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REAL ESTATE PRACTICE GROUP | NOVEMBER 2015

Otten Johnson Alert -

Tiny Houses: Problems Bigger than Where to Put Your Stuff

The tiny City of Walsenburg in southern Colorado [made headlines last month](#) for being the first city in the state, and among the first in the nation, to amend its land use regulations to permit “tiny houses,” which typically range from 100 to 500 square feet, in all residential zone districts. [Walsenburg's new regulation](#) requires that the tiny homes be permanently placed on a foundation, as opposed to wheels, and be tapped into the city's water and sewer system.

Tiny houses provide a affordable home option for potential buyers, [especially millennials and retirees](#), who may be looking to downsize and reduce clutter. According to one source, the [average tiny house costs about \\$23,000](#), although higher-end tiny houses can run [well over \\$100,000](#). Tiny house owners and other proponents, including numerous blogs, fan pages, and even [cable television shows](#), tout the tiny housing savings on [energy](#) and [green house gas emissions](#) as additional benefits. Several tiny house communities [even serve as homeless shelters](#) that give residents an independence not available in more traditional shelter housing.

But not all cities are as “tiny-house friendly” as Walsenburg. Many cities have enacted regulations, often intended as health and sanitation measures, that effectively prohibit tiny houses. Minimum dwelling area regulations are particularly troublesome. For example, [Denver requires](#) a minimum of 150 square feet of habitable space for the first occupant, and an additional 100 square feet for each additional occupant. Other possibly problematic regulations include restrictions on water and sewer connections and, depending on whether the tiny house qualifies as an accessory dwelling unit under the applicable zoning code, siting and maximum size and height restrictions. If, however, the tiny house is equipped with wheels, it will likely be subject to the [applicable mobile or manufactured home regulations](#), which may severely limit where and for how long the tiny house may be “parked” in a particular location.

To help potential tiny house residents navigate the fairly complex regulatory framework, the [American Tiny House Association](#) publishes guides to local zoning regulations, as well as best practices targeted at encouraging cities to adopt regulations that are more welcoming to tiny houses. However, whether other cities will follow Walsenburg and other [“tiny house friendly” towns such as Spur, Texas](#), remains to be seen.

Otten Johnson's attorneys have substantial experience with helping clients navigate business issues like those highlighted in this alert. For more information, or for help evaluating your current situation, contact any of the attorneys in the [Real Estate practice group](#).

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