YIMBY LAW

Lakewood's Open Space Ordinance

and the disastrous effects of extreme NIMBYism

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In November of 2024, the community of Lakewood, Colorado erupted into a flashpoint of the housing crisis and the bad policies that feed it. The Denver suburb adopted a citizen-drafted anti-housing ordinance. Passed on false pretenses, the ordinance violated both the state constitution and recent housing laws. What followed consumed resources and attention from the staff, residents, developers, and housing advocates. Coordinating with local residents and housing organizations, YIMBY Law helped to undo this disastrous ordinance, bring Lakewood into compliance with state law, and allow over 100 stalled projects to move forward.

Community Initiative

Lakewood Colorado is the 5th most populous city in the state, containing over 7,400 acres of open space. Belmar Park sits at the center of Lakewood–132 acres of trees, grasslands, and waterways. Nearby, an abandoned office building from the 60s molders; as Mario Nicolais of the Colorado Sun described it:

> *Windows are shattered or boarded. Graffiti covers signs outside. A lonely office chair sits under an overhang. A temporary-turned-permanent chain link fence wraps around it, though some sections have been separated to allow access. I did not slip through for a closer look as a police cruiser stood guard at the entrance, presumably to combat trespass by squatters, unhoused individuals seeking shelter and thrill-seeking high schoolers.*
>
> *The only redeeming feature is the parking lot on the west side, situated between the building and lake edge, which has been commandeered by park visitors for quick access.*
>
> ***As it stands the status quo cannot continue. The building is a danger and disgrace.***

Kairoi Properties proposed to replace this building with five stories of 412 apartments. Despite the fact that no development would take place or even impact the park itself, local NIMBYS formed Save Belmar Park to fight the project. Their method of attack was a citizen-initiated ordinance. Promising residents that their measure would protect local parkland (which was not at threat), they collected signatures and drafted an ordinance that would do precisely the opposite.

Existing Lakewood law required new developments to dedicate a portion of their property to open space on a per-unit basis. Therefore multi-family developments would have to dedicate more space than single family projects. Builders had the option to pay a fee-in-lieu of the dedication, said fees funding maintenance for Lakewood parks.

Ordinance O-2024-28 increased the per-unit dedication, eliminated the fee-in-lieu, and applied itself to all projects, including those that were already under-way, changing the criteria and affordability and requiring redesigns for all housing projects. Colorado's Constitution prohibits new requirements on in-process development proposals, and a recent state law requires fees-in-lieu as an alternative for open space. The heightened dedication requirement made multi-family housing outright impossible to build, forcing developments to dedicate acreage greater than the actual project would take up.

The resulting ordinance violated state law, the state Constitution, made affordable housing unbuildable, and would have created innumerable pockets of small open space which the owners were privately responsible for maintaining, all while crippling Lakewood's ability to maintain its own parks. Moreover, by limiting developments to single family homes, it ensured that housing would take up as much space as possible, culling substantially more green space per person than any apartment building would have.

Passage & Council Discussion

Ordinance O-2024-28 went before the City Council on November 4 2024. Upon notification from local organizers, YIMBY Law submitted a letter before the hearing, protesting its illegality and its hostility to affordable housing. Despite these issues, the Council was presented with a problem created by local laws: though city staff are required to review citizen-initiated ordinances for the sufficiency of their signatures, there was no mechanism to review for legality or constitutionality. Faced with this, the council concluded they had only two options: either submit the ordinance to a special election by the public or adopt the ordinance and await the inevitable legal fallout. Though several members of the council openly stated they believed the ordinance to be illegal and unenforceable, they voted to adopt, to dispose of the matter more quickly and without having to fund and hold a special election.

Local Fallout & Legal Response

Following the ordinance's passage, Lakewood was thrown into chaos. Its planning staff put a hold on every housing project that was in process. A local family trying to renovate their home were told they had to dedicate a small section of their own property to open space. Save Belmar Park activists insisted that this wasn't their intention, and that planning staff had discretion to ignore the ordinance for small projects. In response, City Council directed them to *actually read* the ordinance they drafted, which provided no such discretion.

Lakewood was swiftly sued by Kairoi Properties, and received a preliminary injunction preventing enforcement of the ordinance. Nonetheless, the community, local builders, along with planning staff and the City Council were consumed by the controversy, which collected immense media attention. Signatories of the original petition cried foul, claiming that they wanted to preserve open space, not kill development and keep a local blight from being improved.

Organizing, Advocacy, and Repeal

Throughout this process, YIMBY Law and YIMBY Action coordinated with local advocates to address the problem. YIMBY teams began regular meetings with the Southwest Energy Efficiency Project, Neighborhood Development Counsel, the Institute for Justice, and others to rally local residents and develop a legal response. These efforts have apprised the state enforcement agencies and officials, while mobilizing speakers to comment on the Council's actions and scrutinize its response.

This immediately became an issue that the City Council could not ignore. Planning staff were unable to work on projects. Residents disagreed about the text and intent of the ordinance, and local families were implicated in minor construction. The Council's first attempt to undo the ordinance's harm was disastrously insufficient. Despite multiple members speaking on the record that the ordinance was illegal, they began circulating an amended ordinance which would have solved none of the substantive issues; it would have removed the dedication requirement for small projects like single family home renovations, without addressing the constitutional or statutory violations. Ignoring voices from their own town and Council, we didn't let up the pressure, organizing activists to respond. The typically ignored issue of land use regulations became a major problem for the city, attracting ever-increasing numbers of public commenters speaking to the need to fix this issue definitively.

On February 24, 2025, the Council listened. It passed Ordinance O-2025-07, which renewed the fee-in-lieu provision, granted discretion to planning staff, exempted affordable housing developments, and reduced the dedication requirement. Without the option for fees, the ordinance as passed was fundamentally and unquestionably illegal, acting in direct violation of Colorado law that specifically requires such an option instead of open space dedication. The citizen's draft was never legal or enforceable. The many months of labor and resources from all sides were spent trying to get the Council to do something it was already legally required to do.

The Path Ahead

Despite the new ordinance, this issue is far from settled. The entire city is ready to scrutinize the Council and new land use regulations. YIMBY is continuing to organize a local chapter and coordinate with state advocates. Lakewood is drafting a new comprehensive plan and zoning amendments, creating an ongoing need for scrutiny and community input.

The Kairoi lawsuit is also unresolved. Though there are changes to the underlying ordinance, it's unclear how this will affect the ongoing lawsuit. Save Belmar Park filed to intervene in the lawsuit, making themselves a party to the case so they can waste city resources as they fight to keep blighted properties untouched in Lakewood. Their intervention could keep the issue alive whether or not Kairoi and the city are prepared to settle. At a minimum, the court will need to clarify how the new ordinance and injunction will interact with one another.

The project itself still needs to go before the planning commission (scheduled for May 7, 2025) and council for a vote, a process sure to be beset by misinformation and challenges.