



Government regulations and housing affordability: obstacles, barriers, and opportunities

Introduction

Housing is a highly regulated product. Many regulations are in place to protect residents and communities from unsanitary living conditions and/or unsafe construction. There is a wide consensus that regulations that ensure the health and safety of resident households are important and necessary, even if complying with these building regulations directly increases the cost of housing. For instance, it costs more to build housing with adequate electrical wiring and plumbing, but there are substantial benefits when a community is not threatened by house fires and public health problems.

Land use regulation in the form of zoning can also be a useful way to keep residents from being forced to live next to land uses that may negatively affect their health. Land use regulation can also ensure that communities have the appropriate density for their environment (one that does not cause a permanent traffic gridlock in places with less transportation infrastructure, or too little density in places where there is a shortage of land for non-residential uses).

Also widely used are regulations that mandate housing developers to provide support for services deemed necessary for the community. These regulations - for example, levying of impact fees for new school construction or requiring sidewalk development for new neighborhoods - can help ensure new neighborhoods provide residents with the infrastructure they need.

Building, land use, and other residential regulations generally increase the cost of housing in the communities where they are used, but all have the potential to provide important benefits to residents of those communities. However, the same regulations can be used for the primary purpose of restricting residential development and increasing land values in a specific jurisdiction (sometimes referred to as fiscal zoning). At other times, regulations may be outdated or unnecessarily complicated and increase the cost of developing housing with no commensurate benefits. It can be very difficult to draw a clear distinction between good regulations (that have a positive impact on citizen well-being) and bad regulations that restrict access to certain communities and unnecessarily increase the cost of housing. To provide some guidance, the 1991 Advisory Commission on Regulatory Barriers to Affordable Housing characterized barriers as “excessive rules, regulations, and red tape that add unnecessarily to the cost of housing...”

The section below goes into more detail about the main types of regulations and their impact on housing affordability.

Types of Regulations

Building Codes

Building codes ensure that developments meet certain construction standards. In doing so they raise both the cost and quality of housing, but, as noted above, this is infrequently controversial as there are good reasons to make sure housing meets certain safety standards. However, building codes can become an obstacle for two main reasons. One, codes can become outdated as building technology advances and therefore inefficient construction practices may be mandated. Two, lobbying efforts from construction material providers or those that work in construction can lead to legislating building requirements

that primarily serve to enrich those industries rather than benefit households who actually live in the housing. That being said, building codes generally have a limited influence on the price of housing, with some concluding that the building codes increase the price of housing by less than five percent and have a relatively minor impact compared to zoning and subdivision regulations¹.

Environmental Regulations

Environmental regulations can take various forms, including: regulations that limit where housing can be built in order to protect clean water or endangered species; “quality growth” regulations that are aimed to preserve greenspace on the periphery of urban areas and limit sprawl; and, requirements for environmental impact analysis before development commences. By limiting the land available for development and/or adding expenses to the predevelopment phase, environmental regulations can make housing more expensive.

Zoning and Land Use

Zoning and land use restrictions were originally used to separate land uses that were deemed incompatible like keeping large polluting factories away from residential areas. Since the beginning of the twentieth century, zoning ordinances have become increasingly more specific and now are often used to limit the type, look, and size of residential buildings within certain communities. Like some environmental regulations, zoning and land use restrictions can limit the supply and usage of land available for housing developments and, therefore, have the potential to drive up housing costs. Zoning that sets large minimum lot sizes (e.g., one-acre) has been termed “exclusionary zoning”, as it has the potential to make housing units too expensive for many poorer households.

Impact Fees

The purpose of impact fees is to help make sure that the true cost of a new housing unit is included in the actual price paid by the developer or consumer (e.g., the cost of additional demands on the school system and other community services associated with a new housing unit). While impact fees may add to the cost of housing, in some instances they may actually help increase housing availability: a jurisdiction may choose to levy an impact fee rather than enforcing large lot (exclusionary) zoning². That being said, other municipalities may choose to levy high impact fees for the primary purpose of restricting development to only the most well-off households.

Administrative Processes

Every regulation needs administrative processes to help ensure that it is enforced. Efficient administration of these regulations can help minimize the cost of regulations on housing development. Inefficient, duplicative, and unnecessary administrative processes can magnify the costs of regulations.

Government regulations play an important role in the development of housing in the United States. They can increase the cost of housing, but they may also have a positive impact on the quality of life of residents: minimizing the costs of housing

¹ Listokin, David, and David B. Hattis. 2005. “Building Codes and Housing,” *Cityscape* 8 (1): 21–68.

² Been, Vicki. 2005. “Impact Fees and Housing Affordability,” *Cityscape* 8 (1): 139–186.

regulation while ensuring safe and livable communities for all Tennesseans is a delicate balancing act. For more information on navigating these challenges, see the resources listed below.

Resources on Regulations and Housing Affordability

HUD Regulatory Barriers Clearinghouse

<http://www.huduser.org/rbc/FirstTimer.html>

“State and local development rules and regulations often create obstacles that make it harder to build or maintain affordable (also known as 'workforce') housing. In some communities, regulations can account for as much as a third of the cost of a new home! If you've come to this site looking for answers to your regulatory reform questions, you're in the right place. Here you'll find thousands of locally developed solutions for overcoming these obstacles and barriers, all in an easy-to-use, searchable database. If a reform strategy or ordinance is in place and supporting the development of affordable, mixed-income housing in cities, states, and towns across America, there's a good chance that it will work in your community as well.”

Cityscape Special Issues:

Symposium: Regulatory Innovation and Affordable Housing (2009)

<http://www.huduser.org/periodicals/cityscape/vol11num2/>

Regulatory Barriers to Affordable Housing (2005)

<http://www.huduser.org/periodicals/cityscape/vol8num1/index.html>

Other Publications:

Zoning as Barrier to Multifamily Development (APA 2007)

http://www.huduser.org/Publications/pdf/zoning_MultifmlyDev.pdf

“Why Not In Our Community?” *Removing Barriers to Affordable Housing* (HUD; February 2005)

<http://www.huduser.org/publications/affhsg/whynotourcomm.html>

Study of Subdivision Requirements as a Regulatory Barrier (NAHB; 2007)

http://www.huduser.org/portal/publications/commdevl/subdiv_report.html

A Review of Regulatory Barriers to Employer Ability to Recruit and Retain Employees (2008)

http://www.huduser.org/portal/publications/polleg/review_regbarrier.html