



**DENVER**  
THE MILE HIGH CITY

# Construction Defects

Business Development Committee

October 27, 2015

FOR CITY SERVICES VISIT | CALL  
**DenverGov.org** | **311**



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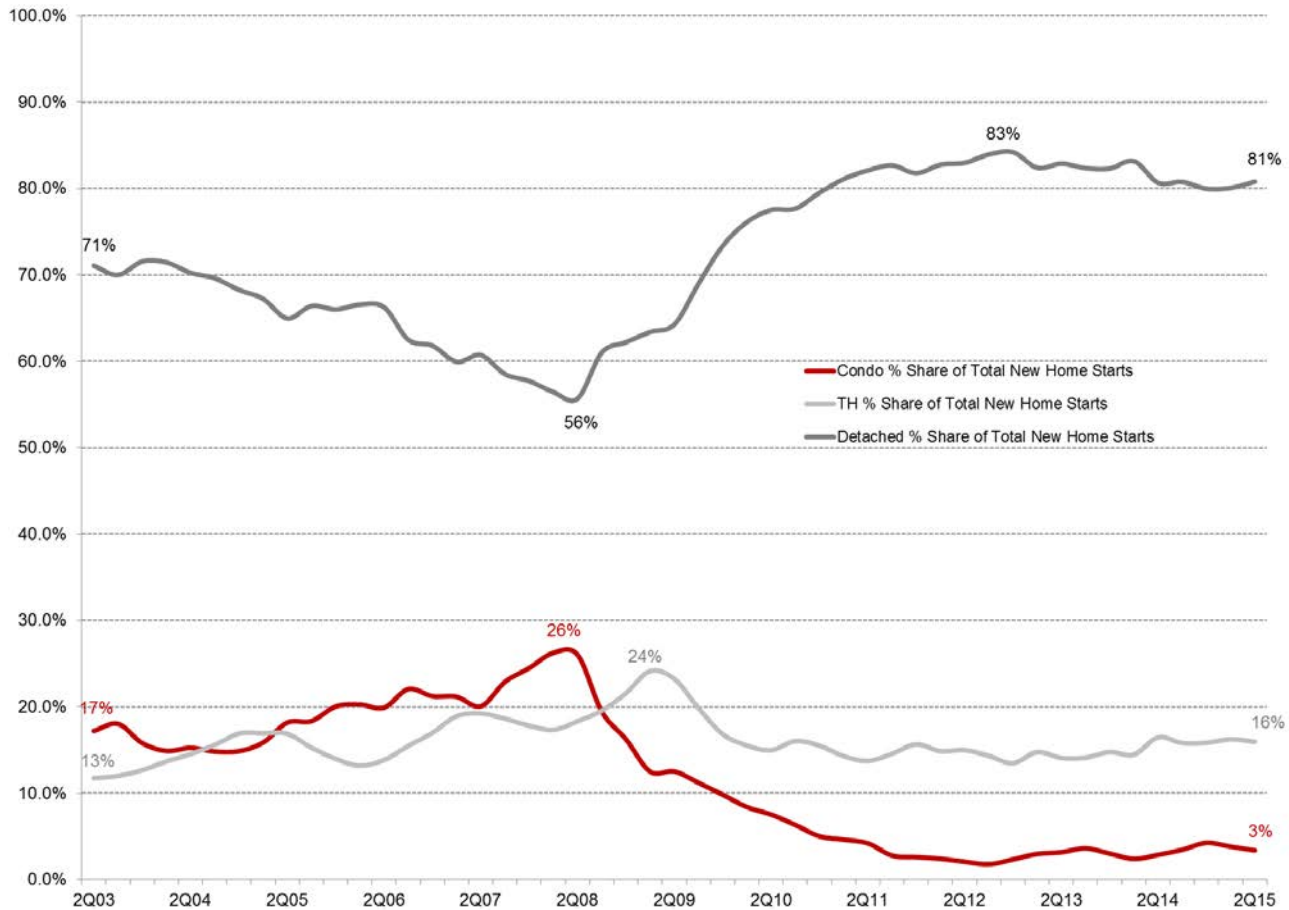
# Need for Housing/Mix of Housing

- Denver has added over 60,000 new residents in the last 5 years and anticipates adding over 50,000 more in the next 5 years
- Fixed boundaries limit Denver's ability to grow out and requires denser product type to accommodate new growth
- Denver has 41 rail stations – at least 9 of which have significant development potential as true mixed-use communities
- Diversity of housing choices is necessary to remain a vibrant city and must include home ownership opportunities
  - Essential to business attraction and retention

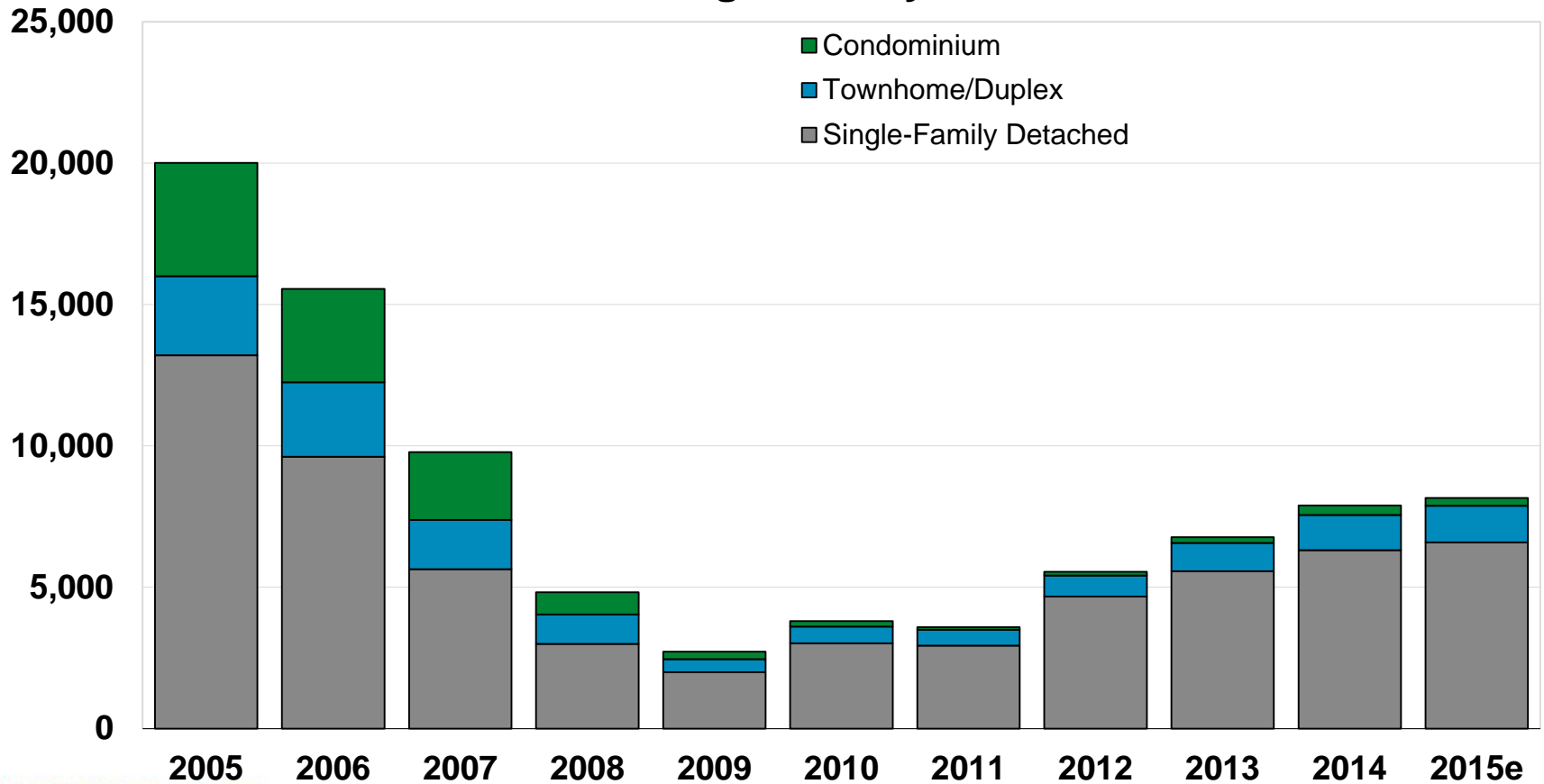
- Despite recovery to pre-recession levels in the overall housing market, condo construction is still markedly below normal
  - Permit data from Metrostudy shows that condos as a percentage share of single family housing starts has dropped from 25% in 2007 to 3.4% (estimated) in 2015
  - However, condos represent 29.3% of the resales in the metro Denver market
- Condos are still being built in limited numbers in Denver, but at a very high price point to overcome high costs of insurance
  - Insurance wrap policies 3x more for condo than apartment
  - Extraordinary measures being taken in development like videotaping every installation, holding litigation reserve funding

# Trends – Housing Starts

\*Source - Metrostudy



## Metro Denver Single-Family Home Starts\*



- Following three successive years of inaction at the state level, local jurisdictions are taking action
  - Lakewood, Littleton, Lone Tree, Aurora, Wheat Ridge, Commerce City have adopted local ordinances in the last year
  - Douglas County, Parker & Arvada have adopted plat notes
- Denver will continue to advocate for needed reform at the State level

- Home rule municipalities have a recognized legal interest in promoting housing opportunities within their communities.
- Municipalities can define how their regulatory codes and ordinances may or may not be used in private litigation.
- Municipal ordinances should not conflict with state law on the same subject.

# Proposed Denver Ordinance

- Ordinance has three parts; two are based on concepts in other legislative or legal actions and one is entirely unique to our proposal
- Seeks to have **efficacy** in new condo development and to **complement** and not conflict with state law
- Strives to balance homeowner's rights and protections with greater certainty in process



- No “strict liability” for code violations. Claims related to code deficiency must be linked to actual damage or threat to safety in the future.
- Where city codes regulate a specific “detail” of construction, and that “detail” is built or installed according to code, then that “detail” cannot be considered defective.

- Ordinance supports the concept that declaration of covenants, if properly structured, can permanently require alternative dispute resolution for construction defect claims.
- Requires neutral arbitrator and compliance with state laws governing arbitration.

- Expands upon current state law requiring notice to homeowners before HOA files construction defect claim.
- Contents of notice patterned after SB 15-177.
- Requires majority consent of affected homeowners.

- Denver is not entering into the state notice of claims process, thus leaving all current protections in place
- Diversity in housing choice and increased options for home ownership
- Informed consent allows all impacted parties to fully understand legal actions before entering into them

- Meetings with:
  - Home Ownership Opportunity Alliance
  - Build Our Homes Right
  - Community Association Institute
  - Downtown Denver Partnership
  - Development community members including Realtors, home builders
  - Attorneys representing both plaintiffs and developers
  - Insurance industry representatives
  - Cherry Creek Business Alliance
  - Affordable Housing Funding stakeholders

- Business Development – 10/27
- Mayor-Council – 11/3
- 1<sup>st</sup> Reading – 11/9
- Final Reading – 11/16