



# Land Use in Colorado: A Research Report on Challenges, Outcomes, Benefits and Policy Tools July 2022



**COLORADO**  
Department of Transportation



**COLORADO**  
Energy Office



**COLORADO**  
Department of Public  
Health & Environment



**COLORADO**  
Department of Local Affairs  
Division of Local Government



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Natural Resources

# TABLE OF CONTENTS

## **SECTION 1: BACKGROUND - Page 3**

- I. Purpose of the Land Use Research Report
- II. Development of the Land Use Research Report

## **SECTION 2: OVERVIEW OF LAND USE IN COLORADO - Page 4**

- I. Summary of Colorado's Current Land Use Policies and Practices
- II. Common Land Use Challenges, Outcomes, and Policy Tools
  - a. Common land use challenges
  - b. Common land use outcomes
  - c. Common local policy and planning tools
  - d. State programs and policies that incentivize positive land use outcomes

## **SECTION 3: RESEARCH ON LAND USE CHALLENGES AND THE BENEFITS OF ACHIEVING OUTCOMES - Page 12**

- I. Challenge: Infrastructure to support dispersed development patterns is expensive and difficult to maintain
- II. Challenge: Land use impacts affordability
  - a. The cost burden of housing, and housing supply constraints
  - b. Local policies to address Colorado's housing challenges
  - c. The cost burden of transportation
- III. Challenge: Land use impacts public health
- IV. Challenge: Land use impacts environmental and natural resource quality
  - a. Air quality and climate change
  - b. water
  - c. wildfires
  - d. wildlife
  - e. land conservation

## **APPENDIX A: Stakeholders Engaged to Date**

## **APPENDIX B: State Agency Directives, Plans, and Policies Related to Land Use**

## **APPENDIX C: Summary of Land Use Policies in Other States**

*Cover Photo (left): Blue Dot Place in Colorado Springs*

*Cover Photo (right): City of Littleton*

## SECTION 1 - BACKGROUND

### I. Purpose of the Land Use Research Report

The Colorado Greenhouse Gas (GHG) Pollution Reduction Roadmap, released in January 2021, called on state agencies to work with stakeholders to “explore options for how best to incentivize smart land use decisions.” Recognizing that the number of stakeholders involved with land use issues in Colorado is numerous, and the topic complex, state agency staff identified a need to first conduct research on the following questions:

- What are common land use outcomes desired by Colorado communities?
- What are the benefits of achieving these land use outcomes?
- What tools are available to reach desired outcomes?
- What challenges and success stories can be highlighted in Colorado communities?
- What programs and resources are Colorado state agencies contributing to the effort?
- What efforts are ongoing in other states?

To answer these questions, state agency staff took the approach of a research report developed in a collaborative fashion. State agency staff worked with local governments, advocacy groups, subject matter experts, and other interested parties to develop this report.

**Scope of the research.** This report provides a broad survey of community development and land use issues in Colorado. It is not intended to be a comprehensive treatment of all of the complex issues involved with land use. To avoid duplication with other efforts, this report does not cover the following areas in depth:

- The [Colorado Affordable Housing Task Force](#) discussed issues such as deed-restricted affordable housing, inclusionary zoning, and cost of housing production. This report does not discuss those issues, but rather focuses on other land use, growth, and housing supply issues that impact overall affordability.
- Multiple natural resource and environmental efforts in Colorado are ongoing outside of this report, and while briefly mentioned and summarized, are not intended to be comprehensively discussed here.

### II. Development of the Land Use Research Report

In Fall 2021, a Land Use Stakeholder Group was formed to provide input to this research report. The Land Use Stakeholder Group met for five (5) virtual sessions between August to December 2021. The stakeholder group met again in June 2022 to review and comment on a final draft of the report. A total of 37 stakeholder organizations participated (see Appendix A for full list):

- Five state agencies (CDOT, DOLA, CEO, DNR, CDPHE)

- Five local government advocacy organizations (Colorado Municipal League (CML), Colorado Counties Inc (CCI), Special Districts Association (SDA), Counties and Commissioners Acting Together (CCAT), and Colorado APA)
- 27 local governments including municipalities and counties from across Colorado.

Participants heard from land use experts such as Joe Minicozzi (Urban3) and Clark Anderson (Community Builders). The conversation began with a focus on the impact of land use practices on greenhouse gas emissions. It then touched on many other critical issues that local community development and land use decisions impact, such as housing affordability, wildfire resilience, and municipal fiscal health. Much of the content of the meetings is included in the sections below. Participants contributed to the content of this report, including many planning professionals who provided their thoughts outside of the Stakeholder Group sessions.

## SECTION 2 - OVERVIEW OF LAND USE IN COLORADO

### I. Colorado's current land use policies and practices

**Local land use authority.** Land use authority flows from the U.S. Constitution through the state and currently primarily rests with local governments. Like the majority of other states, Colorado grants authority through its state constitution. "Statutory" jurisdictions are granted limited enabling authority. "Home rule" jurisdictions have more authority to regulate as defined in their home rule charter. In either case, local governments must identify enabling authority within statute or charter/ordinances and, in the case of home rule jurisdictions, ensure there are no conflicting state laws. Land use regulation, generally, and zoning, in particular, are local matters unless state statute explicitly provides otherwise.<sup>1</sup> State statutes can only preempt local zoning in cases where there is a matter of mixed state and local interest.

**Local land use planning.** Land use planning, as distinguished from regulatory actions (i.e., zoning), is the policy act that allows communities to create and update master/comprehensive plans as well as various other supportive strategic plans. These activities, which allow for the creation of a broad vision of a community's future, are then translated into action by updating regulatory tools (e.g., land use codes) to implement that vision. Notably, because comprehensive plans are generally advisory documents in Colorado, completing this unconstrained visioning step *before* addressing regulatory tools is a critical order of operations to achieve successful land use outcomes.

Within this framework, DOLA completes a survey of Colorado's jurisdictions every five years. The Land Use Planning Survey assesses current practices, trends, and gaps. While the most recent survey is nearly finalized, preliminary data analysis tends to show that while planning focus and resources are increasing (up 17% from 2015), over half of respondents indicate

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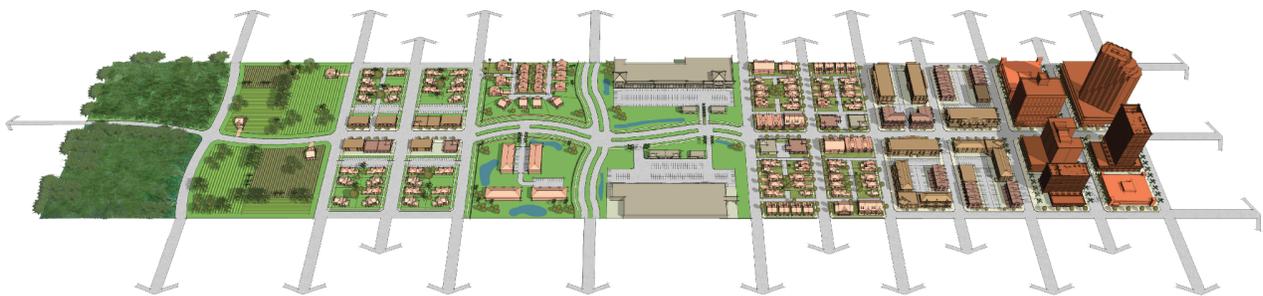
<sup>1</sup> Donald L. Elliott, Managing Editor, *Colorado Land Planning and Development Law*, 11th Ed. (CLE in Colo., Inc. 2018).

capacity shortages (i.e., staff, technology, and technical assistance) that impede their local ability to complete core planning functions. Regarding housing in particular, while affordable housing rose to the top of local government priority lists, nearly one-third of respondents indicated not having adopted any regulations or programs to support affordable housing from a list of common strategies.

## II. Common Land Use Challenges, Outcomes, and Policy Tools

The following sections summarize common land use challenges, desired outcomes, and policies in Colorado. Planning, both regionally and across the state, is needed to meet Colorado communities' unique land use goals and common challenges.

Participants in the stakeholder group meetings discussed the wide diversity of Colorado communities. Each community has a range of resources and capacities, and tailors its land use policies to meet the unique circumstances of their context (agricultural, rural resort, urban, industrial, suburban, etc.). The following sections discuss common themes, but do not intend to comprehensively represent all communities in Colorado.



The *Land Use Transect* shows the range of neighborhood types (rural, suburban, small city, urban core). It is important to consider the appropriate improvements for each type.

### **a. Common land use challenges**

The group discussed the following challenges communities frequently face with land use. These are summarized in brief below, and discussed in more detail in Section 3:

- **Land use impacts local government finances and the cost of infrastructure.** The revenue generated from dispersed development patterns frequently does not meet the lifecycle costs of the infrastructure needed to serve it. Communities are responsible for maintaining this infrastructure, and, at the same time, communities also need to provide a high quality of life, health and wellness, inclusivity, and economic vitality for their residents. Yet a lack of revenue often hinders the ability to meet all of these goals.
- **Land use impacts affordability.** The ability to live in many parts of Colorado is impacted by limited housing supply, long commutes, and a lack of access to job centers. Access to an affordable, healthy lifestyle is limited in neighborhoods where walking and biking infrastructure is lacking. The impacts of policy-related housing supply limitations are felt in areas with high market demand for new housing.

- **Land use impacts environmental and natural resource quality.** Many communities experience impacts from development pressures and climate change, affecting the quality and of air, water, and wildlife habitat. Development within the Wildland Urban Interface (WUI) experiences a higher risk of wildfires.
- **Local capacity is limited, and grants and technical assistance can be difficult to access.** For smaller communities and those with fewer resources and less capacity, it can be difficult to compete for grants and other opportunities that could improve land use outcomes.
- **Local land use decisions have impacts beyond local borders.** Local decisions influence regional commuting patterns, regional socioeconomic equity, wildlife habitat, trans-boundary air pollution (including greenhouse gas emissions), and state and regional infrastructure needs. Cross-jurisdictional impacts create a need for coherent regional or statewide coordination, but effective collaboration can be difficult to achieve.
- **The dynamics of Colorado's statewide tax policies, agency standards, and investments have at times been barriers to local governments who have pursued land use best practices.** State agencies can work with local partners to shift these dynamics in support of better land use practices.

## b. Common land use outcomes

Working with the non-profit organization Community Builders (based in Glenwood Springs), the Land Use Stakeholder Group discussed commonly desired *land use outcomes* in Colorado communities. These are briefly summarized below with case studies highlighting community success stories.

- **Build Great Places for People.** The places we build can improve quality of life, economic vitality, health and wellness, and community inclusivity.

### CASE STUDY:

#### **Alamosa: Implementing a Main Street Road Diet and Outdoor Dining Spaces**

In November 2020, the City of Alamosa's Downtown Master Plan won a Governor's Award for Planning. A short-term action step was the implementation of a road diet of Alamosa's Main Street (Highway 160). The road was re-striped to reduce a vehicular travel lane in the Summer of 2021. The road diet created space for outdoor dining and pedestrian areas in front of businesses. It utilized temporary bollards and curb stops, allowing the City of Alamosa to make adjustments based on public feedback. When permanent improvements are designed, they will be able to include this community knowledge.

#### **Denver: Planning for a Sun Valley Community Gathering Space**

CDOT is working with the Colfax Business Improvement District and a coalition of community partners to revitalize the area underneath the Colfax Viaduct near the Latino Cultural Arts Center. The project includes participants ranging from Meow Wolf to residents of Sun Valley. The goal is to create a community gathering place and spot for artistic expression that represents the variety of cultures within this neighborhood.

- **Housing Choices and Opportunity.** Affordability for Colorado's residents can be improved by constructing more "missing-middle" housing (e.g. townhomes, duplexes, smaller apartment buildings) and locating residential density near jobs and transit.

**CASE STUDY**  
**Greeley: Zoning for Housing Choices**  
In 2021, Greeley City Council made significant changes to the development code that streamlined regulations and zoning so that more affordable types of housing (duplexes, apartment buildings, and townhomes) could be built in more areas of the City. The changes reduced the minimum lot size from 6,000 square feet to 4,500 square feet in low-density zoning districts and allowed for even smaller lots in medium- and high-density areas. The updated code is meant to encourage infill development in older parts of the city and influence the type of development that occurs on the fringes of the community as well.

- **Location-Efficient Development.** Compact, walkable infill development supports lower development costs, efficient use of infrastructure, and local government fiscal health.

**CASE STUDY:**  
**Rifle: Planning for Infill Growth and Affordable Infrastructure**  
The City of Rifle was concerned that increasing maintenance costs of aging infrastructure would become unaffordable in the future. A Smart Growth America study demonstrated future infrastructure costs in Rifle could be reduced 31% by encouraging infill development over fringe development. The initiative resulted in a Comprehensive Plan update, a Streets Capital and Maintenance Plan, and continued investment in the Downtown Master Plan. The City implemented a 20% fee waiver for infill development in core areas. The City is also tracking a metric of housing units per mile of infrastructure (water and sewer lines, for example), with a goal of improving the metric as development occurs over time.

- **Complete Neighborhoods.** Downtowns and other neighborhood centers can be built with a mix of uses (e.g. housing, commercial, schools, entertainment, parks, offices) in a walkable environment.

**CASE STUDY:**  
**Colorado Springs: Innovative zoning to spur downtown housing development.**  
The City of Colorado Springs has implemented a market-based downtown zoning code that has been successful in attracting development and revitalization to the downtown. Much of the downtown form-based code has no height limits or parking minimums, and review processes are efficient and timely. This proactive attitude of the City has resulted in a boom in new downtown housing and business activity, leading to successful downtown revitalization.

- **A Complete, Connected Transportation System.** Integrate vehicles, transit, pedestrian, and bicycle infrastructure in a safe street network that enhances surrounding land uses.

**CASE STUDY:**

**Grand Junction: Building Multimodal Transportation and Downtown Vitality**

The Grand Junction Downtown Master Plan calls for new housing and businesses in a walkable environment, a goal that is key to the City's vision of becoming a premier destination on the Western Slope. Public and private investment is focused on the area between Main Street and the Colorado River, where major park and trail amenities have been created. Transportation improvements are an important element of the downtown's success. The design of CDOT's transportation improvements, including the I-70 Business loop and a new Mobility Hub, will encourage walking, biking and transit use that creates a welcoming atmosphere for downtown residential and commercial development.

**c. Common local planning and policy tools**

The group discussed a menu of policy and planning implementation tools they can use to achieve the land use outcomes mentioned above. Many of these policy responses involve zoning. This section provides a brief summary of zoning and its role in development patterns, and then discusses common policy responses related to zoning that address land use challenges.

**The role of zoning in development patterns.** Zoning is one tool among many that local governments use to preserve public health, safety, and welfare while balancing individual property rights. Local governments can choose a type of zoning that meets their particular need to regulate both the intensity of land use (such as impacting infrastructure maintenance, public health, safety, and welfare) and the form of development (preserving, for example, viewsheds or historical character). Traditional Euclidean zoning, the most common type of zoning, is often an exercise of local government police power (subject to preemption).<sup>2</sup> However, some local jurisdictions use “form-based zoning” in order to focus on the design of development as compared to specific use types.<sup>3</sup> Zoning is one of several strategies that communities use to accomplish their land use and housing goals, but it is not the only important tool. Communities also integrate streets, infrastructure, parks, transit, shops, schools, and civic institutions into complete neighborhoods. They seek to align public and private investments so that the built environment meets the community's goals and regional and statewide goals.

***Common policy responses that utilize zoning to address land use challenges include:***

<sup>2</sup> *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

<sup>3</sup> Donald L. Elliott, Managing Editor, *Colorado Land Planning and Development Law*, 11th Ed. (CLE in Colo., Inc. 2018).

1. **Policies that legalize a wider range of housing choices in more locations.** Many communities are investigating ways to add missing middle housing (e.g duplexes and other smaller multi-family homes) and Accessory Dwelling Units (ADUs) to infill areas of communities and reduce housing costs. This effort seeks to replicate the fabric of many historic neighborhoods that were originally developed with a mix of single-family and multi-family homes. Allowing more housing types provides for intergenerational living and aging-in-place, especially in communities where housing has become more expensive, can help address the housing challenge. Many communities are seeking ways to loosen restrictions on ADUs, including allowing ADU construction by-right. Communities are also adding zoning flexibility for multi-family housing, lower parking requirements, and allow smaller lot sizes and square footage requirements.
2. **Policies that add housing and mixed-use to downtowns, urban corridors, and Transit-Oriented Developments (TODs).** Many cities in Colorado have identified areas where dense housing and mixed-use development can revitalize neighborhoods and provide needed housing. These are typically in or near downtowns, mixed-use corridors, and transit stops. Parcel sizes in these areas tend to be larger, facilitating multi-family development. The connection between transit and dense housing can reduce traffic congestion, provide multimodal options, and reduce GHG emissions. Communities frequently support housing in these areas and have a variety of plans, policies, and strategies to produce it. These include zoning for dense, walkable, mixed-use development; capital improvements that provide infrastructure necessary for dense development; and coordination with transit agencies to link housing to transit services.
3. **Policies that guide large-scale new development.** The location and character of much of the new housing in Colorado is largely determined through local policies involving subdivisions, annexations, planned unit developments (PUDs), and Metro Districts. Many communities have taken steps to incorporate land use best practices into these policies so that "greenfield developments" follow community goals. These policies are also used to encourage infill development. For example, subdivision and annexation policies may be written to implement Comprehensive Plan goals that encourage new development to include multiple housing types, a mix of uses, and transportation connections. For many communities, lower land costs and economies of scale are more favorable on the fringes of the community, where development is more feasible in the short-term but leads to more costly infrastructure in the long-term.
4. **High-level plans that address land use and housing supply.** Many communities address housing and other land use issues through their Comprehensive Plan, Housing Needs Assessments, or other high-level planning strategies. These can be important strategies to understand the number of residential units needed, and the land use policies necessary to achieve it. Communities also link infrastructure to housing needs by implementing impact fee programs. They develop metrics for infrastructure efficiency, tracking the amount of infrastructure a city can afford to maintain via either infill or greenfield development. In addition, several communities have sought to take action to limit the number of housing units

converted to short term rentals as they struggle to provide sufficient housing for their local workforce.<sup>4</sup>

#### d. State programs and policies that incentivize positive land use outcomes

State programs and policies are an important tool to reach desired land use outcomes. In recent years, the State of Colorado has developed new grant programs designed to incentivize land use best practices. In discussing the programs described below, the stakeholder group raised several important points:

- Grant programs should be designed to address inequity and capacity limitations so that smaller, historically disadvantaged, and Just Transition communities can make competitive proposals.
- Grant programs should recognize that larger communities often have the advantage of organizational and planning capacity. State programs can be important sources of gap funding to ensure that best practices are feasible.
- Grant programs should provide elements such as cohorts for peer learning, grants and resources to address capacity inequities, and technical assistance.

##### 1. **Strong Communities Grant Program (DOLA in partnership with CDOT and CEO)**

The *Strong Communities Grant Program* provides assistance to communities through investments in infrastructure that "supports greater infill housing supply, more affordable housing, and sustainable development patterns." This program was funded in May 2022 by the state legislature through SB22-1304 at an amount of \$40M. The legislation states that state agencies will "develop a list of sustainable land use best practices". Successful projects will meet one or more of the following areas as listed in the legislation through a competitive grant process:

- Enabling ADUs or the use of duplexes by right in residential zones
- Zoning for mixed-use higher density development in downtown areas of municipalities and around transit stations
- Annexation policies
- IGAs that coordinate future development
- Reduced parking requirements
- Relaxed occupancy rules
- Zoning for innovative housing options (modular/manufactured homes)
- Use of public property for affordable housing
- Planned Unit Developments with integrated affordable housing units
- Others including: Budgeting policies; Water rate structures; Road standards; Hazard risk reduction and mitigation standards; Energy efficient building codes
- ***Any other practice that is deemed innovative by a local government and approved by the multi-agency working group***

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<sup>4</sup> [Short-term rentals under fire in Colorado mountain housing, labor crisis](#) - Colorado Sun.

## **2. Innovative Affordable Housing Strategies (DOLA)**

In 2021, the passage of HB21-1271 and HB21-1117 began the process of creating incentives for local zoning and planning reform. HB21-1271 created a program at DOLA<sup>5</sup> that provides grants to local governments that adopt not less than three policy and regulatory tools from among a menu of options that create incentives to promote the development of affordable housing, while HB21-1117 enables and clarifies local governments' ability to enact inclusionary zoning laws that support the construction of new affordable housing. Since November 2021, the Planning Program has awarded nearly \$3.4 million to 38 projects that will change local regulatory and process requirements to encourage affordable housing development. In April 2022, the Incentives Program made its first awards, providing over \$18.4 million to 14 affordable housing development projects. For Incentives Program grants, review criteria included prioritizing projects that demonstrated sustainable development patterns (e.g., infill to reduce VMT) and gave bonus points for projects that incorporated energy efficiency and renewable energy components.

## **3. Revitalizing Main Streets Program (CDOT)**

The *Revitalizing Main Streets Program* will continue its mission of support for mobility and economic vitality in Colorado downtowns and other community centers, with a focus on the revitalization and placemaking strategies of each community. The program will continue to consider the differences between small and large communities, and the revitalization strategies that are appropriate for varying levels of community capacity and local needs.

## **4. Greenhouse Gas Transportation Planning Standard (CDOT)**

CDOT's GHG rule, passed by the Transportation Commission in December 2021, includes land use as one item on the menu of mitigation strategies that can be considered to meet GHG reduction targets for the transportation sector. The rule creates opportunities for CDOT to fund local government projects that improve land use/transportation outcomes through increased transit mode share or decreased VMT. CDOT seeks to dialogue with local communities around opportunities to utilize this tool as implementation of the GHG planning standard moves forward.

## **5. Collaboration on Federal Grant Opportunities**

State agencies are also tracking the development of relevant federal programs, such as the implementation of the Infrastructure Investment and Jobs Act and other opportunities that may arise, to ensure Colorado is well positioned to leverage these investments. For example, CDOT is working with local governments to identify critical multimodal corridors where federal grants can fund multimodal projects or increased transit service connected to areas where local governments are planning for infill housing and Transit-Oriented Development (TOD).

## **6. Multiple Natural Resource and Environmental Initiatives**

Beginning on page 19, the report discusses multiple initiatives and programs dealing with water, wildlife, wildfire, and land conservation that are relevant to the land use conversation.

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<sup>5</sup> <https://cdola.colorado.gov/1271>

## SECTION 3 - RESEARCH ON LAND USE CHALLENGES AND THE BENEFITS OF LAND USE OUTCOMES

This section describes research by state agency staff on major land use challenges in Colorado and the benefits that can be obtained by achieving the land use outcomes discussed above. This section is not intended to be comprehensive, but serves as a starting point for discussion on the land use topic.

### I. LAND USE CHALLENGE: Infrastructure to support dispersed development patterns is expensive and difficult to maintain.

One of the core responsibilities of local government in Colorado is the provision of infrastructure. However, land use patterns can make infrastructure maintenance unaffordable, which can be detrimental to local government fiscal health. In many cases, sales and property tax revenue generated from dispersed, low-density development patterns cannot keep pace with the lifecycle costs of the infrastructure needed to serve those development patterns. This type of "geo-accounting" is becoming more important to local governments when considering future development patterns and infrastructure costs.

Over time, the increased cost of infrastructure may impede some local governments from having sufficient revenue to serve other community needs. The programs and projects that lose funding are often those that impact quality of life, health and wellness, and the vitality of the community. The costs of dispersed development patterns can be seen in both residential and commercial development.

**Residential Development.** Low density, dispersed residential development patterns have predominated in post-WWII development. This increases the cost of infrastructure due to the inefficient layout of utilities and streets. High costs are spread across fewer households, requiring more miles of infrastructure (pipes, roads) per household. For example, this cul-de-sac neighborhood pattern in South Bend, Indiana is approximately 1.8 times more expensive than building the same lots in a historic traditional grid pattern. However, local jurisdictions do not always account for the higher cost of serving dispersed development patterns, creating a higher burden on the average taxpayer or utility ratepayer.

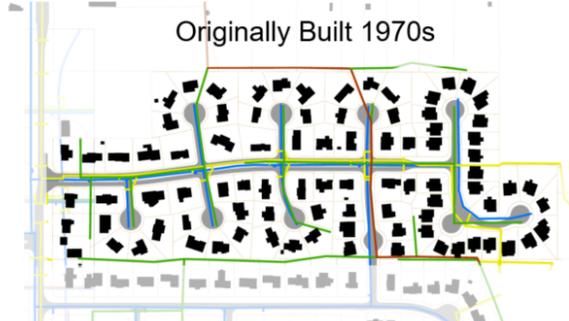
*Image below from October 2021 presentation to Land Use Stakeholder Group by Joe Minicozzi (Urban3)*

Neighborhood Costs  
South Bend, IN

Originally Built 1920s-1940s



Originally Built 1970s



	1920-1940s	1970s	Difference
Lots	88	88	0
Road Cost	\$38,465	\$75,161	2x
Water Pipes	\$12,154	\$11,675	-0.96x
Storm & Sewer Pipes	\$28,382	\$35,176	1.2x
Annual Total Costs	<b>\$78,981</b>	<b>\$122,012</b>	<b>1.5x</b>
10% Property Taxes	\$21,965	\$21,079	-0.96x
Deficit	<b>-\$57,016</b>	<b>-\$100,933</b>	<b>1.8x</b>

**Infrastructure**

- Roads
- Water Pipe
- Combined Sewer
- Separated Sewer
- Storm Water



**Commercial development.** Colorado communities rely on commercial and industrial development for a revenue base. However, inefficient and dispersed development patterns create a lower level of jobs-per-acre and sales-tax-per-acre than more compact development types. In many cases, historic "main street" areas provide a higher level of taxes and jobs per acre than big-box development while requiring less infrastructure per acre. In order to grow the economic base, local governments often undertake intense jurisdictional competition to chase dispersed commercial uses. However, as the infrastructure ages, commercial development

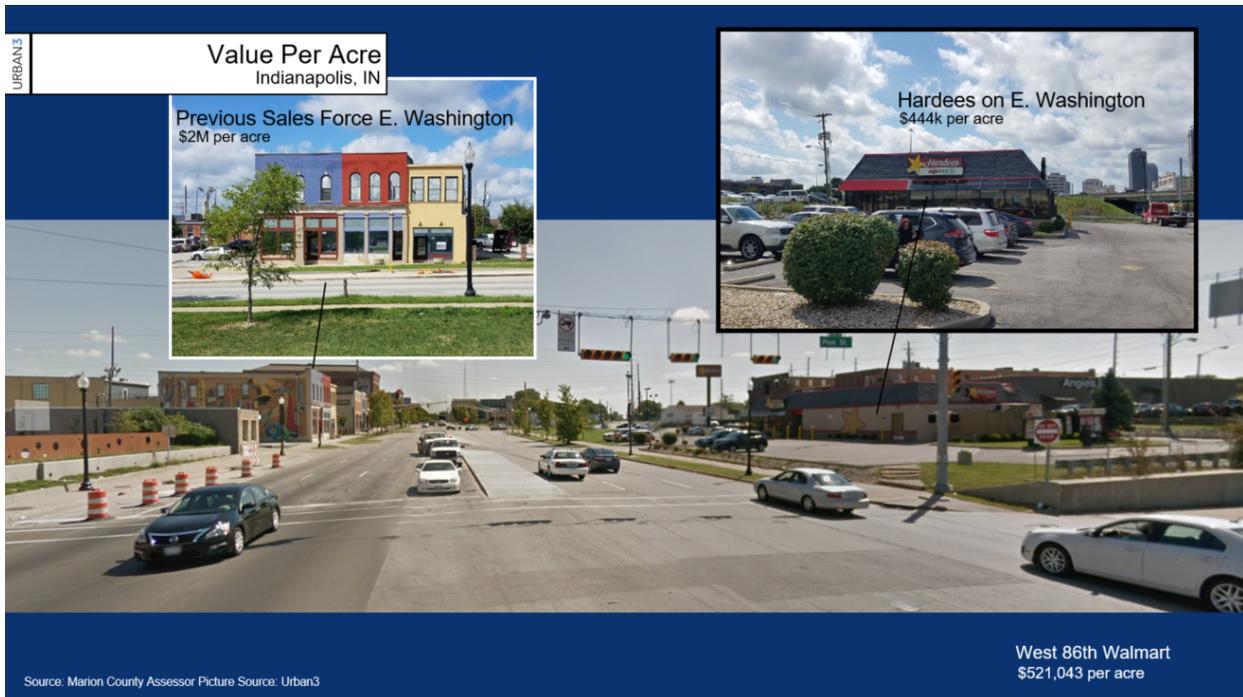
*Example: Durango, CO comparison of Walmart vs downtown historic building (Joe Minicozzi presentation)*



can shift from being a fiscal benefit to a fiscal liability for the local government.

This is particularly true for commercial developments that require large amounts of surface parking. While sufficient parking may be important to successful development, it is frequently over-provided due to development codes that include unnecessary parking minimums. This is especially true in areas where transit is sufficient, but is also prevalent even in auto-dependent areas where codes sometimes require even more parking than commercial developers request. The inefficiency of unnecessary surface parking negatively impacts local government and household budgets alike,<sup>6</sup> increasing the cost of housing (on average up to \$225/mo)<sup>7</sup> and frequently resulting in land speculation.<sup>8</sup> Frequently, more parking is built than the amount required by local governments and/or market demand.<sup>9</sup>

*Comparison of value of commercial development: historic downtown building vs. fast food strip commercial in Indianapolis, Indiana (Joe Minicozzi presentation)*



In summary, investing in historic downtowns and core areas of communities generally has a positive cost-benefit ratio. Researchers have consistently found that walkable, high-vitality

<sup>6</sup> [“The Many Costs of Too Much Parking.”](#) Strong Towns, November 30, 2018.

<sup>7</sup> [“The Many Costs of Too Much Parking.”](#) Strong Towns, November 30, 2018.

<sup>8</sup> [“Detroit Hurt by Too Much Parking.”](#) Angie Schmitt, December 3, 2018.

<sup>9</sup> [“Quantified Parking: Comprehensive Parking Inventories for Five U.S. Cities.”](#) Eric Scharnhorst, Special Report for the Research Institute for Housing America, May 2018.

neighborhoods and places are undersupplied in the market, and that residents desire more of them than currently exist.<sup>10</sup>

## **II. LAND USE CHALLENGE: Land use impacts affordability.**

The ability to live in Colorado is impacted by limited housing supply, long commutes, and a lack of mobility options to access jobs. The following sections discuss the land use challenges related to affordability faced by Colorado residents and communities.

### **a. The cost burden of housing, and housing supply constraints**

In recent decades, Colorado population and employment growth has exceeded residential construction, leading to low housing vacancy rates, increased housing costs, and increased numbers of Coloradans experiencing housing cost burden. Between 1996 and 2006, Colorado added 48,000 new housing units per year on average, but since 2007, the state added just 26,500 units per year.<sup>11</sup> To accommodate the projected demand of 35,000 new households per year between 2020 and 2030, and to make up for the accumulated lack of supply, *Root Policy Research* estimates the state would need to average 44,250 new units per year.<sup>12</sup> Nearly 50% of all renters and 20% of homeowners are cost burdened, meaning more than 30% of their gross annual income is spent on housing.<sup>13</sup> Since 2011, Colorado housing prices have risen 239%, higher than the national increase of 206%.<sup>14</sup>

Colorado's housing shortfalls and price increases can be attributed to a number of factors. These include the high costs of land, labor, and materials that make construction of affordable housing types difficult to finance. Some research also points towards remote work during the pandemic as a driver of rising housing prices.<sup>15</sup> In recent years, investor ownership of housing has become another issue. Investors convert owner-occupied housing into short-term or long-term rentals. Real estate firm Redfin estimated investor buyers accounted for 17% of purchases in Metro Denver in 2021, creating additional competition in the market and reducing the housing stock available for homeownership.<sup>16</sup>

A large part of this housing shortfall and increasing cost can also be attributed to restrictive zoning practices that do not allow more affordable and dense types of housing in areas with high demand for affordable housing types. Since WWII, it has become common for many new neighborhoods to allow only single-family detached homes, and for communities to maintain this pattern through zoning. Particularly in fast-growing parts of Colorado (urban and mountain resort), this legacy has left communities unprepared to accept growth and lacking an affordable diversity of housing choices with access to schools, parks, and other important destinations.

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<sup>10</sup> [The Premium for Walkable Development under Land Use Regulations. The Mercatus Institute. 2018.](#)

<sup>11</sup> [State of Colorado Housing Research. Root Policy Research \(2021\).](#)

<sup>12</sup> Ibid

<sup>13</sup> Spending more than 30% of income on housing is a commonly used definition of cost-burdened by HUD, and appears in several places in Colorado statute, such as [HB 21-1266](#).

<sup>14</sup> [All transaction housing price index for Colorado - St. Louis Fed](#)

<sup>15</sup> [Home prices are still rising and remote work is partly to blame - marketplace.org](#)

<sup>16</sup> [Investors purchase a record share of the homes sold in metro Denver in third quarter – The Denver Post](#)

This impacts low-income workers, Disproportionally Impacted communities, and people with disabilities, and leads to racial segregation.<sup>17</sup>

One common question in the housing debate involves the typically high price point of newly constructed market-rate housing, which is frequently necessary to cover the cost of construction. Given this issue, an important question is the extent to which increases in the supply of market-rate housing can provide a solution to the affordable housing crisis. While the situation is different in each locality, in general, research has found that new housing supply helps with price pressures through a process called "housing filtering".<sup>18</sup> This follows general principles of supply and demand that also apply to the housing market. New market-rate units may often be too expensive for lower-income households due to the high cost of construction, however, residents of older housing who are able to afford to move into the higher-priced new units often do so, opening up space in existing housing units and reducing price pressures for lower-income households. In addition, over time the new units depreciate and become less expensive, adding to the total stock of more affordable housing units.

## **b. The cost burden of transportation**

While residents may be able to find more affordable housing options by searching further from job centers, this "drive until you qualify" effect frequently results in higher transportation costs. Households making less than \$40,000 per year in the western U.S. spend over 24% of their income on transportation, higher than the 15% threshold that is considered "cost-burdened".<sup>19</sup> Higher transportation costs can negate housing cost savings. Households in metro Denver living in compact neighborhoods are estimated to spend about \$2,000 less annually on transportation.<sup>20</sup> Researchers have also found "upward mobility is significantly higher in compact areas than sprawling areas," primarily due to better job accessibility by multiple transportation modes.<sup>21</sup>

## **III. LAND USE CHALLENGE: Land use patterns impact public health**

Research has found that communities designed with walkable streets and a mix of land uses can improve public health by promoting walking and other activity-friendly transportation. In a study comparing counties nationwide, "residents of more compact counties have lower body mass indexes and lower probabilities of obesity and chronic diseases."<sup>22</sup> In Colorado, walking and bicycling produce approximately \$3.2 billion in annual health benefits by decreasing mortality related to chronic illness.<sup>23</sup>

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<sup>17</sup> [Rothwell, J., & Massey, D. S. \(2009\). The effect of density zoning on racial segregation in US urban areas. \*Urban Affairs Review\*, 44\(6\), 779-806.](#)

<sup>18</sup> [How filtering increases housing affordability - Planetizen](#)

<sup>19</sup> [Bureau of Labor Statistics Consumer Expenditure Surveys.](#)

<sup>20</sup> Center for Neighborhood Technology, [Housing+Transportation Affordability Index](#)

<sup>21</sup> Ewing, R., Hamidi, S., Grace, J. B., & Wei, Y. D. (2016). [Does urban sprawl hold down upward mobility?](#) *Landscape and Urban Planning*, 148, 80-88.

<sup>22</sup> Ewing, R., Meakins, G., Hamidi, S., & Nelson, A. C. (2014). Relationship between urban sprawl and physical activity, obesity, and morbidity—Update and refinement. *Health & place*, 26, 118-126.

<sup>23</sup> Economic and Health Benefits of Bicycling and Walking State of Colorado (2016)

Zoning has long been a tool used to impact public health, both positively and negatively. In the early 20th century, many of the first zoning ordinances in the United States were created to protect public health. For example, the separation of residential areas from industrial areas improved health by limiting the impacts of air and water pollution. However, as time progressed, zoning laws have in some cases been shown to limit people's access to health-influencing resources such as housing, schools, grocery stores, and parks.

Additionally, neighborhoods that are near stationary sources of air and water pollution and highway corridors have higher concentrations of transportation-related air pollution. People who live there have increased risks for morbidity and mortality across a range of cardiopulmonary diseases. There is also growing evidence that prolonged exposure to air pollution may also contribute to COVID-19 severity, by directly affecting the lungs' ability to clear pathogens, and indirectly, by exacerbating underlying cardiovascular or pulmonary diseases.<sup>24</sup>

In Colorado, like other states, evidence shows that low-income communities and communities of color are disproportionately impacted by air pollution, including air pollution from vehicles, which creates an environmental justice concern.<sup>25</sup> One study found that African Americans in Colorado are exposed to 64% higher concentrations of PM<sub>2.5</sub> concentrations than the average Coloradan, Asian Americans are exposed to 24% higher concentrations, and Latinos are exposed to 15% higher concentrations. Additionally, disproportionately-impacted communities tend to lack shade trees and have a higher percentage of hardscaped surfaces that retain heat, causing these neighborhoods to experience higher temperatures and more heat-related illness than other neighborhoods in the same community.

Compact development with active transportation access can also significantly decrease roadway injuries and fatalities: for every 1% change toward a more compact built environment, total traffic fatality rates fall by 1.5%, and pedestrian fatalities by 1.5-3.6%.<sup>26</sup>

#### **IV. LAND USE CHALLENGE: Land use impacts environmental and natural resource quality**

Colorado faces a wide range of environmental and natural resource challenges that are impacted by land use. This has an impact on air, water, wildlife, and wildfires in the state. It also impacts the state's significant recreation and tourism economy.

The sections below provide a snapshot meant to introduce a number of important connected issues and a limited set of steps the state has already taken in this space. While this report

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<sup>24</sup> Brandt, E.B., Beck, A.F., & Mersha, T.B. (2020). Air pollution, racial disparities, and COVID-19 mortality. *J Allergy Clin Immunol*, 146(1), 61–63. doi: 10.1016/j.jaci.2020.04.035

<sup>25</sup> See, e.g., [Michael C. McCarthy et al., Assessment of Mobile Source Air Toxics in an Environmental Justice Denver Community Adjacent to a Freeway, 71 J. Air & Waste Mgmt. Ass'n 231-246 \(2021\).](#)

<sup>26</sup> Ewing, R., Schieber, R. A., & Zegeer, C. V. (2003). Urban sprawl as a risk factor in motor vehicle occupant and pedestrian fatalities. *American journal of public health*, 93(9), 1541-1545.

focuses heavily on local land use and community development questions, land conservation and the conservation of, and role of, our federal public lands are critical parts of the larger land use discussion, but largely remain outside the scope of this report.

### **a. Climate Change**

In 2019, the state adopted HB 19-1261, which sets science-based economy-wide GHG emissions reduction targets of 50% reduction below 2005 levels by 2030 and 90% by 2050. In Colorado, transportation is the largest single source of GHG pollution. Between 1981 and 2019, per capita annual VMT in Colorado rose 22%.<sup>27</sup> On-road transportation contributes 22% of greenhouse gas emissions and 29% of NOx emissions.<sup>28</sup> Colorado's GHG Pollution Reduction Roadmap created a near-term action plan that targets reducing transportation GHG pollution by 40%, or 12.7 million tons annually, by 2030.

Location-efficient development can help reduce the number and distance of driving trips, which helps lower greenhouse gas emissions. Researchers have found compact, mixed use development can reduce per capita vehicle miles traveled (VMT) 20 to 40% compared to low density, auto-oriented development, and that transit-oriented development can reduce household VMT 20-57%, depending on the proximity to and quality of transit.<sup>29</sup> Households in more compact neighborhoods take shorter trips on average, which are more easily shifted to other modes. Nearly half of vehicle trips taken in Colorado are less than 3.5 miles, a distance reachable by transit, bike, or e-bike.<sup>30</sup>

More compact housing units also use much less energy for space heating and cooling, due to typically smaller square footage and shared walls that reduce losses. Compared to single-family detached houses in the western U.S., attached homes use about one third less energy per unit, small apartment buildings use about one half less, and larger apartment buildings use about two thirds less.<sup>31</sup>

An additional area where land use and climate change interact is within the State of Colorado's forthcoming Natural and Working Lands Strategic Plan, which will identify and promote natural climate solutions that maintain and enhance carbon sequestration, and reduce greenhouse gas emissions. Reducing the conversion of natural lands to development through efficient land use planning, and employing climate-smart agricultural practices, are critical strategies for maintaining Colorado's land-based carbon sink.

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<sup>27</sup> Trends in per capita VMT (FHWA and the Census via EnoTrans).

<sup>28</sup> 2017 National Emissions Inventory (NEI) Data | US EPA, CO GHG Pollution Reduction Roadmap Final Report. [2021 Greenhouse Gas Inventory Update. CDPHE.](#)

<sup>29</sup> Ewing, R., Bartholomew, K., Winkelman, S., Walters, J., Chen, D., McCann, B., & Goldberg, D. (2007). Growing cooler: The evidence on urban development and climate change.

Schroeder, W., & Planners, C. (1999). The transportation and environmental impacts of infill versus greenfield development: a comparative case study analysis (No. EPA 231-R-99-005). US EPA.

Arrington, G. B., & Cervero, R. (2008). TCRP report 128: Effects of TOD on housing, parking, and travel.

Transportation Research Board of the National Academies, Washington, DC, 3, 37.

<sup>30</sup> National Household Travel Survey, 2017.

<sup>31</sup> Energy Information Administration, 2015 Residential Energy Consumption Survey.

## b. Water

As a headwaters state for the Colorado River Basin, and headwaters state for several other interstate water compacts, Colorado is subject to both natural and human-made constraints, including the effects of regional megadrought and legal obligations, which Colorado has and continues to abide by, to deliver water to downstream states, tribes, and Mexico. Water supply issues are exacerbated by the dual forces of climate change and population growth. Growing demand is being managed in an environment of diminishing supplies. The 2015 Colorado Water Plan's executive summary states, "Colorado faces the possibility of a significant water supply shortfall within the next few decades, even with aggressive conservation and new water projects." This shortfall is now estimated to be between 250,000 and 750,000 acre-feet for the combined statewide municipal and industrial sector by 2050.<sup>32</sup>

In developing the state's water plan, Colorado has endeavored to develop a locally-led process through the state's Basin Roundtables. Multi-stakeholder Basin Roundtables recently submitted Basin Implementation Plans that will inform priorities and approaches for meeting the state's water conservation and supply goals which will be reviewed later this year in the 2022 Colorado Water Plan Update.<sup>33</sup>

Even though per capita water use has declined approximately 5% between 2008 and 2015, rising demand from population growth and supply vulnerabilities from a warming climate continue to challenge conservation successes. The Water Plan recognizes that land use choices have a large impact on water demand. For example, the cost of a share of widely traded Colorado-Big Thompson Project (C-BT) water, which is managed by Northern Water and delivers water to dozens of growing municipalities on the Front Range, has exponentially increased over the last few years.

One share (i.e., unit) of C-BT water is approximately 0.8 acre-feet and can sell for upwards of \$60,000. Water is quickly becoming a larger proportion of project costs for new residential development. For many water districts and municipal utilities in the region, developers are required to purchase sufficient water rights, in addition to paying tap fees (also called system connection or development charges), and completing infrastructure improvements.

Compact, location efficient development can reduce water demand and the costs of associated treatment and delivery infrastructure, through shorter pipes that reduce losses, less landscaped space per unit that reduces water use, and by better utilizing existing infrastructure instead of extending new lines.<sup>34</sup> Furthermore, land conservation and natural infrastructure can aid in water conservation, recharge, water quality and other benefits that support the long-term health of our water resources and lower the costs of managing those water resources. Although land conservation and compact development can lead to water quality benefits and less water use per housing unit, compact development can increase the concentration of impervious surface which can lead to increased pollutants in wet weather runoff from urban areas. Additional

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<sup>32</sup> Colorado Water Conservation Board, 2019. [Analysis and Technical Update to the Water Plan](#).

<sup>33</sup> [Colorado Water Conservation Board, Colorado Water Plan](#).

<sup>34</sup> [EPA, 2006. Growing Toward More Efficient Water Use](#).

management practices may be required to control pollutants from denser urban areas.<sup>35</sup> Encouraging infill or clustering development in places where the natural environment has already been disturbed, helps to both conserve natural lands while making use of existing transportation infrastructure.<sup>36</sup>

### c. Wildfires

Approximately 50% of Coloradans live in fire-prone areas, and Colorado's wildland-urban interface (WUI) has grown rapidly in recent decades.<sup>37</sup> The public, decision makers, and state leadership recognize this significant and growing public safety challenge, however Colorado does not have statewide land use planning requirements related to wildfire hazards. The state does provide several programs to support hazardous fuel reduction across land ownerships, including the Colorado State Forest Service's Forest Restoration and Wildfire Risk Mitigation grant program.<sup>38</sup>

Governor Polis and the Colorado Legislature took action in 2021, with \$88 million allocated for wildfire recovery efforts on our lands and waters. A key part of this was the creation of the Colorado Strategic Wildfire Action Program (COSWAP) through SB21-258 to provide \$17.5 million to quickly move state stimulus funds to support on-the-ground work on wildfire risk reduction projects to protect life, property, and infrastructure. DNR is also administering a \$4.6M workforce development funding program to reduce fuels on federal, tribal, state, state-operated, county, municipal and private land. This competitive grant opportunity includes \$3M for conservation corps crews for wildfire mitigation projects in COSWAP's Strategic Focus Areas, \$1.6M statewide for Department of Corrections-SWIFT mitigation crews, and an \$8M landscape scale fuel reduction program is in development.

In July 2021, Governor Polis requested that the Colorado Fire Commission evaluate and present options to the Governor's Office on a statewide approach to land use planning, development, perimeter defense, and building resilience in the WUI with an eye toward large increases in new development and population expected in the WUI. The Colorado Fire Commission defines the wildland-urban interface as "an area where structures and other human development meets or intermingles with wildland or vegetative fuels."

In response, the Commission created the WUI Subcommittee (Subcommittee) which met multiple times in 2021 and aims to engage key stakeholders in the evaluation of potential related opportunities. The subcommittee's work is grounded in a Community Risk Reduction (CRR) approach. CRR is a process of identifying and prioritizing local risks, followed by integrated and strategic investment of resources to reduce their occurrence. CRR incorporates education and public awareness, engineering to support emergency mitigation technologies,

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<sup>35</sup> <https://www.usgs.gov/special-topics/water-science-school/science/urbanization-and-water-quality>

<sup>36</sup> [Our Built and Natural Environments: A Technical Review of the Interactions Between Land Use, Transportation, and Environmental Quality \(2nd Edition\)](#)

<sup>37</sup> [Colorado State Forest Service. 2017.](#)

<sup>38</sup> [Colorado State Forest Service Funding Opportunities](#)

enforcement of fire safety codes, economic incentives to reduce risk, and ensuring adequate emergency response to protect communities and firefighters.

In late 2021, a combination of high winds and a particularly dry early winter season created the conditions that fueled the Marshall Fire, which burned over 1,000 homes in Louisville, Superior, and unincorporated areas of Boulder County. As climate change impacts and drought conditions intensify, land use planning and land management are becoming increasingly important considerations for limiting the impact of wildfires on communities. Efforts to guide growth to compact, infill locations is an important strategy for minimizing exposure to fire risk by limiting the growth of households living in fire-prone areas.<sup>39</sup>

#### **d. Wildlife**

Many of Colorado's sensitive wildlife species face increasing risk. The combined pressures of population growth and development, outdoor recreation and visitation, climate change, and drought have contributed to wildlife habitat degradation and fragmentation. Governor Polis and the Colorado legislature have enacted legislative and executive directives to focus attention, research, and state agency action on reducing habitat degradation and fragmentation.

In September 2021, in response to Governor Polis' Executive Order D 2019 011,<sup>40</sup> the state released the Opportunities to Improve Sensitive Habitat and Movement Routes Connectivity for Colorado's Big Game Species Report.<sup>41</sup> As recommended in that report, Colorado Parks and Wildlife is working to develop a Statewide Habitat Conservation and Connectivity Plan that will serve as a foundation for conservation efforts on high-priority landscapes, such as winter ranges and migration corridors. The plan will identify conservation actions to include voluntary land protection, habitat enhancement, water developments, highway crossing structures, and conservation strategies that lead to more climate-resilient wildlife populations.

#### **e. Land Conservation**

Land conservation provides numerous benefits to our state, including to natural systems and wildlife, natural and built infrastructure, state and local recreation and tourism economies, providing economic tools and benefits to agricultural producers, and more. Land conservation is a critical tool and policy solution that is closely connected to discussions about local land use planning and community development. Part of making compact development patterns successful is the ability for communities to conserve open spaces and working lands and connect them to developed areas. In Colorado, with our vast federally managed public lands, the conservation and management of our public lands directly interacts with local communities. On a more local level, conserved places like open space, state parks, and local community

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<sup>39</sup> Syphard, Alexandra D., et al. "Land use planning and wildfire: development policies influence future probability of housing loss." *PloS one* 8.8 (2013): e71708.

<sup>40</sup> Colorado Gov. Executive Order D 2019 011, [Conserving Colorado's Big Game Winter Range and Migration Corridors, 2019](#).

<sup>41</sup> Policy Report: "[Opportunities to Improve Sensitive Habitat and Movement Route Connectivity for Colorado's Big Game Species](#)," Colorado Department of Natural Resources, 2021.

greenspace play a critical role in both ecosystem outcomes, as well as economic development through sustainable recreation infrastructure. Colorado has taken a number of steps to increase local, state and federal coordination with respect to conservation and recreation planning. While this report focuses on more localized land use planning and community development, and is not intended to provide a full evaluation of public lands, conservation or recreation policies in the state, it is worth noting some of the initiatives the state is currently pursuing related to this issue:

*Regional Partnership Initiative:* In 2020, Governor Polis signed Executive Order 2020 008 creating a framework for regional and state coordination for accommodating sustainable recreation while advancing wildlife, habitat and other natural resource objectives. CPW, with support from DNR, are tasked with creating conservation plans that will build an overarching, statewide conservation and recreation plan. CPW granted over \$600,000 to support seven new and existing regional partnerships in 2021.<sup>42</sup>

*Creation of Additional State Parks:* In 2019, Governor Polis signed Executive Order B 2022 008 directing DNR, in coordination with CPW, to identify landscapes that met criteria of a state park property. Since that time, Fishers Peak State Park has been designated as Colorado's 42nd state park and Sweetwater Lake is under development to become Colorado's 43rd state park.<sup>43</sup>

*Colorado Forest Action Plan:* The 2020 Colorado Forest Action Plan is in place to offer solutions and guidance for improving forest health and ensuring our forests, along with the resources they provide, persevere for future generations.<sup>44</sup>

*Colorado Outdoor Equity Fund:* In 2021, House Bill 21-1318 was passed, which establishes a grant program for outdoor organizations focused on creating opportunities for underserved populations to get involved in recreational activities and experiencing Colorado's outdoor spaces. The bill funds what will grow to a \$3 million annual grant program through a redistribution of lottery revenue.<sup>45</sup>

*Great Outdoors Colorado:* GOCO invests a portion of Colorado Lottery proceeds to help preserve and enhance the state's parks, trails, wildlife, rivers and open spaces. GOCO awards competitive grants to local governments and land trusts and makes investments through CPW. Since its creation, GOCO has committed \$1.3 billion to more than 5,500 projects in all 64 counties in Colorado.

*City and County Open Space Initiatives:* Voters in numerous municipalities and counties across Colorado have approved property or sales tax measures allowing local governments to raise funds to purchase or lease priority properties and development rights from willing private landowners to expand open space, conserve native wildlife habitat and promote climate resiliency within their jurisdictions. The city of Boulder has retained 150,000+ acres of open

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<sup>42</sup> [Colorado Gov. Executive Order B 2020 008, Creating the Outdoor Regional Partnerships Initiative, 2020](#)

<sup>43</sup> [Colorado Gov. Executive Order B 2020 008, Creation of Additional State Parks, 2020.](#)

<sup>44</sup> [Colorado Forest Action Plan, Colorado State Forest Service, 2020.](#)

<sup>45</sup> [Outdoor Equity Grant Program, Colorado Parks and Wildlife, 2022.](#)

space since adopting initiatives like this in the 1960's.<sup>46</sup> These programs do a great job of implementing conservation goals adopted by many local governments and the federal government.<sup>47</sup>

**APPENDIX A - Summary of stakeholders engaged to date**

The following state agencies, advocacy groups, experts, and communities have participated in this process to date (note that all participants may not have participated in all sessions):

<b>Agencies</b>
CDOT
DOLA
CEO
CDPHE
DNR
<b>Advocacy Groups</b>
CCI
CML
CCAT
SDA
<b>Experts</b>
Joe Minicozzi (Urban3)
Clark Anderson (Community Builders)
<b>Communities</b>
Alamosa, City of
Aurora, City of
Avon, Town of
Centennial, City of
Colorado Springs, City of

<sup>46</sup> City of Boulder, Open Space and Mountain Parks (OSMP), [2017 Agricultural Resources Management Plan](#); [OSMP 2019 Master Plan](#); [Boulder County Parks and Open Space protected lands summary](#).

<sup>47</sup> See, e.g., [The Mountain Pact](#), "Conserving and Restoring America the Beautiful: Now is the Time, Western Communities Working to Achieve the 30x30 Goal," July, 2021.

Englewood, City of
Fort Lupton, City of
Glenwood Springs, City of
Grand Junction, City of
Greeley, City of
Lafayette, City of
Lakewood, City of
Longmont, City of
Loveland, City of
Manitou Springs, City of
Palisade, Town of
Rifle, City of
Trinidad, City of
Wellington, Town of
Woodland Park, City of
<b>Counties</b>
Adams County
Chaffee County
Delta County
Jefferson County
Larimer County
Las Animas County
Mesa County

**APPENDIX B: STATE AGENCY DIRECTIVES, PROGRAMS, AND PLANS  
RELATED TO LAND USE**

State agencies have a number of relevant initiatives related to land use. These include:

**A. Colorado Energy Office (CEO): [The Greenhouse Gas Pollution Reduction Roadmap](#)** includes the following actions related to land use that prompted the development of this process and report: *“State agencies must work with local governments and metropolitan planning organizations to develop strategies to promote more sustainable land use planning. As part of this effort, the state will explore options for how best to incentivize smart land use decisions....It is important to recognize the challenges in addressing this issue, particularly given the long history of local control of land use decisions in Colorado. State agencies will lead a study and stakeholder engagement process in 2021 that can develop detailed proposals for agency action and potential legislation in 2022.”*

**B. Department of Local Affairs (DOLA):**

- **[The Colorado Resiliency Framework Strategy #2:](#)** infrastructure and land use coordination states: *“Integrate land use, air quality, transportation, water use, equity, and community engagement efforts to promote regional partnerships for growth and development that take into consideration future risks and conditions.”*
- **[The Energy/Mineral Impact Assistance Fund:](#)** this grant fund is both the largest funding source for local government comprehensive plans and also can fund public buildings and infrastructure projects. Currently, funding for comprehensive plans also requires a number of land use best practices be incorporated into the process and final product (e.g., assessment of hazards, water supply, engagement of neighboring jurisdictions and service providers, etc.). Per suggestions in this report, program guidelines could be reviewed for updates that could better incentivize strong land use outcomes.

**C. Department of Natural Resources (DNR) directives include:**

- **[Colorado Outdoor Regional Partnerships Executive Order \(B 2020 008\):](#)** *“Promote regional [cross-jurisdictional] and Statewide partnerships...to ensure that Colorado’s land, water, and wildlife thrive while also providing for equitable and safe access to quality outdoor recreation experiences (Directive A.3)”*
- **[Statewide Comprehensive Outdoor Recreation Plan \(SCORP\) - Advance Landscape-Scale Conservation - Advance Landscape-scale Conservation - Work across jurisdictional and land ownership boundaries to plan for wildlife and natural resource conservation along with the growing demand for recreation access. Collaborate to tackle pressing and emerging issues and to identify and safeguard important areas for conservation, working lands and recreation access across the state. \(Priority III, Objective 1\)](#)**
- **[CDOT/DNR Big Game Policy Report Recommendations:](#)** *State Agencies (DNR, DOLA, CDOT) should work with local governments to: review existing policy frameworks; and examine local government applications of 1041 regulations for habitat protections; develop recommendations for incentivizing and improve the uptake of big game habitat and corridor protections in local planning initiatives (per Colorado Parks and Wildlife*

High Priority Habitat (HPH) land use recommendations and “Planning Trails with Wildlife in Mind” guidance).

- **Colorado State Forest Service (CSFS) Forest Restoration and Wildfire Risk Mitigation (FRWRM) Grants:** “Per C.R.S. 23-31-310, applicants are incentivized to develop local land use planning and building codes to reduce wildfire risk: “For hazardous fuel reduction projects pursuant to subsection (4)(a) of this section, the panel shall show preference to applicants that have adopted or plan to adopt local measures that reduce wildfire risks to people, property, and infrastructure that complement funds provided through the program. Stronger measures shall receive greater preference, while taking into account geographic differences and needs for mitigation.”

**D. Colorado Department of Public Health and Environment (CDPHE)**

- **Colorado’s Public & Environmental Health Improvement Plan:** Improvement Plan includes: “Priority: Climate Action and Air Quality: Goal Three: Reduce transportation related emissions and increase choice through statewide and local strategies that promote safe, active transportation modes and the use of cleaner vehicles.”
- **Environmental Justice Act (HB21-1266):** The Environmental Justice Act commits to strengthening environmental justice. It prioritizes reducing environmental health disparities in disproportionately impacted communities. Specifically, the Environmental Justice Act defines a “Disproportionately Impacted Community” as including communities with “a history of environmental racism perpetuated through redlining, anti-indigenous, anti-immigrant, anti-Hispanic, or anti-Black laws.” C.R.S. 24-4-109(2)(b)(II).
- **The Climate Equity Framework:** The Climate Equity Framework is a guidance document that outlines ways the state can build equity considerations into the greenhouse gas (GHG) reduction rulemaking process to help achieve better outcomes for disproportionately impacted communities in Colorado. The framework is both a resource for meeting statutory requirements and a piece of Colorado’s larger response to the national call to action to address two critical and interconnected issues: climate change and racial, environmental, and economic injustice. Land Use best practices are in alignment with at least two of the principles in the Climate Equity Framework
  - a. *Principle 3: Economic Impacts—GHG reduction strategies should reduce costs, including household as well as currently externalized costs, and increase economic benefits for disproportionately impacted communities wherever possible.*
  - b. *Principle 6: Building Resilience—GHG reduction strategies should improve resilience and quality of life for disproportionately impacted communities.*

**E. Colorado Department of Transportation (CDOT) directives and initiatives include:**

- [Senate Bill 21-260](#) states that CDOT should “*consider the role of land use in the transportation planning process and develop strategies to encourage land use decisions that reduce vehicle miles traveled and greenhouse gas emissions*”.
  - [GHG Transportation Planning Standard](#): The GHG rulemaking process identified land use patterns as a strategy to reduce VMT and GHG emissions.
  - [Conserving Colorado’s Big Game Migration Corridors and Winter Range Executive Order \(D 2019 011\)](#) - “*CDOT shall enable safe wildlife passage and reduce wildlife-vehicle collisions, and incorporate consideration of big game migration into all levels of its planning process, to the greatest extent possible (Directive D); Consider incorporating big game migration and associated conservation measures into planning processes in locations where regulatory processes do not currently formally require wildlife mitigation measures (D.1)*”
- F. [Affordable Housing Transformational Task Force](#): The Governor and General Assembly formed the Affordable Housing Transformational Task Force and Subpanel to develop recommendations in 2021 for how to spend \$400M in unallocated ARPA funds to improve access to affordable housing statewide. Comprised of legislators, executive branch representatives, and diverse affordable housing practitioners and experts, the Task Force and Subpanel undertook a deliberative, iterative, and transparent process to identify recommended investments, including the Strong Communities grant program discussed in this report.

## APPENDIX C - SUMMARY OF LAND USE POLICIES IN OTHER STATES

The following provides a summary of land use policies and programs identified from other states. Note that the intent of this section is as a research effort to survey the landscape of policies in other states and not a recommendation or endorsement of these policies for Colorado.

### A. Summary of land use policies and programs in other states

Other states have sought to achieve a variety of goals, including affordability, fair housing outcomes, reduced state infrastructure costs, fiscal benefits for municipalities, water conservation, air pollution and greenhouse gas emissions reductions, and more. The sections and tables below summarize the types of policies and programs surveyed, and examples of each.

#### I. Land use reform incentives

The following table details programs that utilize incentives to encourage local jurisdictions to enact land use reform. These programs differ in several ways, including what communities need to do to access incentives, what the incentives (or disincentives are), and how programs are tailored to different types of communities.

Type	Description	Examples
<b>Competitive grant programs for communities that reform zoning or meet other criteria</b>	These programs are competitive grant programs that fund infrastructure, housing, or other needs for communities that reform zoning or implement other strategies to address housing affordability or other goals.	<ul style="list-style-type: none"> <li>● CO – HB 21-1271</li> <li>● CA - Infill Infrastructure Grant Program</li> <li>● MN - Livable Communities Act</li> </ul>
<b>Limiting state funding to communities or areas that meet criteria</b>	These programs restrict key state funding like transportation funds or eligibility for multiple grant programs, to communities or areas within communities that meet certain criteria. Some of the programs "pre-certify" communities for eligibility for specific funding programs. Others restrict state funding on infrastructure projects to designated infill or priority development areas.	<ul style="list-style-type: none"> <li>● CA - Prohousing Designation Program</li> <li>● MA - Housing Choice Initiative</li> <li>● MD - Priority Funding Areas Act</li> <li>● UT - SB 34/SB 164 Affordable Housing Modifications</li> <li>● NY - State Smart Growth Public Infrastructure Policy Act</li> </ul>
<b>Compensating communities for upzoning and housing development in upzoned areas</b>	In these programs, communities receive payment when they voluntarily create an overlay zone that meets standards on unit density per acre, affordability, and location (e.g., near downtown, transit, and/or existing infrastructure). They also receive payment per unit when they permit building in that zone.	<ul style="list-style-type: none"> <li>● CT - Housing Program for Economic Growth</li> <li>● MA Chapter 40R - Smart Growth Zoning and Housing Production Act</li> </ul>

## II. Zoning Reform

These state-level policies seek to reform local zoning in limited ways to achieve certain affordability, economic, and environmental goals. In some cases, their applicability is limited to communities of a certain size or other threshold. This category includes several older state-level policies, such as Massachusetts' Chapter 40B, as well as many newer policy innovations that have occurred in the last few years, such as many bills authorizing construction of accessory dwelling units, bills authorizing middle density housing such as duplexes and triplexes in Oregon and California, and bills requiring higher density zoning in transit-oriented development (TOD) areas.

Type	Description	Examples
<b>Legalizing accessory dwelling units (ADUs)</b>	These policies enable ADUs to be built by-right in single-family and other designated districts statewide in communities of a certain size, and address other barriers to adding or permitting ADUs such as occupancy limits, setbacks, and other restrictions.	<ul style="list-style-type: none"> <li>• CA - ADU Reform bills</li> <li>• CT - HB 1607</li> <li>• OR - SB-1051</li> <li>• UT - HB 82 - IADU Bill</li> <li>• VT - SB 237</li> <li>• WA - Housing Policy Act</li> </ul>
<b>Legalizing middle housing</b>	These policies enable duplexes, triplexes, fourplexes, and other so-called "middle housing" to be built by-right in single-family and other designated districts statewide, in communities of a certain size.	<ul style="list-style-type: none"> <li>• CA - SB9</li> <li>• OR - HB 2001 (Housing Choices / Middle Housing Legalization)</li> </ul>
<b>Legalizing TOD</b>	Policies of this category require local jurisdictions with transit service to create a zone of minimum density within a certain distance of a transit station (or make this an option in a menu of strategies to comply).	<ul style="list-style-type: none"> <li>• MA - Housing Choice and MBTA Communities Legislation</li> <li>• NV - NRS 278.235</li> </ul>
<b>Requirements related to affordability</b>	Policies in this category include a variety of approaches to increasing housing affordability, including requiring provision of density bonuses to affordable housing developments, requiring selection from a menu of affordability strategies, and requiring approval of affordable housing when less than 10% of a community's housing is affordable.	<ul style="list-style-type: none"> <li>• CA - SB 744</li> <li>• CA - Housing Crisis Act</li> <li>• CT - Affordable Housing Land Use Appeals Act</li> <li>• MA - Chapter 40B</li> <li>• NV - NRS 278.235</li> </ul>
<b>Unrelated occupancy limits reform</b>	These policies or court decisions prevent local zoning codes from restricting occupancy based on the number of unrelated occupants. Such restrictions can prevent bedrooms from being utilized and unmarried couples, blended families, elderly residents, and low-income people from sharing homes.	<ul style="list-style-type: none"> <li>• CA, MI, NJ, NY - Court decisions overturning occupancy limits</li> <li>• IA - House File 134</li> <li>• WA - SB 21-5235</li> <li>• OR - HB 21-2583</li> </ul>

**Additional analysis of these laws:** In California, between 2018 and 2019 (when ADUs were legalized statewide), ADU permits increased from almost 6,000 to almost 16,000, and ADU completions more than tripled from 2,000 to almost 7,000. In California, an analysis by UC Berkeley's Terner Center concluded that California's law allowing duplexes in single-family zones would make 700,000 new homes feasible statewide, increase the feasibility of redevelopment from a current level of 20% to 22% of single-family lots and increase projected new development by 40% in these zones.<sup>48</sup> Factors that limited the amount of housing created from these laws include the economic feasibility of small-scale development on small lots, regulatory hurdles like historic districts, a prohibition in the California law on redeveloping renter-occupied units, and the questionable legality of over-riding HOA covenants. As noted on the State of Oregon website after the passage of a "re-legalization of middle housing", the state "expects the transformation of housing choices to be gradual. Cities have allowed some of these housing types in certain areas for decades. Not many have been built. Local knowledge of how to build these housing types will grow over time. The building of them will depend on local housing markets, likely led by small-scale, local builders and contractors."<sup>49</sup>

### III. Additional supportive policies

Many states have adopted a variety of additional policies and programs to advance their land use goals that often are complementary to other strategies summarized above. This category includes a variety of strategies that, for example, ensure planning for sufficient housing, remove regulatory barriers, and provide technical assistance to local jurisdictions.

Type	Description	Examples
<b>Housing planning and reporting</b>	These policies generally set statewide targets for estimated housing needs, allocate those targets regionally/locally, and require or incentivize local jurisdictions to plan for housing of different affordability levels to meet those needs. These policies also generally require regular reporting on implementation.	<ul style="list-style-type: none"> <li>● CA - Regional Housing Needs Allocation and Housing Accountability Act</li> <li>● UT - SB 34/SB 164 Affordable Housing Modifications</li> <li>● MN - Livable Communities Act</li> <li>● NV - NRS 278.235</li> </ul>
<b>Parking / transportation planning reform</b>	These policies reform parking requirements for new development or how transportation planning for new development is done to better prioritize multimodal access.	<ul style="list-style-type: none"> <li>● CA - SB 744</li> <li>● CA - SB 743</li> <li>● OR - Parking Reform for Middle Housing</li> </ul>
<b>Technical assistance programs</b>	These programs provide technical assistance to communities to access incentives or comply with rules/regulations.	<ul style="list-style-type: none"> <li>● MA - Planning for Housing Production Program</li> <li>● MA - Housing Choice Initiative</li> <li>● CT - Housing Program for Economic Growth</li> </ul>
<b>Leveraging public land</b>	These policies mandate reporting and other requirements for publicly owned land to be leveraged for affordable housing development and other public goals.	<ul style="list-style-type: none"> <li>● CA - Surplus Land Act and recent reforms (AB 1255, AB1486, SB6)</li> </ul>

<sup>48</sup> [Will Allowing Duplexes and Lot Splits on Parcels Zoned for Single-Family Create New Homes? Terner Center for Housing Innovation, UC Berkeley \(2021\).](#)

<sup>49</sup> [Housing Choices \(House Bill 2001\) : Urban Planning : State of Oregon](#)

<b>Removing regulatory barriers</b>	Some of these policies seek to lessen the time, cost, or other barriers to housing development approvals. Others enable local jurisdictions to utilize tools such as inclusionary zoning or linkage fees.	<ul style="list-style-type: none"> <li>● CA - SB35</li> <li>● CA - SB10</li> <li>● CA - Housing Crisis Act</li> <li>● OR - SB-1051</li> <li>● NV - NRS 278.235</li> </ul>
<b>Developer incentives</b>	These policies provide incentives directly to developers (as opposed to local jurisdictions) for developing in TOD or other resource efficient locations.	<ul style="list-style-type: none"> <li>● IL - Business Location Efficiency Incentive Act</li> <li>● NJ - Urban Transit Hub Tax Credit</li> </ul>

#### ***IV. Dispersed development-limiting policies***

Policies in this category were enacted with the intention to limit low density, auto-oriented development in agricultural lands and open space, and encourage higher density development in already-developed areas with existing infrastructure. They include a variety of strategies, including state-level permitting processes for large developments (e.g., Vermont’s Act 250), establishing urban growth boundaries (e.g., Oregon’s Senate Bill 100), or setting regional greenhouse gas targets for land use and transportation plans (e.g., California’s Senate Bill 375).

#### ***V. State case studies***

Many states utilize a variety of strategies that work together to achieve different land use goals. The following case studies provide some examples of how other states have developed a portfolio of strategies to achieve affordability and sustainable development objectives.

**Utah:** Utah has passed a number of bipartisan bills in recent years, primarily intended to address their growing housing affordability issues:<sup>50</sup>

- **Housing planning and reporting:** Adopted in 2019, SB 34 requires communities of a certain size to develop a moderate income housing (MIH) plan as part of their general plan and report annually on implementation to remain eligible for state transportation investments. The Land Use element of general plans must now consider location of land for housing for residents of various income levels.
- **Menu of options:** SB 34 also requires jurisdictions to pick from a "menu" of land use reform and housing affordability strategies to remain eligible for state transportation investments. SB 164 ratcheted up the criteria, requiring applicable jurisdictions to select four strategies from the menu (up from three) and jurisdictions along transit lines to select five.
- **Legalizing ADUs:** Utah’s HB 82 legalized internal and attached ADUs, established a loan program for ADUs, tries to prevent short term rentals in ADUs, prevents HOAs from prohibiting ADUs, and prohibits regulation of ADU size, frontage, setbacks. It also allows most cities to exempt a quarter of their residential zones from ADU requirements, and gives authority to license and regulate ADUs in limited ways in the remaining locations.

<sup>50</sup> Utah [SB0034](#); [S.B. 164 Utah Housing Affordability Amendments](#); Utah [HB0082](#); [HB 82 Single-family Housing Modifications \(Rep. Ray Ward, Sen. Jake Anderegg\)](#)

**Nevada:** Nevada's Sub-section NRS 278.235 has been amended over time, and includes a variety of housing affordability requirements for jurisdictions in the state's two most populous counties, Clark and Washoe.<sup>51</sup>

- **Housing planning and reporting:** NRS 278.235 requires jurisdictions in these counties to adopt a Housing Plan as a part of their Master Plan, and report on progress annually. The Housing Plan must inventory housing conditions, project future needs and demands, and adopt strategies to provide for all forms of housing, including affordable housing.
- **Menu of options:** NRS 278.235 also requires jurisdictions to adopt 6 out of 12 measures from a menu to maintain and develop affordable housing and report on implementation of those measures each year. Measures include, for example, providing density bonuses for affordable housing, supporting affordable housing in transit-oriented development, and discounting public land for use in developing affordable housing.
- **Affordability funding and requirements:** More recently, legislators also amended NRS 278.235 to enable local jurisdictions to implement linkage fees, inclusionary zoning, and in-lieu fees for affordable housing.

**Massachusetts and Connecticut:** Massachusetts and Connecticut have some similar state land use policies and programs, including long-standing affordability requirement statutes and land use reform incentive programs. They also each have some unique elements, including recent ADU legalization legislation in Connecticut, and TOD legalization in Massachusetts.

- **Affordability requirements:** In Massachusetts, Chapter 40B is a state statute that enables a local zoning board of appeals (ZBA) to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions.<sup>52</sup> It also allows the local ZBA to authorize waivers to existing land use regulations if less than 10% of the municipality's housing stock is affordable. Since its passage in 1969, approximately 70,000 units have been produced under Chapter 40B, 35,000 of which are restricted to households making less than 80% of the area median income (AMI).<sup>53</sup>

Connecticut's Affordable Housing Land Use Appeals Act is similar to Chapter 40B, and states that municipalities should ensure at least 10% of their housing stock is affordable to lower-income households, or else developers may seek approvals for affordable or mixed-income developments even when they do not meet a property's zoning regulations.<sup>54</sup>

- **Land use reform incentives:** Under Massachusetts' Chapter 40R, communities are directly paid for zoning for and permitting location efficient development. Municipalities receive a zoning incentive payment of \$10,000–\$600,000 when they create a 40R overlay followed by a bonus unit payment of \$3,000 per unit permitted. District overlays are required to be in an eligible location (e.g., within a half mile of transit), have adequate infrastructure, must allow

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<sup>51</sup> Nevada [NRS 278.235](#); Nevada [NRS 278.235 – Annual Housing Progress Report](#). February 16, 2021.

<sup>52</sup> [Chapter 40B Planning and Information | Mass.gov](#)

<sup>53</sup> [Planning & Programs - Chapter 40B & MassHousing](#)

<sup>54</sup> [Chapter 126a - Affordable Housing Land Use Appeals](#); [Summary of CGS § 8-30g, Connecticut's Affordable Housing Land Use Appeals Act For the North Stonington Affordable Housing Committee](#)

housing to be built as-of-right at densities of at least 8-20 units per acre, and develop at least 20% of the units to be affordable. Since 2004, when Chapter 40R was passed, over 15,000 units have been zoned and 3,500 homes have been built in 40R districts.<sup>55</sup>

Connecticut’s similar Housing Program for Economic Growth provides incentives for municipalities to voluntarily create Incentive Housing Zone overlays to allow more as-of-right higher-density, affordable housing development and/or streamlined permitting within the designated zones. The program also offers payments when housing is created in the overlay zones, and offers technical assistance to support communities to participate. Thus far, more than 70 municipalities have taken part in the program all across the state.<sup>56</sup>

- **Prioritizing state funding:** Massachusetts’ Housing Choice Designation rewards communities that are producing new housing and have adopted best practices to promote sustainable housing development.<sup>57</sup> Housing Choice designation provides exclusive access to certain grant programs and priority for other funding. Communities earn the designation by either being a "high production" community (demonstrated increase in housing stock by at least 5% or 500 units over 5 years) or "production and planning" (for communities with 3% or 300 unit increases over 5 years, must also meet 5 of 11 best practices). Technical assistance is also available to help municipalities to achieve Housing Choice status.
- **Authorizing ADUs:** Approved in 2021, Connecticut’s HB 6107 authorizes ADUs on all one-unit lots. ADUs can be up to 1,000 square feet or 30 percent of the size of the primary home, whichever is less, and can’t be required to have more than one on-site parking space of their own. Local jurisdictions may opt out if two-thirds of the planning or zoning commission and two-thirds of the city council agree by 2023.
- **Legalizing TOD:** Massachusetts recently passed legislation requires all communities with MBTA stations to “have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right.”<sup>58</sup> The statute also requires these districts to have a minimum density of 15 units per acre, and be located within 0.5 miles from a commuter rail, subway, bus, or ferry station.
- **Technical assistance:** Massachusetts’ Planning for Housing Production Program assists municipalities in achieving and exceeding Chapter 40B’s 10% affordable housing goal, through financial support to reform zoning, plan infrastructure improvements needed to support housing, and provide public education and data transparency around development needs, feasibility, and cost-benefit analysis.<sup>59</sup>

The following table lists policies and programs from other states with links:

State	Policy or Program	Brief Description
UT	<a href="#">HB 82</a>	Approved in 2021 HB 82 legalizes internal/attached ADUs, establishes a loan program for ADUs, tries to prevent short-term rentals in ADUs, prevents HOAs from prohibiting ADUs, and prohibits

<sup>55</sup> [The Use of Chapter 40R in Massachusetts](#)

<sup>56</sup> [Incentive Housing Zone \(IHZ\) Program](#)

<sup>57</sup> [Housing Choice Initiative](#)

<sup>58</sup> [Housing Choice and MBTA Communities Legislation](#)

<sup>59</sup> [Planning & Programs - Planning for Housing Production](#)

		regulation of ADU size, frontage, setbacks. It also allows most cities to exempt a quarter of their residential zones from this requirement, and gives them authority to license and regulate ADUs.
UT	<a href="#">SB 34/SB 164</a> Affordable Housing Modifications	Approved - 2019 (SB34), updated - 2021 (SB164). Under SB 34, communities of a certain size and other criteria are required to develop a moderate income housing (MIH) plan as part of their general plan and report annually on implementation to remain eligible for state transportation investments. SB 34 also requires jurisdictions to pick from a "menu" of land use reform and pro-housing strategies. SB 164 ratcheted up the criteria, requiring applicable jurisdictions to select four strategies from the menu (up from three) and jurisdictions along transit lines to select five.
NV	<a href="#">NRS 278.235</a>	NRS 278.235 requires jurisdictions in Clark and Washoe Counties to adopt a Housing Plan as a part of the jurisdiction's Master Plan, and report on progress annually. The plan is required to inventory housing conditions, project future needs and demands, and adopt strategies to provide for all forms of housing, including affordable housing. It also requires adoption of 6 out of 12 measures from a menu to maintain and develop affordable housing; measures include providing density bonuses for affordable housing and discounting public land for use in developing affordable housing. More recently, NRS 278.235 was updated to enable local jurisdictions to implement linkage fees, inclusionary zoning, and in-lieu fees for affordable housing.
IA	<a href="#">House File 134</a>	Approved in 2017, House File 134 removes a city's power to enforce occupancy limits in residential rental properties based on family or non-family relationships between tenants.
NE	<a href="#">Municipal Density and Missing Middle Housing Act</a>	The provisions require cities with populations greater than 20,000 to submit a report every two years detailing their efforts to incentivize affordable housing. All cities with populations greater than 50,000 will be required to adopt an affordable housing action plan by Jan. 1, 2023, and all cities with populations between 20,000 and 50,000 will be required to adopt an affordable housing action plan by Jan. 1, 2024. The bill also creates the Middle Income Housing Investment Fund to support development of workforce housing in Nebraska counties of 100,000 or more residents. If a city does not adopt an affordable housing action plan, the new legislation would require the municipalities to adhere to a default plan that would effectively end single-family zoning, allowing Missing Middle Housing in all currently single-family zoned areas.
MN	<a href="#">Livable Communities Act</a>	Approved in 1995, the Livable Communities Act provides funding for communities to invest in local economic revitalization, workforce housing initiatives, and development or redevelopment that connects different land uses and transportation. The program is a voluntary, incentive-based approach to help communities grow and redevelop, and to address the region's affordable and lifecycle housing needs. To compete for funding, communities must negotiate long-term affordable and lifecycle housing goals and develop a Housing Action Plan to accomplish these goals.
MD	<a href="#">Priority Funding Areas Act</a>	Approved in 1997, this law directs state spending to Priority Funding Areas (PFAs). Growth-related projects covered include highways, sewer and water construction, economic development assistance and state leases or construction of new office facilities. Certain areas automatically qualify as PFAs, such as urbanized areas, enterprise zones, neighborhood revitalization areas, heritage areas, and existing industrial land, and local governments can also designate priority funding areas that meet certain guidelines, including density standards.
ME	<a href="#">LD 2003</a>	Implements several recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, including setting statewide housing production goals, requiring the allowance of increased density for affordable housing projects, and legalizing up to four units in single family zones.
WA	<a href="#">Housing Policy Act</a>	One of the many provisions of the Housing Policy Act required every Washington city of 20,000 or more, counties with a population over 125,000, and counties that plan under the Growth Management Act (GMA) to legalize on-site ADUs. However, implementation has been limited due to several restrictions on occupancy, renting, and more.
WA	<a href="#">SB 21-5235</a>	Cities, towns, code cities, and counties may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit except for any occupant limits on group living arrangements regulated under state law or on short-term rentals and any lawful limits on occupant

		load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance.
CA, MI, NJ, NY	<a href="#">Court decisions re: occupancy limits</a>	Several state courts have ruled occupancy limits to be unconstitutional. See Santa Barbara v. Adamson (1980, California) which overturned California occupancy limits on a privacy argument; Charter Township of Delta v. Dinolfo (1984, Michigan) which overturned Michigan's occupancy limits on a rational basis test; and State of NJ v. Baker (1979, New Jersey) which overturned New Jersey occupancy limits on a rational basis test.
CT	<a href="#">HB 6107</a>	Approved in 2021, HB 6107 legalizes ADUs on all one-unit lots. ADUs can be up to 1,000 square feet or 30 percent of the size of the primary home, whichever is less, and can't be required to have more than one on-site parking space of their own. Local jurisdictions may opt out if two-thirds of the planning or zoning commission and two-thirds of the city council agree by 2023.
CT	<a href="#">Affordable Housing Land Use Appeals Act</a>	Approved in 1990, the Affordable Housing Land Use Appeals Act is similar to Massachusetts' Chapter 40B, and states that municipalities should ensure at least 10% of their housing stock is affordable to lower-income households, or else developers may seek approvals for affordable or mixed-income developments even when they do not meet a property's zoning regulations.
CT	<a href="#">Housing for Economic Growth Program</a>	This program provides incentives for municipalities to voluntarily create Incentive Housing Zone overlays to allow more as-of-right higher-density, affordable housing development and/or streamlined permitting within the designated zones. The program also offers payments when housing is created in the overlay zones, and offers technical assistance to support communities to participate. Thus far, more than 70 municipalities have taken part in the program. <sup>60</sup>
IL	<a href="#">Business Location Efficiency Incentive Act</a>	Approved in 2006, the Business Location Efficiency Incentive Act authorized companies applying for certain economic development tax credits to seek increased tax credits if the company's proposed site is located in an area that capitalizes on affordable workforce housing or accessible transit. The company could also receive the tax credit if it submitted a remediation plan to improve housing or access to mass transit, or the company's project is located in labor surplus areas.
MA	<a href="#">Chapter 40B</a>	In Massachusetts, Chapter 40B is a state statute that enables a zoning board of appeals (ZBA) to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions. It also allows the local ZBA to authorize waivers to existing land use regulations if less than 10% of the municipality's housing stock is affordable. Since its passage in 1969, approximately 70,000 units have been produced under Chapter 40B, 35,000 of which are restricted to households making less than 80% of the area median income (AMI). <sup>61</sup>
MA	<a href="#">Chapter 40R - Smart Growth Zoning and Housing Production Act</a>	Under Massachusetts' Chapter 40R, communities are directly paid for zoning for and permitting smart growth development. Municipalities receive a zoning incentive payment of \$10,000–\$600,000 when they create a 40R overlay followed by a bonus unit payment of \$3,000 per unit when developments receive building permits. District overlays are required to be in an eligible location (e.g., within a half mile of transit), have adequate infrastructure, must allow housing to be built as-of-right at densities of at least 8-20 units per acre, and develop at least 20% of the units to be affordable. Since 2004, when the state law Chapter 40R was passed authorizing incentives to encourage municipalities to zone for dense developments in smart growth locations, over 15,000 units have been zoned and 3,500 homes have been built in 40R districts. <sup>62</sup>
MA	<a href="#">Housing Choice and MBTA Communities Legislation</a>	This policy requires all communities with MBTA stations to "have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right." The statute also requires these districts to have a minimum density of 15 units per acre and be located within ½ mile of a commuter rail, subway, or bus station.
MA	<a href="#">Housing Choice Initiative</a>	A Housing Choice Designation rewards communities that are producing new housing and have adopted best practices to promote sustainable development. Housing Choice designation

<sup>60</sup> [Incentive Housing Zone \(IHZ\) Program.](#)

<sup>61</sup> [Planning & Programs - Chapter 40B & MassHousing.](#)

<sup>62</sup> [The Use of Chapter 40R in Massachusetts.](#)

		provides exclusive access to certain grant programs and priority for other funding. Communities earn the designation by either being a "high production" community (demonstrated increase in housing stock by at least 5% or 500 units over 5 years) or "production and planning" (for communities with 3% or 300 unit increases over 5 years, must also meet 5 of 11 best practices). Technical assistance is also available to help municipalities to achieve Housing Choice status.
MA	<a href="#">Planning for Housing Production Program</a>	The Planning for Housing Production Program assists municipalities in achieving and exceeding Chapter 40B's 10% affordable housing goal, through financial support to reform zoning, plan infrastructure improvements needed to support housing, and provide public education and data transparency around development needs, feasibility, and cost-benefit analysis.
NJ	<a href="#">Urban Transit Hub Tax Credit</a>	In 2008, the state legislature directed the New Jersey Commerce Commission to designate areas in a one-half mile radius around rail stations in nine communities as "urban transit hubs." A business that invests \$50 million of qualified capital in a business facility in an urban transit hub and employs at least 250 people at that facility may qualify for tax credits equal to 100% of the qualified capital investment that may be applied against corporation business tax, insurance premiums tax or gross income tax liability. Since the creation of the Urban Transit Hub Tax Credit Program, 19 projects have been approved for a total benefit of more than \$1 billion.
NY	<a href="#">State Smart Growth Public Infrastructure Policy Act</a>	This policy limits a state agency from financing an infrastructure project unless it is consistent with state smart growth public infrastructure criteria. These criteria include fostering mixed uses and compact development, diversity and affordability of housing near employment, recreation and commercial development, and integration of all income and age groups; maintenance or improvement of existing infrastructure; and providing mobility through transportation choices.
OR	<a href="#">HB 2001</a>	Approved in 2019, HB 2001 requires cities over 10,000 people or within Metro to allow duplexes in lands zoned for single-family within the urban growth boundary. It also requires Metro counties and cities and cities with populations greater than 25,000 to allow middle housing (i.e., triplexes, fourplexes, attached townhomes, and cottage clusters) in lands zoned for residential uses.
OR	<a href="#">Parking Reform for Middle Housing</a>	State rules related to HB 2001 also reduced parking requirements for middle-housing projects. For example, lots less than 3,000 square feet can't be required to have more than one parking space for the first four attached homes.
OR	<a href="#">SB 100</a>	Oregon passed SB 100 in 1973 to limit sprawl into farmland, and establish statewide planning processes. It required cities to create urban growth boundaries, while also requiring comprehensive plans and planning for sufficient housing capacity.
OR	<a href="#">SB 1051</a>	SB 1051 requires jurisdictions of a certain size to review and decide on affordable housing applications within 100 days; establishes standards of review for certain housing developments within the urban growth boundary; prohibits a jurisdiction from denying applications for housing development that complies with clear and objective standards; prohibits reducing density or height if application is at or below authorized density for zone; legalizes ADUs in jurisdictions of a certain size; requires allowing places of worship to use property for affordable housing; and requires local government to annually report information about affordable housing development applications.
OR	<a href="#">HB 21-2583</a>	Prohibits establishment or enforcement of occupancy limits based on familial relationships on residential dwelling units by public bodies.
VT	<a href="#">SB 237</a>	Approved in 2020, this bill permits one ADU for each owner-occupied single-family dwelling by right, reforms minimum lot sizes, prohibits a municipality from denying up to a four-unit building based solely on neighborhood character, and enables local short term rental regulation.
VT	<a href="#">Act 250</a>	Act 250 was adopted in 1970 and requires certain kinds of development and subdivision activity (generally larger developments) to apply for a state permit. Regional environmental commissions review projects through the lens of 10 criteria. Act 250 discourages scattered development by requiring a project to be contiguous to existing settlements unless the tax revenue generated by the development exceeds the additional cost of public services for the project.

CA	<a href="#">SB 744</a>	Approved in 2015 and updated in 2021, this policy reduces parking requirements for some affordable housing projects, in addition to establishing density bonuses.
CA	<a href="#">SB 743</a>	This policy, first approved in 2013, moves the state away from a focus on roadway level-of-service to a focus on vehicle miles traveled impacts in assessing transportation impacts under the California Environmental Quality Act (CEQA), which effectively supports infill development.
CA	<a href="#">SB 375</a>	SB 375 requires each MPO to include a “Sustainable Communities Strategy” in the regional transportation plan that demonstrates how the region will meet greenhouse gas emission targets via land use and transportation investments. State transportation funds can be used to support growth in infill and transit-oriented locations.
CA	<a href="#">ADU Reform bills</a>	Over the years, California has passed several bills that aim to enable and streamline ADU development statewide by, for example, eliminating the ability to require owner occupancy, streamlining approvals and permitting, and creating a compliance pathway for unpermitted ADUs. Between 2018 and 2019, ADU permits increased from almost 6,000 to almost 16,000, and ADU completions more than tripled from 2,000 to almost 7,000. <sup>63</sup>
CA	<a href="#">Regional Housing Needs Allocation and Housing Accountability Act</a>	The state assigns regional housing targets to regional planning agencies, who then allocate the housing need amongst all of the jurisdictions within that region. A city’s allocation is divided into four categories based on income and affordability levels. A municipality must include a Housing Element in their General Plan that plans for the housing allocated to their city, which becomes the guide to make changes to their zoning. The Housing Element also must include a site inventory of parcels suitable for housing development to meet their need. The Housing Accountability Act establishes limitations to a local government’s ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need.
CA	<a href="#">SB 35</a>	SB 35 requires local entities to streamline the approval of certain housing projects by providing a ministerial approval process. SB 35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goals for affordable housing.
CA	<a href="#">Housing Crisis Act</a>	The 2019 Housing Crisis Act restricted cities of a certain size and location (within urbanized areas) from enacting certain development standards through 2025, such as downzoning, moratoria on housing/mixed-use development, and limiting approvals or permits issued.
CA	<a href="#">SB 10</a>	Approved in 2021, SB 10 enables jurisdictions to rezone neighborhoods for increased density, up to ten homes per parcel, and exempts that zoning action from being considered a project under the California Environmental Quality Act. To be eligible for this local action, an area must be urban infill, near high quality public transportation, or a job rich area. Local governments can choose whether the individual projects will be approved by right or subject to discretionary approval.
CA	<a href="#">Surplus Land Act and recent reforms</a> : AB 1255, AB 1486, SB 6	Collectively these policies require cities, counties, and other local agencies to report an inventory of surplus lands in urbanized areas, requires local governments to include specified information about surplus lands in their housing elements and annual progress reports, and requires the state to create a public inventory of local and state sites suitable for residential development.
CA	<a href="#">Prohousing Designation Program</a>	Local governments can receive this designation by implementing Prohousing policies and receive an advantage when applying for several funding programs. Examples include compliance with state laws on rezoning, streamlining and reducing costs for permitting, permitting missing middle housing, reforming parking requirements, and providing financial subsidies for housing. Prohousing communities get preference in the scoring of competitive housing, community development, and infrastructure programs.

<sup>63</sup> [Chapple, Karen, et al. "Reaching California's ADU Potential: Progress to Date and the Need for ADU Finance." Turner Center for Housing Innovation, UC Berkeley \(2020\).](#)

CA	<a href="#">Affordable Housing and Sustainable Communities grant program</a>	The AHSC Program provides grants and/or loans to achieve GHG emissions reductions and benefit Disadvantaged Communities. The program funds projects in Transit Oriented Development (TOD) Project Areas, Integrated Connectivity Project Areas, or Rural Innovation Project Areas, and can fund affordable housing developments, housing-related infrastructure, sustainable transportation infrastructure, and more. Prohousing designee communities get an advantage.
CA	<a href="#">Infill Infrastructure Grant Program</a>	The Infill Infrastructure Program provides financial assistance for Capital Improvement Projects that are necessary to facilitate the development of a Qualifying Infill Project or a Qualifying Infill Area. Funds are allocated through a competitive process, and selection criteria include project readiness, affordability, density, access to transit, proximity to amenities, and consistency with regional plans. Prohousing designee communities get an advantage.
CA	<a href="#">SB 9</a>	Approved in 2021, SB 9 legalizes duplexes on single-family lots in urbanized areas without a discretionary review or hearing, and legalizes "urban lot splits" within city limits, down to a minimum size of 1,200 sq ft each. Local governments must prohibit short-term rentals in units produced through SB 9. UC Berkeley researchers estimate SB 9 could "enable the creation of over 700,000 new homes that would otherwise not be market feasible." <sup>64</sup>

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<sup>64</sup> [Will Allowing Duplexes and Lot Splits on Parcels Zoned for Single-Family Create New Homes? Turner Center for Housing Innovation, UC Berkeley \(2021\).](#)