



American Planning Association

Creating Great Communities for All

Equity in Zoning Policy Guide

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Introduction and Overview

1.1 Goals of the Policy Guide

In 2019, after an inclusive two-year effort by its members, the American Planning Association (APA) adopted its [Planning for Equity Policy Guide](#), which articulates the organization’s advocacy positions on that topic. That Policy Guide reviews the pervasive impacts of both overt and unintended planning practices that result in racial, ethnic, gender, mobility-based, and ability-based bias and exclusion in many plans and policies adopted by local governments throughout America. It also reviews the complex web of institutional practices beyond the planning profession that reinforce the inequitable outcomes of these practices, and the ways in which they collectively disadvantage large segments of the American public. It addresses the serious lack of diversity and inclusion in the planning and zoning professions, along with the role and responsibility of planners to undo the unfairness woven into many current planning practices. Every planner, planning official, or elected official interested in making their communities more equitable should carefully read and follow that Policy Guide and implement its recommendations.

In addition, APA has adopted recent Policy Guides that set forth its advocacy positions on [Hazard Mitigation](#) (2020), [Climate Change](#) (2020), [Housing](#) (2019), [Surface Transportation](#) (2019), and [Healthy Communities](#) (2017), each of which recommends changes that would improve equitable practices and outcomes in our profession.

This Policy Guide does not repeat and restate any of that work, but builds on it and focuses on the ways in which planning bias is reinforced and implemented through zoning. Equitable planning is essential to

The goal of this Policy Guide is to identify specific ways in which the drafting, public engagement, application, mapping, and enforcement of zoning regulations can be changed to dismantle the barriers that perpetuate the separation of historically disadvantaged and vulnerable communities.

eliminate those zoning and design regulations that disproportionately burden Black, Latino/a/x, Tribal, Indigenous, and other communities of color, older adults, persons experiencing disabilities, persons of different national origins or religious faiths, and the lesbian, gay, bisexual, transgender, queer/questioning, intersex, and asexual/ally (LGBTQIA) community — which are often referred to in this document as “historically disadvantaged and vulnerable” communities and individuals. Where zoning rules or

procedures have a particularly negative impact on one or more of the communities included in that phrase, they are sometimes identified separately.

This work is also necessary because in many states plans are only advisory, while zoning is the law. Even in those states that mandate comprehensive or land use planning and require that zoning be consistent with those plans, there is always a gap between the aspirational language of the plan and what parts of that vision become the law governing development and redevelopment of property.

The goal of this Policy Guide is to identify specific ways in which the drafting, public engagement, application, mapping, and enforcement of zoning regulations can be changed to dismantle the barriers that perpetuate the separation of historically disadvantaged and vulnerable communities. While acknowledging the importance of dramatic changes in plans and policies, this Policy Guide focuses on identifying and removing those (often facially neutral) zoning laws and regulations that implement and perpetuate inequitable planning policies. This includes addressing “Redlining,” which has historically been used to disadvantage many racial and ethnic groups, including persons of Asian, Mexican, and Japanese ancestry, and that continues to be particularly harmful to the Black community. It sets forth APA’s advocacy positions to improve equity in zoning and calls on all practicing planners, planning officials, and elected officials to support these positions. History shows that efforts to protect disadvantaged and vulnerable Americans often produce broad (and sometimes unexpected) benefits to our communities as a whole.

Throughout this document, we use the term “city” to include other forms of municipal government such as villages and towns, and we use the term “county” to include other forms of sub-county governments created by state law, as each of those terms is defined in the applicable state law.

The case for state and federal intervention on zoning reform

Zoning reform is a local responsibility; however, both state and federal governments should exercise their authority to promote local planning efforts and empower community planners to overhaul exclusionary regulatory barriers to housing choice and production when possible.

APA urges states to review and update enabling statutes for zoning and housing policies. APA chapters are working closely with state legislatures to do so.

APA urges Congress to pass bipartisan bills like the Housing Supply and Affordability Act which would enable planners to reform zoning, create housing action plans, and put plans into action with dedicated planning and implementation grants.

1.2 The Need for Local, State, and National Action

Because most zoning decisions are made by local governments, this Policy Guide focuses on actions that could and should be taken by city and county governments to improve the equity of their zoning systems. However, local zoning authority sometimes operates within a regional governance structure, and in those cases the changes recommended in this document are addressed to those regional entities as well.

More importantly, local zoning authority almost always operates within the limits established in state constitutions and zoning enabling legislation. In many cases, the changes recommended in this Policy Guide would be accelerated if state governments acted to prohibit the exclusionary use of zoning powers, and some states have already moved in that direction. While some of the recommendations may not be legal in some states today, zoning enabling acts can and, in many cases, should be changed. Amending state zoning legislation to reduce or prohibit exclusionary residential zoning would be particularly helpful. In addition, or as an alternative, states could offer financial incentives or condition access to other state funds on local government implementation of some or all these recommended changes.

The federal government also has an important role in promoting more equitable zoning. Congress should authorize the U.S. Department of Housing and Urban Development (HUD) to take a closer look at the exclusionary and discriminatory zoning rules of those local governments to which it allocates funds, and to condition receipt of HUD funds on actions taken to remove the barriers to equitable housing and economic opportunity identified in this Policy Guide. Congress should also allocate additional funds to help local governments revise their local zoning controls and should incentivize local efforts to better align land use, transit, housing, and jobs—particularly in historically disadvantaged and vulnerable neighborhoods.

1.3 Cross-Cutting Issues That Compound the Impacts of Zoning

Before focusing on how to make zoning more equitable, it is important to acknowledge the many systems that reinforce discrimination and systems of privilege, and that thwart better opportunities and outcomes for many American households. The intertwined impacts of these

systems all tend to compound the unfair intended or unintended impacts of zoning—and will continue to do so even if zoning is “fixed.” While fairer, more inclusive zoning alone cannot end systemic racial and ethnic segregation, prevent the erosion of cultural communities that wish to remain intact, or dismantle long-established systems of privilege, it can be used as a tool to help achieve all those goals. Because zoning is law, many other financial and economic institutions point to and use existing zoning as the reason they cannot or need not reform their own practices. Fixing zoning can promote broader change to reduce the human costs and impacts of racist and exclusionary practices throughout the economy and the nation.

A. Lack of Diversity in the Profession

Like other parts of the planning profession, the drafting, application, mapping, and enforcement of zoning regulations remains an overwhelmingly white and largely male occupation. Most of the people determining what types of development are allowed in different parts of the community often have little experience living or working in historically disadvantaged and vulnerable communities, and little understanding of how zoning might impact them differently. Members of these communities remain significantly underrepresented in all

Congress funds new ‘YIMBY’ Grants for Zoning Reform

As part of its sweeping omnibus spending bill in 2022, Congress established a new \$85 million grant program to help regional planning organizations and local governments identify and remove barriers to housing production and preservation.

[Learn more](#) about criteria and eligibilities for the new funding.

aspects of zoning practice, and until that changes many zoning rules will be drafted and decisions made without sufficient regard for the interests of those highly diverse communities. This problem is so serious that, in APA as an organization and in local planning departments, current staff and leadership may not be the best people to decide which sources of inequity to tackle and how to address them. It may be more productive to appoint a more representative group with significant representation from historically disadvantaged and vulnerable communities to make these threshold decisions. APA’s Equity, Diversity, and Inclusion Steering Committee, Advisory Committee, and its population-based Divisions and Interest Groups are pursuing a number of strategies to increase the visibility of the profession and access to the profession within under-represented populations. Ideally, the local government staff, appointed officials, and consultants engaged in drafting, applying, and enforcing zoning should reflect the demographic makeup of the neighborhoods where the zoning will be applied.

B. Real Estate, Property Appraisal, and Lending Practices

For generations, portions of the real estate, appraisal, and banking industries have followed practices that favor lending to, constructing, and selling properties in whiter and wealthier neighborhoods while discouraging those activities in communities with more Black, Latino/a/x, Tribal, Indigenous, or other non-white households. The federal government has systematically supported those efforts through a variety of mechanisms, including

Federal Housing Administration (FHA) regulations favoring single-household suburban housing “occupied by the same racial and social classes;” funding and locating highways and other public improvements in locations that divide Americans by income, race, or ethnicity; making it difficult or impossible for returning Black soldiers to qualify for the G.I Bill; and making mortgage interest deductible for those who were able to buy homes. While the federal government has taken some steps to mitigate some of the impacts of past decisions through legislation like the Fair Housing Act and the Community Reinvestment Act, federal support for some of these policies remains in place. Current lending and sales practices continue to make it more difficult for historically disadvantaged and vulnerable communities to access some of the increased opportunities that better zoning can create. Working together, these practices are a very distressing form of embedded racism.

C. Infrastructure and Public Facility Location and Financing

The equity and opportunity available in America’s neighborhoods are heavily influenced by the location of infrastructure, streets, sidewalks, schools and pre-schools, parks, trails, and open spaces, which are largely determined not by zoning but by local government and school district

decisions about where to spend available funds and where to use eminent domain. Federal environmental justice policy prohibits denying, reducing, or significantly delaying environmental benefits to disadvantaged communities, but does affect many local government investment decisions. While developers can be required to mitigate their impacts on each of these public facilities, individual developers generally cannot be legally required to do “more than their fair share” through zoning to make up for systemic injustices of the past. Importantly, zoning generally cannot be used to force the replacement or upgrading of infrastructure or amenities unrelated to a proposed development, or to force the local government to allocate discretionary funding in specific neighborhoods.

D. Private Covenants

Many neighborhoods in America have a second level of legal protection against types of structures and land uses that they do not want to see in their neighborhoods—the restrictive covenants that buyers agree to when they purchase their homes, and that are enforced by homeowner’s associations that may not share the goals of equitable zoning reform. Covenants are “private law” among property owners to which the city or county government is often not a party, and that may have been created before the land was annexed to a city. Local governments generally do not enforce restrictive covenants, and do not modify their zoning to match private covenants. Although enforced through private lawsuits, covenants can be and often are just as effective as zoning in preventing affordable housing, innovative types of housing, rental units, accessory dwelling units (ADUs), or social services from entering a neighborhood. Zoning does not have the power to rescind private covenants; that generally requires action by the homeowners subject to the covenants or by state or federal government to declare specific types of covenants unenforceable. State or federal action to prohibit the use of exclusionary residential covenants—similar to that prohibiting the use of exclusionary racial covenants -- would be particularly helpful. For all these reasons, the

aims of equitable zoning reforms are often thwarted by private covenants.

E. Serious Income Disparities

One of the most important structural challenges that leads to racially or ethnically segregated communities is the fact that American law does not prohibit many forms of discrimination against low-income populations. Since a disproportionate percentage of low-income households are headed by Black people, Latinos, Tribal, Indigenous, or other communities of color, or by women, older adults, or persons experiencing disabilities, laws and regulations that tend to make land, houses and other goods more expensive have especially harmful impacts on the very groups we try to protect through anti-discrimination laws. While federal laws like the Fair Housing Amendments Act and the Americans with Disabilities Act prevent some forms of discrimination, they do not require that equivalent housing or facilities be made equally available to the poor who are not part of a protected class of citizens at prices they can afford.

As Richard Rothstein demonstrates in *The Color of Law*, when the Supreme Court invalidated overt racial zoning, many communities realized that zoning based on permitted forms of housing or minimum lot size could achieve the same result by making many neighborhoods less affordable

to less white, less abled, and less wealthy households. While originally adopted as a successor to overtly racial exclusion targeting Black and Asian people, zoning has had the effect of excluding much broader segments of the American population from many residential areas and job opportunities. Zoning cannot change the fact that anything that makes housing, education, transportation, health care, or childcare more expensive will tend to perpetuate the disadvantages faced by historically disadvantaged and vulnerable communities as well as other low-income Americans.

While zoning regulations do not grant or withhold development permission based on the race, ethnicity, color, national origin, or religious faith (and only rarely based on the gender, age, or disability) of the property owner or occupant, they often have disparate impacts based on the income of the occupant. Large lot zoning, minimum house size requirements, higher parking minimums, and higher open space requirements make property more expensive and limit the number of low-income households who can afford to use, own, or occupy neighborhoods with those benefits.

Over the last 70 years, the combination of zoning, banking, appraisal, and real estate practices, infrastructure decisions, and private covenants have tended to reinforce each other in ways that have created vast disparities in wealth and education between households headed by persons of color, women, those experiencing disabilities, older adults, and other American households. The generational impacts on education and wealth between Non-Latino White, Black, and Latino/a/x households has been particularly well documented. Zoning has been a complicit—and in some cases intentional—part of the systemic reinforcement of inequity and should be reformed to remove the rules and practices that create and perpetuate it. Zoning reform alone cannot “fix” the overlapping institutions that reinforce racism and segregation, but that is not a reason for inaction—it just highlights the importance of fixing the part of the problem that is often within local government control through better zoning regulations.

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F. The Need for Complementary Non-Zoning Solutions

Many of the impacts of zoning on historically disadvantaged and vulnerable communities can only be mitigated by actions that are not part of zoning regulations. Effective mitigation of negative zoning impacts may require, for example:

THE EXECUTION OF Community Benefit Agreements (i.e., an agreement between the developer and a community organization in which the developer agrees to provide amenities, or employment, or something else of value to the neighborhood where the development will be built);

1. INTRODUCTION AND OVERVIEW

PRIORITIZING the construction, repair, or upgrading of parks or other community amenities or infrastructure in historically disadvantaged neighborhoods;

REQUIRING developers to offer compensation for or providing a right-of-return for residents displaced by new development at prices those residents can afford;

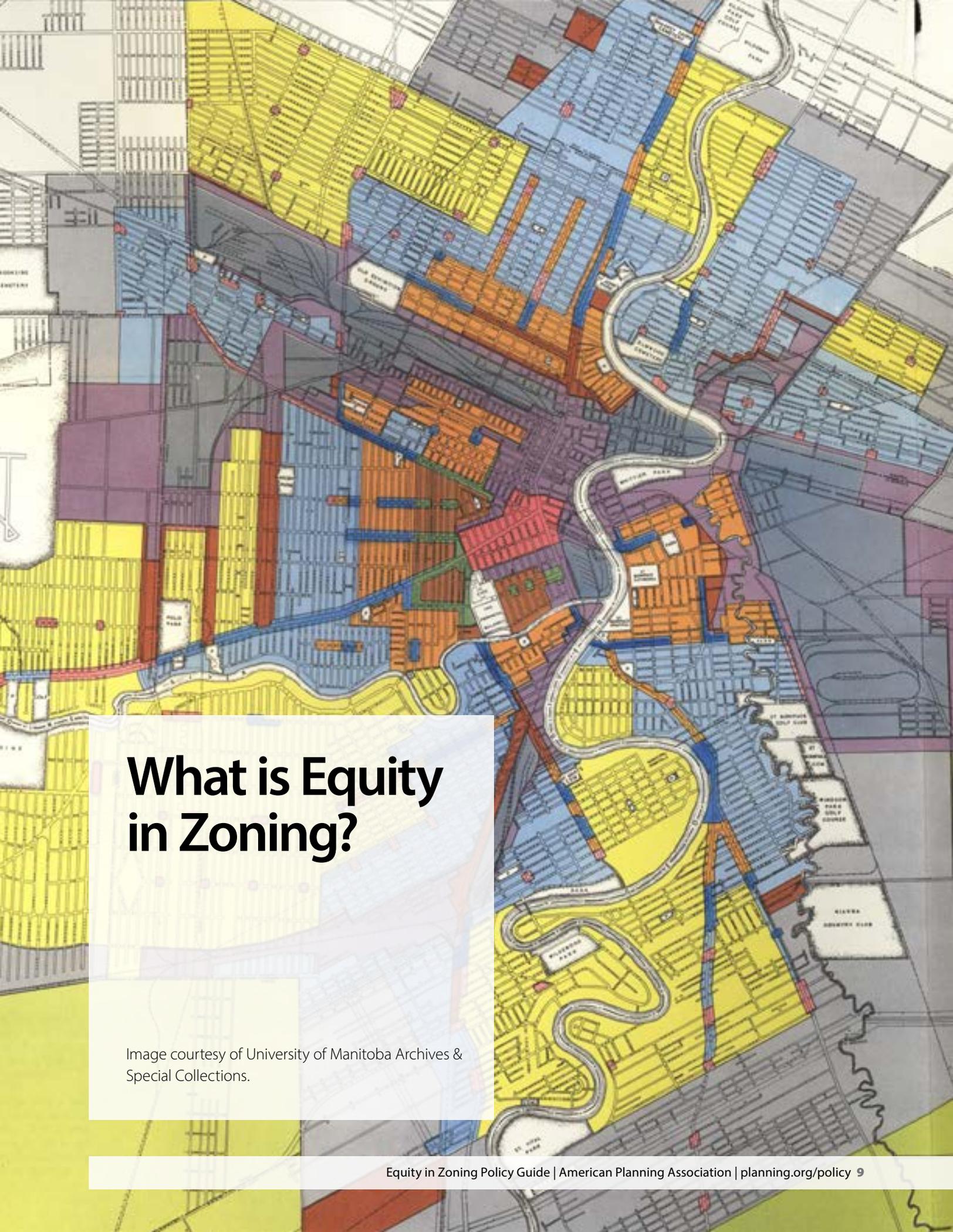
CREATING OR SUPPORTING a land bank, land trust, housing voucher, or other forms of financial support to stabilize and reinforce the existing culture and economy of a neighborhood without encouraging gentrification;

REVISING building codes to reduce barriers to needed forms of housing and investment, while still protecting public health and safety;

REDUCING OR SUBSIDING application or development impact fees for projects that improve neighborhood equity and opportunity; and

EDUCATING the public about the high community-wide costs of using zoning in ways that perpetuate segregation and discrimination.

Because the specific impacts of each development on each neighborhood are unique and typically different, it is usually difficult to agree in advance about what types of offsets or benefits need to be offered, but it does seem clear that there is a growing need for non-zoning agreements and commitments to accompany zoning actions if the equity of zoning outcomes is going to improve.



What is Equity in Zoning?

Image courtesy of University of Manitoba Archives & Special Collections.

2. What is Equity in Zoning?

At the start, it is important to define what is meant by zoning equity, and that requires revisiting the difference between equity and equality. Equality requires that everyone be given the same opportunities to participate in and benefit from a project or program. But different people have different abilities to participate in or influence zoning rules and procedures. Equal opportunity often leads to unequal outcomes, and in America those outcomes are often disproportionately felt by Black people, Latinos, members of Tribal and Indigenous groups, women, those experiencing disabilities, and other historically disadvantaged and vulnerable individuals. Equity in zoning means that those who write, administer, or enforce zoning regulations take clear steps to avoid or “undo” unfair outcomes and mitigate the unequal ability to participate in or influence all parts of the zoning process. Several of the Aspirational Principles in Section 1 of the *AICP Code of Ethics and Professional Conduct* underscore this duty, and this Policy Guide identifies specific steps to do that.

This is difficult because zoning is inherently designed to exclude. Zoning is very good at preventing individual property owners from making investments in property, building structures, or engaging in activities that the local government has decided should not occur in a certain location. While it can prevent money from being spent in ways that are not in the community’s interest, zoning is much less effective in making investors build things they do not want to build or to use properties in ways they do not want to use them. Zoning can seldom force investors to invest where they do not want to invest, unless it subsidizes or incentivizes the outcome it wants. Zoning can condition approvals on the developer’s willingness to do some things the community wants, but if those conditions make the investment unprofitable and the local government does not agree to make up the difference, the investor can decide to walk away.

The exclusionary nature of zoning is a fact that harms historically disadvantaged or vulnerable communities more than others. As zoning is used to selectively exclude

unwanted types of buildings and land uses from some neighborhoods (or to allow them in some neighborhoods while excluding them from others), some areas become more attractive to investors than others, and the same is true for residents and business owners. Those with more time to participate in the system have more ability to influence the rules, and those with more money have more ability to buy property, operate businesses, and live in the neighborhoods that best meet their needs.

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2.1 Ending Disproportionate Exclusionary Impacts

To identify those specific steps to end disproportionate exclusionary impacts, this Policy Guide focuses on the substantive zoning rules that govern what can be built or not built, what activities can be conducted or not conducted, what incentives the community offers builders to build what it needs, how it drafts those rules and incentives, how it drafts maps to apply those rules, who participates in drafting the rules or changing the rules, how well they know the likely impacts of those rules and changes on their neighborhoods, how the rules are enforced, and how all of those decisions are made.

Because the Planning for Equity Policy Guide addresses the drafting and implementation of more equitable plans, this Policy Guide assumes that plans consistent with those policies are already under discussion or have already been adopted, and focuses instead on how zoning rules, maps, and procedures can be changed to implement those plans. This document identifies ways in which planners can look beyond the facially neutral text of zoning rules to focus on the disproportionate impacts of those rules on some individuals and neighborhoods, and then redraft and remap zoning to reduce those impacts.

While zoning can be revised to be less exclusive, the impacts of any changes may be very different when mapped in different neighborhoods. A change that could allow new types of housing that reduce exclusion from wealthy residential neighborhoods (for example, removing a ban on “missing middle” housing

or rental housing) could open new opportunities to build the same types of housing in low-income neighborhoods, sometimes on a speculative basis, and often leading to displacement and gentrification. For that reason alone, zoning needs to be better tailored based on its human impacts in different neighborhoods and may need to include stronger anti-displacement conditions than it has in the past. It also needs to carefully consider whether each zoning change will increase or decrease opportunities or protection for historically disadvantaged or vulnerable populations.

This Policy Guide also addresses how apparently neutral zoning rules may need to be carefully tailored and mapped to avoid unintended consequences. In many cases, this will require unique zoning tools to be applied in different neighborhoods of similar size, scale, and character, opening some neighborhoods to new types of development while protecting others from the same type of development. In many cases, these

distinctions may need to be based largely on whether the change will have a positive or negative impact on those most seriously harmed by past zoning practices and decisions, and to prevent similar practices from arising in new forms in the future.

2.2 Three Kinds of Equity in Zoning

Removing the disproportionate impacts of zoning on historically disadvantaged and vulnerable communities involves close examination of three different aspects of zoning:

EQUITY IN THE “RULES” OF ZONING: *what* the substantive rules of zoning allow, prohibit, or incentivize in different parts of the community.

EQUITY IN THE “PEOPLE” IN ZONING: *who* is involved in drafting the rules and incentives, who is notified and engaged in whether to change those rules for different areas of the community, and who is involved in enforcement of the rules.

EQUITY IN THE “MAP” OF ZONING DISTRICTS: *where* the rules are applied through zoning maps and whether that reduces or reinforces exclusion and segregation in America.

Each of these topics is addressed in the next three chapters of this Policy Guide.

Advancing Zoning Reform

The policy ideas endorsed in this guide prioritize reversing and alleviating the disproportionate impacts of zoning on historically disadvantaged and vulnerable communities through three aspects of zoning: rules, people, and mapping.



The Rules: Equity in Substantive Zoning Regulations

Photo by © 2022 Celeste Noche.

3. The Rules — Equity in Substantive Zoning Regulations

This chapter addresses the substantive rules and incentives in zoning regulations—as distinguished from the procedural rules about how zoning is drafted, applied, and enforced (addressed in Chapter 4) and the map that applies zoning rules to geographic areas of a community (addressed in Chapter 5). Substantive rules include all the complex and cross-cutting land use regulations limiting the size and shape of lots and buildings, how those lots and buildings can be used, and the physical design of those lots and buildings.

In many cases, a change that could be achieved by changing the rules could also be achieved by remapping lands into a different zoning district where different rules apply (as discussed in Chapter 5). For most communities, there is no “right” way. For example, a change to the zoning ordinance text that would allow more diverse housing in a given zoning district (a rule change) could also be achieved by remapping the area to allow those same types of housing in a specific area (a map change). The right way is the one that produces outcomes that undo past harms and avoids creating new harms to historically disadvantaged and vulnerable communities, and for which planners can gain the political support necessary to make the change. While each community will need to identify its historically disadvantaged and vulnerable communities based on its unique context, some relevant factors may include race and ethnicity, household composition and size, average median income, concentrations of substandard public facilities and infrastructure, poor access to good jobs and services, and other available historical data.

There are six major equity concerns directly impacted by substantive zoning regulations:

1. PUBLIC HEALTH. Land use patterns are linked to public health by influencing the opportunity to live

in affordable and appropriate housing; the provision of green open space; the distribution and quality of public schools, health care and rehabilitation services; the accessibility for people of all ages and abilities; the availability of affordable, healthy, and culturally appropriate food; and access to places of nature, recreation, and physical activity. APA’s [Healthy Communities Policy Guide](#) provides more detail on this important topic.

2. ENVIRONMENTAL JUSTICE.

Environmental justice is achieved when all people maintain “the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.” Communities of color in particular have long been exposed to higher levels of environmental and health hazards due to zoning

Communities of color in particular have long been exposed to higher levels of environmental and health hazards due to zoning that permits housing near pollution from major highways and waterways as well as regulations that permit or concentrate hazardous industries and facilities in certain neighborhoods. Climate change will exacerbate these impacts by increasing the frequency and intensity of flood and fire events.

that permits housing near pollution from major highways and waterways, as well as regulations that permit or concentrate hazardous industries and facilities in certain neighborhoods. Climate change will exacerbate these impacts by increasing the frequency and intensity of flood and fire events.

3. FAIR ACCESS TO ATTAINABLE HOUSING. Fair access to housing goes beyond the ability for any resident, regardless of income, to afford the mortgage or rent payments required for the available housing in their community. It also considers the ability of residents to live near their place of employment, schools, and services, in their preferred housing and ownership type, and in communities with a shared culture or identity if they so choose. The APA [Housing Policy Guide](#) provides much more detailed policy guidance on this topic.

4. FAIR ACCESS TO ECONOMIC OPPORTUNITY AND SERVICES. The ability to use, create, or reach a place to earn a living, to form and expand a business, and to access quality education, civic institutions, child and adult care, and other public services is also strongly influenced by zoning through permitted use controls, design controls, and the length and complexity of zoning procedures.

5. AGING IN PLACE. As the population of older Americans increases, the accessibility, affordability, functionality, and safety of the built environment becomes increasingly important. Opportunities for “aging in place” and multi-generational living, development regulations related to

Universal Design, and connectivity requirements are all components of standard zoning regulations that effectively determine if an adult can stay in the same community as they age. APA’s [Aging in Community Policy Guide](#) addresses this topic in more detail.

6. CULTURAL PRESERVATION. Zoning regulations can help retain and preserve culturally important sites and connections by incorporating provisions that protect certain uses, geographic areas, or design elements that are supported by and unique to that community to ensure cultural cohesion, even as development patterns change.

For the purposes of this Policy Guide, the recommendations have been organized to follow the structure of a traditional zoning ordinance. Due to the interwoven nature of zoning regulations, many recommendations are intended to address more than one of the larger themes described above, even if only one particular theme is highlighted.

Although the rules discussed in this chapter often appear in the zoning ordinance, some of the rules may instead appear in design standards or guidelines in separate documents. Often these documents are referred to in the zoning ordinance, and property owners are required to comply with them just as if they were part of the zoning ordinance. To fully remove the sources of zoning inequities, they will need to be addressed in both the zoning ordinance itself and in related development and design standards and guidelines.

3.1 Zoning Districts

Most zoning ordinances divide their communities into districts based on the forms of buildings permitted (form-based zoning), based on mitigating the specific impacts of proposed development (performance zoning), or based on the permitted uses of land and buildings in the district (use-based or Euclidean zoning), or a mix of these three approaches. These types of controls are sometimes approved as a negotiated Planned Unit Development unique to a specific property. While the labels form-based or use-based generally describe the primary focus of the regulations, in practice almost all zoning districts regulate both the form and use of land and buildings within their boundaries. While some form-based districts have more flexible regulations on the use of property and eliminate or minimize the need for public hearings about land uses, others retain use controls very similar to those in use-based zoning (particularly for lower density residential neighborhoods). Similarly, while use-based zoning districts often have relatively simple building form controls (like maximum heights and minimum/maximum building setbacks), others include much more detailed building form and design standards. Over-regulation of building forms, site performance, and permitted uses can all create barriers to opportunities for historically disadvantaged and vulnerable communities. This chapter will address sources of inequitable zoning

3.79 million

The number of housing units the United States needs to create to address our housing supply crisis.

Source: APA-Sponsored
*Up for Growth Housing
Underproduction Report*

arising from both building form and use regulations, regardless of the Euclidean, performance-based, form-based, Planned Unit Development, or other label attached to the zoning district.

In most communities, implementation of the policies described below will require careful consideration of the demographics, economics, economic and social vulnerability, and potential for displacement of the existing population. The same zoning change that may expand opportunities for better housing, livelihoods, and services in one part of the community may lead to speculative investments and displacement of historically disadvantaged and vulnerable households and businesses in another.

We address base zoning districts first because overlay districts operate in relation to base districts. In some cases, however, overlay districts may be more important to protect the culture and integrity of historically disadvantaged and vulnerable communities than the base districts they modify.

A. Base Zoning Districts

ZONING DISTRICT POLICY 1. Establish new residential zoning districts or amend existing residential districts to allow more types of housing by right. Avoid districts limited to only single-household detached dwellings when that will limit housing opportunities for historically disadvantaged and vulnerable populations. Evidence shows that single-household only residential zoning has a disproportionate impact on the ability of historically disadvantaged and vulnerable groups to access attainable housing and quality schools and services. Revise zoning to allowing a broader range of building forms, lot sizes, lot widths, and residential types in low-density residential neighborhoods. However, if the residents of historically disadvantaged and vulnerable neighborhoods want to preserve single-household zoning to discourage speculative investment and displacement, those desires should be respected. More detailed information on this topic is available in the APA Housing Policy Guide.

ZONING DISTRICT POLICY 2. Establish new mixed-use zoning districts or allow a wider mix of residential and non-residential uses in existing zoning districts. Districts that allow a mix of appropriately-scaled housing, commercial, and service uses can increase opportunities for historically disadvantaged and vulnerable populations to live closer to sources of quality employment, goods, and services. Cities and counties should consider existing conditions and demographics to identify neighborhoods that would benefit from additional access to opportunities provided through an expanded list of permitted uses. Take care not to introduce new uses that could distort housing markets and lead to forced displacement of existing residents.

B. Overlay Zones

ZONING DISTRICT POLICY 3. Where supported by a historically disadvantaged or vulnerable community, consider establishing specialized overlay zones to help

Evidence shows that single-household only residential zoning has a disproportionate impact on the ability of historically disadvantaged and vulnerable groups to access attainable housing and quality schools and services.

preserve business districts that have historically served and been focused on the needs of these communities. In many communities, traditional business, entertainment, or service centers serve as sources of jobs, revenue, and pride for the historically disadvantaged and vulnerable areas they serve. This is particularly true when businesses primarily serve racial, ethnic, Tribal, Indigenous, or religious groups or the LGBTQIA community that want specific goods and services in a context not often provided by the broader economy. An overlay district or legacy business zone designation can be used to recognize and preserve their cultural and economic contribution to the community, as well as allow additional flexibility in building forms and uses needed to accommodate current activities and to strengthen the image of the area for the future. These types of overlay districts acknowledge that it is not always a unique building

or architectural style that fosters a unique sense of place, but rather a collection of businesses, residential dwellings, and/or civic uses that establish a shared community identity.

ZONING DISTRICT POLICY 4. Where supported by a historically disadvantaged or vulnerable communities, consider establishing specialized overlay zones to help protect residential areas that are affordable to low- and moderate-income households, but are not protected from speculative development pressures by any local, state, or federal program. This can be done by defining and protecting established building forms, by prohibiting the demolition of more affordable types of housing, or by limiting the amount by which existing single-family homes can be expanded within a given time period. Preserving the existing scale and fabric of smaller and more affordable housing can help slow or prevent the replacement of smaller, affordable housing with much larger and more expensive homes in those neighborhoods that want to preserve current levels of affordability. This tool should be used only with the clear understanding that restricting private investment will mean that the existing housing stock may age and may remain substandard compared to surrounding areas unless funding for structural improvements or interior remodeling is made available. In addition, this tool should be clearly limited to disadvantaged and vulnerable neighborhoods and should not be used to create islands of housing in neighborhoods of wealth and privilege.

ZONING DISTRICT POLICY 5. Establish specialized overlay zones to improve health outcomes and environmental justice by preventing concentration of pollution or environmental hazards, including hazards related to climate change, especially near historically disadvantaged and vulnerable populations. A key element of pursuing environmental justice is balancing strategies that prevent hazards from being created with those that mitigate the impacts of pollution or

hazards already existing. An overlay zone can accomplish both by severely restricting the expansion of existing harmful industrial uses, requiring larger setbacks and more intensive buffers from residential uses, requiring environmental remediation, protection of existing trees, and/or requiring sound walls during redevelopment. These types of zoning districts should be developed in close collaboration with the surrounding communities so that concerns about health, the environment, and employment reflect the values of the community.

ZONING DISTRICT POLICY 6. Where supported by historically disadvantaged or vulnerable communities, establish specialized overlay zones to protect culturally significant sites, even if they may not qualify for designation as historic districts or landmarks. Sites or areas that are culturally important to historically disadvantaged or vulnerable communities are often undocumented and unprotected. A cultural preservation overlay zone can protect those sites or areas the community values and provide more flexibility in the design and development of surrounding properties to honor these locations.

3.2 Lot and Building Form and Design Standards

Building form and design standards were first established to advance public health, safety, and welfare during a time when overcrowded urban housing was spreading disease and increasing fire risk. More recently, building form and design standards have focused on public welfare (rather than health and safety) with regulations that protect neighborhood character, advance sustainability, and improve development quality. Each of these regulations has impacts on both development costs and human opportunities, and many of those negative impacts are disproportionately borne by historically disadvantaged and vulnerable communities. Cities and counties should consider how building form and design standards may increase the cost of building and maintaining properties, create barriers to access, and encourage or discourage investment and livelihoods in these communities.

A. Lot and Building Dimensional Standards

The most common form of zoning regulation influencing building form are those establishing minimum lot sizes, minimum setbacks from streets and other buildings, maximum building coverage, and maximum building heights.

FORM AND DESIGN POLICY 1. Reduce or remove limits on single-household minimum lot size requirements for different types of housing and eliminate minimum dwelling size and maximum floor area ratio standards

that effectively require construction of more expensive homes that are less affordable to historically disadvantaged and vulnerable communities. While large minimum lot sizes are often defended on the basis of preserving neighborhood character or property values, their impact has been to perpetuate patterns of economic and demographic segregation of historically disadvantaged and vulnerable communities. There are many examples of neighborhoods with broad mixes of lot sizes and housing that maintain very high qualities of life without perpetuating those exclusionary impacts. Establish lot and building standards that accommodate less expensive “missing middle” housing (a range of multiple-unit housing types similar in scale and form to detached single-family homes, such as townhouses, tri- and four-plexes, cottage housing developments, and accessory dwelling units (ADUs)) plus manufactured and modular housing. In addition, consider limiting the ability to consolidate small lots into larger ones that facilitate development of larger homes or multi-household development

“Cities and counties should consider how building form and design standards may increase the cost of building and maintaining properties, create barriers to access, and encourage or discourage investment and livelihoods in these communities.”

FORM AND DESIGN POLICY 2. Reduce or remove limits on multi-household development density, minimum dwelling unit sizes, or maximum dwelling units per acre that tend to force the construction of fewer, larger, more expensive dwelling units within these buildings.

In addition to limiting the ability of households to live closer to needed schooling, childcare, employment, and services, these types of artificial limits make it difficult for America’s aging population to “age in place” in the neighborhoods they love. Regulations that focus on the form, size, and placement of these types of buildings, rather than the number of dwelling units in them, should be considered. If larger units are needed to accommodate growing populations of larger households, regulations may better promote construction of the needed housing by requiring more units with more bedrooms.

B. Lot and Building Form and Design Standards

As noted earlier, form-based zoning regulations generally focus more on ensuring that building forms fit their context while offering increased flexibility for the permitted uses of those buildings. While careful building form and design controls can help ensure that new development preserves traditional patterns of development in historically disadvantaged and vulnerable neighborhoods, it is important to ensure that these standards do not make it difficult and expensive to develop and redevelop properties in those neighborhoods.

FORM AND DESIGN POLICY 3. Consider adopting building form and design standards that protect the quality and character or historically disadvantaged or vulnerable households and businesses, and that do not impose undue cost burdens. Form and design standards that increase development costs while producing only marginal public benefits can prevent disadvantaged households from moving into a new neighborhood, creating a business in that neighborhood, or making improvements to their property.

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The number of ADU applications Salt Lake City, Utah, received within 10 months of its 2018 update to the city’s ADU regulations.

Current regulations permit all ADUs by right in most residential districts except for single-family only zoning districts. The city recently proposed new updates to make ADUs easier to build and to increase and diversify the places where they are legal.

Source: AARP and APA’s Expanding ADU Development and Occupancy: Solutions for Removing Local Barriers to ADU Construction Report

FORM AND DESIGN POLICY 4. Add standards to allow those with reduced mobility or without access to a motor vehicle to easily access and circulate in all neighborhoods. These include standards requiring Universal Design or other accessibility programs that go beyond the minimum requirements of the Americans with Disabilities Act (ADA), to ensure that neighborhoods function for older adults as well as those experiencing disabilities. Because compliance with some of these requirements may increase development and housing costs, they should be accompanied by other zoning changes or incentives that balance out overall development costs.

FORM AND DESIGN POLICY 5. Except in designated historic districts and cultural overlay zones, avoid drafting or allowing the use of architectural style design standards that have negative connotations among communities of color and vulnerable populations. For example, antebellum and Spanish Colonial styles may discourage Black, Latino/a/x, or Native American households from feeling welcome in a neighborhood or community due to the historical use of these architectural styles to assert power over these communities. Other defined styles may create similar reactions from Asian or Pacific Islander communities.

FORM AND DESIGN POLICY 6. Remove or modify restrictions on specific building or site features that are commonly found and disproportionately limited in historically disadvantaged and vulnerable neighborhoods. Examples of development standards that place disparate burdens include bans on window-mounted air-conditioning units, outdoor clothes lines, parking of a single commercial vehicle, basketball hoops, or carports. If necessary, limits or prohibitions on these types of typical site features should be based on documented negative outcomes developed in collaboration with those neighborhoods most likely to be affected by them.

3.3 Property Use Regulations

Use regulations identify the types of uses allowed by-right, conditionally, with discretionary review, or as accessory or temporary uses in different zoning districts, and often include standards to mitigate potential impacts of those uses. Whether they appear in form-based or use-based zoning districts, use regulations can disproportionately affect historically disadvantaged and vulnerable populations in several ways. Narrowly defined uses that focus on the name of the activity rather than its land use, traffic, or environmental impacts sometimes single out additional restrictions for negatively perceived forms of retail, sales, or production activities that are frequent sources of employment for these communities. The same is true for strict limits on home occupations based on their names rather than their impacts on the neighborhood, since these communities are more likely to need to use their homes to generate income to live and raise their families. Requirements for public hearings and discretionary approvals for specific uses also tend to have disproportionate impacts on these households, since they are often less able to invest the time and energy necessary to complete those procedures. The large number of use-related recommendations in this

Prioritizing Housing Choice

From counties to cities and everywhere in between, communities are changing their build form and use controls to make room for missing middle housing. Accessory Dwelling Units, duplexes, triplexes and more are giving people more housing options that meet their unique needs.

portion of the Policy Guide is indicative of the wide range of ways in which permitted use controls have created inequitable zoning results.

A. Residential Uses

Most of the land in most American communities is zoned for residential development and use. Historically, many zoning districts are grounded in idealized concepts of a small, nuclear, two-generation family that is no longer the norm. Many of these districts permitted only single-household, detached houses (and sometimes supporting civic uses like schools and places of worship). The wide use of these practices has contributed significantly to rising housing prices and the inability of historically disadvantaged and vulnerable households to find quality affordable housing in areas with quality schools and services and has led to long-standing demographic and income segregation in many communities.

In many cities and counties, making a wider range of diverse forms of housing available will require changes to both building form and use controls. This section should be read together with the APA [Housing Policy Guide](#), which includes several other policies related to housing, including APA's position on inclusionary zoning requirements.

PERMITTED USE POLICY 1. Where supported by historically disadvantaged and vulnerable populations, expand the list of residential use types permitted in those neighborhoods to include one or more of the following forms of non-traditional and “missing middle” housing that is more available to America’s diverse, aging population. Types of housing that are missing from many zoning ordinances—or only available following a public hearing—include cottage or courtyard dwellings, duplexes, triplexes, fourplexes, attached single-household homes (townhouses or stacked townhouses), co-housing, tiny houses, live-work dwellings, single-room occupancy (SRO), manufactured/modular housing, and both attached and detached accessory dwelling units (ADUs). By including appropriate standards on these uses, they can often be made available “by-right” in a wide range of residential zoning districts without the need for a public hearing or negotiated approval. To support the viability of ADUs, co-housing, and multi-generational living, a second kitchen that meets building code standards should generally be permitted.

PERMITTED USE POLICY 2. Allow accessory dwelling units (ADUs) without the need for a public hearing, subject to only those conditions needed to mitigate potential impacts on neighboring properties. ADUs are complete, smaller, secondary dwelling units that are located within a principal dwelling or in a detached accessory structure. Administrative approval of ADUs significantly decreases the time, cost, and risk of the development review process for applicants and encourages property owners to use their own resources to increase housing diversity. While ADUs may support the stability of existing

neighborhoods by accommodating extended families or creating an opportunity to generate revenue from tenants, they can also spur speculative investment that displaces current residents, particularly when ADUs are used as short-term rentals. Where allowing short-term rentals may lead to displacement, it may be necessary to limit them to properties where the primary dwelling unit is the owner’s primary residence.

PERMITTED USE POLICY 3. Allow manufactured and modular homes in many residential districts, protect existing manufactured housing parks, and allow the creation of new manufactured housing parks with quality common open space and amenities. Redevelopment of manufactured housing parks can create unusual hardships if the residents cannot afford to move their units or cannot find affordable replacement housing. Cities and counties should allow the installation of individual manufactured homes in a variety of residential districts, as well as the creation of new manufactured home parks in desirable residential areas. Where risks of natural disasters create disproportionate risks for occupants of these units, additional public safety regulations for these types of housing, including but not limited to an engineered tie-down system or reinforced concrete or masonry foundation, may be appropriate. They should also protect

3. THE RULES: EQUITY IN SUBSTANTIVE ZONING REGULATIONS

existing manufactured housing parks that meet public health and safety standards from displacement by limiting options for redevelopment without the approval of the elected officials.

PERMITTED USE POLICY 4. Treat assisted living facilities, congregate care communities, retirement villages, and supportive housing types as residential (not commercial) uses and allow them in a wide variety of residential zoning districts where the scale of the facility is similar to other permitted uses in the district.

Although supportive housing facilities often include commercial activities such as providing healthcare or other support services, they function as residential facilities and should be treated as such. Classifying supportive housing types as residential uses and reducing the need for public hearings and conditional approvals also expands opportunities for older adults to “age in place.”

PERMITTED USE POLICY 5. Treat housing with supportive services for people with disabilities the same as similarly sized residential uses.

Group homes or supportive housing for those with physical and mental disabilities are protected by the federal Fair Housing Amendments Act (FHAA), and the required broad reading of the FHAA means that zoning should not treat group homes any differently than similar sized homes for people not experiencing disability. Ensure that the zoning regulations allow small group homes wherever single-household homes are permitted and allow large group homes wherever multi-household buildings of the same size are permitted.

PERMITTED USE POLICY 6. Replace zoning references to “family” with a definition of “household” that includes all living arrangements that function as a household living unit or define residential units without reference to a family or household.

The definition of “family” is an important, and often overlooked, part of zoning regulations when it comes to disproportionate impacts

on historically disadvantaged and vulnerable communities. Many definitions related to household composition are based on outdated assumptions about small, nuclear families and a largely white culturally-specific concept of family life that excludes other ways of living. Common exceptions to these assumptions include Asian and Latino/a/x multi-generational living and LGBTQIA partnerships. Ensure that the definition includes people related by adoption, guardianship, or foster placement, and accommodates larger groups of unrelated individuals living as single households in a cooperative community. As an alternative, define a residential unit as consisting of self-contained rooms located in a building or structure used for residential purposes and containing kitchen and bathroom facilities intended for use of that unit only. If the definition includes a maximum number of unrelated persons, ensure that it is no lower than the number of related persons that would be permitted in the same size residential home.

PERMITTED USE POLICY 7. Allow administrative approval of “Reasonable Accommodations” for persons experiencing disabilities.

The FHAA requires that requests for reasonable variations and exceptions to zoning rules to accommodate persons experiencing disabilities (such as a request for a wheelchair

ramp that extends into a required setback) be considered and that decisions on those requests be reasonable. Establish a clearly defined administrative process for approval of requests for Reasonable Accommodation (perhaps in consultation with a caretaker or representative of persons experiencing disabilities). As opposed to the typical and sometimes lengthy variance process, an administrative process avoids a public hearing that will call attention to the disability of the applicant and may create public pressure on decision-makers to deny or condition approval of the request in ways that place an additional burden on the person experiencing disability.

PERMITTED USE POLICY 8. Adopt Universal Design requirements for a significant share of new housing construction to better accommodate the needs of older adults and persons experiencing disabilities.

While the Americans with Disabilities Act (ADA) generally does not require accessible design for single-household homes, Universal Design requirements ensure that key features (like doorways wide enough to accommodate wheelchairs and at least one at-grade entrance) are incorporated into single-household dwellings. If the building code does not already require these elements in a percentage of new homes constructed, incorporating them into development regulations can substantially expand the ability to “age in place.” Any increased costs for Universal Design should be addressed by zoning changes or incentives to offset those costs.

B. Commercial Uses

Commercial uses, including retail, personal, and medical services, are not only a large source of employment, but they also provide necessary goods and services for community residents and drive many local and regional economies. Historical practices in commercial zoning have resulted in inequitable patterns of development and a lack of fair access to employment and basic necessities. Limiting expansions of telecommunications systems tends to perpetuate the “digital divide” and can

limit the ability of disadvantaged neighborhoods to access economic opportunities and prevent older adults from accessing needed services. The recommendations below are intended to dismantle the negative stereotypes of some commercial uses, expand the provision of essential goods and services into historically disadvantaged and vulnerable neighborhoods, and increase access to employment opportunities.

PERMITTED USE POLICY 9. Evaluate the permitted uses regulations applied to small-scale commercial uses and eliminate restrictions and standards that are not based on documented public health, safety, economic, or other land use impacts on surrounding areas.

Businesses such as plasma clinics, laundromats, nail salons, social clubs, and tattoo parlors are often limited or prohibited in many commercial zoning districts even though they have similar operating characteristics and land use impacts as other commercial uses like banks, personal services, and urgent care clinics. In many communities, these uses serve as significant providers of goods, services, and employment in the surrounding areas, as well as important gathering places for historically disadvantaged and vulnerable communities. Restrictions on small-scale commercial uses should be based on documented

The recommendations below are intended to dismantle the negative stereotypes of some commercial uses, expand the provision of essential goods and services into historically disadvantaged and vulnerable neighborhoods, and increase access to employment opportunities.

land use impacts and should be adopted only after collaboration with the business communities that will be affected to balance those impacts with potential employment opportunities and to avoid over-concentration of those uses in historically disadvantaged and vulnerable neighborhoods. Defining broader and more flexible permitted use categories generally reduces barriers to small business formation and competitiveness.

PERMITTED USE POLICY 10. Allow small-scale child and elder care and outpatient medical and health support facilities in a wide variety of zoning districts to allow convenient access by all residents and treat non-residential addiction services like other outpatient treatment facilities. America’s aging population will require increasing amounts of medical and dental care, physical and occupational therapy, and other supportive services located conveniently to the neighborhoods where they “age in place.” In addition, serious shortages of convenient childcare have a disproportionate impact on single-parent, often female-headed, households. Outpatient addiction treatment centers operate similarly to other types of outpatient facilities and should be treated as such. Because substance addiction is a growing medical and mental health challenge that affects all demographics, these facilities should be allowed with few restrictions in a wide variety of commercial zoning districts and should not be subject to public hearing or development standards that are not also applied to other types of outpatient treatment facilities. For each of these uses, avoid regulations that add costs or repeat state regulations or licensing requirements.

PERMITTED USE POLICY 11. Ensure access to healthy food by allowing grocery stores, local cuisine restaurants, and artisanal food producers with limited operational impacts within and near low-density residential neighborhoods and in food deserts. Grocery stores and local food producers are important contributors to public health and are needed in almost every part of the community on a daily basis. Zoning regulations and procedures that create barriers to these uses should be removed or revised to allow wider access to healthy food in residential neighborhoods at scales consistent with established development. Revise permitted use regulations to reverse the overconcentration of convenience stores, cannabis outlets, safe injection sites, and other facilities that provide easy access to health compromising substances like alcohol and tobacco in historically disadvantaged and vulnerable communities.

C. Industrial Uses

Due to a long history of zoning practices that located or allowed environmentally harmful or polluting

uses in or near historically disadvantaged and vulnerable neighborhoods, Black, Latino/a/x, and Asian communities in particular, have suffered disproportionate burdens from air and water pollution, lack of safe or clean open and green space, and other environmental hazards. While current environmental regulations sometimes prohibit the creation of new hazardous or polluting uses, existing sources of environmental risk often remain in place and are protected by their legal nonconforming status. The recommendations below can reduce the disproportionate impacts from environmental hazards on these communities.

PERMITTED USE POLICY 12. To improve environmental justice, prohibit the location of new industrial uses and the expansion of existing industrial uses that do not meet current public health and environmental safety standards. Where existing environmentally harmful uses continue to operate as legal nonconforming uses, prohibit expansion of those uses unless the expansion will result in reduction and remediation of existing risks to public health and safety, particularly when they are located near schools, health care facilities, and other facilities serving vulnerable populations. Create incentives to spur redevelopment of hazardous and polluted sites near historically disadvantaged and vulnerable populations. Where permitted by law and supported by the surrounding community, use amortization powers to terminate hazardous nonconforming land uses.

PERMITTED USE POLICY 13. Classify and clearly define low-impact and artisan manufacturing uses as commercial uses and allow them in more zoning districts. While the term “industrial” is typically associated with large facilities with large neighborhood impacts, there are many small-scale assembly, processing, and fabrication activities with few or no negative impacts on the surrounding area. Because these uses are often grouped with the more intense industrial uses, there are often unnecessary limits on where they can be

located. Allowing small-scale artisanal production and retail sale of their products in the same building lowers the barriers to economic activity to those without the resources to maintain different properties to make and to sell their products. Where residential and small-scale commercial uses occur in the same neighborhood, ensure that commercial sites are designed to protect the safety of vulnerable residents, particularly children and older adults.

D. Agricultural Uses

Agricultural use regulations, especially those related to urban agriculture, are an integral component of sustainable and equitable access to healthy, safe, and affordable food. Local production of food is increasingly allowed in many zoning districts but is particularly important in and near those historically disadvantaged and vulnerable neighborhoods where access to healthy food is limited. The recommendations below can help to not only increase access to healthy food sources but to empower and strengthen local food producers and connect them to local and regional food systems.

PERMITTED USE POLICY 14. Allow small-scale urban agriculture — including but not limited to community gardens, greenhouses,

beekeeping, and poultry raising — in a wide variety of zoning districts, including residential districts, and allow light processing, packaging, and sales of products grown on the property. To protect public health, ensure that soil on urban agriculture sites is not contaminated or that raised beds with clean soil are used, particularly when the site has been previously used for commercial or industrial purposes. Reduce noise impacts by prohibiting roosters and ensure households properly dispose of animal waste. Remove barriers to construction of supporting facilities needed to protect plants due to climate or soil conditions and reduce standards, such as the number of beehives allowed per lot, that significantly limit many properties from operating those uses. Do not allow large-scale or high-impact agricultural uses to locate near historically disadvantaged or vulnerable populations.

PERMITTED USE POLICY 15. Allow farmer’s markets and other facilities for local food distribution in a wide variety of zoning districts, including residential districts, as either temporary or permanent uses. Easy public access to healthy food is as important as the ability to produce healthy food, particularly for those who do not have the ability to grow it themselves.

E. Home Occupations

Zoning regulations often severely limit the types of revenue earning activities that can be conducted from a house or apartment, which has a significant impact on those who do not have the resources to rent a separate business location, including but not limited to historically disadvantaged and vulnerable communities. In some cases, zoning limits are based on stereotypes regarding the activity rather than its impacts on the neighborhood. Removing prohibitions or overly restrictive requirements on home-based businesses are of particular benefit to single-parent or guardian households or other households with small children, older relatives, or other dependents by allowing them to run a business or be

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The number of states with a housing underproduction problem as of 2019. The housing crisis is no longer just a coastal problem.

Source: APA-Sponsored
Up for Growth Housing Underproduction Report

employed without the additional costs of childcare, eldercare, or commuting.

PERMITTED USE POLICY 16. Update home occupation regulations to broaden the types of activities allowed to be conducted from dwelling units of all types.

Ensure that any restrictions on home occupations are based on documented neighborhood impacts and eliminate special permit requirements where possible. Regulations should allow those who occupy housing as their primary residence to also use that home as an economic asset to participate the “gig” economy. Regulations should focus on preventing negative impacts on the surrounding area rather than trying to list specific permitted home businesses. Limits on the use of accessory buildings, prohibitions on employment of even one person from outside the household, additional requirements for off-street parking, and prohibitions on cottage food operations all create significant barriers to economic activities and likely have a disproportionate impact on historically disadvantaged and vulnerable communities.

F. Temporary Events

PERMITTED USE POLICY 17. Reduce zoning barriers for temporary events, entertainment, and outdoor sales, including garage/

yard sales, “pop-up retail” sidewalk sales, street vending, and mobile food vendors where those barriers are likely to hinder social and economic opportunities for historically disadvantaged and vulnerable individuals. Temporary uses are often heavily restricted due to perceived or potential traffic and noise impacts, even though those impacts will be short-lived. Temporary events are often tied to cultural celebrations that foster a sense of community within a neighborhood and offer additional sources of temporary employment without the need to invest in a permanent place of business. Temporary use restrictions should be based on balancing the short-term impacts of these events with the social, economic, and cultural benefits they create. Larger temporary events should be required to be accessible to those using mobility devices such as wheelchairs and walkers, and to provide accessible support facilities such as parking and restrooms.

3.4 Site Development Standards

Site development standards address the physical layout and design of the lots and parcels on which buildings are built and activities are conducted, including access to the site, the number of parking spaces (if any) required, the amount of landscaping (if any) required, what kinds of outdoor lighting fixtures are permitted, and what types of signs are permitted. The recommendations below address several major elements of site development standards and how they can be used to improve equity for historically disadvantaged and vulnerable communities.

A. When is Compliance Required

Because site development standards can add significant costs to new development or redevelopment, it is important to clarify what level of investment triggers

the need to comply with those standards. Smaller investments generally require only partial compliance, or are exempt altogether, while larger investments require full compliance. Site development regulations are often tailored to allow additional flexibility for infill and redevelopment projects and can also be tailored to allow additional flexibility to allow needed investment and employment in historically disadvantaged and vulnerable neighborhoods.

SITE DEVELOPMENT POLICY 1.

Draft thresholds for compliance with specific site development standards to avoid disproportionate impacts on historically disadvantaged and vulnerable neighborhoods.

The triggers for compliance with different types of site development standards should be developed after close consultation with the affected neighborhoods so that they reflect a good balance between the desire to maintain and upgrade the quality of the neighborhood with the need to sustain investment and employment by existing businesses and the affordability of housing to area residents.

B. Access and Connectivity

Access and connectivity standards address internal circulation within a site, connections between development sites, and

multiple modes of mobility to and throughout the site. Connectivity standards accommodate the many individuals who rely on public transit, walking, and biking as alternatives to travel by car, those who must rely on mobility aids, those using strollers for small children, and children who need safe routes to school. Fire and emergency response times are often longer in historically disadvantaged and vulnerable neighborhoods, and improved connectivity can shorten those response times.

SITE DEVELOPMENT POLICY 2. Require high levels of accessibility and connectivity for pedestrians, bicycles, and motor vehicles in all new development and significant redevelopment. Require that bicycle routes, sidewalks, internal walkways, and pedestrian crossings are safe and usable by all people, including persons experiencing disabilities. Ensure existing pedestrian routes are preserved to the maximum extent practicable when new development is proposed, and require off-site enhancements such as improved crosswalk markings, protected bicycle lanes, and enhanced transit stops. Consider requiring Complete Streets, going beyond the standard requirements of the Americans with Disabilities Act, and requiring compliance with federal Public Right-of-Way Accessibility Guidelines. Prohibit the creation of new “gated communities” with single or limited points of access that lengthen walking, bicycling, and motor vehicle trips and are a significant contributor to exclusionary development patterns. Consider requiring large projects with multiple buildings to incorporate low vision, blind-supportive, and deaf-friendly design features such as wide sidewalks, raised crosswalks,

and other tactile markers to differentiate pathways.

C. Required Parking

Minimum off-street parking regulations raise the cost of housing and other development and often make redevelopment of older infill sites difficult or impossible, which likely has a disproportionately negative impact on historically disadvantaged and vulnerable neighborhoods. Often these minimum requirements far exceed what is needed to achieve their original purposes, which were to protect public health and safety by reducing street congestion, to prevent overflow parking and related traffic from commercial uses in adjacent residential areas, and to prevent parking on yards and sidewalks. Average temperatures are often higher in historically disadvantaged and vulnerable neighborhoods, and reducing parking reduces the impervious surfaces that create urban heat islands and increase risks of flooding. Reducing or eliminating parking minimums can also increase the amount of land available to build

Minimum off-street parking regulations raise the cost of housing and other development and often make redevelopment of older infill sites difficult or impossible, which likely has a disproportionately negative impact on historically disadvantaged and vulnerable neighborhoods.

housing, parks and open space, or other community-supporting uses.

SITE DEVELOPMENT POLICY 3. Eliminate or reduce minimum off-street parking requirements in areas where those requirements serve as significant barriers to investment and are not necessary to protect public safety of pedestrians, bicyclists, motorists, older adults, or persons with disabilities. Minimum parking requirements are often based on suburban development models that are not applicable to denser, urban contexts or redevelopment projects. Reducing minimum parking requirements is particularly important for Transit-oriented Development and other areas with meaningful mobility options. However, because of poor public transit access to employment opportunities, some historically disadvantaged and vulnerable households may have no choice but to own a motor vehicle (or more than one) to reach more dispersed work opportunities. Some employers may need more off-street parking because their workforce arrives from widely dispersed neighborhoods not served by other forms of transportation. Reductions in parking requirements should be based on careful consultation with affected neighborhoods and employers to balance the affordability and walkability benefits of less parking with the need to accommodate vehicles used for employment without compromising public health and safety.

SITE DEVELOPMENT POLICY 4. Do not require minor building expansions, minor site redevelopment projects, or adaptive reuse of existing buildings to provide additional parking unless the change will create significant impacts on public health or safety. A major barrier to opening a small business or operating a restaurant or personal service use is additional parking requirements triggered when the intensity of use increases. This can disproportionately impact historically disadvantaged and vulnerable business owners who have more constrained sites and who may lack the

resources to make significant site improvements to accommodate a relatively small change in use. Often, the time involved in evaluating incremental parking requirements for small changes in property use far outweighs the benefits of those parking adjustments to public health and safety.

D. Landscaping, Open Space, and Tree Canopy

Many historically disadvantaged and vulnerable neighborhoods have lower levels of vegetation, landscaping, and open space for outdoor gatherings and activities that promote public health and well-being. They often have less tree canopy to cool properties and offset heat island effects, which make many of these neighborhoods significantly warmer than others and creates health challenges for older adults and persons experiencing disabilities. Some of these discrepancies are caused by zoning regulations that do not require the same levels of private investment applicable to private property in other neighborhoods. Tailored site design standards can help reverse these shortcomings over time.

SITE DEVELOPMENT POLICY 5. Draft zoning standards that require or incentivize new development and redevelopment to increase the amount of landscaping, open space, and tree canopy in those

neighborhoods that currently have less of these site design features. Higher levels of these important amenities are particularly important where development intensity is increased. These requirements should be drafted in close collaboration with those most affected by the change, so that increases in these features are balanced with the need to preserve the affordability of housing and the viability of existing businesses. Ensure that new landscaping is located and sized to avoid obscuring sight lines for pedestrians, bicyclists, and motor vehicles that would increase risks to public health and safety, particularly children, older adults, and those reliant on public transit. The added costs of open space and tree canopy in these neighborhoods can be offset by additional flexibility other development standards, provided that the amount of open space per dwelling is increased.

E. Lighting for Public Safety

Because many historically disadvantaged and vulnerable neighborhoods are located in older areas of our communities, they often contain properties that were developed before minimum lighting standards to protect public safety were adopted. Nighttime safety is important to all residents of the community, but particularly important to vulnerable populations, including older adults, persons experiencing disabilities, women, children, and those relying on public transit.

Smaller communities choose redevelopment over parking

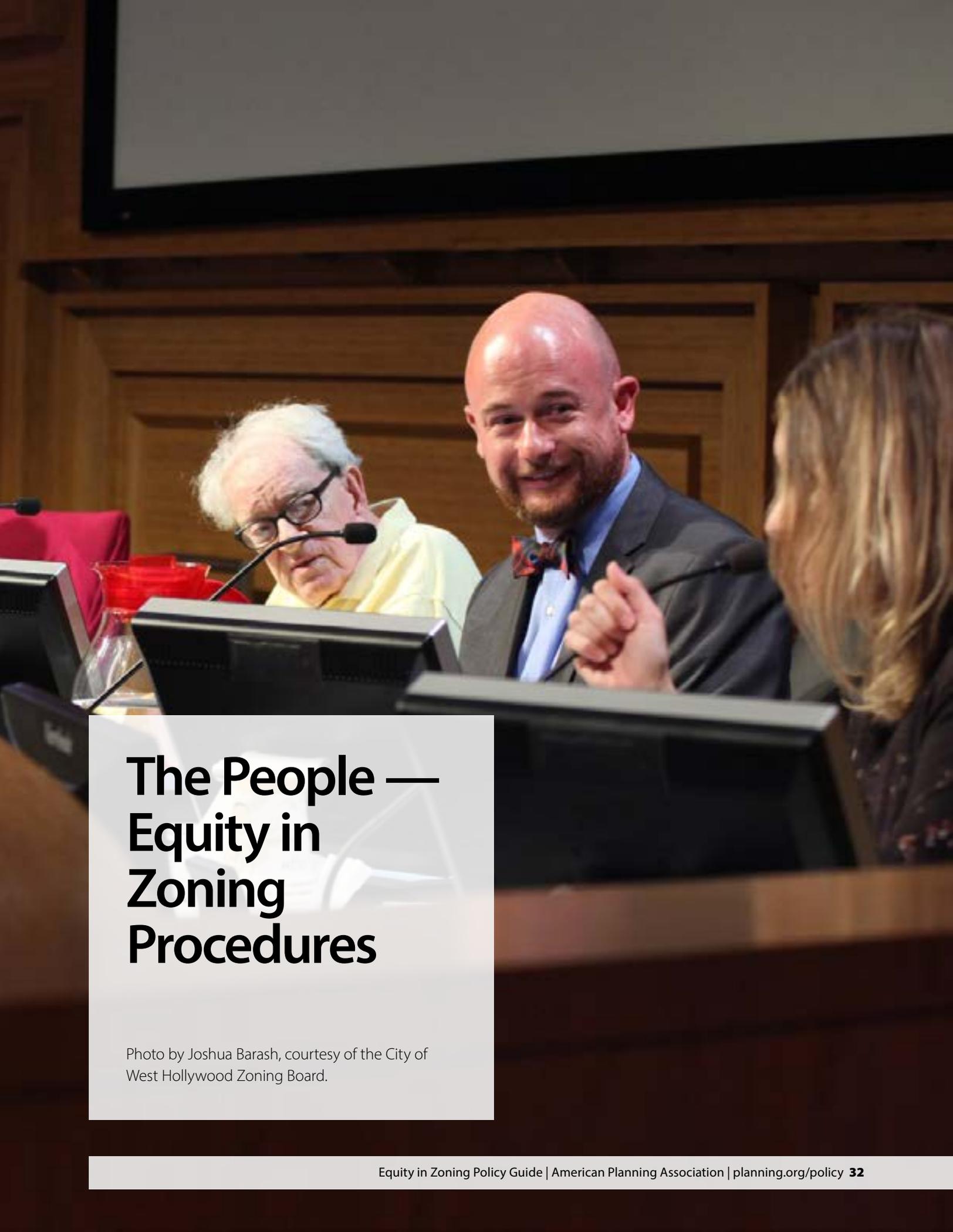
In **Fayetteville, Arkansas**, reducing the required spots from more than 30 to eight allowed one small business to turn a vacant building into a buzzy downtown hot spot.

In **Sandpoint, Idaho**, dropping parking minimums encouraged tech company Kochava to renovate an old lumber storage facility, resulting in a tax value assessment increase of more than \$2 million.

Source: Planning Magazine

SITE DEVELOPMENT POLICY 6.

Require adequate levels of lighting of sidewalks, crosswalks, walkways, public transit stops, and parking lots to protect the health and safety of vulnerable populations. Through shielding requirements, “dark sky” fixtures, limits on uplighting, and better light trespass standards, lighting needed for public safety can be readily balanced with community desires to “see the stars.” Because excessive lighting standards have sometimes been used to increase surveillance of Black, Latino/a/x, and other persons of color, lighting standards should be drafted after careful consultation with the residents and businesses in the neighborhoods where they will be applied, so that they balance public safety for all residents and visitors.



The People — Equity in Zoning Procedures

Photo by Joshua Barash, courtesy of the City of West Hollywood Zoning Board.

4. The People — Equity in Zoning Procedures

While community participation has long been emphasized when creating planning documents, it is not always a priority when drafting and implementing zoning regulations, possibly because zoning is perceived as a technical topic. That omission is a serious mistake, however, because informed participation is as critical to eliminating racism and discrimination in zoning as it is in planning. Equity in zoning requires that communities ensure diverse, inclusive, and effective participation in writing and changing the zoning rules; drawing and changing the zoning map; applying the zoning ordinance to development applications; and deciding how the rules will be enforced.

The continuing need to achieve much greater diversity and maximum participation in the planning profession was addressed both in the Planning for Equity Policy Guide and in Chapters 1 and 2 of this Policy Guide so that discussion is not repeated here. On the ground outreach and community development work by planning staff, including efforts such as surveys, canvassing, and long-term relationship-building, are critical to expanding community participation. It is not enough to identify underrepresented groups and invite their participation. Pro-active efforts to recruit, engage, educate, and empower these individuals, and to mobilize their communities and community-based organizations for effective engagement are also vital. Education should focus not only on how zoning works and how to influence zoning decisions, but also on consensus-building and compromise, which are essential ingredients of all zoning reform efforts.

4.1 Capacity Building

Effective public education on what zoning is and what zoning does can be a crucial element in enabling

participation from broader and more representative groups of citizens. Cities and counties that have offered zoning 101 or zoning academy events and programs often report a significant increase in public understanding of the most effective ways to make their wishes known and understood throughout the zoning process. In addition to explaining how zoning works, these programs should address the need for diverse participation by making accommodations for non-traditional work schedules, participants' needs to bring children to learning events, and those with limited English proficiency.

CAPACITY-BUILDING POLICY 1.

Design and offer events or classes to help historically disadvantaged and vulnerable communities understand and participate in zoning procedures, and to help

staff learn from members of those communities how current zoning procedures affect their neighborhoods, businesses, and quality of life. Events offering public education or seeking public input should be offered both virtually and in-person, at varying hours, at locations where participants normally gather, and in commonly used languages that avoid “legalese”. They should create working partnerships among neighborhood residents, businesses, trusted community-based organizations, and planners. If possible, they should offer childcare, meals, and stipends to recognize the value of participants’ time. These efforts need to go beyond traditional capacity building and “zoning 101” training to include collaborative community development, mobilization of residents, and encourage more elementary and high school students to understand planning and zoning and to enter the profession.

CAPACITY-BUILDING POLICY 2. Ensure that planners and elected and appointed officials receive diversity, equity, and inclusion (DEI) training. As the planning profession works to build diversity over time, planners should work to enhance their sensitivity and knowledge of issues and concerns relevant to historically disadvantaged and vulnerable populations and neighborhoods, as well as the perspectives of their co-workers who are members of these communities. Regardless of background, those working to draft and apply zoning should become aware of the history and negative impacts of past zoning policies while striving to improve present conditions and future outcomes by directly collaborating with those in the community who will be most affected by their actions.

4.2 Equity in Advisory and Decision-Making Boards

Although the ultimate authority to adopt and apply zoning regulations is almost always held by elected officials, appointed boards are often authorized to make recommendations or to make certain types of decisions. Examples include Planning Boards, Zoning Commissions, Historic Preservation Committees, Zoning Appeals Boards, and Hearing Officers. This Policy Guide has previously noted that the planning profession remains a predominantly white profession that often does not reflect the diversity of the communities it serves, and the same is frequently true of appointed zoning-related boards and officials. Some of the inequities in drafting, applying, and enforcing zoning regulations discussed in Sections 4.3 through 4.6 below may not be fully addressed until these boards truly reflect the diverse populations of our cities and counties.

Cities and counties should consider how building form and design standards may increase the cost of building and maintaining properties, create barriers to access, and encourage or discourage investment and livelihoods in these communities.

APPOINTMENT POLICY 1. The composition of non-elected boards and committees should reflect the community, including proportionate representation from historically disadvantaged and vulnerable communities. While expertise in zoning, planning, real estate development, and real estate markets have often been the key criteria for appointment to these boards, that approach often results in memberships that do not reflect the makeup of the community. Professional expertise is important, but these boards also need to include significant local community expertise and lived experience. Their members need to bring different kinds of knowledge that can be conveyed by diverse voices that better understand the impacts of zoning decisions on historically disadvantaged and vulnerable neighborhoods. Announcements of opportunities to serve on boards should be disseminated broadly, appointment procedures should be transparent, and classes should be offered to provide training and information about the roles and responsibilities of board(s) members. Communities should consider offering support services like transportation or childcare to members who agree to serve on boards and committees.

4.3 Writing and Changing the Zoning Rules

While full rewrites of a zoning ordinances are relatively rare, amendments to the current zoning rules occur frequently. This section addresses both large-scale and more targeted changes to the text of the zoning regulations. Two equity considerations arise when communities draft or update zoning regulations: (1) Who is writing or amending the rules, and (2) Who will be affected by the proposed changes. To the greatest extent possible, the task forces, consultants, and advisory committees involved in writing or amending zoning rules should reflect the demographic makeup of the

community. Staff or advisory groups should also include individuals living, educating, or doing business in the areas that will be affected by the new rules under consideration.

In addition, zoning rewrite projects must include significant outreach efforts to ensure they reflect input from diverse groups in the community, and particularly from historically disadvantaged and vulnerable communities. The rewrite process should include input from a standing advisory committee reflective of the community, and any proposed changes should be subject to public review and feedback long before there is an actual hearing on adopting those changes. Many of the outreach policies in the Planning for Equity Policy Guide apply to zoning rewrites as well.

Just as importantly, the zoning drafting process should include specific opportunities to evaluate the potential impact of revised zoning regulations on all of our diverse neighborhoods. It may be appropriate to perform an equity audit of the current zoning regulations based on the recommendations in this Policy Guide in order to identify potential changes and any unintended consequences of those changes.

DRAFTING POLICY 1. Those framing, writing, and/or reviewing the zoning rules should reflect the demographic composition of

the community and should include representatives from historically disadvantaged and vulnerable communities. Input from these groups should occur at least twice: once before amended language is being drafted, and again before that language is presented to a decision-making body. If changes are not incorporated based on public input prior to the hearing, discussion of that input and the reasons for not reflecting it in the proposed rules should become part of the public hearing.

DRAFTING POLICY 2. Ensure that drafting efforts include business and residential tenants, as well as property owners. This is important because historically disadvantaged and vulnerable communities generally have a higher percentage of renters than the overall population, and because the zoning changes can lead to gentrification and displacement that particularly impact tenants.

DRAFTING POLICY 3. Ensure that there are multiple opportunities for review of potential zoning impacts on historically disadvantaged and vulnerable communities. This could include developing indicators of neighborhood vulnerability and modeling the impacts of potential developments against these indicators. These reviews need to happen with sufficient time to receive and incorporate meaningful and equitable input before public hearings on the proposed regulations begin.

DRAFTING POLICY 4. Avoid overly complicated regulations and legalistic language and speak to the community in the language(s) they understand. Complicated regulations, and those that require detailed supporting documentation, make it difficult for residents (particularly those with limited English proficiency) to engage effectively in the drafting process. They also discourage zoning applications from those who do not

Zoning rewrite projects must include significant outreach efforts to ensure they reflect input from diverse groups in the community, and particularly from historically disadvantaged and vulnerable communities.

have the resources to hire professional help to get through the zoning process. Communities with significant populations of persons with limited English proficiency should provide zoning and application materials in commonly spoken languages as well.

DRAFTING POLICY 5. Draft clear and objective, equity-based standards and review criteria. Similar to overly complicated regulations, vague and subjective standards are difficult and time-consuming to interpret and often allow historical biases to enter the decision-making process. Overly subjective standards also make it easier for individuals familiar with the public process (who are typically wealthier and often white) to oppose zoning text and map changes that could produce more equitable development. Draft zoning approval criteria that prevent or mitigate displacement or further fragmentation of historically

disadvantaged and vulnerable communities. Because zoning criteria based on preserving neighborhood character and protecting property values have often been used to block the expansion of housing opportunity and variety in historically privileged neighborhoods, use of those terms and regulations related to them should be avoided. As alternative, define community character objectively so the term can be applied consistently across all neighborhoods. Outcomes from these changes should be periodically assessed to ensure that decision criteria are not perpetuating patterns of segregation.

4.4 Applying the Zoning Rules to Individual Properties

Although the drafting of zoning rules discussed in Section 4.2 and the adoption of area-wide zoning maps discussed in Section 5.1 are very important, most zoning administration involves the application of zoning rules that have already been drafted and adopted. The activities discussed in Sections 4.2 and 5.1 are often called “legislative” actions because they affect large areas of a community, they are almost always approved by elected officials, and those officials have wide discretion to do what they think is best for the entire community within the limits of state and federal law.

In contrast, most zoning activity involves actions that affect only one or a few properties. These types of decisions can include changing the zoning map for one or a few properties (often called a “rezoning”), or approving a conditional use permit, development permit, demolition permit, or variance from the strict terms of the zoning rules, as well as many other actions. In most communities, these include:

DECISIONS MADE BY STAFF to confirm whether a

A National Partnership for Zoning Reform

APA is partnering with the National League of Cities to improve local capacity, identify critical solutions, and speed zoning reforms that enable communities to meet housing needs at the local level.

The Housing Supply Accelerator will bring together local governments, planners, builders, financial institutions, housing policy associations and state and federal partners to develop, align and advance solutions for housing supply challenges.

development application complies with the adopted rules (often called an “administrative” or “ministerial” action, because it involves little or no discretion),

DECISIONS BY AN APPOINTED BODY

that involve some level of discretion as to whether a development application meets standards and criteria stated in the zoning code (sometimes called a “quasi-judicial” decision, because the appointed body is acting similarly to a judge who applies the law to the facts of a specific case), and

DECISIONS BY THE CITY COUNCIL OR COUNTY COMMISSIONERS

regarding an application covering one or a few properties (which are categorized as “quasi-judicial” actions in some states and “legislative” actions in others).

A. Administrative and Ministerial Decisions

Administrative and ministerial decisions are generally made by a community's planning staff. Because these decisions do not require staff to exercise discretion or judgment, the key to equity is to ensure that the zoning rules themselves do not have disproportionate impacts on historically disadvantaged and vulnerable communities (See Section 4.3 above). Because staff are often trained to make the same decision in the same way for similar applications, without knowledge of the applicant's race, ethnicity, national origin, religious affiliation, gender, sexual orientation, or level of physical or mental ability, some of the opportunities for inequity introduced in the public hearing process are removed. The "applicant neutrality" of this type of decision-making has led some communities to focus on making as many zoning decisions as possible administrative decisions.

B. Decisions That Require a Public Hearing

While requiring a public hearing before making a zoning decision can increase opportunities for members of historically disadvantaged and vulnerable groups to be heard before decisions are made, they also create opportunities for inequities to enter the zoning decision-making process. In addition to the common use of vague or subjective criteria, inequity can enter the hearing process because of (1) how the public is notified of those hearings; (2) the time and location of the public hearing, which may require significant travel, arranging time off from work, and arranging child care; (3) the ways in which the public is permitted to participate in the hearing; (4) limited English proficiency; and (5) limits on how the least mobile members of the public can participate in the hearing. Equitable public hearings require that each of these barriers be removed as much as possible.

C. Notifying the Public

The importance of effective public notification, and improved ways to do that, are addressed in APA's Planning for Equity Policy Guide, and those same

recommendations apply in the zoning context. Traditionally, written notice has been provided to property owners within a defined radius of the proposed development project. There are several inherently inequitable aspects to this practice.

A significant and growing percentage of Americans rent their housing, so limiting notification of public hearings to property owners effectively disenfranchises those residents from zoning decisions that affect them. Since historically disadvantaged and vulnerable communities have higher rental occupancy rates than the population as a whole, mailed notice requirements that ignore renters introduce significant bias into the public hearing process. Because property owners are by and large, older, whiter, and wealthier than other segments in a community, notice may be received by a disproportionately large number of these households. In areas with significant Tribal or Indigenous populations, effective engagement of those groups requires notice in well understood language when developments are proposed on adjacent lands.

The way that notice is given can also introduce bias. Depending on the type of decision being made, many zoning ordinances require mailed notice (sometimes certified), published notice in a newspaper, and/or posted signs on the potential

development site. Posted signs are a particularly effective means of reaching a broad audience, but only if passersby can read the sign. To minimize this barrier, any community with significant numbers of residents with limited English proficiency should require signs in commonly spoken languages.

The limitations of publishing zoning notices in a newspaper of record are also significant. This type of notice is not likely to be seen by younger residents who rely on electronic media for news and information, and unlikely to reach or be understood by those with limited English proficiency.

Local governments have access to several types of communication that can more readily reach a diverse audience, including the city or county website, community bulletin boards, social media, and e-mail or text notices. Many communities are already making use of these tools, but relatively few have codified these practices into zoning regulations or put them on a par with required mailings, newspaper notices, or posted signs.

The amount of time that notice must be given before the public hearing introduces a final form of potential bias. The shorter the notice given, the less likely those with children or other dependents to care for, those working multiple jobs, and those with fixed work schedules will be able to participate. Those individuals often include a disproportionate number of historically disadvantaged and vulnerable persons.

ZONING NOTIFICATION POLICY 1. Review, update, and expand traditional notification procedures to reach a wider range of possible participants. Where mailed notice is required, notices should be sent to tenants as well as property owners. If the neighborhood where the property is located has a significant population with limited English proficiency, notices should be sent in multiple languages, or should at least indicate how non-English speakers can follow up to learn more. Expand posted notice requirements to apply to more

types of applications, including those that do not require a public hearing. Translate notices into languages commonly spoken in the neighborhood and make them accessible to persons with visual impairments. If responsibility for notices is placed on the applicant, the city or county should confirm that it has been done accurately and should periodically evaluate the effectiveness of notice procedures in reaching historically disadvantaged and vulnerable populations.

ZONING NOTIFICATION POLICY

2. Formalize and expand requirements to use newer means of notification. The range of media where published notices appear should be expanded beyond newspaper notice to include new and expanding sources of information. This should certainly include notice on the city or county website, distribution by email to individuals who have signed up to receive notification, and the use of English and non-English language social media where those are in common use by the public. Every application should be available for review on the city or county website, even for administrative decisions that do not require a public hearing. When a public hearing will be held, the website should allow the public to submit project-related comments through the website, rather than requiring them to send a separate

letter or email message. Staff should identify interested community members and groups (housing authorities, tenants unions, community activist groups) and maintain updated lists of their contact information. While not everyone can receive electronic notices, this is a valuable and increasingly widespread means of communication for many groups and individuals and should become a mandatory form of notice.

D. Conducting the Public Hearing

As noted above, requiring a public hearing introduces a predictable source of bias into zoning administration. While most residents care about their neighborhoods, some have a greater understanding of zoning laws and regulations, how to engage with their local government, and how to express themselves in English in ways that can influence zoning decisions. Historically disadvantaged and vulnerable communities are often less able than others to engage effectively in public hearings.

When public hearings are required, they should be conducted with as few barriers to participation as possible. Limiting public comment to a fixed time of day (particularly during working hours) and at a fixed location automatically disadvantages those who have inflexible work or family obligations at that time or lack the mobility to attend. Fortunately, many communities are offering expanded opportunities for virtual engagement in public hearings. Others are requiring staff reports to be posted on local government websites a week or more in advance of the hearing and then offering the ability to write or record comments that are then replayed and made a part of the record during the public hearing itself.

Because there is still a serious “digital divide” as well as a “language divide” in many communities, new electronic notice requirements should supplement but not replace other forms of notice. Those who do not have high-speed internet access from home or have limited English proficiency are very often the same groups that have typically been disenfranchised by traditional methods of participation.



Reform zoning requires also reform the public processes surrounding it: limit hearings, maximize participation, and bridge the divides.



PUBLIC HEARING POLICY 1. Only require public hearings when there is a genuine need to use discretion in applying zoning criteria and standards to the facts of a specific development proposal. Where a decision can be made based on clear and objective standards in the zoning ordinance, an administrative decision will often reduce opportunities for bias to enter the decision-making process. When discretionary decisions require a public hearing, draft objective standards and criteria that avoid unintended negative impacts on historically disadvantaged and vulnerable individuals and neighborhoods.

PUBLIC HEARING POLICY 2. Maximize the ways in which individuals can participate in public hearings and avoid limiting engagement to a specific time and place.

Allowing public comment for a period before the hearing itself, and allowing virtual participation, can significantly increase participation from historically disadvantaged and vulnerable communities.

PUBLIC HEARING POLICY 3. Bridge the digital, language, and ability divides.

After expanding public notice, provide ways for public comments to be received through verbal conversations with staff or in writing. Make materials related to the hearing available in commonly spoken languages other than English, and in a format accessible to those experiencing visual impairment. This could include distribution of a short information sheet on the rules and procedures for conducting and effectively participating in public hearings. Provide interpretation and translation services for those languages commonly spoken in the neighborhood where the property is located.

4.5 Enforcing the Zoning Rules

Once the zoning rules and maps are adopted and decisions about proposed developments have been made, zoning needs to be enforced. This is another area where unfairness can enter the process. Because most local governments have limited zoning enforcement staff, they often cannot investigate every alleged zoning violation, and zoning administrators often have significant flexibility to decide which alleged violations are most serious and create the greatest threats to public health, safety, and welfare.

Historically disadvantaged and vulnerable communities are often less familiar with what zoning requires, the need to apply for zoning approvals, or the need to maintain their property in compliance with zoning standards. Because these communities often have

lower incomes and limited English proficiency, they may also be less able to respond quickly to bring their properties into compliance with zoning standards.

Zoning enforcement procedures need to be particularly sensitive to issues surrounding nonconformities, which are buildings and activities that were legally created but have become out of compliance with zoning rules due to a change in those rules, or for some other reason that was not caused by the property owner or tenant. Nonconformities are situations that happen to property owners and tenants, often without their knowledge or understanding, and where particular flexibility in enforcement while still protecting public health and safety is necessary.

ZONING ENFORCEMENT POLICY

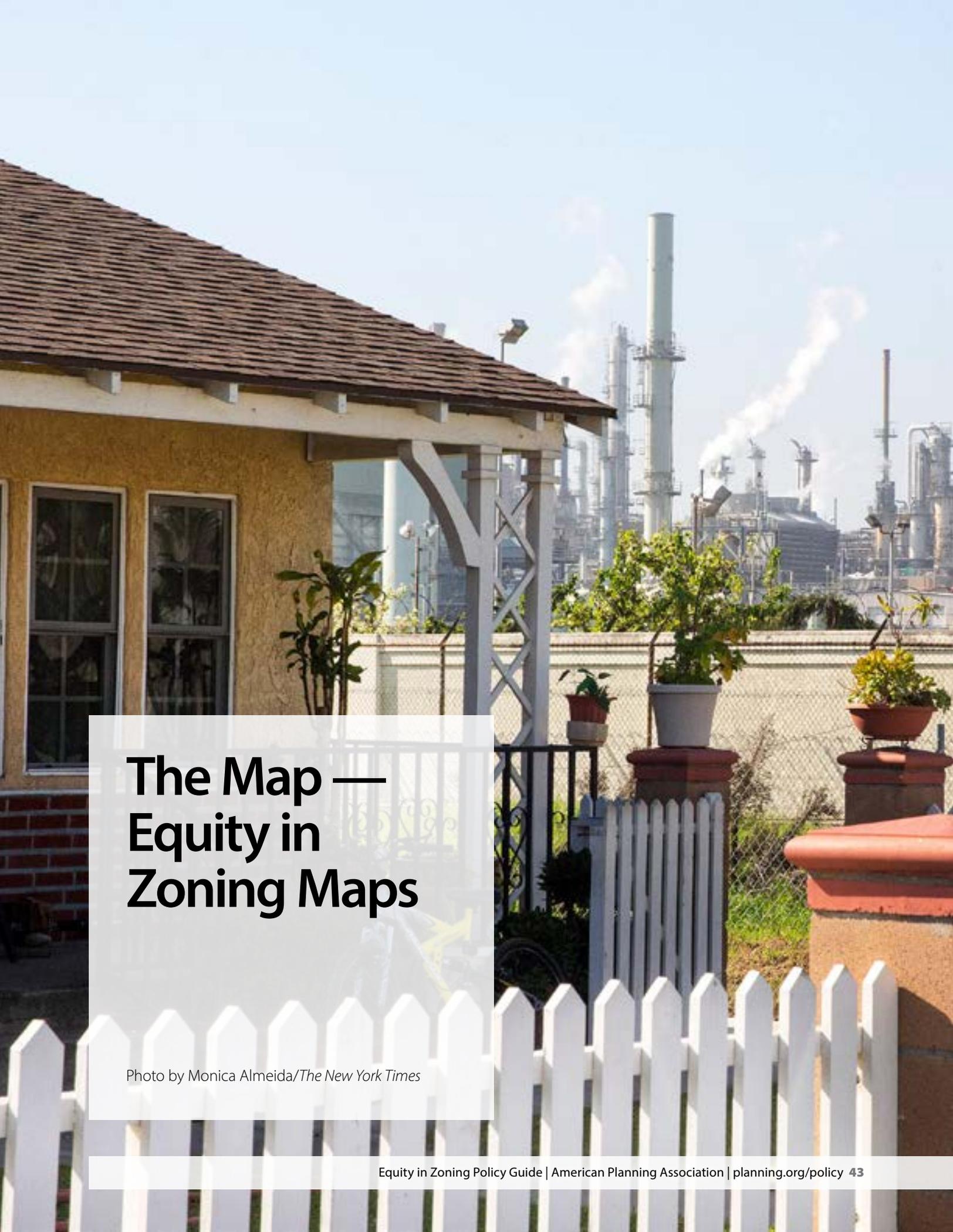
1. Ensure that local government discretion to enforce zoning rules is not disproportionately focused on historically disadvantaged and vulnerable neighborhoods unless the residents of the neighborhood itself have requested higher levels of zoning enforcement.

In some cases, disadvantaged neighborhoods request additional enforcement to address negligent landlords, tenants, or poor maintenance that creates public health and safety risks for the surrounding area. Those requests should be respected, but with a

focus on assisting owners to bring their properties into compliance rather than imposing penalties.

ZONING ENFORCEMENT POLICY 2. Adopt a wide range of ways to bring violations into compliance with zoning requirements and allow adequate time and support for property owners to do so. Keep in mind that residents of historically disadvantaged and vulnerable neighborhoods may not have as much time or money to resolve violations quickly, or the same ability to obtain loans or hire workers needed to bring the property into compliance. They may also need assistance from interpreters to understand the nature of the violation, timeframes for compliance, and paths to compliance.

ZONING ENFORCEMENT POLICY 3. When nonconformities are discovered, focus enforcement efforts on those that create significant threats to public health and safety. Allow wide latitude to continue using buildings and engaging in activities that do not create risks of injury, death, or damage to surrounding properties. Because many historically disadvantaged and vulnerable communities have fewer options about where to live and how to earn a living, the ability to continue to use existing buildings and to continue to operate existing businesses that do not create risks to others is particularly important. Consider allowing buildings in residential neighborhoods that have at some point been physically converted for use as corner stores and other low-impact commercial uses to be deemed conforming, to continue in operation, and to resume operations after they have been discontinued for a period of time.



The Map — Equity in Zoning Maps

Photo by Monica Almeida/*The New York Times*

5. The Map — Equity in Zoning Maps

Regardless of how fair the zoning rules are, and regardless of who wrote them, zoning rules do not exist in a vacuum. They are applied through zoning maps, and those maps can embed and perpetuate disproportionate impacts on historically disadvantaged and vulnerable communities just as effectively as unfair rules and procedures. More specifically, many current zoning maps reflect the damaging overuse of Urban Renewal powers in some neighborhoods, the location of freeways to divide neighborhoods based on race or ethnicity, and initial reliance on “redlining” maps that discouraged investment in Black, Latino/a/x, and Asian neighborhoods, among others. Even communities without formal redlining have often been subject to economic and social forces and

policies that could produce similar results. More recently, zoning maps have been revised to implement planning for climate resilience, to increase residential densities to promote affordability, and to respond to the removal of outdated freeways, but each of these changes also has the potential to create disproportionate impacts on historically disadvantaged and vulnerable communities. Amending zoning maps to promote social, climate, or economic equity is difficult work because each action carries with it the likelihood of unintended consequences. This chapter addresses ways to think about and minimize those consequences.

In many cases, a change that could be achieved by changing the zoning map as recommended in this chapter could also be achieved by changing the rules that apply in the existing zoning district (as discussed in Chapter 3). For most communities, there is no “right” way to change zoning outcomes; the right way is the one that produces outcomes that are more equitable for these communities, and for which planners can gain the political support necessary to make the change.

Zoning maps can institutionalize inequitable opportunities and outcomes in one of four ways. They can:

CONSTRAIN land supply for needed types of development;

CONCENTRATE polluting and harmful land uses and facilities in some neighborhoods;

LIMIT access to key public services and facilities; and

PERPETUATE separation of populations based on old “redlining” maps.

Each of these sources of inequity are discussed separately on the following page.

5.1 Drawing and Changing the Area-wide Zoning Maps

While community-wide replacements of a zoning map are relatively rare, many communities amend their current zoning maps regularly, sometimes on a monthly or weekly basis. This section addresses all types of zoning map changes—those affecting the entire community, or a large area of the community, as well as those affecting only one or a few properties.

Initiatives to consider community-wide or area-wide changes to the zoning map raise the same kinds of challenges to effective engagement as changes to zoning rules. Because they affect large numbers of property owners and renters, it is particularly important that consultants, advisory groups, and assigned staff reflect the makeup of the areas to be affected as much as possible. In addition, because historically disadvantaged and vulnerable populations are particularly affected by the impacts of map changes, it is particularly important that the proposed changes be reviewed for potential impacts on affordability, gentrification, and environmental justice.

In almost all revisions of zoning maps, Drafting Policies 1, 2, and 3 described in Section 4 (The People) above, also apply. In the context of zoning map actions, those policies are:

ZONING MAP POLICY 1. Those recommending neighborhood-wide or area-wide changes to the zoning map should reflect the demographic composition of the community and should include representatives of historically disadvantaged and vulnerable communities.

ZONING MAP POLICY 2. Ensure that procedures to change zoning maps notify both residential and business tenants as well as property owners.

Amending zoning maps to promote social, climate, or economic equity is difficult work, because each action carries with it the likelihood of unintended consequences.

ZONING MAP POLICY 3. Ensure that there are multiple opportunities for review of potential zoning impacts on historically disadvantaged and vulnerable communities.

This may require developing new tools to describe the impact, such as a specific equity or vulnerability assessment or report card to aid decision-making.

5.2 Making Land Available for Needed Types of Development

Because historically disadvantaged and vulnerable communities tends to have lower-than-average incomes, members of these communities may be more likely to live in particular types of housing and to earn their livings in different types of employment. In many communities, they are more likely to live in apartments, in smaller houses on smaller lots, or in homes with a particular layout, such as a traditional “shotgun” house or mill village.

In many communities, they are more likely to live in apartments, in smaller houses on smaller lots, or in homes with a particular layout, such as a traditional “shotgun” house or mill village. Zoning maps that designate too little land for these types of housing have a serious disproportionate impact on these communities by driving up the cost of housing.

Zoning maps that designate too little land for these types of housing have a serious disproportionate impact on these communities by driving up the cost of housing.

The same disparity can often be found in the businesses owned and operated by members of historically disadvantaged and vulnerable communities, as well as the industries, services, and establishments that employ members of these communities. In many communities, these individuals are more likely to work in personal service, food service, hospitality, heavy commercial, construction, or industrial jobs, or rely on home occupations as first or second jobs. Zoning maps that make too little land available for these types of needed and often essential workplaces tend to make it harder for these individuals to form, grow, or be employed in the work needed to support their households.

While it is important to zone enough land to accommodate each of these activities, it is equally important to ensure that the locations of those lands do not perpetuate segregation based on race, ethnicity, national origin, or religion. In addition to revising zoning rules to allow these forms and types of housing and workplaces in more zoning districts, these disparities can be addressed by remapping more areas of the community into zoning districts that allow them.

ZONING MAP POLICY 4. Apply zoning districts that make adequate amounts of land available in locations that do not perpetuate historic patterns of segregation.

Analyze local conditions to determine development

types that correlate with homes, businesses, services, and other land uses needed by and affordable to historically disadvantaged and vulnerable communities. Use GIS and on the ground evaluations to identify sites with the potential to support equitable zoning goals.

ZONING MAP POLICY 5. Avoid mapping that perpetuates over-restrictive or highly detailed zoning regulations. Apply mapping that allows a wider range of property owners and investors to develop in ways that reflect the existing fabric and scale of the community. Where rezoning occurs as a part of a development application, and the development could be built under multiple zoning districts, apply the district that permits the greater variety of alternative development forms that could provide housing, employment, and service opportunities for historically disadvantaged and vulnerable communities.

5.3 Removing Disparities in Neighborhood Health Risk

A second way in which zoning maps can create or perpetuate disproportionate impacts on Black, Latino/a/x, Asian, and other communities of color is by concentrating polluting or harmful land uses, or the forms of structures that can accommodate them, in or close to the neighborhoods where these populations live. Because of their potential impacts on health and property values, these types of uses are sometimes referred to as locally unwanted land uses (LULUs). There is dramatic evidence that individuals exposed to polluting industries, highways, noise, air pollution, or other activities for extended periods of time have significantly higher health risks and shorter life expectancies, and that pre-existing health conditions are made worse through that exposure.

Fixing this situation is more difficult than it sounds, however, for a variety of reasons. Some types of facilities logically need to be located in particular locations. Water treatment plants generally need to be near a river, and trucking terminals often pollute the community less when located near the highways used by the truckers.

In addition, the relocation of LULUs leads to re-sorting of the population. Those with more resources tend to move away from unpopular facilities and developments, which can lower land values and make housing more affordable to lower-income populations, which then move in. Since historically disadvantaged and vulnerable communities tend to have lower-than-average incomes, the proximity of these households to LULUs may tend to re-establish itself over time.

Finally, some LULUs are important sources of employment to individuals who do not have many employment options, and making it difficult for those businesses to continue in operation in their current locations can result in loss of jobs and livelihoods. However, the fact that zoning cannot prevent market responses to zoning changes does not imply that zoning should reinforce existing patterns of exposure to harmful environmental forces, and it clearly should not.

ZONING MAP POLICY 6. Revise zoning maps to avoid the future location of polluting or environmentally harmful facilities and other locally unwanted land uses in neighborhoods that already contain a disproportionate share of those uses and facilities. Ensure that zoning maps allow practical locations for these and future similar uses in other areas of the community where they will not exacerbate health impacts on populations that have already been exposed to these uses. This analysis should consider how long existing nonconforming uses are likely to operate and how that affects the concentration of uses in different neighborhoods.

ZONING MAP POLICY 7. Where zoning district standards include protections from the potential negative effects of development in adjacent districts, revise zoning maps to avoid shifting the potential negative impacts onto historically disadvantaged and vulnerable communities in districts without the same protections. Ensure that zoning districts containing significant populations of color include the same protections from the impacts of nearby development as those containing whiter and more wealthy residents.

ZONING MAP POLICY 8. Avoid map changes that increase residential development potential in areas near sources of pollution, hazards, or climate risks, particularly in historically disadvantaged and vulnerable neighborhoods, as much as possible. Where residential intensity is increased near major highways and other sources of pollution, evaluate potential health risks, and ensure that buffering and other measures to mitigate risks and public health impacts are included.

5.4 Removing Disparities in Access to Key Services and Facilities

A third way in which zoning maps can create or perpetuate disproportionate negative impacts on historically disadvantaged and vulnerable communities is by making it difficult for those individuals to access open spaces or public or private health, educational, religious, or civic facilities or services. While needs differ for each neighborhood, these often include childcare centers, health clinics, hospitals, mental health facilities, good schools, places of worship, recreation centers, and sources of healthy food. In many cases, these types of needed facilities are built and/or operated by private companies or non-profit organizations, and the local government has little control over their strategies to provide and expand (or contract) their services. Zoning cannot force any of these service providers to budget more money to close these gaps more quickly, but it can ensure that the uses are permitted and easy to develop where they are needed.

One way to address the shortage of needed facilities is to revise the zoning rules to allow or incentivize them in high need areas. However, where cities, or counties require approval of a public facility base or overlay zoning district to locate new facilities, the answer may include revised zoning maps.

Ensure that zoning districts containing significant populations of color include the same protections from the impacts of nearby development as those containing whiter and more wealthy residents.

ZONING MAP POLICY 9. Revise zoning maps to ensure that needed health, educational, religious, and civic facilities or services are permitted and simple to establish in or near all residential areas of the city, including historically disadvantaged and vulnerable neighborhoods. In many cases this simply involves removing prohibitions on specific uses based on outdated stereotypes about the impacts of the facility or the clientele that may need these services.

5.5 Removing Historic Segregation through Mapping

A fourth way in which zoning maps create inequity is by perpetuating zoning boundaries that were initially designed to separate historically disadvantaged and vulnerable communities from other

While zoning generally cannot force a local government to spend money to remove those barriers, it has a lot to do with whether the zoning maps reinforce those barriers, as well as what happens when and if the barrier comes down.

neighborhoods. In recent years, there has been increasing attention on the origins of the zoning maps used in American communities. More specifically, attention has focused on the fact that traditional zoning emerged after the U.S. Supreme Court invalidated overtly racial zoning in *Buchanan v. Warley* and appears to have been aimed at least in part on the same goal of separating different parts of the population from each other. There is a strong correlation between historically disadvantaged and vulnerable populations and lower-than-average incomes, so zoning that separates people based on income levels has the indirect effect of also separating them based on race, ethnicity, gender, and ability.

Increasing attention has also been focused on the federal mortgage insurance system, which historically often led lenders to “redline” neighborhoods with high levels of Black households. Many current zoning maps look surprisingly like those redlining maps. Together, these discussions have led to a stronger understanding of how today’s zoning maps very often reflect older institutionalized dividing lines based largely on race and ethnicity, even if historically disadvantaged and vulnerable persons are no longer prohibited from buying property or obtaining a loan on either side of those lines.

In some cases, the zoning boundaries that formalized these separations were reinforced by public investments, like the location of a highway, park, or open space to create a physical and psychological wall between different populations, and there have been calls for local governments to remove those highways and barriers to “re-knit” the divided urban fabric. While zoning generally cannot force a local government to spend money to remove those barriers, it has a lot to do with whether the

zoning maps reinforce those barriers, as well as what happens when and if the barrier comes down.

One possible response to redline-based zoning maps is simply to remap both divided neighborhoods to the same zoning district to try to equalize the opportunities for investment and development on both sides of the line. But that solution has potentially serious consequences. The effect of redline-based zoning maps was often to decrease the value of land in the historically disadvantaged and vulnerable neighborhood and increase it in the neighborhood next door or across the highway. Adopting the less permissive zoning district in both areas may well make many or most properties in the disadvantaged neighborhood nonconforming, making it more difficult for those residents to obtain improvement loans. Depending on the local housing market, it may also spur new investment that leads to gentrification and displacement of some of the most disadvantaged and vulnerable neighborhood residents. On the other hand, applying the more permissive zoning often used in

disadvantaged neighborhoods to the adjacent non-redlined neighborhoods may result in the construction of new housing that is still not affordable to residents in the formerly redlined areas and does little to improve their housing options.

ZONING MAP POLICY 10. Analyze zoning map boundaries based on discriminatory lending policies or the construction of divisive public works, and revise maps to remove those historical boundaries if doing so would increase the economic health and welfare of the historically disadvantaged and vulnerable community.

These changes should open up neighborhoods formerly favored by redlining to allow more diverse and affordable forms of housing, and to allow more affordable forms of housing to locate closer to good jobs, services, and schools. Do not remove those zoning boundaries when they are desired by the existing residents and businesses to discourage speculative investment, gentrification, or displacement of residents. Removal of redline-based barriers should only be done after close consultation with the affected community to balance increased economic opportunity with the preservation of desired cultural or community character. Map changes may be more effective

if paired with sustained technical and financial assistance to the residents of formerly redlined neighborhoods, so that the residents can remain in their neighborhoods of choice and become their own advocates to remove physical and regulatory barriers. Overlay zones can also be used to reduce displacement (See Zoning District Policy 3).

ZONING MAP POLICY 11. Where zoning map changes have potential impacts on historically disadvantaged and vulnerable neighborhoods, consider the use of non-zoning agreements and commitments to offset those impacts or offer compensating benefits to the neighborhood.

This may involve the creation of a revolving loan fund to expand the resources available to current residents, or other agreements requiring that developers share the new opportunities created by remapping through employing or partnering with existing tenants, property owners, and business owners in the neighborhood. It could also include granting a “right of return” allowing existing residents displaced by redevelopment to own or rent housing or business locations within the new development. Because historically disadvantaged and vulnerable communities are often less familiar with the process of negotiating these agreements, cities and counties may need to offer support or facilitation during the negotiation process.

Make zoning reform a reality in the communities you support

Thinking of amending your community’s land use regulations? Consider whether these proven reforms are right for your community:

- Increasing density
- Reducing minimum lot sizes
- Creating transit-oriented development zones
- Streamlining or shortening permitting processes
- Expanding by-right multifamily zoned areas
- Allowing ADUs on lots allowing only single family homes
- Eliminating or relaxing residential property height restrictions
- Eliminating or reducing off-street parking restrictions

[Learn more](#) about what APA is doing to advance zoning reform and housing choice at the federal and state levels.

6. Related Policy Guides

[Aging in Community \(2014\)](#)

[Climate Change \(2020\)](#)

[Community Residences \(1997\)](#)

[Environment: Waste Management \(2002\)](#)

[Factory Built Housing \(2001\)](#)

[Food Planning \(2007\)](#)

[Hazard Mitigation \(2020\)](#)

[Healthy Communities \(2017\)](#)

[Historical and Cultural Resources \(1997\)](#)

[Homelessness \(2003\)](#)

[Housing \(2019\)](#)

[Planning for Equity \(2019\)](#)

[Provision of Child Care \(1997\)](#)

7. References and Further Reading

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The American Planning Association advocates for public policies that create just, healthy, and prosperous communities that expand opportunity for all through good planning. APA's advocacy is based on adopted positions and principles contained in policy guides. These guides address the critical policy issues confronting planners and communities by identifying solutions for local, state, and federal policy makers. Policy guides are led by the APA Legislative and Policy Committee and advance the principles of good planning in law and regulation.

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