

## Local Zoning and Development Violations

### Local Zoning and Development Restrictions: Top Ten Violations of Federal Laws

1. Nature and extent of development exactions or impact fees (whether required by ordinance or ad hoc decision) have no substantial nexus to some problem related to the proposed development.
2. Purposes for ordinance incentive zoning, density bonus, or waiver requirements are unrelated to problems associated with additional allowed development.
3. Regulation as applied otherwise constitutes a regulatory taking.
4. Ordinance prohibits home religious worship or gatherings in residential zoning districts.
5. Ordinance excludes sexually oriented businesses from a community.
6. Ordinance provisions regulate either commercial or noncommercial signs by content-based restrictions.
7. Ordinance provisions prohibit noncommercial or on-site commercial signs in residential districts (e.g., temporary real estate signs in a residential district).
8. Ordinance provisions exclude, discriminate against, or fail to reasonably accommodate group homes for the handicapped in single-family zoning districts (e.g., other protected classes are included as well handicapped).
9. Ordinance provisions regulating personal wireless towers, amateur antenna or satellite dishes are preempted by federal law.
10. Ordinance construction and safety standards or building code provisions are preempted by federal HUD certified manufactured housing standards.

SOURCE: Edward H. Ziegler, University of Denver College of Law, Rocky Mountain Land Use Institute, 1998.

### Local Zoning and Development Restrictions: Top Ten Violations of State Laws

1. The nature of the restriction imposed is beyond the statutory scope of local zoning authority.
2. The restriction imposed relates to the identity of the owner or form of ownership (e.g., exclusionary zoning).
3. The restriction as applied to a particular tract of land does not reasonably further any proper land use planning purpose (i.e., arbitrary and capricious).
4. A rezoning of land largely furthers the private interest of the owner and not the general welfare or the comprehensive zoning plan (i.e., illegal spot zoning).
5. A zoning restriction or decision is adopted without compliance with procedures required by statute or ordinance (i.e., due process).
6. A zoning decision does not reasonably interpret or apply existing ordinance standards to decision (i.e., abuse of discretion).
7. An administrative zoning decision lacks any reasonable supporting factual basis in the evidence in the hearing record (i.e., abuse of discretion).
8. A zoning restriction or decision does not reasonably further or is inconsistent with the comprehensive land use plan as required by statute or ordinance.
9. Aesthetic, design, or architectural controls allow denial of a development application based on a purely subjective view of the visual beauty of the development apart from the existing visual character of the area.
10. Development restrictions or decisions unlawfully interfere with vested rights or nonconforming uses.

SOURCE: Edward H. Ziegler, University of Denver College of Law, Rocky Mountain Land Use Institute, 1998.