

Are Aesthetic Mandates Putting New Homes Beyond Reach?

Bright shutters, warm brick, and other eye-pleasing elements can come with a hefty price tag. But they're not the only items driving up the cost of construction.

Taking a drive through any new housing development in Minnesota can feel a bit like visiting the set of *The Truman Show*. There are neat rows of homes faced with warm aprons of brick and stone; windows clad with cheery faux shutters; lush yards bordered by white picket fences where children play in the shade of freshly planted maple and pine trees. All that's missing is Jim Carrey's character, Truman Burbank, wishing the white-uniformed milkman a "good morning... good afternoon, good evening, and good night" before strolling off for another day in television paradise.

And for an increasing number of Minnesotans, owning a home in one of these newly built communities seems as far-fetched as living on Truman's idyllic "Seahaven Island." With statewide median home prices creeping past \$327,000 (as of November 2023), interest rates stubbornly hovering around 7%, and an ongoing inventory shortage, tens of thousands of aspiring home buyers are locked out of homeownership. Even with much needed down-payment assistance for first-generation homebuyers becoming available, there isn't enough affordable home inventory.

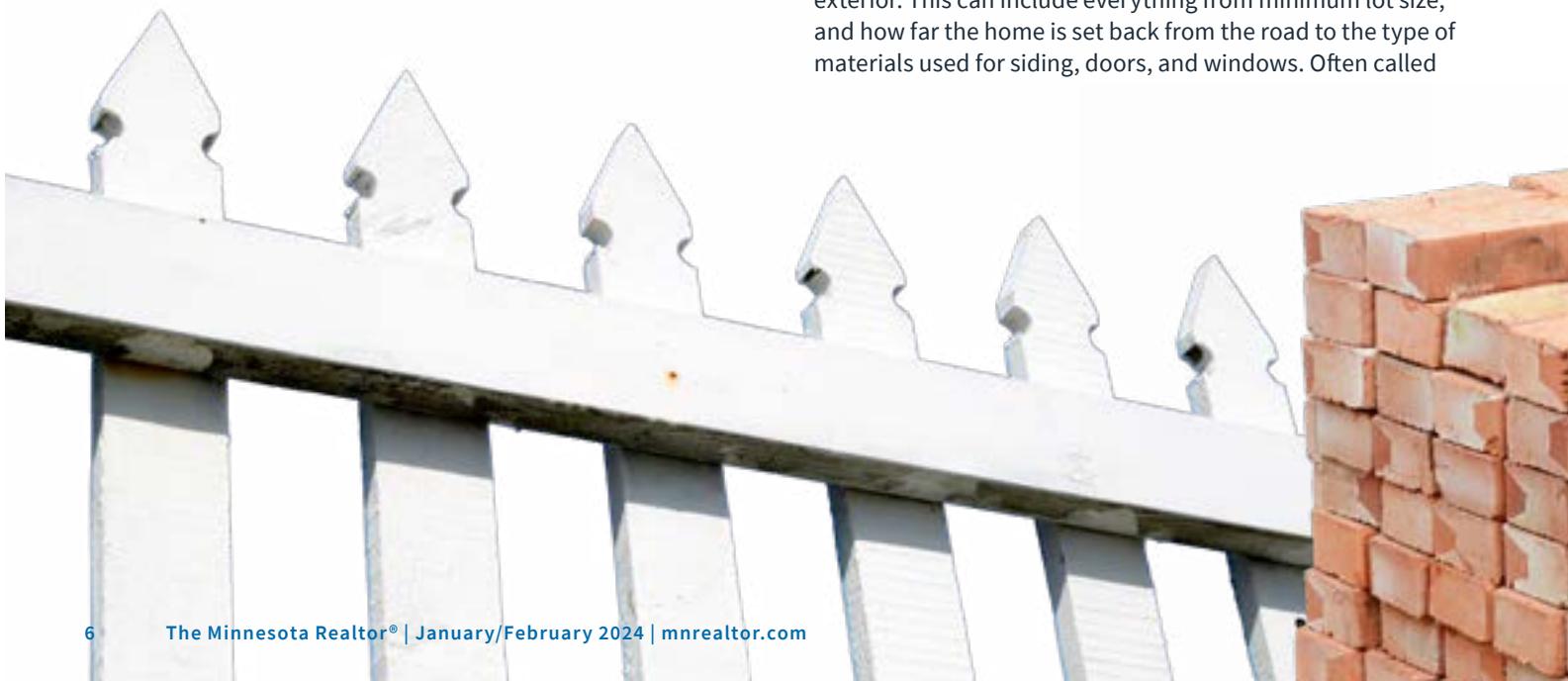
The answer to this dilemma, so it seems, is to build, build, build.

And the signs suggest that is exactly what's happening. Colorful billboards peppering fallow corn fields and pockets of meadow and woodland across metro suburbs promise "townhomes from the low 400s" and "single-family homes from the low 500s." Whether or not those numbers are "low" depends entirely on your bank account. But for all too many buyers these homes are out of reach before they're even built.

"If somebody wants to build a home, they should be able to have the home they want."

—MN Rep. Jim Nash

How did new homes become so forbiddingly expensive? According to Jim Nash, Minnesota state representative for western Carver County, local laws and regulations are driving up the costs. That's because many towns and cities impose stringent rules and ordinances that define all aspects of a home's exterior. This can include everything from minimum lot size, and how far the home is set back from the road to the type of materials used for siding, doors, and windows. Often called



“aesthetic mandates,” these rules can even dictate a home’s color, architectural facing, and the number of trees and bushes that developers are required to plant.

“If somebody wants to build a home, they should be able to have the home they want,” Nash said during a webinar hosted by the Vinyl Siding Institute, an industry advocacy organization that lobbies against aesthetic mandates. “They shouldn’t be forced to add a brick or stone façade or build a third garage stall or plant a certain number of trees in the yard. They shouldn’t be made to pay for someone else’s idea of what a house should look like.”

Nash contends that none of these mandated features provide structural or insulation value. They are pure “window dressing” that drive up builders’ costs and add thousands of dollars to the price of a house, putting homes beyond the budgets of many buyers.

You can’t build that here—a short history of aesthetic mandates

If aesthetic mandates are so costly and unnecessary, how did they come to be? And why do municipalities fight so fervently to maintain them? To get some perspective, it’s useful to step back in history.

In the mid 19th century, settlers in Minnesota could build whatever kinds of structures suited the needs of those who resided and worked there. Wood, stone, and concrete were typical building materials, and in many places, especially rural areas, form followed function.

Most cities and towns were organized on grids that divided residential, business, and industrial areas with a fair degree of crossover. So, it was not unusual to find apartments and offices above shops and restaurants on Main Street, or low-rent tenements beside tanneries, mills, and other polluting industries. Wealthier areas like St. Paul’s Capitol Hill boasted rows of brownstones with ornate façades and stately Victorian manors. While down on the flood plains of the Mississippi River, poor immigrants and African Americans packed into one and two-room shacks along the muddy roads of St. Paul’s West Side flats.





Whether they were opulent chateaus or bare hovels, none of these structures were defined by the building codes and regulations so prevalent today. Wealthy homeowners enjoyed well-manicured neighborhoods, and spacious, safe, aesthetically pleasing homes while their poorer neighbors endured shoddily constructed firetraps. Some of these disparities began to change when zoning laws were widely adopted in the early 20th century.

In You Can't Build That Here: The Constitutionality of Aesthetic Zoning and Architectural Review, author Kenneth Regan notes that aesthetic mandates evolved from zoning laws that legislated things like “uses, area requirements, building height, light and air access, open space, and peace and quiet.” In the 1920s, numerous townships across the United States tried to add aesthetic requirements to zoning laws. In every case, courts ruled that such restrictions infringed on the rights of property owners.

Aesthetics for the general welfare

All that changed in 1954 when the U.S. Supreme Court ruled that local governments could impose aesthetic values on the visual design of new structures for the sake of a community’s “general welfare.” The decision was rooted in part from the passage of the District of Columbia Redevelopment Act in 1945. Under that law, a newly created agency claimed eminent domain over “blighted areas” of Washington D.C. and bulldozed them in the name of “beautification.” This paved the way for the Interstate Highway project of the 1950s and 60s that eventually plowed down thousands of “substandard houses” in cities across the nation, including St. Paul’s African American Rondo community (See “Reconnecting Rondo” in the Jul-Aug 2023 issue of *The Minnesota Realtor*®).

As suburbs mushroomed beyond city centers in the post-World-War-II era, developers took advantage of cheap land and inexpensive building materials like gypsum board (drywall), plywood, and linoleum flooring. Popular rambler, ranch, and Cape Cod-style homes were small three-bedroom boxes—barely 1,000 square feet—with few frills or adornments. Using mass-production methods, homes were framed, finished, and inhabited in spans sometimes measuring weeks. Although visually monotonous, they were sturdily built and continue to house new generations of homeowners and their families today.

Rewriting the landscape with mandates

As Baby Boomers came of age and started families in the late 70s and 80s, the home-building boom continued unabated. Always looking to cut costs, developers introduced materials like synthetic stucco, which critics charged looks “cheap,” has a short lifespan, and is environmentally toxic when disposed of in landfills. Similar critiques were made of vinyl siding, which can release dioxin and is not biodegradable. Another popular material, Exterior Insulation and Finish System (EIFS) was used widely on mass-manufactured condominiums until water-penetration issues emerged (today, these have been resolved).

As Boomers grappled with these issues, many lamented the proliferation of tedious “ticky-tack” architecture. They longed for the elegance and charm of upscale buildings from the 19th and early 20th centuries. So, as their leaders were elected to city councils and mayor’s offices across the state, they literally began rewriting the landscape.

Historic downtowns were stripped of the grimy metal sheeting that consumed buildings after World War II, revealing century-old brick façades. New codes, regulations, and mandates were





passed. Builders must construct homes that match the look and feel of the older communities they flank. There should be plenty of brick and stone and decorative shutters adorning bay windows. They must look “grown in” with trees and bushes and landscaped gardens. With every election cycle, the requirements became more rigorous.

The high cost of window dressing

From Nash’s perspective, local governments have become much too heavy handed. An avowed minimalist, he rails against adornments like shutters, and observes that the use of traditional materials like brick or stone in modern construction are purely cosmetic, adding no insulation or structural value. What they do add, he says, is cost.

“We should get government out of the way of what goes on the outside of a home,” Nash stated. “If someone comes to buy my house, they’re not buying the view of my neighbor’s house. Never mind if it’s painted Vikings-purple. It’s not dragging down property values. And last time I checked, property rights are still a thing in the United States.”

Yet from homeowners’ associations to city halls, what property owners can do with their houses and lands continues to be hotly contested. For local governments, it is often framed as a matter of home rule. Elected representatives have the right to create the kind of communities their citizens want to live in. And the fact that they hold office is seen as a mandate from the majority.

Mandates for quality, longevity, sustainability, and energy efficiency

“While not all cities in Minnesota impose architectural and material design standards—including green space and parkland dedication requirements—these local policies were put in place

with community involvement to improve the overall quality of life in a community and ensure that new development is compatible with the existing built-out environment,” said Daniel Lightfoot, an intergovernmental relations representative for the League of Minnesota Cities. He emphasized that design standards often go beyond appearance, contributing to “building quality and longevity, sustainability, and energy efficiency.”

For now, Lightfoot and Nash will have to agree to disagree. However, Nash is hopeful that progress will be made during the 2024 Session of the Minnesota Legislature. He said the chair of the Housing Committee has guaranteed that Nash’s bill proposing rollbacks or outright elimination of aesthetic mandates will get a hearing. Further, a lobbyist from the League of Minnesota Cities has agreed to discuss potential compromises with Nash, and his allies at Housing First, the Builders Association of Minnesota, and state and local Realtor® associations.

Adding up the costs beyond mandates

Of course, the question remains: would eliminating aesthetic mandates create enough savings to put a significant number of people in new homes of their own? Or will other factors like lot sizes, and the cost of land, lumber, materials, labor, mortgage rates, and the ongoing inventory shortage continue to make homeownership an unrealized dream for all too many Minnesotans?

Currently, the answer is not clear. But it is certain that all stakeholders in this debate will say good morning, good afternoon, good evening, and good night many times before every aspiring Truman finds a way home.