, the state will create a menu of anti-displacement measures for local governments to use, which could include strategies like foreclosure and rental assistance programs, legal support for tenants, tenant relocation assistance, community opportunity to purchase, and prioritization policies for vulnerable households to access future affordable housing. [Here's a full list of example policies](#) from the Colorado Sustainable Housing Coalition (see tab 2).

It’s worth noting that several other bills have been introduced this legislative session to protect residents from involuntary displacement, such as [HB23-1171](#), which would prevent landlords from evicting tenants without “just cause,” and [HB23-1115](#), which would allow local governments to enact rent control.

3. Accessory Dwellings Units

What’s the problem?

Accessory Dwelling Units (ADUs), also known as granny flats or backyard cottages, are modestly sized and modestly priced homes that can be tucked into existing single-family homes or placed in a backyard. ADUs present a great opportunity for cities to increase the number of low-cost and energy-efficient housing options without eating up more undeveloped land. They’re particularly popular among organizations like [AARP](#) because they provide an opportunity for seniors and empty nesters to “down-size” and age in place without having to leave their communities. Same for families with young adults who want to live nearby but can’t afford their own single-family home.

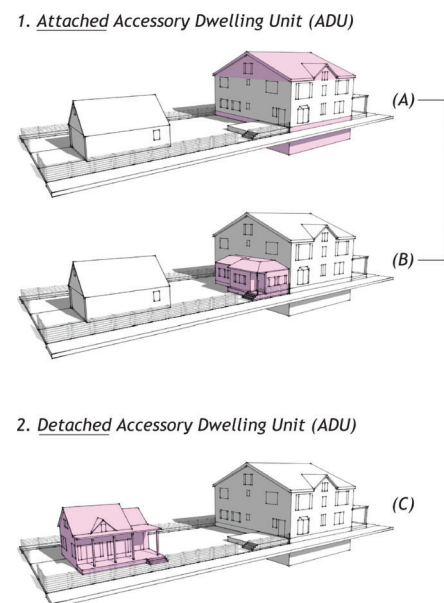
The problem is that ADUs are illegal to build on the majority of residential lands. For example, [73 percent](#) of lots in Denver do not allow ADUs. Where they are legal, there tend to be significant regulatory barriers that limit their production and drive up costs, such as requirements for off-street parking, separate water and utility connections, lengthy permitting processes, and overly-restrictive size limits.

In looking at other states around the country, it’s obvious that there’s pent-up demand for ADUs. For example, after [Seattle](#) legalized and removed barriers to ADU construction in 2019, they saw a 250 percent increase in ADU permits. That’s another 3,000 relatively affordable homes that would otherwise not have been built.

➤ ***SB23-213 legalizes and removes barriers to ADU construction in cities across Colorado.***

Urban cities and non-urban towns with over 5,000 people must allow residents to build ADUs “by-right” in single-family zones. They are prohibited from enforcing parking mandates, setting overly-restrictive size caps, or implementing other local laws that create “unreasonable costs or delays”. To be clear, getting rid of parking mandates does not get rid of parking but allows the builder to determine how much parking is needed for a particular project depending on market demand and context. (More on that in section 6.)

As with the other zoning elements in the bill, cities are given two options to comply with the ADU requirements by the end of 2024:



1. **The Local Flexible Option:** They can choose to update their own zoning regulations to meet the “minimum standards” articulated in the bill, or
2. **The State Model Code:** They can choose to adopt the state’s forthcoming ADU model code, which will be developed by state agencies through a public process over the next year.

This dual-pathway approach is similar to that of other states like [Oregon](#). Faced with a similar choice, every city in Oregon that’s subject to the requirements picked the local flexible option over the state model code, with many going above and beyond the model code. For example, Portland allows two ADUs per lot and, in the case of Middle Housing, higher Floor-Area-Ratios (FAR) than the state model code.

In many municipalities, particularly rural resort towns, ADUs have been used as short-term rentals through platforms like AirBnb and VRBO to provide hotels for vacationers instead of housing for locals. Cities like Summit County have taken important steps to limit the use of ADUs for short-term rentals, and this bill explicitly allows cities to implement these policies with the goal of creating more housing.

4. Middle Housing: Legalizing two- to six-unit multiplexes, townhomes, and cottage clusters in single-family zones.

What’s the problem?

In the 10 largest cities in the Denver metro, over 85 percent of residential land is reserved for single-detached homes – one dwelling unit per lot, no matter how big that lot is. These regulations essentially mandate the most expensive housing type on the majority of urban land. The average rent for a single-detached home in Colorado is [35-40 percent](#) more expensive than it is for duplexes, triplexes, and fourplexes, and yet, these more affordable “multiplexes” only represent [1-2 percent](#) of new housing production because they’re illegal to build almost everywhere in Colorado.

Single-family zoning, also known as exclusionary zoning – has [racist roots](#) in redlining and segregation. The intentional exclusion of Black families from homeownership opportunities has compounded the racial wealth gap for generations. Today, [homeownership rates](#) for white families in Colorado are almost double that of Black families and more than triple that of Hispanic families. To correct for decades of racial discrimination and income inequality, we need to reverse exclusionary zoning, increase the production of modestly-priced housing options, and expand homeownership opportunities for BIPOC families.

In addition, single-family zoning fuels low-density, car-dependent sprawl, which pushes residents further from jobs and services and leads to more traffic, transportation pollution, and land and water consumption. Many of our favorite historic neighborhoods are sprinkled with middle housing types, which generates just enough population density - even at modest levels – to support nearby walkable businesses and frequent transit. Unfortunately, we’ve made it illegal to build more of these homes today.

➤ ***SB23-213 legalizes Middle Housing options in urban areas across Colorado.***

To open up more affordable housing options for families, workers, and elderly and young home seekers and allow more walkable, environmentally-friendly development in existing urban areas, the bill directs cities to legalize Middle Housing in single-family zones. Like the ADU section, the legislation gives cities a choice to either develop their own Middle Housing regulations or adopt the forthcoming state model code by the end of 2024.

If cities choose the local flexible option, they must meet minimum standards in the bill and avoid parking mandates and overly restrictive building sizes. The intent is to allow 2 to 6 units on a single lot while preserving the same neighborhood feel with similar heights, setbacks, building, and greenspace requirements as existing homes. From the street, middle housing will look similar to neighboring single-detached homes, just with a couple more mailboxes and front doors.



Source: [*American Planning Association and Courtesy of Opticos Design, Inc.*](#)

Cities must allow Middle Housing types to be 25% larger than single-detached homes to increase the potential for more homes. For example, in a historic neighborhood with 2,000 square foot homes, local regulations must allow 2,500 square feet for middle housing types – imagine a triplex of 830 square foot, 2-bedroom homes.

There's a growing trend around the country to legalize Middle Housing, most recently in states like [Montana](#), [Washington](#), and [New Hampshire](#). Housing data from even earlier adopters like [Oregon](#) and [Minneapolis](#) show a modest yet meaningful increase in housing supply. In Portland, a city with nearly 160,000 single-detached homes, 289 middle housing units were permitted in 2021. So rest assured, this isn't going to upend our neighborhoods overnight. It's a long-game housing strategy that produces a consistent trickle of lower-cost housing types in our communities – one piece of the larger housing puzzle.

Legalizing Middle Housing is also a displacement mitigation strategy. [A Portland study](#) found that legalizing Middle Housing is expected to reduce low-income renter displacement by 21 percent by 2035. That's because it allows the city to produce the same number of housing units on fewer lots. According to the study, "there is a net reduction in the frequency of demolition and redevelopment across the city while at the same time a net increase in the amount of housing units."

Every day, older single-detached homes get torn down and replaced with larger and more expensive single-detached homes or McMansions - the only option on the majority of residential lands. In Portland, half of those demolished single-detached homes are now being replaced with duplexes, triplexes, and fourplexes, doubling the productivity of small-lot redevelopment in the city and providing hundreds of new homes at relatively-affordable price points.

Critically, the bill prevents Homeowner Associations (HOAs) and Planned Unit Developments (PUDs) from blocking ADUs, Middle Housing, and Transit-Oriented Development.

5. Transit-Oriented Areas and Key Corridors.

What's the problem we're trying to solve?

Colorado's greenhouse gas (GHG) target for transportation – the largest contributor to climate emissions – is 23 million metric tons (MMT) by 2025, but we are nowhere near close to meeting that target. According to [the most recent state report](#), we will exceed that number by an alarming 10 MMT. To course-correct, we need to cut household driving by [20 percent](#) by 2030 by increasing investments in transit, biking, and walking infrastructure and building homes closer to jobs, schools, grocery stores, and other key destinations.

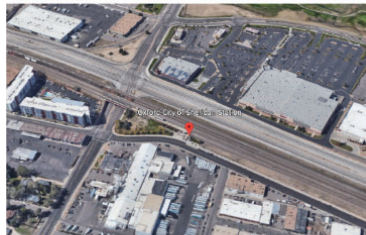
In 2020, the Denver Regional Council of Governments (DRCOG) [modeled a series of transportation and land use scenarios](#) to better understand what it will take to meet our climate and vehicle-miles-traveled (VMT) reduction goals. Their "Transit" scenario assumes we invest an additional \$36 billion in transit by 2050, resulting in a 2 percent decrease in VMT per capita against the baseline forecast — not nearly enough to meet our targets. However, when the Transit scenario is combined with a "Centers" land use scenario, which focuses 75 percent of new housing and job growth in urban centers and transit corridors, the result is a 24 percent VMT reduction, three times as many walk and bicycle trips, and six times as many transit trips. **The expansion of public transit is almost 10 times more effective in reducing GHG pollution when coupled with transportation-efficient land use.**

When we consider the full climate benefits of smart land use, including both transportation and building sector emissions, the potential GHG savings could be [2 MMT or more](#). This is on par with Colorado's goal of getting 1 million EVs on the road by 2030.

Enabling Transit-Oriented Development. Residents of Transit-Oriented Development (TOD) [drive half as much](#) as those living in the suburbs. Yet, 2/3 of the light-rail stations in the Denver region are surrounded by low-density development, vacant land, and vast parking lots, many of which sit empty. Our

transportation system is only as useful as the places it takes us, and when we fail to build housing and jobs around transit, we limit our system’s value and utility.

At a minimum, transit needs densities of [10-20 homes per acre within ½-mile of the stations](#) to thrive, and double that number with additional focus on mixed-use development (homes and jobs) to support rapid transit systems like light-rail, Bus-Rapid Transit, and high-frequency bus routes. But most of the land around our transit stations is zoned for a tiny fraction of that density.



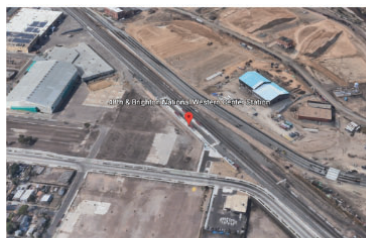
Oxford-City of Sheridan (D Line)
525 daily passengers (#56)



Fitzsimmons (R Line), Aurora
200 daily passengers (#71)



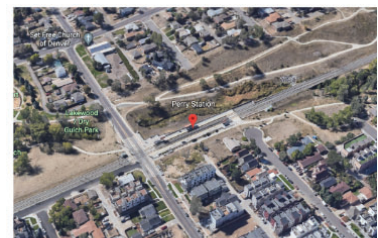
Westminster Station (B Line)
369 daily passengers (#65)



48th & Brighton (N Line), Denver
275 daily passengers (#68)



Pecos (G/B Line), Denver
316 daily passengers (#68)



Perry Station (W Line), Lakewood
618 daily passengers (#54)

Source: SWEEP/Google Earth Pro images of six light-rail stations in the Denver metro,

As a result, RTD’s system is underutilized and inefficient compared to peer transit agencies. Across 10 peer cities in the western United States, [RTD’s 2019 rail service](#) delivered the fewest passenger trips per service mile, a common metric of transit system efficiency and cost-effectiveness. In other words, trains in Portland, Seattle, Minneapolis, and Phoenix are more than twice as full. The COVID-19 pandemic and the sustained shift to telework have only made the problem worse, and current ridership is about 60 percent of pre-pandemic levels.

Over the last 20 years, the Denver region invested \$6 billion to build nearly 80 miles of new [FasTracks](#) rail service. Many of the new stations were designed for commuters, with big Park-n-Ride lots surrounding them. By now, it’s clear that many of those former riders are not going to return to the office. To make this historic transit investment worthwhile and bring back ridership, we need to adjust our land use plans and build more TOD around RTD’s system.

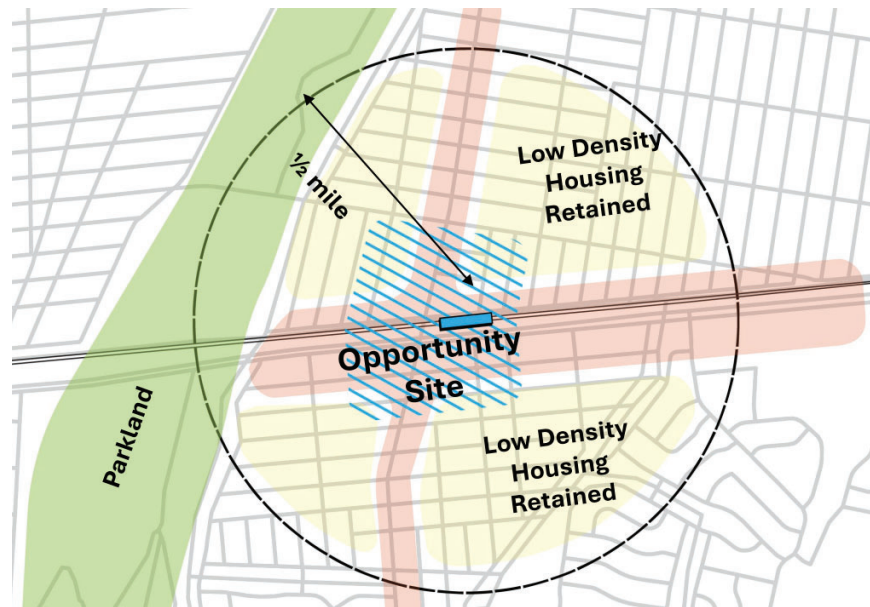


RTD's light rail crossing over Cherry Creek (left) and pulling into Lamar Station in Denver (right).

➤ ***SB23-213 increases housing options near transit stations and job centers.***

The bill removes some of the biggest barriers to Transit-Oriented Development: zoning restrictions, lack of infrastructure capacity (transportation, water, sewer, etc), excessive parking mandates, and lengthy permitting processes. Fitting with the theme of the ADU and Middle Housing sections of the bill, urban cities are presented with two pathways for compliance:

1. **The Local Flexible Option:** Cities must update their zoning in areas with ½-mile of light-rail stations and ¼-mile of Bus-Rapid Transit (BRT), frequent bus, and commercial corridors to meet minimum average density requirements. Cities can choose where to focus their development intensity as long as the average density within the ½-mile circle meets the minimum standard of 40 dwelling units an acre for light-rail stations. You might expect some areas to allow 4 or 5-story multifamily buildings with ground-floor retail and other neighborhoods to maintain lower-density zoning. Cities must implement at least three affordable housing strategies from a state-generated menu and take steps to mitigate displacement in high-risk communities.
2. **The State Model Code:** Cities that choose not to update their zoning regulations will automatically adopt a state model code, which essentially allows the minimum residential density (say 40 homes per acre) on all lands within a ½-mile of their light-rail stations. To ensure affordability, at least 10 percent of new homes in multifamily buildings must be affordable to residents making 80 percent or less of the AMI. With this option, cities lose the flexibility to fine-tune transit station area plans and focus the zoning capacity in certain areas. The model code will be developed by state agencies through a public process over the next year.



Source: [New York Housing Conference](#).

In the hypothetical scenario above, a city chooses the local flexible option and focuses residential density on the “opportunity site” around the light-rail station (the blue box) while maintaining low-density housing in the surrounding neighborhoods to achieve an average overall density of 40 homes per acre within a ½-mile radius of the station. Alternatively, if a city chooses to adopt the state model code, every lot within the black circle would allow multifamily buildings with a minimum density of 40 homes per acre. In both cases, cities will not be able to enforce parking mandates. More on that in Section 6.

6. Geographic Scope: Different approaches for urban and rural resort communities.

Most of the zoning and planning requirements in the bill apply to cities in urban areas and the most expensive rural resort housing markets, where we desperately need state and regional solutions to increase house supply and grow more strategically. Within that, it creates the following tiers based on size and location:

- **Tier One Urban Municipalities** refers to cities within the 5 Metropolitan Planning Organizations (MPOs) – Denver, Fort Collins, Colorado Springs, Grand Junction, and Pueblo – that have at least 1,000 residents and are part of the contiguous urban development area.
- **Tier Two Urban Municipalities** refers to cities within the MPOs that have between 5,000 and 25,000 people, and are slightly separated from contiguous urban development areas. Cities like Firestone, Dacono, Tinmath, and Berthoud.
- **Rural Resort Job Center Municipalities** are outside the MPOs, have relatively high numbers of people and jobs, and represent some of the most expensive housing markets in the state. Ski towns like Aspen, Vail, Breckenridge, Crested Butte, Steamboat Springs, and Telluride, and the

surrounding communities that struggle to maintain low housing costs like Glenwood Springs, Frisco, Durango, and Dillon.

- **Non-Urban Municipalities** are outside the MPOs and have more than 5,000 people.

Unlike urban areas, where Middle Housing and Transit-Oriented Area standards apply to every city, rural resort areas will embark on a regional planning process to determine which areas are most appropriate for Middle Housing and Transit-Oriented Development. This acknowledges the fact that urban municipalities have a different set of challenges than resort towns, where the housing crisis is even more extreme and may react differently to broad zoning reform.

Here’s how the bill applies to each of those classifications:

	Urban Municipalities Tier 1	Urban Municipalities Tier 2	Rural Resort Job Center Municipalities	Non-Urban Municipalities	Statewide (Counties, small munis)
1. Housing Needs Assessments & Plans	X	X	X		
2. Accessory Dwelling Units (ADUs)	X	X	X	X	
3. Middle Housing	X		<i>With additional flexibility</i>		
4. Transit Oriented Communities (rail)	X				
5. Key Corridors (bus transit, commercial corridors)	X		<i>With additional flexibility</i>		
6. Removing Barriers (Miscellaneous)	X	X	<i>With additional flexibility</i>	X	<i>Occupancy restrictions only</i>
7. Strategic Growth Planning & Water Efficiency	X	X	X	X	<i>Larger Counties only</i>

Source: Colorado’s “More Housing Now” Policy Package Summary

7. Strategic Growth and Sprawl Prevention: Integrating transportation, land use, and water planning.

What's the problem we're trying to solve?

By allowing for more infill in existing urban areas, the bill alleviates some of the exurban sprawl pressures, but we also need explicit provisions to directly limit low-density sprawl.

Sprawl contributes to climate change and eats up Colorado's precious open space and natural resources. Dispersed development patterns lock in car-dependence, which fuels more traffic and transportation pollution. In addition to the transportation impacts, larger single-detached homes on big lots consume [up to three times more energy](#) and [twice as much water](#) as more efficient attached homes like multiplexes and apartments.



The lack of affordable housing options near jobs pushes many workers further from services and key destinations in search of housing they can afford – a concept known as “drive until you qualify”. In many cases, the savings on monthly housing costs are offset by higher transportation costs as families spend more on car payments and gas. And for the 20-40 percent of Coloradans who don't or can't drive, car-dependent suburbs severely restrict access to opportunity.

Sprawl is also unsustainable from a financial perspective because, at such low densities, it doesn't generate enough tax revenue to cover the costs it incurs on local municipalities to provide infrastructure and public services like schools, police, and firefighters. In contrast, compact development maximizes efficiency by increasing the number of homes served for each dollar invested in new roads, water pipes, sewage treatment plants, and fire stations. [A Federal Transit Administration report](#) estimates that smart growth would save the Denver-Boulder-Greeley area \$4 billion in road and highway construction over 25 years—a savings of 21 percent for Colorado's taxpayers.

Without coordinated and intentional planning to limit sprawl, our metro regions will continue to expand, wasting money and natural resources. Over the last 25 years, DRCOG's projected urban growth area has nearly doubled from [700 to 1,308 square miles](#). In contrast, the Portland metro area has expanded its urban growth area by just 14 percent over the last 44 years despite similar population growth rates to

Denver. From 2001 to 2011, Colorado lost 525 square miles or 3 percent of its natural lands to development, the [second most](#) of any state in the west behind California.

Discouraging new development in the Wildland-Urban-Interface (WUI) also promotes climate resilience by protecting Coloradans from intensifying climate disasters like the 2021 Marshall Fire in Boulder County.

➤ ***SB23-213 takes steps to rein in sprawl by directing the state to develop “Strategic Growth Objectives” to better integrate transportation, land use, and water planning and align state funding with affordable housing and climate-friendly land use.***

In many cases, our state and regional policies have the effect of subsidizing and enabling sprawl, and that’s because state agencies like CDOT have not incorporated land use into the transportation planning process. Without considering land use and transportation together, we will forever be throwing good money after bad land use decisions.

The bill directs state agencies to develop a set of “Strategic Growth Objectives” to guide new growth into urban areas with good access to transit, jobs, and other services, reduce GHG emissions, promote fiscally-responsible growth, and prevent low-density exurban sprawl. State agencies will submit a report to the legislature by March 31, 2024, with an analysis of the state’s current development patterns and a set of policy recommendations to better align our planning and funding with Strategic Growth Objectives.

The intent is for agencies like CDOT to incorporate smart land use criteria into their planning process and reward projects that support affordable housing, and transportation-efficient, mixed-use development. This could lead to more investment in transit-oriented development infrastructure and less in new, sprawl-enabling interchanges and road lane miles outside of urban areas.

Every 5-10 years, local governments update their Master Plans or Comprehensive Plans for their communities. At a minimum, these plans advise local planning and decision-making, but many local governments take them more seriously and adopt them as binding plans. The bill adds several requirements to Master Plans to better integrate land use, transportation, and water planning, including

- **A Water Supply Element** with a list of water conservation strategies to support current and future growth. Previously, these elements were optional for local governments, but they will now be a mandatory part of comprehensive planning. Local governments must also conduct a water loss audit to identify opportunities for water conservation and efficiency;
- **Natural and Agricultural Land Priorities** to protect open space and agricultural lands from development. State agencies are directed to prepare a Natural and Agricultural Land Priorities Report to inform local and regional planning;
- **The Greenfield Development Analysis** to make sure that when we do grow outward, beyond our current service areas and onto open space and annexed lands, we do so sustainably, both environmentally and financially. This analysis requires cities to demonstrate how their greenfield development plans support the state’s Strategic Growth Objectives and will be used to inform funding decisions;
- **The Housing Needs Plans** outlined in Section 2 of the bill.

8. Parking Reform

One of the most important policy pieces to the housing puzzle is a shift away from local [parking mandates](#). Many cities across Colorado have parking minimums that require developers to build a certain number of spaces per dwelling unit or commercial square foot. The problem is that parking mandates are [not steeped in science](#) and tend to be completely arbitrary and disconnected from parking demand. They result in [too many spots](#), tack on upwards of [\\$26,000 per unit for Denver housing costs](#), and [encourage a car-centric culture that results in more vehicles on the road](#). The majority of developers bundle parking costs into the rent to the tune of [\\$225 per month](#) whether you have a car or not.

According to [RTD's 2020 Parking Study](#), about half of the parking spaces around their transit stations sit empty, even during peak periods. This amounts to hundreds of acres and millions of dollars that could've been allocated to housing, businesses, outdoor parks, and other public spaces instead of car storage.

➤ ***SB23-213 shifts this paradigm by eliminating parking mandates for ADUs, Middle Housing, and Transit-Oriented Development.***

To be clear, getting rid of parking mandates does not mean getting rid of all parking. It means that builders and businesses can respond to market demand and right-size parking provisions based on building type, walkability, transit-proximity, and other factors.

Letting the market determine the number of parking spots could look like the [Art District Flats](#) in Denver's La Alma - Lincoln Park Neighborhood, where the city allowed lower parking requirements. The building has eight floors and 126 affordable homes. Instead of having 1 or 1.5 parking spaces per unit, as is required in most Denver neighborhoods, Art District Flats has 49 spaces total, a ratio of 0.39 spots per unit. This has freed up 27,000 square feet and over \$2 million to subsidize affordable units or build more of them.

By preventing cities from enforcing costly parking mandates, the bill will free up land and buildable area for housing, lower housing costs, and enable lively and walkable Main Streets – many of which would be impossible to build with today's parking requirements.

9. Other Provisions to Remove Barriers to Affordability

- **Minimum unit square footage.** The bill prevents cities from requiring minimum home sizes to enable the development of smaller and more efficient homes.
- **Removing occupancy limits based on family status.** Many cities in Colorado limit the number of unrelated people who can live in the same house, in some cases, to as few as 3 people. The bill

prevents cities from enforcing residential occupancy limits based on the relationships of the occupants.

- **Promoting Manufactured and Modular Housing.** The bill removes barriers to the construction of manufactured and modular homes like mobile and tiny homes by preventing cities from applying more restrictive standards than they do for traditional, “stick-built” single-family homes.

10. Implementation Timeline

Policy Package Element	Who	By When
Housing needs assessment and planning guidance		
Housing needs assessment Guidance for housing needs plans Affordability and Displacement Mitigation Menus Set up technical assistance offerings	State	Dec 2024
Establish reporting requirements	State	Dec 2025
Rural resort regional planning process	Local	June 2026
Submit first housing plan	Local	Dec 2026 (all subject jurisdictions)
DOLA review and approves / provides feedback	State	June 2027 (all subject jurisdictions)
Phase 1: ADUs, Middle Housing, Transit Oriented Communities		
Minimum standards (in statute)	State	June 2023
Issue model codes	State	June 2024
Deadline to submit compliant code	Local	Dec 2024 (Urban municipalities) Dec 2026 (Rural resort job centers)
Date model code will go into effect	State	Dec 2025 (Urban municipalities) June 2027 (Rural resort job centers)
Phase 2: Key Corridors		
Issue minimum standards	State	June 2025
Issue model codes	State	June 2025
Deadline to submit compliant code	Local	Dec 2026 (all subject jurisdictions)
Date model code will go into effect	State	June 2027

Source: Colorado’s “More Housing Now” Policy Package Summary

From: [Annmarie Jensen](#)
To: [City Council](#); [Lisa Ritchie](#)
Subject: Discussion of 213
Date: Monday, April 3, 2023 10:39:47 AM
Attachments: [CHAP-Preemption-Memorandum-Final \(1\).pdf](#)

ECHO's position on SB 213 is that it needs additional work to make it truly useful to people who are lower income. We have been working in coalition with other advocacy groups who care about affordable housing, not just housing. We believe there are amendments needed to enhance affordability, enforceability and to encourage diverse community input. We have submitted those amendments to the legislature and the Governor. But, in the meantime, I thought this analysis of the home rule authority issues might be of interest as you prepare for your discussion on the bill.

Anmarie Jensen (she/her/hers) checkout ECHOCOLORADO.COM
720-999-4765

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**COLORADO HOUSING AFFORDABILITY PROJECT
RESEARCH MEMORANDUM**

**COLORADO AUTHORITY TO REGULATE LAND USE
AS A STATEWIDE CONCERN IN HOME RULE JURISDICTIONS**

March 22, 2023

EXECUTIVE SUMMARY

- Since 2010, residential construction in Colorado has failed to keep up with population and employment growth, resulting in historically low housing inventories and historically high housing prices. Restrictive zoning that prevents new housing development is a major contributor to the housing shortage. Research on housing supply constraints and economic growth indicate that: 1) zoning controls have prevented new housing construction that historically mitigated high housing prices; 2) high housing prices limit economic mobility; and 3) land use restrictions benefit older, richer homeowners at the expense of younger, poorer renters. Besides driving up the cost of housing, lack of supply affects economic growth in Colorado, distorts labor and job markets, and impacts environmental and natural resource quality. Besides driving up the cost of housing, lack of supply affects economic growth in Colorado, distorts labor and job markets, and impacts environmental and natural resource quality. Limited housing supply prevents Coloradans from living in communities with greater economic opportunity, constraining growth in industries that cannot find employees and restricting access to jobs for those who cannot afford the cost of living. Even for those willing or able to commute long distances to work, the lost productivity and environmental impacts—including degraded air quality and contributions to greenhouse gas emissions—resulting from the spatial mismatch between jobs and housing are significant when considered on a statewide basis.
- Matters that result in effects extending beyond municipal borders—including matters such as housing, statewide and regional economic development, and environmental sustainability—are, by definition, not purely local and, therefore, are appropriate for statewide regulation.
- To determine whether a matter is reserved purely for local control or is appropriate for regulation by the state, courts consider four factors: (1) the need for regulatory uniformity throughout the state, (2) the extraterritorial impacts of the local regulation at issue, (3) which entity, state or local, has traditionally regulated the area, and (4) to which entity, if any, the Colorado Constitution commits regulation.
- A statewide approach, based on a uniform set of expectations, is needed to establish that every community bears some responsibility for providing housing to support the state’s and regional economic development goals and to provide sufficient housing across a

variety of income levels. Such an approach also reflects the wide-ranging, statewide economic and environmental consequences of unaffordable housing and distorted residential development patterns.

- Exclusionary zoning that limits housing supply “restrict[s] the free market” and distorts regional growth patterns has extraterritorial effects.¹ The failure of some communities to allow the production of affordable forms of housing or subsidized housing for low-income Coloradans results in many extraterritorial impacts, including, but not limited to: the costs absorbed by neighboring jurisdictions in providing the needed housing (and expensive supportive services) that support the restrictive community’s workforce and economy; the environmental impacts associated with long commutes when housing is not located near jobs; and the segregation of communities by income and access to opportunity, which concentrates poverty and causes related societal impacts.
- The General Assembly has the authority to declare the public policy of the state, and that policy is accorded deference by courts. Zoning and land use in general has historically been determined to be a local and municipal matter unless a state statute explicitly provides otherwise. The state has exercised its jurisdiction and limited local authority on many matters that affect land use, including housing, oil and gas development, liquor and marijuana uses, and others.
- Based on an analysis of Colorado law as it relates to statewide regulation of matters traditionally left to local governments and the facts underlying Colorado’s current housing and climate crises, it is our position that housing affordability, economic development, and environmental sustainability are matters of mixed state and local concern and that the state has authority to set minimum requirements and limitations for local land use regulation, including in home rule jurisdictions, to allow greater production of housing, reduced greenhouse gas and other toxic emissions, and economic development.

RESEARCH MEMORANDUM

About the Colorado Housing Affordability Project: The Colorado Housing Affordability Project (CHAP) is a diverse group of professionals and academics in urban planning, housing economics, public policy, law, and real estate development. Through our daily work and lived experience, we have witnessed the root causes and harmful effects of high housing costs in Colorado. Our motivation to establish CHAP was premised upon our collective personal and professional interest in achieving meaningful reforms to our state’s land use regulatory system to increase the supply of housing that is affordable for all Coloradans. CHAP has prepared several research papers regarding this topic, which are available at <https://cohousingaffordabilityproject.org/the-research/>. This Research Memorandum was prepared by CHAP with the collaboration, assistance, and research of the University of Denver Sturm College of Law and the Rocky Mountain Land Use Institute.

¹ Land use reforms that remove the favored status of single-family development and prioritize the development of duplexes, triplexes, etc., would increase Colorado’s overall housing supply. See ROOT POL’Y RESEARCH, *supra* note 25, at III-2.

Issue: Whether the Colorado General Assembly has the power to set minimum requirements and limitations on local land use regulation by home rule municipalities pertaining to housing production and affordability, economic development, and environmental sustainability.

Conclusion: Land use policies that affect the supply and affordability of housing and relatedly, economic development and environmental sustainability, are a matter of at least mixed state and local concern justifying state regulation that sets minimum obligations for local governments to plan and zone for more affordable forms of housing.

Factual Background

Since 2010, residential construction in Colorado has failed to keep up with population or employment growth, resulting in historically low housing inventories and historically high housing prices. This imbalance between supply and demand has caused a housing crisis that limits the ability of even moderate-income Coloradans to afford housing, to say nothing of those earning less than the median income.² Based on demographic projections, experts maintain that Colorado needs to build an average of over 40,000 units per year until 2030 to meet current housing needs, yet the state has only produced an average of 26,500 units per year since 2007.³ The number of units needed per year is even higher to return the housing market to a functioning level and decrease housing prices statewide.⁴

It is now well-established that restrictive zoning that prevents new housing development is a major contributor to the housing shortage.⁵ The academic literature on housing supply constraints and economic growth further indicate that: 1) zoning controls have prevented new housing construction that historically mitigated high housing prices; 2) high housing prices limit economic mobility; and 3) land use restrictions benefit older, richer homeowners at the expense of younger, poorer renters.⁶

Besides driving up the cost of housing, lack of supply affects economic growth in Colorado, distorts labor and job markets, and impacts environmental and natural resource quality. Limited housing supply prevents Coloradans from living in communities with greater economic opportunity, constraining growth in industries that cannot find employees and restricting access to jobs for those who cannot afford the cost of living. Even for those willing or able to commute long distances to work, the lost productivity and environmental impacts—including degraded air quality and contributions to greenhouse gas emissions—resulting from the spatial mismatch between jobs and housing are significant when considered on a statewide basis.⁷

² See ROOT POL'Y RESEARCH, STATE OF COLORADO HOUSING RESEARCH I-12 (2021).

³ See ROOT POL'Y RESEARCH, STATE OF COLORADO HOUSING RESEARCH II-1 (2021).

⁴ *Id.* at II-2.

⁵ See *generally, id.*; see also, COLORADO HOUSING AFFORDABILITY PROJECT ISSUE BRIEF NO. 1: LAND USE RESTRICTIONS' IMPACTS ON ECONOMIC GROWTH.

⁶ COLORADO HOUSING AFFORDABILITY PROJECT ISSUE BRIEF NO. 1: LAND USE RESTRICTIONS' IMPACTS ON ECONOMIC GROWTH.

⁷ COLORADO HOUSING AFFORDABILITY PROJECT ISSUE BRIEF NO. 3: LAND USE RESTRICTIONS' IMPACTS ON ENVIRONMENTAL SUSTAINABILITY.

Job and housing markets are typically regional, rather than local, in nature, with Coloradans often living in one community, working in another, and sometimes relying on a third for life's daily activities. Investments in public transportation and mobility infrastructure, including a significant regional investment in FasTracks in the Denver metro region, allow efficient and sustainable means of connecting housing to educational and employment opportunities, as well as other regional amenities. The development of transit-oriented communities around station areas across the region is important to leverage those investments in order to increase ridership, reduce pollution, provide equitable access to opportunities and, ultimately, support a functional economy. Conversely, exclusionary zoning policies in one part of the region undermine that transportation network, put pressure on other parts of the region to supply housing, including subsidized affordable housing, and can lead some communities to assume a disproportionate share of responsibility for housing and the social services to support low-income and very-low-income individuals.

Because job and housing markets are regional in nature and affect both Colorado's economy and its environment, the state has an interest in ensuring that the land use regulatory environment supports development to meet the demographic and economic needs of the state in ways that are sustainable and equitable.

Analysis

Colorado's local governments, including cities, towns, and counties, come in two forms. *Statutory jurisdictions* are those that are enabled and governed by legislation enacted by the General Assembly, and the state enjoys a vast degree of control over the authority and activities of statutory cities, towns, and counties. There is no question that the General Assembly can limit or direct statutory jurisdictions to adopt and enforce land use regulations in a manner so as to support more housing production, economic development, and environmental sustainability.

In contrast, *home rule jurisdictions* are authorized by the Colorado Constitution to enact home rule charters. The Colorado Constitution grants broad authority to municipalities that meet the standards for and elect treatment as home rule jurisdictions.⁸ With this broad grant of authority, the state intended to ensure home rule municipalities had "constitutionally-guaranteed independence from state control in [municipal] internal affairs."⁹ However, matters that result in effects extending beyond municipal borders—including matters such as housing, statewide and regional economic development, and environmental sustainability—are, by definition, not purely local and, therefore, are appropriate for statewide regulation.¹⁰

⁸ See COLO. CONST. art. XX, § 6.

⁹ *City of Longmont v. Colo. Oil and Gas Ass'n*, 369 P.3d 573, 579 (Colo. 2016).

¹⁰ See *Town of Telluride v. Lot Thirty-Four Venture, L.L.C.*, 3 P.3d 30, 38-39 (Colo. 2000) (discussing the ripple effect of local housing ordinances on the state's housing supply and ultimately invalidating the local ordinance given the state's prevailing interest in consistent regulation of rent); see also Laurie Reynolds, *Local Governments and Regional Governance*, 39 URBAN LAWYER 483, 492 (2007), <https://www.jstor.org/stable/23801003>.

While the state has historically left many land use matters to local discretion,¹¹ based on an analysis of state law and consideration of the state’s interest in developing a consistent housing policy that supports Colorado’s economic, environmental, and equity goals, it is clear that the state has the power to set minimum limitations and requirements for local land use control—by both statutory and home rule municipalities—to address Colorado’s housing affordability crisis and support inclusive, sustainable growth.

I. Land Use Policies affecting Housing Supply are a Matter of Statewide or Mixed Concern

To determine whether a matter is reserved purely for local control or is appropriate for regulation by the state, courts “weigh the relative interests of the state and the municipality in regulating the particular issue.”¹² This fact-intensive inquiry is assessed on a case-by-case basis and considers the totality of the circumstances.¹³ Nevertheless, “[i]n light of the recognized legislative authority to declare the public policy of the state in matters of statewide concern, [Colorado courts have] accorded great weight to the General Assembly’s declaration that a particular matter is of statewide interest or concern.”¹⁴

The “pertinent factors” that guide a court’s inquiry examine (1) the need for regulatory uniformity throughout the state, (2) the extraterritorial impacts of the local regulation at issue, (3) which entity, state or local, has traditionally regulated the area, and (4) to which entity, if any, the Colorado Constitution commits regulation.¹⁵

Additionally, the Colorado Supreme Court has signaled that the aforementioned factors are “not an exhaustive list” and has also considered “any legislative declaration as to whether a matter is of statewide concern and the need for cooperation between state and local governments in order to effectuate the local government scheme.”¹⁶

Notably, state and local regulations may coexist where there is no conflict between them.¹⁷ If a matter is found to be of either statewide or mixed concern, state law preempts any conflicting local ordinance,¹⁸ and the General Assembly may legislate on the subject matter.¹⁹ In such a circumstance, the municipality may regulate the same subject matter, but local regulations may

¹¹ See *City of Northglenn v. Ibarra*, 62 P.3d 151, 159 (Colo. 2003) (“[T]he regulation of land uses has been a matter for local governments.”).

¹² *Webb v. City of Black Hawk*, 295 P.3d 480, 487 (Colo. 2013).

¹³ *Longmont*, 369 P.3d at 580.

¹⁴ *Nat’l Adver. Co. v. Dep’t of Hwys.*, 751 P.2d 632, 635 (Colo. App. 1988), *aff’d by* *Town of Telluride v. Lot Thirty-Four Venture, LLC*, 3 P.3d 30, 37 (Colo. 2000).

¹⁵ *Id.*

¹⁶ *Ibarra*, 62 P.3d at 156.

¹⁷ *Longmont*, 369 P.3d at 579.

¹⁸ *Id.*

¹⁹ *City and Cnty. of Denver v. State*, 788 P.2d 764, 767 (Colo. 1990).

not conflict with state law.²⁰ In contrast, where a matter is found to be of purely local concern, a local ordinance will supersede a conflicting state statute.²¹

a. Uniformity

A statewide approach, based on a uniform set of expectations, is needed to establish that every community that is large enough or located such that its land use and zoning regulations affect regional housing markets bears some responsibility for providing housing to support the state's and regional economic development goals and to provide sufficient housing across a variety of income levels. Such an approach also reflects the wide-ranging, statewide economic and environmental consequences of unaffordable housing and distorted residential development patterns. Just as a uniform statewide approach is required to produce "efficient and fair development" of oil and gas reserves, or address mined land reclamation, a consistent statewide approach is needed to ensure "efficient and fair development" of housing that promotes inclusive, sustainable growth by reducing environmental impacts, ensuring equitable access to housing that is affordable, and leveraging state investments in infrastructure.

Uniformity of regulation is necessary "when it achieves and maintains specific state goals."²² The Colorado Supreme Court has frequently upheld statewide regulation of activities typically in the purview of local governments because of the importance of a uniform approach. Indeed, the Court has explicitly justified state regulation of issues related to housing because of the need for uniformity. In *Town of Telluride v. Lot 34 Venture, L.L.C.*, a case challenging local efforts to implement rent control as in conflict with a state law banning such regulation, the Court found that both the state and municipality have "significant interests in maintaining the quality and quantity of affordable housing in the state" and that ordinances like Telluride's can "change the dynamics of supply and demand in . . . the housing market."²³ The Court found that a "consistent" statewide approach to the question of rent control "encourages investment in the rental market and the maintenance of high quality rental units," which justified state preemption of local efforts to regulate the housing market.²⁴ Likewise, the Court determined that the state has a prevailing interest in regulating landlord-tenant relations because "uniformity fosters informed and realistic expectations [which] increase[s] the quality and reliability of rental housing[.]"²⁵ In *Telluride*, the Court noted that "both the municipality and state have *significant* interests in maintaining the quality and quantity of affordable housing in the state."²⁶ However, the fact that the General Assembly established a statewide ban on rent control as a matter of public policy

²⁰ *Id.*

²¹ *Id.*

²² *Longmont*, 369 P.3d at 579 (quoting *Ibarra*, 62 P.3d at 580).

²³ *Telluride*, 3 P.3d at 38.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* (emphasis added).

demonstrated a prevailing state interest and supported the argument that, at a minimum, this was an area of mixed state and local concern justifying statewide regulation.²⁷

Besides recognizing the need for uniformity in regulations affecting the housing market, the Court has approved statewide regulation of highway advertisements to ensure eligibility for federal funding;²⁸ has found an “overriding concern” in the uniform regulation of electricians “because electricians need uniform access to markets throughout the state;”²⁹ and overturned a local fracking ban where the “efficient and fair development of oil and gas resources” justified statewide regulation.³⁰

On the other hand, statewide regulation of residency requirements for city employees was found *not* to implicate an issue of statewide concern because the Court could detect no pervading interest in uniformity of regulation.³¹ In *City and County of Denver v. State*, the fact that each municipality already had its own terms and conditions for municipal employment, “such inconsistencies alone,” without more of a statewide interest, did not require finding the matter rose to the level of statewide concern.³²

Although courts will evaluate the totality of the circumstances in determining whether the state has an interest in uniform regulation, the caselaw strongly supports Colorado’s authority to establish consistent requirements that local governments plan for and produce housing to meet a fair share of the state’s housing need. Just as the Court recognized in the *Telluride* decision, local land use laws affect the “dynamics of supply and demand . . . in the housing market” because the availability of an adequate and affordable supply of housing depends on zoning rules that have the effect of either excluding or enabling residential development.³³ Local zoning rules affect the type, location, and ultimately the cost of housing, and can prevent development that is needed to serve regional and state priorities. Indeed, a lack of uniformity in the expectations of local governments enables some communities to limit housing supply and restrict affordable forms of housing in favor of single-family home development. This “purely local” land use decision, however, pushes demand for housing on to neighboring jurisdictions, permeating municipal borders in the process.

²⁷ *Id.*

²⁸ See *Nat’l Advert. Co. v. Dept. of Highways*, 751 P.2d 632, 635-36 (Colo. 1988).

²⁹ *City of Northglenn v. Ibarra*, 62 P.3d 151, 160 (Colo. 2003) (citing *Century Elec. Service & Repair v. Stone*, 564 P.2d 953, 955 (Colo. 1977)).

³⁰ *Longmont*, 369 P.3d at 581.

³¹ See *City and County of Denver*, 788 P.2d at 768.

³² *Id.* Notably, the court found the other factors weighing in favor of local control, such as a lack of “significant” extraterritorial impacts, and strong local interests in increasing the city’s tax base and having its employees nearby in case of an emergency. See *id.* at 769-72. The state’s interest in regulating municipal employee residency, on the other hand, was “inconsistent with the very policy advanced” by the state’s own constitution and thus failed to tip the balance in favor of the state in light of the other factors. *Id.* at 770.

³³ It is worth noting that other states that have faced similar housing crises to Colorado’s have identified a statewide interest in mitigating local regulatory impacts on regional and statewide housing markets, including California, Oregon, Washington, Maryland, and Utah.

This dynamic has significant economic, social, environmental, and fiscal impacts, both locally and statewide. Some communities, for example, exercise their “local control” to prioritize economic growth and job creation (often resulting in increased tax revenue), while others disproportionately bear the burden of providing housing for those very workers. Such costs absorbed by the neighboring community include infrastructure costs associated with residential development, expensive social services like schools, fire protection, and policing to support families, and taxpayer subsidies to provide access to affordable housing.

Because of this system of local control, many Coloradans are priced out of housing close to their place of employment, spend over 30% of their income on housing, and are relegated to the rental market without any realistic hope of establishing family stability and wealth through homeownership.³⁴ They can have no expectation of “uniform access” to a housing market that is affordable to them, and instead, have to travel long distances to find housing and employment opportunities. This “patchwork” approach to land use policy³⁵ results in the segregation of our communities by income and, often, race and ethnicity. It also prevents the “fair and efficient” development of compact, transit-oriented development to leverage the state’s investments in its transit infrastructure, resulting in sprawl and unsustainable growth patterns, as well as high air pollution throughout the Denver metro region. The state should be confident that its investments in transit will not be undermined by patchwork regulations on development that diminish the value of the entire network.

Of course, Colorado’s municipalities are diverse: they have different demographic and economic characteristics, they may be located in metropolitan regions or rural areas, and they may have different environmental features. Evaluating whether an issue necessitates uniform statewide regulation, however, does not necessitate a “one size fits all” regulatory approach to addressing Colorado’s housing, economic, and environmental needs. So long as classes of municipalities are treated evenhandedly, the General Assembly could determine that larger, more urbanized municipalities—which necessarily have different housing needs and whose regulatory decisions have different economic and environmental impacts than smaller jurisdictions’ actions—should have different obligations than smaller, rural municipalities. The ability of the General Assembly to regulate geographies according to their particular characteristics and impacts is exemplified by an appeals court’s determination that the Outdoor Advertising Act—which treats geographies differently for purposes of sign and billboard regulation based on their proximity to state and federal-aid highways—applied to home rule municipalities.³⁶ This approach is similar to pre-

³⁴ See ROOT POL’Y RESEARCH, STATE OF COLORADO HOUSING RESEARCH I-6, I-10, I-12 (2021), https://cohousingaffordabilityproject.org/wp-content/uploads/2021/11/Colorado-Housing-Research-Report_November-2021.pdf.

³⁵ See Michael Stegman, *Eliminating Exclusionary Land Use Regulations Should be the Civil Rights Issues of Our Time*, JOINT CNTR FOR HOUS. STUD. (Aug. 19, 2019), <https://www.jchs.harvard.edu/blog/eliminating-exclusionary-land-use-regulations-should-be-the-civil-rights-issue-of-our-time> (explaining that the “patchwork” approach to local land use regulation “fails to recognize” the decades-long implications such reforms have had on housing prices).

³⁶ Nat’l Advert. Co. v. Dept. of Highways, 751 P.2d 632, 636 (Colo. 1988).

existing state law that requires uniformity among different classes of zoning districts, despite the fact that different districts can have different regulations.³⁷

b. Extraterritorial Impacts

The second factor that courts examine in determining whether a matter is one of statewide or mixed concern, justifying preemption of local regulation, is whether a home rule municipality's action will have extraterritorial effect.³⁸ An extraterritorial impact is understood as a "ripple effect that impacts state residents outside the municipality."³⁹ However, it is not enough to find a ripple effect when those living outside of a municipality are impacted by municipal regulation—instead, "the extraterritorial impacts must have serious consequences for residents outside the city and be more than incidental."⁴⁰

On multiple occasions, the Colorado Supreme Court has found sufficient extraterritorial impact to support statewide regulation of various matters. For example, where a local fracking ban may have encouraged other municipalities to adopt similar local fracking bans "which could ultimately result in a de facto statewide ban."⁴¹ In such a circumstance, the Court found "that the state's interest in the efficient and fair development of oil and gas resources . . . suggests that [a local] fracking ban implicates a matter of statewide concern."⁴² Extraterritorial impacts have also been found where a local ordinance banning bikes could possibly "creat[e] a patchwork of local and state rules contrary to the state legislation's wording and intent."⁴³ Furthermore, local efforts to impose costs on railroads have been determined to have extraterritorial impacts because such regulation may result in reduced or terminated services to areas outside of the municipality.⁴⁴

In *Telluride*, the Court explicitly recognized the extraterritorial effects of local regulation in the housing market and, therefore, the need for a statewide approach:

Managing population and development growth is among the most pressing problems currently facing communities throughout the state. Restricting the operation of the free market with respect to housing in one area may well cause housing investment and population to migrate to other communities already facing their own growth problems. . . . The fact that the Telluride ordinance is an affirmative effort to mitigate that impact does not change the fact that *the growth of the one community is tied to the growth of*

³⁷ C.R.S. § 31-23-302 (2022).

³⁸ *Telluride*, 3 P.3d at 38.

³⁹ *Ibarra*, 62 P.3d at 161.

⁴⁰ *Longmont*, 369 P.3d at 581 (quoting *Ibarra*, 62 P.3d at 161) (internal quotation marks omitted).

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Webb v. City of Black Hawk*, 295 P.3d 480, 491 (Colo. 2013).

⁴⁴ *Denver & Rio Grande W. R.R. Co. v. City and Cnty. of Denver*, 673 P.2d. 354, 358-59 (Colo. 1983).

the next, thereby buttressing the need for a regional or even statewide approach.⁴⁵

If local fracking and bike bans, as well as ordinances aimed at controlling rent locally, have been found to lead to extraterritorial impacts, clearly exclusionary zoning that limits housing supply, “restrict[s] the free market,” and distorts regional growth patterns has extraterritorial effects.⁴⁶ The failure of some communities to allow the production of affordable forms of housing or subsidized housing for low-income Coloradans results in many extraterritorial impacts, including, but not limited to: the costs absorbed by neighboring jurisdictions in providing the needed housing (and expensive supportive services) that support the restrictive community’s workforce and economy; the environmental impacts associated with long commutes when housing is not located near jobs; and the segregation of communities by income and access to opportunity, which concentrates poverty and causes related societal impacts.

Finally, the state itself, in its 2022 Research Report on Land Use In Colorado, has acknowledged that local land use regulations have extraterritorial impacts because such local regulations implicate “regional commuting patterns, regional socioeconomic equity, wildlife habitat, trans-boundary air pollution . . . and state and regional infrastructure needs.”⁴⁷

c. Traditional Regulation: State vs. Local

The third factor courts consider to determine whether statewide regulation is necessary is which entity has traditionally regulated the area — the state or the municipality.⁴⁸ Traditionally, Colorado municipalities regulate their own land use and exercise zoning powers within their municipal borders.⁴⁹ Zoning and land use in general has been determined to be a local and municipal matter unless a state statute explicitly provides otherwise.⁵⁰ However, the state has exercised its jurisdiction on many matters that affect land use and zoning regulations. As previously discussed, the Colorado General Assembly has regulated housing, including landlord-tenant relationships generally⁵¹ and localities’ ability to implement rent control more specifically.⁵² State law also generally prohibits discrimination by local governments in housing.⁵³ And most recently, the state authorized local governments to implement rent control on new

⁴⁵ *Telluride*, 3 P.3d at 39 (emphasis added).

⁴⁶ Land use reforms that disfavor single-family development and prioritize the development of duplexes, triplexes, etc., would increase Colorado’s overall housing supply. See ROOT POL’Y RESEARCH, *supra* note 25, at III-2.

⁴⁷ COLO. ENERGY OFF. & DEPTS. OF TRANSP., LOC. AFFS., PUB. HEALTH & ENV’T, & NAT. RES., LAND USE IN COLORADO: A RESEARCH REPORT ON CHALLENGES, OUTCOMES, BENEFITS AND POLICY TOOLS 6 (2022) [hereinafter LAND USE IN COLORADO 2022 REPORT], <https://energyoffice.colorado.gov/sites/energyoffice/files/documents/FINAL%20Land%20Use%20Research%20Report%207.19.22%20-%20For%20Release.pdf>.

⁴⁸ *Longmont*, 369 P.3d at 580.

⁴⁹ *Id.* at 581.

⁵⁰ *Voss v. Lundvall Bros.*, 830 P.2d 1061 (Colo. 1992)

⁵¹ See C.R.S. § 38-12-101, et seq. (2022).

⁵² C.R.S. § 38-12-301 (2022).

⁵³ C.R.S. § 24-32-502 (2022).

construction, provided that they adopted new land use policies from among a menu of state-identified options.⁵⁴

The General Assembly has regulated land use in many other ways as well.⁵⁵ State law governs the location of liquor stores,⁵⁶ marijuana facilities,⁵⁷ and extensively regulates the permitting of mining facilities.⁵⁸ The Vested Property Rights Act, for instance, dictates the procedures and the terms upon which local governments can agree to protect a landowner's development rights against subsequent changes to the localities' land use controls, and even requires local governments to pay damages for impairing those rights.⁵⁹ Moreover, the General Assembly has explicitly limited the right of local government to regulate land use in a number of areas. Besides the preemption of regulations affecting mineral development, state law prevents local governments from excluding or prohibiting state-licensed group homes and homes for elderly persons⁶⁰ and has established that local governments may not use their land use authority to exclude manufactured homes that otherwise satisfy building codes.⁶¹ The Regulatory Impairment of Property Rights Act likewise tells local governments how they must govern land use and prohibits them from imposing certain kinds of conditions on land use approvals,⁶² and the state's adequate water supply laws require local governments to evaluate and verify adequacy of water supply in the course of vetting land use applications.⁶³

Colorado's regulation of oil and gas, and preemption of municipal regulation in that area, is particularly instructive. State law preempts local land use regulations that unduly limit the development of oil and gas resources, and the Supreme Court has confirmed that oil and gas development is a matter of mixed statewide and local concern.⁶⁴ In effect, state law has preempted local land use authority by permitting "by-right" development of oil and gas resources, even within municipal limits. Both oil and gas and housing development are property rights- and land use-related matters. The General Assembly's prohibition of undue local limitations on much-needed housing would therefore parallel earlier statutory enactments relating to oil and gas development and would be well aligned with controlling precedent. In many ways, the state's interests in providing sufficient housing for a growing population, ensuring economic development, and avoiding the negative air quality and environmental

⁵⁴ C.R.S. § 29-20-104 (2022).

⁵⁵ C.R.S. §§ 24-67-101; 24-67-105 (2022).

⁵⁶ C.R.S. § 44-3-313(1)(e) (2022).

⁵⁷ C.R.S. §§ 44-10-301 *et seq.* (2022).

⁵⁸ C.R.S. § 34-32-112 (2022).

⁵⁹ C.R.S. §§ 24-68-101 *et seq.* (2022).

⁶⁰ C.R.S. § 31-23-301(4) (2022).

⁶¹ C.R.S. § 31-23-301(5) (2022).

⁶² C.R.S. §§ 29-20-201 *et seq.* (2022).

⁶³ C.R.S. §§ 29-20-301 *et seq.* (2022).

⁶⁴ C.R.S. § 34-1-305(1) (2022); *see also* *City of Longmont v. Colo. Oil & Gas Ass'n*, 369 P.3d 573, 581 (Colo. 2016).

Recent legislative amendments have allowed more municipal regulation of oil and gas development, but have not overridden the Supreme Court's underlying determination that oil and gas development is a matter of mixed statewide and local concern.

impacts of a lack of housing supply are even more compelling than the state’s interests in ensuring uniform regulation of oil and gas development.

While local governments have traditionally regulated the use of land in Colorado, it is clear that the state has used its authority to regulate land use—and establish minimum standards for local regulation of land use—as it relates to housing, zoning classifications, and land use approvals, in a number of different contexts. Setting standards for local governments that require planning and zoning to increase housing supply and overall affordability across income levels is consistent with prior state legislative enactments.

d. Colorado Constitutional Grants of Authority

While the Colorado Constitution grants broad powers to home rule municipalities, it does not expressly enumerate “zoning” or “land use” as a specific municipal power.⁶⁵ The specific grant of authority simply states that a locality “shall always have, power to make, amend, add to or replace [its] charter” as it pertains to “local and municipal matters.”⁶⁶ So long as the municipality’s ordinances regulate a “local and municipal matter,” the Colorado Constitution states that the municipal regulation will supersede any conflicting law.⁶⁷

Notably, the Colorado Constitution’s broad grant of home rule authority is significant, but it is not dispositive.⁶⁸ This constitutional grant of authority simply restates the principal that purely local matters are subject to local control; however, this grant of authority does not extend to matters that are of mixed or statewide concern.⁶⁹ To supersede the “command” of Article XX, Section 6, the state must demonstrate a “sufficiently weighty state interest in superseding local regulation” in an area traditionally committed to local regulation.⁷⁰ Given the twin climate and housing affordability crises facing Colorado, the state’s interests in providing housing for a growing population, contributing to economic development, and ensuring environmental sustainability are weighty interests. As the above examples show, activities that may have at one time been matters of purely local concern can change to become matters of mixed state and local concern when extraterritorial impacts become serious and significant portions of the state’s population are affected. The fact that the Colorado constitution does not name either zoning or land use as matters of purely local control, provides the General Assembly the authority to legislate to protect Colorado’s citizens from the unintended consequences of treating housing as a purely local matter. Where, as here, the Colorado Constitution has neither committed or granted a specific subject of regulation to either local or state control, the Court has found the matter to be one of mixed concern.⁷¹

⁶⁵ See *Nat’l Advert. Co. v. Dept. of Highways*, 751 P.2d 632, 635 (Colo. 1988).

⁶⁶ See COLO. CONST. art. XX, § 6.

⁶⁷ *Id.*

⁶⁸ *City and Cnty. of Denver v. State*, 788 P.2d 764, 771 (Colo. 1990).

⁶⁹ See *City of Longmont v. Colo. Oil and Gas Ass’n*, 369 P.3d 573, 579 (Colo. 2016).

⁷⁰ *Id.*

⁷¹ See *id.* at 581.

e. Other Considerations Weighing in Favor of Statewide Regulations

The General Assembly has the authority to declare the public policy of the state, and that policy is accorded deference by courts.⁷² Courts thus consider “any legislative declaration as to whether a matter is of statewide concern and the need for cooperation between state and local governments in order to effectuate the local government scheme.”⁷³ Although not conclusive in determining whether a matter is of local, statewide, or mixed concern, a legislative declaration on the matter “will be afforded deference in recognition of the legislature’s authority to declare the public policy of the state in matters of statewide concern.”⁷⁴ In asserting its authority to regulate housing in Colorado, the General Assembly can and should include a strong recitation of statewide interests and legislative findings about the need for a uniform approach to address the housing crisis, as such findings will insulate the legislation from future attack.

II. Conclusion

Based on an analysis of Colorado law as it relates to statewide regulation of matters traditionally left to local governments and the facts underlying Colorado’s current housing and climate crises, the state has a strong argument that, at a minimum, housing affordability, economic development, and environmental sustainability are matters of mixed state and local concern and that the state has authority to set minimum requirements and limitations for local land use regulation, including in home rule jurisdictions, to allow greater production of housing, reduced greenhouse gas and other toxic emissions, and economic development. The state has a prevailing interest in uniformity of regulation to promote a functional housing market and more affordable housing and to maintain environmental sustainability. Restrictive zoning at the local level causes extraterritorial impacts to neighboring jurisdictions. Policy matters relating to land use and housing have traditionally been regulated at both the state and local levels, supporting the notion that local land use regulations have not historically been a purely local concern. Nor does the Colorado Constitution specifically grant zoning powers to local government. Additional action from the Colorado General Assembly, such as declaring the issue to be one of statewide concern, would further support a finding in favor of statewide regulation.

Finally, we note that the above discussion concerns the state’s authority to enact land use regulation for the purposes we have discussed. However, the strength of the state’s arguments will vary with the specific proposal. Legislation facilitating transit-oriented development for, example, carries system-wide benefits, with stronger arguments for state intervention. The same is true of faster approval procedures, where the state’s interest in creating predictable, uniform procedures statewide is substantial, and the local interest in process alone is comparatively weak. At the opposite end of the spectrum, legislation that directs a single locality to set aside a large tract of land for affordable housing would encroach upon local interests without obvious

⁷² See *Nat’l Adver.*, 751 P.2d at 635.

⁷³ *City of Northglenn v. Ibarra*, 62 P.3d 151, 156 (Colo. 2003).

⁷⁴ *City of Telluride v. Lot Thirty-Four Venture*, 3 P.3d 30, 37 (Colo. 2000).

uniformity or extraterritorial benefit. With that in mind, we encourage careful, proposal-specific review under the factors above.

From: dawnpaluch
To: [City Council](#)
Subject: Neighborhoods
Date: Monday, April 3, 2023 11:39:38 PM

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We chose to rebuild our home in Louisville because of its small town feel, its low density, it being a safe place to live, and the quality of life. We want local control, not big business pushing our community to morph into something else. Yeah, our slice of life in Louisville is akin to Disneyland and we want to keep it that way. Local folks...local control!

Sincerely,

Dawn Paluch

920 sunflower street

Louisville Colorado 80027

Sent from my Verizon, Samsung Galaxy smartphone

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From: [Susan Loo](#)
To: [City Council](#); sonya.jaquez.lewis.senate@coleg.gov; kyle.brown.house@coleg.gov
Cc: [Jeff Durbin](#); [Megan Davis](#)
Subject: OPPOSE SB23-213
Date: Monday, April 3, 2023 11:04:51 PM

Dear Council,

Please strongly oppose SB23-213, a bill working its way through the Colorado State Legislature on “State Land Use Requirements”.

This proposed bill is a horrific assault on "local control", our town's ability to determine our future destiny and how our community develops. The State would essentially gut our zoning laws and could destroy the character of existing neighborhoods and commercial corridors.

In the 50 years I have followed state and local politics, this overreaching grab for state control in local affairs is unprecedented.

Sincerely,
Susan Loo

1020 Willow Place (destroyed in Marshall Fire but rebuilding)
Louisville

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From: [Matt Frommer](#)
To: [City Council](#)
Subject: SWEEP's Senate Bill 23-213 Bill Explainer
Date: Monday, April 3, 2023 3:45:26 PM

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Louisville City Councilmembers,

My name is Matt Frommer and I work on transportation, land use, and climate policy with the Southwest Energy Efficiency Project, or SWEEP.

Last Summer, SWEEP and Conservation Colorado put together the Colorado Sustainable Housing Coalition, a mix of housing, environmental, transportation, affordable housing, disability rights, and community justice groups, to develop principles and policy concepts for the land use bill. Since then, we've worked closely with the Governor's policy team to make sure the land use bill is a win for climate, affordability, and equity.

SWEEP joined this effort because we believe this bill is essential to addressing two major statewide challenges facing Colorado -- [housing affordability and climate change](#) -- which we know Louisville also cares deeply about.

[I'd like to share SWEEP's bill explainer for the "More Housing Now" bill, SB23-213: Colorado's Historic "More Housing Now" Bill, Explained](#)

I'll be updating this piece as the legislature considers amendments and the bill evolves.

I've also heard that Louisville City Council will be voting to take a position on SB23-213 tomorrow. As someone who's been working closely with the Gov's policy team to collect feedback from local governments and consider potential amendments to the bill, I'd encourage you to hold off until we get a better sense of those potential changes, hopefully by the end of this week.

Thanks,
Matt
908-432-1556

--



Matt Frommer (he/him) | Senior Transportation Associate
mfrommer@swenergy.org | 908-432-1556

Southwest Energy Efficiency Project (SWEEP)
swenergy.org

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From: [John Mickel](#)
To: [City Council](#)
Subject: SB23-213
Date: Tuesday, April 4, 2023 11:56:47 AM

[Some people who received this message don't often get email from john.mickel@comcast.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Dear Council:

I am unable to attend tonight's meeting either in person or via Zoom but wanted to express my desire that you oppose SB23-213. It strips the city of its ability to control the future of our city in several ways. I would rather we develop our own solutions to housing issues than be forced by a state mandate that may not be in Louisville's best interest.

Hopefully you have already decided to oppose this legislation and don't need my input but if you are opposed, you have my full support.

Sincerely,

John Mickel
987 Arapahoe Circle

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From: [Rick Kron](#)
To: [City Council](#)
Cc: sonya.jaquez.lewis.senate@coleg.gov; kyle.brown.house@coleg.gov; [Jeff Durbin](#); [Loo Susan](#)
Subject: Opposition to SB23-213
Date: Tuesday, April 4, 2023 11:47:35 AM

Members of the Council:

Louisville should oppose SB 23-213 (State Land Use Requirements) for at least the following reasons:

1. It is unconstitutional.

Article 20, Section 6 of the Colorado Constitution grants home rule municipalities, such as Louisville, full authority over local matters. Regardless of the self-serving recitals in the bill, it represents an astonishing infringement on local control of zoning and land use. Numerous Colorado Supreme Court and Court of Appeals decisions have reinforced that zoning is a local matter. For example, *City of Colo. Springs v. Smart*, 620 P.2d 1060 (Colo. 1080) and *Moore v. City of Boulder*, 484 P.2d 134 (1971), among others. Passing unconstitutional legislation is bad policy.

2. If the bill becomes law, costly and lengthy litigation will surely follow, a distraction from useful activities.

3. For the reasons discussed by CML, the bill is unlikely to achieve its objectives. It pays lip service to affordability, but does not actually do anything about it.

As a side note, a number of years ago, then state senator Doug Lamborn (R Colo. Springs) sponsored a bill to require that all municipal council and trustee elections be partisan. I testified at the first committee hearing that the bill was clearly unconstitutional as applied to home rule cities. Home rule cities are granted power to legislate on elections, including matters “tending to make such elections or electoral votes non-partisan in character.” After the members of the committee stopped laughing and a short discussion, Mr. Lamborn postponed indefinitely (PI’ed) his bill, effectively killing it.

Likewise, SB 23-213 should be PI’ed or defeated out of respect for the “full right of self-government” clearly granted to the people of home rule municipalities by the state constitution and out of respect for the sound decisions of our local officials.

Louisville should take a position to oppose SB 23-213.

Thank you,

Rick Kron

746 W. Fir Ct.
Louisville, CO. 80027

As President of the Board of Directors of the Downtown Business Association of Louisville, I expect to discuss SB 23-213 with the Board at its regular meeting this Thursday. The DBA Board will probably agree with the views expressed in this email.

Sent from my iPad

>
>

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From: [Laura Levesque-Catalano](#)
To: [City Council](#)
Subject: Considerations for next waste/recycle/compost RFP and contract
Date: Tuesday, April 4, 2023 10:41:10 AM

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Hello Louisville City Council,

I understand that Council is discussing future RFP requirements and desired capabilities in our next waste/recycle/compost hauling provider.

Working in this industry myself, I want to offer some suggestions. They include:

- Include requirements for haulers to explain how they will reduce contamination in loads and verify that recyclable loads are being taken to a Recycling Center, not a landfill.
- Include requirements for haulers to explain how they will reduce contamination in loads and verify that organic loads are being taken to a composting facility, not a landfill.
- Include requirements for haulers to include and explain cart cleaning strategies (e.g., twice-annual cart cleaning services, which could be subcontracted. This is especially poignant with the new compost collection rules).
- Include provision (if it doesn't exist already) for the City contract to allow HOAs and multi-family residences to opt-in if they don't have a recycling/compost collector or are open to considering other options.
- Create an ordinance that mandates HOAs, Multifamily properties provide equal service (trash + recycle + compost) for their residents or join the municipal contract.
- Create ordinance (if it doesn't exist already) to mandate equal space for recycling and composting at new builds or renovations.

Thank you for your consideration and continued dedication to waste diversion and sustainability practices

Laura Levesque
642 West St.
Louisville
(employee of Eco-Cycle)
(former Chair of LSAB)

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From: [dawnpaluch](#)
To: [City Council](#)
Subject: Taking away community control
Date: Tuesday, April 4, 2023 3:26:35 PM

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I have been a resident of Louisville Colorado for over twenty years. My husband has lived in boulder county for 38 years. We love our small town of Louisville because it affords us small town values, long term neighbors and a good quality of life.

Trying to control the desires and quality of life in the community and overriding the elected officials is deplorable. We are rebuilding our house because we want our small town life style back. Yes, the country needs to figure out affordable housing, but there are other good options that forcing policy down our throats.

Consider options that do not ruin communities that worked hard to build the life style desired by it's voting constituents.

Sincerely,

Dawn Paluch
303.550.3759

Sent from my Verizon, Samsung Galaxy smartphone

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From: [tamar krantz](#)
To: [City Council](#); [Planning Commission](#)
Subject: SB 23-213 Opposition Sign-on
Date: Tuesday, April 4, 2023 2:46:02 PM

Dear City Council Members,

While I agree that housing is an incredibly important issue, I urge you to create a similar resolution to that provided by the Colorado Municipal League opposing SB23-213.

A supply-side approach to create more housing is like widening roads to alleviate traffic. Problems will be temporarily alleviated but demand will ramp back up to create the same problem again.

Please either oppose the bill or consider suggesting huge revisions to ensure environmental protection, more local control, and additional measures to make sure that this really impacts those who are housing cost burdened.

Some more nuances may come to light if you send this to the Planning Commission for a recommendation.

Sincerely,
Tamar Krantz

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