



National Association of Home Builders

1201 15th Street NW
Washington, DC 20005

T 800 368 5242
F 202 266 8400
email@nahb.org

www.nahb.org

White House Housing Development Toolkit 2016

The White House on Sept. 26 released a [Housing Development Toolkit](#) that highlights regulatory barriers to housing development and outlines tools and strategies so local governments can diminish the impact these barriers have on housing production and affordability.

NAHB staff reviewed the document and wrote a blog for [NAHB Now](#) on Sept. 27. A more extensive review of the document is provided below.

This is an unprecedented action from the White House, as land use planning has always been a local issue, with occasional and albeit increasing direction from the federal level in the form of grant funding and technical assistance, and of course a myriad of environmental laws that affect land development.

Most of this 22-page report focuses on the nature and current status of the affordability problem and how zoning, regulation and the development review and approval process contribute to that.

There is an overall theme of reduction of regulatory burdens throughout the document. Over the past three decades, local barriers to housing development have intensified— including zoning and land use regulations, environmental protections, laws to exclude multifamily, off-street parking requirements, preservation regulations, residential conversion restrictions, and a lengthy development approval process combined with a slow permitting process.

The accumulation of these policies has reduced the ability of housing markets to respond to demand, and an undersupplied housing market jeopardizes housing affordability. Localities need to modernize their approach to housing development regulation to increase affordability while strengthening their economies.

The White House's research found that since 1960, the share of renters paying more than 30% of their income on rent has more than doubled, from 24% to 49%. Over that same time period, household incomes increased by 18%, but inflation-adjusted rents rose by 64%.

On a related note, the report states that a lack of housing construction affects construction and construction-related jobs, reduces potential for increased local tax revenue and is a drag on national economic growth. Building more housing equals more jobs, higher tax revenue and lower home prices. But how do you increase supply within the regulatory framework that has been implemented over the past 30 years?

The strategies section is only five pages long and covers 10 strategies. Each discussion is very brief and high level, with occasional examples from local communities. Overall, the strategies list is good and includes approaches NAHB supports, *except* for inclusionary zoning. That said, NAHB's resources include a broader range of strategies and detail on them, including where they have been used effectively.

Interestingly, the report does not cite any NAHB resources or reports, including the Cost of Regulations piece or our priced-out index, even though it looks at both of these issues extensively. There is also no specific mention of the effects of land cost and lot availability on affordability, which is another significant factor contributing to increasing cost of housing.

The White House toolkit list of strategies, with NAHB comments provided on each, are:

- 1. Establish by-right development.** It is good to see that the toolkit mentions the NIMBY (not in my backyard, citizen resistance) issue, which is a barrier that affects builders and developers who try to build affordable housing, and sometimes any housing at all. The report cites the related controversy and delay that this adds to the overall cost. Since NIMBY response and the development review process today often force developments into case-by-case reviews, allowing development "by right" can help smooth and speed up the process. A "use by right" is listed in a zoning ordinance as being permitted within a designated zoning district, which means it is not subject to special review and approval by a local government. But this works best if the zoning for the community has recently been updated, reducing the need for variances and special exceptions.

Overall, however, the report does not adequately address the NIMBY factor head on, which remains one of the biggest barriers to affordability, including implementation of many of the strategies recommended in the report.

- 2. Tax vacant land or donate it to non-profit developers.** Of concern is the suggestion to tax owners of vacant land to put it to best use. Some land owners (and builders) do purchase land and hold onto it until the market is right for sale or development. In urban infill locations, sometimes it takes time to accumulate parcels, as well. In general, taxing private landowners will also add to housing costs.

The more common scenario involves municipalities taking stock of vacant or underused land that they could contribute for affordable projects, to help bring the cost down. Here too, the White House report is unusual in suggesting that such donations be limited to nonprofit organizations. Yet there many examples across the country of vacant land being donated to for-profit developers (such as in one of our upcoming our affordable housing case study reports). For example, in Austin, specific development requirements tied to that donated land include provisions for a mix of unit types serving multiple income levels and community-serving amenities. Local governments bear the cost of these vacant properties both in the lack of taxes and blight in once-vibrant neighborhoods, so it can be a good solution for both sides.

- 3. Streamline or shorten permitting processes and timelines.** NAHB has a long history of exploring ways to streamline the development approval process and recently released a report—[Development Process Efficiency: Cutting through the Red Tape](#)—which offers examples of

developers, builders, land use officials and other stakeholders working together to improve the local development review and approval process and create a win-win for all parties. There are 25 strategies in our report just on this one issue.

4. **Eliminate off-street parking requirements.** These mandates waste developable land and reduce the potential for other amenities. The White House toolkit notes the significant cost of developing parking, from \$5,000 per surface parking spot to \$60,000 for underground. Aside from those two mentions of land and cost, the section mostly focuses on the car vs. transit connection. Additionally, the greenhouse emissions discussion on page 10 cites several reports, whose emphasis seems to be on the health-oriented benefits of reduced commuting.
5. **Enact high-density and multifamily zoning.** While the benefit of this strategy is pretty self-evident given how few communities adequately address density and multifamily, this goes hand-in-hand with administrative approval of by-right development and establishing density bonuses. These three strategies will not work as well on their own but will work well if implemented together.
6. **Allow accessory dwelling units.** Accessory dwelling units (ADUs) are small, self-contained living units that typically have their own kitchen, bedroom(s), and bathroom space. Also called granny flats, elder cottage housing opportunities, mother-daughter residences, or secondary dwelling units, ADUs can be apartments within the walls of a single-family home or an addition to an existing home. They can also be freestanding cottages on the same lot as the principal dwelling unit or a conversion of a garage or barn.

ADUs are a very good and increasingly recognized component of any comprehensive affordable housing strategy. They expand the available rental housing stock and provide additional housing options for an aging population, while increasing property values as well as incomes for single-family home owners.

7. **Establish Density Bonuses.** Density bonuses are always useful, because land costs are such a large component of housing costs. But implementing this incentive is not always achievable in today's development approval process, which involves extensive citizen input and resistance. All too often, the original allowable densities actually end up being decreased as a result of such NIMBY opposition and conditions imposed on development. Typical bonuses also don't begin to make up for the private sector's costs from inclusionary zoning mandates. This strategy also works best if implemented alongside other strategies.
8. **Employ Inclusionary Zoning.** Beyond the inclusion of inclusionary zoning (IZ) as a recommended strategy in and of itself, a particular concern is that the White House report implies that the [Massachusetts 40B program](#) is an IZ strategy, which it is not—it's a builders' remedy appeals process. The few IZ studies cited focus primarily on how it can enhance the educational attainment of children, not its effectiveness (or lack thereof) in producing affordable units.

9. **Establish development tax or value capture incentives.** This section doesn't really talk about value capture at all, just tax incentives for providing a certain percentage of affordable units. Additional incentives that could be explored include reduced or waived impact fees and other development fees as well as legislation to allow special districts and tax increment financing, which have been successfully used across the country to help finance affordable projects.
10. **Use Property Tax Abatements.** This section references abatements and exceptions, including tax abatements during the development stage. Additional economic development incentives could include financing assistance and tax redirection.

How Does this White House Toolkit Affect NAHB Members?

The toolkit reads like a call to action for municipalities to revise their 1970s-era zoning codes in the interest of increasing housing supply. This is an issue NAHB can absolutely support. In NAHB's ordinance review service to members and associations, staff regularly sees outdated plans and ordinances that are out of step with today's housing needs.

The writers of the White House report believe that in markets with high demand but currently inelastic supply, more modern housing approaches are likely to lead to more housing construction, including multifamily rental. Although much of that would likely be market-rate housing, its introduction would help slow cost growth in existing and otherwise affordable housing. This is also a tenet NAHB fundamentally supports.

That said, NAHB's experience in the private sector shows that it is more expensive to build near transit, especially affordable product. There is not always sufficient density to support transit, or demand for it either, given the sustained pattern of decentralizing employment in most metro areas over the last 60 years. Even the Brookings Institute has published reports noting that transit currently doesn't go where the people who need it most need it to go.

The report also mentions the benefits of states playing a bigger role in these local issues—*"a number of states have begun to take a more active role in reducing regulatory barriers. A strong baseline at the state level creates an even playing field for local land use decisions."* Not all of NAHB's members support this more top-down view of local planning.

In addition, although the White House report does not reference [HUD's Affirmatively Furthering Fair Housing Rule](#), which took effect in August 2015, there is an obvious connection. The rule requires states, local governments and public housing agencies to conduct a more formal, structured fair housing planning process than in the past as a condition of receiving federal funds. They must fulfill an obligation to combat housing discrimination and address housing disparities and access to opportunity (education, jobs, transportation, and housing). As a result, it is clear that the regulation will have an impact on community land use decisions.

Next Steps

The bottom line of the report is that the lengthy approval process has reduced the ability of many housing markets to respond to growing demand for housing at all income levels. There was a recent

[Washington Post blog post](#) that cited that the solution to the lack of affordable housing supply is to build more market rate housing. NAHB obviously agrees with this.

Because of the scope and complexity of the HUD AFFH rule's requirements and its potential impact on land use, it is important for builders and home builder associations to become involved in the community participation process as early as possible. [NAHB has many credentialed resources](#) detailing a wide array of strategies on how to enhance housing affordability and can leverage the White House Toolkit in its assistance to members and local associations on these issues, giving them tools to talk about a host of strategies with their local communities and how to implement them in a successful way that benefits both builders and community stakeholders.

Based on NAHB's research and experience, it is clear that there is no silver bullet, but that communities need to use many strategies in combination as part of a comprehensive housing affordability plan to address the diverse spectrum of housing need. Solutions need to embrace single-family as well as multifamily housing options.

NAHB will need to watch the parking/transit focus in the White House Toolkit, including for possible resurrection of the HUD/DOT Location Affordability Index, as well as the Local Housing Policy Grants mentioned in the report as an implementation mechanism, assuming they are funded. Whether the technical assistance is funded next year or not, this report is being circulated, and the tools and strategies may be implemented by communities in the absence of the grants. In fact, a Sept. 29 article in the Washington Post cites the report as being "the policy paper for which many urban planners have been waiting".

Additionally, sections of the toolkit discuss the disconnect between where people live and where they work and the lack of transit connections between the two. Breaking down regulatory barriers is obviously important, but NAHB can also focus on the idea of economic resilience by bringing jobs to existing bedroom communities. FEMA Administrator Craig Fugate spoke about economic resilience during the State of Resilience Leadership Forum and specifically mentioned the need to bring jobs to areas of high residential concentration outside of the urban core.

For more information, contact Debbie Bassert at dbassert@nahb.org or Claire Worshtil at cworshtil@nahb.org in NAHB's Land Use & Design Department.