

Residential Design Standards: How Stringent Regulations Restrict Affordability and Choice

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design is
everything

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Community design and the aesthetic regulation of housing and neighborhoods is not something new; many zoning codes have included varying levels of design-related requirements. By enacting such standards, communities aim to control the physical characteristics of their housing stock, preserve community character, protect property values and attract certain populations of home buyers and renters.

However, design standards can increase costs, limit consumer options, price out certain populations and raise a number of legal concerns. Even with [renewed focus](#) on how zoning and ordinances can create regulatory barriers to housing affordability, communities across the country are adopting highly prescriptive residential design standards that limit materials and impose detailed design requirements on the housing industry.

Common examples of highly prescriptive design standards include:

- Prohibiting or limiting the use of exterior materials such as vinyl siding and metal;
- Requiring specific and often expensive materials for siding and fences; and
- Dictating the amount of relief and surface area dedicated to windows and the number of architectural details on the roof.

Some ordinances even specify the dimensions of a home very precisely, e.g. down to the quarter inch. NAHB describes examples of these ordinances and where they have appeared across the country in the research below.

Communities Controlling for Design

As cities across the country revisit and revise their existing building codes and land-use ordinances, adding or updating design standards is becoming more common practice. [Tuttle, Oklahoma](#), for example, passed an ordinance in 2019 banning the use of vinyl siding. The city justified the ordinance by arguing that the costs to maintain the vinyl siding will be untenable over time. The Oklahoma Home Builders Association estimated the ban on vinyl siding would raise home prices by two to three thousand dollars and could price 4,500 lower-income families out of the local market. In May of 2020, [SB 1713](#) was passed to law after a signature from the Oklahoma Governor. The bill, “prohibits a municipality from adopting or imposing design element requirements for single-family residential buildings, unless the building is historic or subject to local ordinances relating to zoning, public safety, redevelopment or tax increment finance district.”

Des Moines, Iowa, is attempting to include highly prescriptive design standards via its proposed [Des Moines 2040 plan](#). The plan includes design requirements such as full basements, single-car garages and driveways, along with minimum lot sizes and material restrictions. Other language allows only brick or stone cottages in particular areas of the city, and sets the express goal of producing homes in the “Victorian Revival, and Arts and Crafts styles.”

Des Moines crafted the associated [Planning and Design Ordinances](#) with a stated intent to protect and promote public health, safety, morals and welfare, but in reality, the proposed ordinance reaches far beyond those bounds. For example, the city claims it has a dedicated mission to address housing affordability in its code, which includes provisions for accessory dwelling units and some housing variety, such as duplexes in single-family neighborhoods. However, the Planning and Design Ordinances fail to recognize the effects that design standards may have on affordability. Originally, the plan included a minimum house size of 1,400 square feet — a [requirement](#) that would

have greatly limited the ability of Habitat for Humanity, one of Des Moines' most prevalent builders of affordable housing, and others to produce needed homes.

In August 2019, the Des Moines City Council also approved a [new zoning code](#) without the recommended minimum size requirement because of advocacy from local builders, who claimed the requirement would have [driven up the cost of housing by \\$10,000 to \\$70,000](#) per home and made them unaffordable to low and middle-income families. However, later that month, proposals including revised minimum housing sizes — e.g., single-story houses with full basements built in new developments be at least 1,300 square feet and two-story houses without basements be at least 1,700 square feet — were released. In [October 2019](#), the city approved the new zoning code, which included minimum square-footage and garage requirements, among other items. [Amendments to the code are expected](#) because of affordability concerns.

Legal Implications

Jurisdictions across the country have taken similar approaches to Des Moines' plan, with varying levels of detail and breadth. The examples below are from an [Interim Development Ordinance](#) adopted in Bryan County, Georgia, in October 2018, and will greatly affect the design, construction and affordability of new homes.

C. Materials and Finishes. *Walls shall be finished in brick, stone, stucco, or wood or fiber-cement siding. Vinyl or other plastic siding or metal siding are prohibited. Note more than two building materials should be used for exterior walls (excluding trim and cornices) on sides of buildings facing a road.*

E. Garage Orientation. *Side entry garages shall have windows comprising at least fifteen (15) percent of the front facing wall.*

F. Roof planes. *Dwelling shall have at least four roof planes visible from front property line.*

G. Roof Pitch. *Roof pitches shall be 4:12 (rise:run) or steeper unless mansard roof for all planes visible from the front of the structure, with the exception of roofs over covered porches, carports, and accessory structures.*

H. Entries. *Entries shall be visible from the front of the building and connected to a paved driveway or sidewalk by a clearly delineated pedestrian walkway. Porches and entry design features are encouraged.*

I. Building Articulation and Openings. *All dwelling must incorporate design features such as offsets, balconies projections, recesses or covered entrances, windows, doors, window reveals, or similar elements to break up large expanses of blank walls.*

The [Greater Savannah Home Builders Association \(HBA\)](#) brought a lawsuit challenging the design standards in February 2019. It argued that the standards would cause exclusionary results and segregate different classes of people because they would cause homeownership in the county to become unaffordable for low- to moderate-income residents.

In August 2019, a Georgia judge found that the claims brought forth by the Greater Savannah HBA had merit but ruled that the claims did not meet the requirements for a preliminary injunction — allowing the case to go to trial while the ordinance remained in effect. As of March 2020, the Georgia General Assembly is considering legislation ([HB 937](#)) that would protect private property rights by blocking the ability of local governments to pass overly restrictive regulations mandating building materials, techniques or other design choices.

Local governments have the ability to govern based on the police power that is delegated to them by the state — that is, the authority to regulate on behalf of the health, safety and welfare of its citizens. The extent of this authority varies according to whether a state is a home rule state or a Dillon's Rule state. In home rule states,

municipalities and/or counties can self-govern, while local governments in Dillon’s Rule states can only exercise authority that is expressly granted or implied by the state. Regardless of their state’s governing authority, local officials often argue that regulating residential design falls within their police powers. This is especially true in home rule states.

Asserting such control can come into conflict with other constitutional rights, however, and raises concerns about the connection between such standards and the health, safety and welfare of citizens:

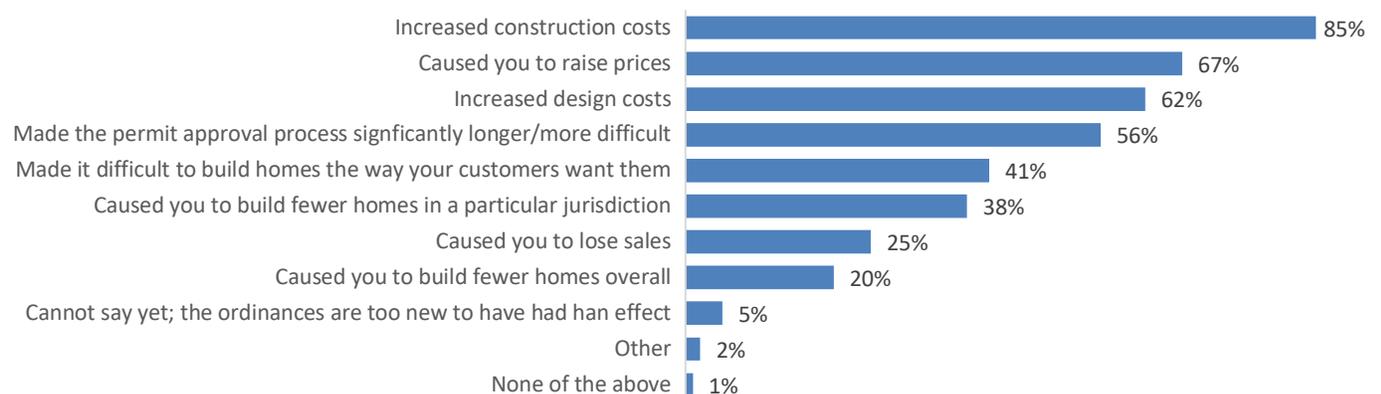
- Design standards can be viewed as a violation of due process through exclusionary zoning — enacted to raise the price of a home, thereby excluding low- to moderate-income home buyers.
- Design regulations also can be seen as a violation of the Takings Clause of the Fifth Amendment. If a design standard is so onerous that it prices home buyers out of purchasing a home, it effectively leaves a home builder with an undevelopable piece of property. This could be seen as a “regulatory taking” under Supreme Court jurisprudence.
- Finally, government control of local architecture aesthetics could be seen as a violation of the First Amendment by limiting an architect’s or home builder’s expression in housing design.

Many design standards have little discernible link to the health, safety or welfare of a home’s occupants. The fact that certain classes of home buyers are excluded from buying a home makes residential design standards even harder to swallow. At the end of the day, housing design is a consumer choice issue; consumers should be able to choose homes that are both affordable to them and meet their personal preferences.

Impacts

To better understand the extent that design standards impact home construction and affordability, NAHB conducted a monthly survey in August 2019 as part of its NAHB/Wells Fargo Housing Market Index (HMI). Sent to roughly 2,800 NAHB members, [the survey](#) focused on design standards from the perspective of builders and found that 47% of the 376 respondents have encountered such ordinances.

Of those building in communities where design requirements exist, 45% said that the stated purpose is to maintain community character, while 33% believe the stated purpose is purely aesthetic. In detailing the effect of these ordinances, 85% of respondents claimed they have increased construction prices, and 67% said the design standards caused them to raise prices. Other challenges and impacts are shown on the graph below.



Housing Market Index, August 2019. Courtesy of NAHB’s Economic & Housing Policy Group.

Builders are not the only ones experiencing the impact of design standards; home buyers and communities also suffer from reduced production and increased costs. Given the current affordability crisis and lack of adequate housing supply, states and communities should be taking steps to facilitate and increase the number of housing units, not place artificial roadblocks that do nothing to improve health, safety or welfare, but significantly hinder builders' ability to provide needed shelter.

States Taking the Lead

Recognizing the challenges design standards can create, several states are taking steps to limit or prohibit their adoption. In 2019, Arkansas enacted [SB 170](#), which prevents cities and counties from regulating building design that would [needlessly raise the cost of housing](#). This bill came in response to Springdale, Arkansas' City Council's proposed changes to its residential design standards, which would have prohibited vinyl, wood and aluminum siding, and regulated roof pitch, front-facing garages and wrought iron fencing. These requirements would have increased building costs and impacted entry-level buyers' ability to purchase homes in the area.

SB 170 is intended to curb unreasonable residential design standards statewide, although communities are still attempting to find ways around it. In Fayetteville, for example, the city tried to pass an ordinance that would have reduced driveway widths and required garages to have 25-foot setbacks. [The bill failed in a November 2019 city council vote.](#)

The state of Texas [prohibited local restrictions on building materials](#) with HB 2439, which went into effect in September 2019. [HB 2439](#) states that a government entity may not adopt or enforce anything that prohibits or limits the use of a building material that is approved for use by a national model code, nor establish a standard more stringent than a standard referenced by a national model code.

North Carolina passed a bill in 2015 that amended the state's zoning powers to address the residential design standards issue. [SB 25](#) dictates that any zoning and development regulation relating to building design may not be applied to structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings. Building design includes items such as exterior building color; type and style of exterior cladding material; style and materials of roof structures and porches; etc. But it does not cover the height, bulk, orientation or location of a structure on a zoning lot. North Carolina is a Dillon's Rule state, which helped in the passage of SB 25.

After the success of SB 25 in North Carolina, Georgia builders attempted to draft a similar statewide bill. However, Georgia is a home rule state, so city and county representatives did not focus on the merits of residential design standards, but rather on the pre-emptive effect of statewide legislation. The Georgia General Assembly was able to dictate certain provisions for local zoning. Pitched as a private-property issue, [HB 302](#) compromised by allowing residential design standards in overlay districts where the majority of home owners ask for the standards to be placed upon them. To avoid question of constitutionality, the bill created a definition of zoning that did not exist in state law, included a bullet list of zoning conditions and designated building design elements that are not a zoning condition.

During the process, local home builders formed a study committee to research workforce housing, its importance, and barriers and solutions relating to design standards. Home building advocates — such as the Vinyl Siding Institute, local real estate agents, the Exterior Insulation and Finish System (EIFS) Association — and vinyl manufacturers helped the Georgia home builders' cause by testifying and discussing the benefits of their products.

The city council for Roswell, Georgia, approved a resolution formally opposing HB 302, stating that design standards allow elected officials to do what they are elected to do; they are elected to make [decisions about the look and feel of their communities](#), according to the resolution.

Better Tools

Residential design standards are a challenge for all stakeholders, but luckily, there are other ways local government can influence residential design without limiting choice, affecting housing affordability, or being exclusionary. Local governments and their constituents can come together to identify local problems, propose solutions, and implement proven tools to provide a balance of prescription and flexibility.

Form-based codes (FBCs) are one example that provides such a balance. [FBCs](#) regulate development to achieve a specific urban form through a regulating plan, public space/street standards, building standards and enhanced efficiency in the development process. For example, an FBC may require limited setbacks, high density and pedestrian accessibility, providing the builder or developer with greater flexibility on use, density, detail and design.

FBCs tend to be aimed toward allowing a greater diversity in housing types and taking a different approach to fitting in with the existing neighborhood context. Further, [FBCs can promote mixed-use neighborhoods](#) and [missing middle housing](#) that can overcome historic inequalities in land use and zoning, develop and preserve affordable housing, and prevent local displacement.

Relative to the design standards discussed throughout this primer, FBCs have the goal of producing walkable mixed-use communities by providing design-based guidance, yet separate architectural design from form. Form is what happens on the outside, between and the interaction of buildings. FBCs can contain potentially detrimental design standards if they are intentionally included in an overly prescriptive way that does not fit within the local market. A good FBC will contain items to promote housing affordability like reduced parking requirements. Many developers like FBCs because they lead to a predictable and streamlined review process.

Other tools that can be used in place of design standards are Planned Unit Development (PUD) and Traditional Neighborhood Development (TND) overlay zones. PUDs are regulatory processes that plan a community as a unified parcel, [establishing building types, locations and design for the entire project](#). A PUD ordinance can lead to the creation of cohesive and efficient design without imposing a community-wide design standard. TND overlays act similarly to promote walkable, mixed-use neighborhoods.

Over the years, the development community has sometimes viewed TNDs as resulting in greater expenses because they often involve more infrastructure. Yet, there are potential tradeoffs and opportunities. For example, fewer driveways for an alley can increase affordability, as can the opportunity to incorporate accessory dwelling units along the alley. Compared to PUDs, TNDs typically incorporate the traditional design details of small towns and city neighborhoods; a TND can also be a [modified approach of a PUD](#). In general, both of these planning tools allow a variety of housing types and styles to appeal to various segments of the population.

Communities across the country are also utilizing financial incentives, rather than mandating design through code, to promote particular design. The incentives, often in the form of tax breaks, are typically aimed toward affordability and energy-efficient design, and thus usually affect the physical design of the homes. The [Healthy Housing Rewards Initiative of 2017](#) rewards housing projects which incorporate health-promoting design features such as common space, community gardens and walking paths. The Low Income Housing Tax Credit is another financial incentive to encourage projects that provide affordable housing; projects that incorporate additional design and amenities, such as [workforce training rooms](#) and programs, may benefit from increased credit allocations.

Finally, beyond these specific planning tools, in most instances, builders, developers and architects can voluntarily incorporate design specifications into their projects as long as those designs meet existing zoning requirements. Housing professionals can and do make use of housing design to establish niches and set themselves apart in the market.

The fundamental issue is not the physical characteristics of homes, but what they can mean for affordability; regulations that artificially raise housing prices without direct ties to public health and safety should not be prioritized over meeting the shortage of affordable homes for families. Housing affordability and attainability should be prioritized through effective planning tools, but unfortunately, barriers to the development process remain.

Residential design standards are one barrier, but others that unnecessarily add to the time and cost of the land development and home building process exist. NAHB's [Land Use 101 toolkit](#) better equips those in the housing industry with resources to get involved and engaged on these topics and more. It contains briefing papers, credentialed research reports and other resources that support the advocacy of the home-building industry.

To help empower — and encourage — builders and communities to take important first steps together in addressing housing affordability, NAHB has compiled extensive research on state and local policies and incentives that are being used to help make housing more affordable in communities across the country. These can be accessed on NAHB's [Creating Housing for All](#) webpage, which spotlights key strategies for achieving affordability goals as a blueprint for collaboration and a springboard for innovation.

For more information, and to be connected to other resources, contact [Nicholas Julian](#), Program Manager, Land Use.

