Unintended Side Effects: Regulatory Prescriptions and the Rural Housing Shortage

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Abstract

Developing an economically viable region that incentivizes future generations of Midwesterners requires not only strong employment opportunities but also access to quality housing that supports workforce attraction and retention. Across rural Nebraska, political leaders, employers, and educators consistently identify housing shortages as a major barrier to hiring and growth. Yet, despite widespread recognition of the problem, new housing construction has failed to materialize. This study explores the role of legal prescriptions and regulation interplay in creating these barriers. Specifically, it examines how local platting and zoning requirements, amendments to Nebraska's 2010 Building Construction Act mandating adoption of the International Residential Code, and federal provisions under the Dodd-Frank Act combine to constrain development in cities with populations between 2,000 and 9,999. Using a mixed-methods approach—legal analysis, quantitative review of datasets from the U.S. Census, Department of Labor, Department of Housing, IRS, and Federal Reserve Bank—this research identifies how overlapping regulations limit rural housing starts. The findings provide a foundation for policy reforms that address housing shortages, thereby strengthening the ability of rural Nebraska communities to build a workforce that will remain rooted in the Midwest.

An issue that is facing small, rural communities in Nebraska is a lack of housing. Simply defining the problem would seem to lead to the solution, which is the building of more needed housing. However, the solution has failed to materialize despite the ability of politicians, businesses, and families to articulate the problem.

This paper will attempt to identify the hurdles that stand in front of a material realization of the solution beginning with legal interplay that has created unintended consequences leading to a reduction in housing starts within rural Nebraska cities. Additional factors will be noted as there is clearly no silver bullet that will resolve this issue, but understanding how statutory and regulatory decisions have contributed to this issue may unlock additional tools and lead to more housing starts within those same rural communities.

<u>Analogy to Prescription Drugs without Collaboration between Providers</u>

Everyone that has an aging parent has been faced with the fact that medical visits become more frequent. A doctor to look at heart issues, one to deal with respiratory, another for bowels, and a dermatologist to check out the funny looking spot. Each doctor, an expert in their field, knows the treatments and the prescriptions that will be most effective for the issue presented to them. However, without coordination, the prescribed treatments can have unintended interactions leading to complications for the patient. In medicine, doctors are required to find out what other treatments the patient is taking and have ways to avoid those complications, but no such rules hold sway in the halls of Congress or the Unicameral, much less in City Hall. Politicians attempting to resolve perceived problems in one area often create unintended consequences in others. Old norms, laws, and unanalyzed interpretation of the same create scenarios where small cities in Nebraska are handcuffed by attempts to modernize codes and fix the thing that is broken in their view.

Realities on the Ground

Housing Starts

There is no direct data on housing starts for any rural city Nebraska. However, there is excellent data obtained by the Federal Reserve Bank in St. Louis and published about every county in Nebraska. (Federal Reserve Bank – St. Louis n.d.)[1] The research has been directed at 35 Nebraska cities with populations between 2000 and 10,000. The data is consistent from each of the counties that there was a dramatic drop in housing starts in 2008, clearly due to the great recession, but there is never a recovery. The bottom remains stagnant for nearly all 34 counties surveyed. Some reasons may be due to the next presented facts, but there is more to this diagnosis.

Brain drain

Politicians and news media alike have pointed to Nebraska experiencing a “brain drain.”[2] The Nebraska Examiner defined this as more people with bachelor’s degrees or higher are leaving the state than coming into the state (Gonzalez, 2023). Dr. Shaefer from UNO produced significant research into this issue and made her findings available in press releases from CPAR indicating that 2010 marked the start of this exodos of bachelor’s educated individuals (Gonzalez 2023).[3]

Aging population

This paper is not meant to create or add to the tension between generations, but there are some shocking statistics when it comes to housing. Nationally, Baby Boomers total nearly 76 million or nearly 20 percent of the population. That same demographic owns 41 percent of the single-family homes in the nation (Baby Boomers own ~41% of real estate, Visual Capitalist, n.d.).[4] This generation has exhibited tendencies that have bucked the trends of older generations, such as downsizing.

There are important economic factors that have shaped this change in behavior. Refinancing into low interest mortgages during the period between 2011 and 2021 locked many in this demographic into continuing their ownership (Woods 2023).[5] Potentially high capital gains bills pose a threat because Section 121 (IRC)[6] deductions have remained the same since 1997 with no concern for the dramatic inflation in housing prices over the last 15 years.

Price Increases

The average price of a home in the state of Nebraska rose from $198,570 in 2000 to $523,900 at the beginning of 2025(Federal Reserve – St. Louis).[7] This number is complicated because real estate is location specific and gains in metropolitan areas are assumed to have outpaced the rural communities, but certainly have still climbed in value. The lack of city specific data as to average pricing is masked by the state aggregation.

Stagnant median income

Meanwhile, median income, which by definition covers your middle quintiles has not seen the same rise as has been seen in low income with increased minimum wages. Nebraska's minimum wage rose from $3.80 per hour in 2000 to $13.50 per hour at the beginning of 2025, a 355% increase(Federal Reserve – St. Louis).[8] However, median income for Nebraska from 2000 to 2024 went from $41,750 to $86,140 (Federal Reserve – St. Louis).[9] This median income is further suppressed in the rural setting (Cromartie 2023).[10]

The Laws at Issue

Four distinct laws have been prescribed to rural Nebraska. Each by a different kind of political division. These laws rarely reference each other and were designed to tackle specific problems but are never looked at in a holistic way. The four laws are platting, zoning, building codes, and mortgage standards. The interaction of these laws in at least one rural town has impacted or at least appear to be correlated to the lack of housing starts.

Lot Sizes

Due to proximity and testing of some of the proposed codes, this paper will review Chadron, Nebraska located in Dawes County in the Panhandle. Chadron is currently a city of 5,070 and contains 2382 housing units, of which 1,096 are owner occupied (NPPD).[11] Chadron was founded in 1885 (debate as to 1884) but its first official plat was included in the Dawes Co. Atlas dated 1913 and published by Geo. A. Ogle (NE Historical Society).[12] The plat was updated six more times starting in 1964 and ending in 1982, but the shape of Chadron as to the size and lots defined did not change in any significant way since 1982 and the city has not engaged in any annexation to grow its borders since then (*Id*.).[13] Many of the lots have gone unchanged since the 1913 Plat. The average lot size is roughly 50 feet of street frontage and 130 feet of depth with variations for corner lots (Dawes County GIS). [14] However, a review of available, vacant lots shows that the averages in the Urban and Multiple Family residential lots average 50 feet by 100 feet leaving lots of about 5000 square feet. In the low-density areas lots are available at 8000 feet or more (*Id*.).[15]

Zoning Requirements

Chadron has adopted zoning regulations and propound those regulations on its city website.[16] Chadron defines Residential Use to include providing wholly or primarily non-transient living accommodations including structures such as single-family residences, attached and detached, duplexes, two-family residences, townhouses, and multiple-family residences. Additionally, the city provides for manufactured homes, mobile homes, downtown residential, and retirement residences, but those types have special requirements and additional permitting (Chadron). [17] Chadron further breaks down its zoning to include Agricultural lots, Rural Residential (RR), Low-Density Residential (R-1), Urban Family Residential (R-2), and Multiple-Family Residential (R-3) (Id.).[18] This paper will focus on the R-1, R-2, and R-3 as most of the RR are located in the economic zone extending 2 miles from the city but not within city limits and do not extend services such as water and sewer.

Article 4 of the Zoning regulations requires minimum lots sizes for R-1 properties of 8,000 feet (*Id*.). R-2 properties have a notation in Note 3 that single-family lots require a minimum of 6,000 feet, while duplexes require 4,000 feet, and townhouses 3,000 feet (*Id*.).

Setbacks are also required and are defined as the distance established by horizontal components of the building envelop (*Id*.).[19] The distances are complicated, but for R-1, R-2, and R-3, the Interior Side Yard must provide 10% of the lot width for setback (*Id*.).[20] For example, if the lot is located on the interior of the block, with lots on either side, and its width is fifty (50) feet, then each side yard would require five (5) feet on either side or ten (10) total feet of setback (*Id*.).

It is clear from the mathematics of the Lot Sizes provided by the plat and the Zoning Requirements that existing and available lots in Chadron are not large enough to build a single-family home. 5,000 foot lots could accommodate a duplex, but nothing else. A builder would be forced to purchase two adjacent lots in order to obtain the necessary square footage to build within the Urban zones or buy much larger and costly lots.

<u>International Residential Code</u>

In 2010, a significant law was passed by the Nebraska Unicameral that has affected the building of housing in rural Nebraska. LB 799 was introduced by Bib Krist and was supported by representatives from the NE State Historical Society and the City of North Platte (Committee on Urban Affairs). Interestingly enough, there were no Opponents to the bill (*Id*.). The purpose was to make changes to the state and local building codes by adopting the 2009 Edition of the International Existing Building Code and repealing the Uniform Code for Building Conservation

(*Id*.). The state used a device in the bill requiring each political subdivision (read as County and Municipality) to adopt the state building code (*Id*.).[21]

The International Existing Building Code includes the International Residential Building Code (IRC) which does not dictate the size of any single-family residence, but does have provisions that impact the size of such (Int'l Code Council 2021).[22] Section R304 of the IRC requires that a habitable room be equal to or greater than 70 square feet (*Id*.). The residence must include at least one room that is at least 120 square feet, and all rooms must be at least seven (7) feet in any horizontal direction (*Id*.). Section R311 required 32-inch clear width for egress doors and hallways with a minimum width of at least 36 inches (*Id*.). The prior law did not make such requirements, but the net effect is that one-bedroom homes cannot be built smaller than 400 square feet (*Id*.).

In addition to the dimensional effects, changes in the code requirements add expense to the development of new real estate. The National Association of Home Builders did a study of the estimated costs of the 2021 IRC Code change in 2022 (Home Innovation Research Labs 2022).[23] The study looks at changes from the 2018 code, which is the current version used in Nebraska (Ne Rev. Code).[24] The study suggests that code related requirements account for 9.9% of the builder's construction cost or 6.1% of the final sales price (Home Innovation Research Labs 2022).[25] Though no study looks at the changes in 2010, it would be conservative to estimate that the costs would add 5% to the construction cost of a typical single-family home. For a $200,000 home, that additional cost would be conservatively $10,000.

The changes made to Building Construction Act were to impose the International Residential Code on all Counties and Cities in the State of Nebraska unless those localities adopted a similar regime.[26] The difficulty of this opportunity to adopt an alternate regime is that it really is not a choice. The cost of developing a code that is anywhere near as comprehensive as the IBC, is that the cost of time, expertise, and the local codification would be cost prohibitive. No city between 2,000 and 10,000 population has the kind of capital that it could dedicate to crafting an alternative to the IRC. The end result is that every city in the research parameters has effectively adopted the IRC by state edict.

Dodd-Frank Wall Street Reform and Consumer Protection Act

In response to the Great Recession, Congress passed and gave direction to the executive branch to enforce the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).[27] This act was broad in its scope and impacted many areas of the financial sector, but salient to this discussion was its provisions that impacted mortgages, specifically under the "ability to pay" and what constituted a "qualified mortgage."[28] The act also made amendments to the Truth in Lending Act requiring the "reasonable ability to pay" rule (TILA).[29] These changes were implemented by regulation known as Regulation Z outlining baseline underwriting requirements that creditors must consider before making a loan, including income, assets, employment, debts, credit history, and monthly payments (Reg Z).[30] Regulation Z presumed to meet the "ability to pay" and "qualified mortgage" requirements by instituting a maximum debt to income ratio of 43% and became known as the affordability cap (*Id*.).[31] This cap was revised in March 2021 and replaced by what is known as the price-based threshold (*Id*.).[32] In practice, entities like Fannie Mae and FHA have continued to hold to the 43% DTI and will go up to 50% in its respective lending (Fannie Mae and FHA).[33] This is typically known as a back end ratio calculation of total monthly debt obligations divided by the gross monthly income. Retail banking has interpreted this into a front-end ratio made up of total housing expenses including principal, interest, taxes, insurance, and HOA dues (PITI) divided by gross monthly income, and such a front-end ratio is between 28% and 31% of gross income (Bank of America and Wells Fargo).[34]

As we look at stagnant median income, every dollar added to cost of a home jeopardizes a home buyer's ability to meet the affordability ratios. Median income in 2011, shortly after the passage of these laws in 2012 was $52,200. According to the ratio, this would mean that a borrower would have a 28% PITI Cap of $1,218 to spend. Even with a lower interest rate in 2012 on average of 3.695%, and assuming a 5% down payment, the borrower could afford a $232,000 home.

Final Diagnosis?

The facts would tend to lead the reader to conclude that with housing prices climbing faster than income, that affordability is simply a problem of inflation in the housing market. However, with careful consideration, it should be noted that the interaction of platting with zoning has created a limitation of available and buildable lots. The adoption of modern building codes has caused homes to grow in size, and those available lots are insufficient to build a modern home. This leads to the requirement of purchasing more land than was previously needed and there is evidence that the modern building codes add significant costs to the development of any new property. At a minimum, the combination of buying multiple lots or larger lots and the costs of the modern code add $25,000 to an otherwise $200,000 build. When we take this into consideration with the Affordability caps imposed by Congress and Regulation Z, we see that an additional 10% or more of the building cost due to extra land and newly imposed code costs would push the median income buyer out of affordability. As the requirements of the Dodd-Frank Act are layered in with stagnant median income, it become clear that even if a buyer could find a contractor to build a home in rural Nebraska, the incremental costs push the front-end ratio of affordability to the breaking point. Housing starts cannot start if you cannot finance the building in the first place.

Conclusion and Suggestion for Future Research

Though the nation and much of the rising generations are feeling nearly fatalistic about the prospects of being able to build a home, the research leads to the potential of discovering levers available at the Local and State levels. Affordability may not be changed, but zoning, annexation, and building codes could be amended with an eye toward rural Nebraska. Empirical evidence on a city-by-city basis will be necessary. Median incomes are gathered at State level. Housing Starts are gathered at the county levels. The research will continue with surveys of the 35 identified cities to gain further insight into local income, housing starts, zoning irregularities, and possibilities of annexation. Each of these present as a lever, and if pulled properly could unlock some of the costs that force marginal affordability into lender denials. This is not a full diagnosis, but Nebraskans may have the tools to undo bad interactive laws.

Research will include draft proposals for amendments to Zoning, International Building Codes at the local level that can interact with smaller lots sizes and the inability to annex, and impediments to annexation and potential rural responses.

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[1] U.S. Census Bureau. (n.d.). *New Private Housing Structures Authorized by Building Permits for Dawes County, NE [BPPRIV031045]*. FRED, Federal Reserve Bank of St. Louis. Retrieved October 01, 2025, from https://fred.stlouisfed.org/series/BPPRIV031045. The United States Census Bureau collects Building Permits Surveys (BPS) from roughly 900 permitting districts in the United States. See https://www.census.gov/construction/bps/about.html. The primary customer of this information is the Federal Reserve Board and the Federal Reserve Bank of St. Louis, which includes Nebraska in its region, provides statistical data at the County level through its New Private Housing Structures Authorized by Building Permits which is provided by county but not by city. https://fred.stlouisfed.org/

[2] Gonzalez, C. (2023, December 18). *Nebraska 'brain drain' persists, plus another alarm is raised by new census data: UNO study flags growing concern over people with lesser levels of education also fleeing the state*. Nebraska Examiner. https://nebraskaexaminer.com/2023/12/18/nebraska-brain-drain-persists-plus-another-alarm-is-raised-by-new-census-data/

[3] *Id.*

[4] Visual Capitalist. (n.d.). Real estate ownership by generation: 1991 vs. 2025 [Infographic]. Visual Capitalist. https://www.visualcapitalist.com/ter01-real-estate-ownership-by-generation-1991-vs-2025/?utm

[5] Woods, D., & Wong, W. (2023, August 25). How a home mortgage 'lock in' impacts the entire housing market. NPR. https://www.npr.org/2023/08/25/1196064429/how-a-home-mortgage-lock-in-impacts-the-entire-housing-market

[6] 26 U.S. Code § 121 - Exclusion of gain from sale of principal residence

[7] All-Transactions House Price Index for Nebraska, https://fred.stlouisfed.org/series/NESTHPI retrieved 09-11-2025.

[8] Announcement by NDOL of minimum wage increases. https://dol.nebraska.gov/PressRelease/Details/322, Federal Reserve observations of State Minimum Wage ranges for Nebraska from 1968 to 2025. https://fred.stlouisfed.org/series/STTMINWGNE

[9] Median Household Income in Nebraska, updated Sept 9, 2025. https://fred.stlouisfed.org/series/MEHOINUSNEA646N

[10] Davis, J.C., Cromartie, J., Farrigan, T., Genetin, B., Sanders, A., & Winikoff, J.B. (2023). *Rural America at a glance: 2023 edition* (Report No. EIB-261). U.S. Department of Agriculture, Economic Research Service. https://doi.org/10.32747/2023.8134362.ers

[11] Nebraska Public Power District, Economic Development, Data retrieved from https://app.locationone.com/areas/communities/59ed7fc3994c2e62b62bfd25?organization=59eaba35bec80e09b4bbf84a

[12] County Atlases and Plat Books, Nebraska State Historical Society, https://nshsatlas.hallcountyne.gov/cgi-bin/county_atlas_search.cgi

[13] *Id.*

[14] Information reviewed and calculated from review of lots located on https://dawes.gworks.com/

[15] Review of a survey of 30 properties to determine average size and then a review of 20 vacant lots in the Dawes County GIS website, including measuring tools and layer adaptations. https://dawes.gworks.com/

[16] The zoning regulations for Chadron are found primarily in Article 4 and 6 of its Zoning Regulations. City of Chadron, https://chadron-nebraska.com/270/Building-and-Zoning-Documents.

[17] Article 3 Chadron Zoning regulations, *Id.*

[18] Article 4 Chadron Zoning Regulations, *Id.*

[19] Article 2 Chadron Zoning Regulations, *Id.*

[20] Article 4, Table 4-3: Summary of Site Development Regulations, Chadron Zoning Regulations, Id.

[21] Committee (Urban Affairs) Statement on LB799, Feb. 02, 2010, Nebraska Legislature, https://nebraskalegislature.gov/FloorDocs/101/PDF/CS/LB799.pdf

[22] International Code Council. (2021). *International Residential Code for One- and Two-Family Dwellings (IRC).* Country Club Hills, IL: Author. Nebraska Revised Statutes § 71-6403 (2024). https://nebraskalegislature.gov/laws/statutes.php?statute=71-6403

[23]Home Innovation Research Labs. (January 2022). *Estimated costs of the 2021 IRC code changes* (Report for the National Association of Home Builders) https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/codes/code-adoption/cost-impact-2021-irc-hirl.pdf

[24] Nebraska Revised Statutes § 71-6403 (2024) proposals are before the Unicameral to adopt the 2021 Edition of the IRC.

[25] Home Innovation Research Labs. (January 2022). *Estimated costs of the 2021 IRC code changes* (Report for the National Association of Home Builders) https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/codes/code-adoption/cost-impact-2021-irc-hirl.pdf, See Table 2, pg 4 of the analysis.

[26] Nebraska Revised Statutes § 71-6403(b) (2024)(Revised 2010).

[27] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

[28] Id. at section 1411 Ability to Pay and 1412 Qualified Mortgages.

[29] Truth in Lending Act, 15 U.S.C. § 1601 et seq. (2024), see new sections 129C and 1639 for reasonable ability to pay and section 1604 giving authority to implement Regulation Z.

[30] Regulation Z (12 C.F.R. Part 1026)

[31] Regulation Z 12 C.F.R. § 1026.43(e)(2)(vi).

[32] *Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): General QM Loan Definition*, Final Rule, 12 C.F.R. Part 1026 (Dec. 2020)

[33] Fannie Mae. (2025, August 6). Eligibility Matrix [PDF]. Fannie Mae Single Family. https://singlefamily.fanniemae.com/media/20786/display and U.S. Department of Housing and Urban Development. (2013). *FHA single family housing policy handbook 4155.1: Mortgage credit analysis for mortgage insurance on one- to four-unit mortgage loans.* U.S. Department of Housing and Urban Development. https://archives.hud.gov/offices/hsg/sfh/ref/sfhp2-12.cfm

[34] See Bank of America. (n.d.). *Home affordability calculator: How much home can I afford?* Retrieved from https://www.bankofamerica.com/mortgage/home-affordability-calculator/ or Wells Fargo. (n.d.). *Understanding your debt-to-income ratio*. Retrieved from https://www.wellsfargo.com/goals-credit/smarter-credit/credit-101/debt-to-income-ratio/