

Contents

INTRODUCTION	1
CHAPTER 1. THE DANGEROUS CONSEQUENCES OF CURRENT ZONING	9
1.1. <i>The History and Law of Zoning</i>	10
1.2. <i>Zoning and Affordability</i>	11
1.3. <i>Zoning and Equity</i>	13
1.4. <i>Zoning and Sustainability</i>	15
CHAPTER 2. HOW ZONING WORKS	17
2.1. <i>The DNA of Zoning</i>	17
2.2. <i>The Rules</i>	20
2.3. <i>The Procedures</i>	24
2.4. <i>The Map</i>	25
CHAPTER 3. WHAT IS WRONG WITH OUR CURRENT APPROACH	27
3.1. <i>Too Focused on First-Time Development</i>	27
3.2. <i>Blank Sheet Thinking in a Highly Constrained World</i>	35
3.3. <i>Wealthy Thinking in a Lower Income World</i>	39
3.4. <i>Slow Thinking in a Faster World</i>	47
3.5. <i>Picturebook Thinking in the Real World</i>	51
CHAPTER 4. FIXING THE RULES—AND THE REWARDS	57
4.1. <i>Improving Affordability</i>	58
4.2. <i>Improving Equity</i>	87
4.3. <i>Improving Sustainability and Resilience</i>	113
4.4. <i>Restrictive Covenants Are Not the Answer</i>	137
CHAPTER 5. FIXING THE PROCEDURES	143
5.1. <i>Understanding the Legal Framework</i>	144
5.2. <i>Clarifying the Role of the Public</i>	154
5.3. <i>Reducing Time, Expense, and Unpredictability</i>	157
CHAPTER 6. FIXING THE MAP	173
6.1. <i>Un-Redlining</i>	174
6.2. <i>Overlays May Not Be Necessary or Helpful</i>	182
6.3. <i>Different Kinds of Tools Will Probably Be Necessary</i>	183
CHAPTER 7. RESOLVING THE TENSIONS	185
7.1. <i>Identifying the Tensions</i>	187
7.2. <i>Involve Everyone but Focus on the Most Vulnerable</i>	189
7.3. <i>Evaluate Market Responses at the Neighborhood Level</i>	190

<i>7.4. Ensure that No One Is Exempt from the Needed Changes</i>	191
<i>7.5. Focus on Not Perpetuating the Unfair Outcomes of the Past</i>	192
<i>7.6. Focus on the Long-Term Outcomes</i>	192
<i>7.7 Mitigate the Short-Term Impacts on Vulnerable Communities</i>	193
CHAPTER 8. FIVE KEY PRINCIPLES FOR BETTER ZONING IN GENERAL	195
<i>8.1. Focus on the Basics of What Matters Most</i>	195
<i>8.2. Focus on Redevelopment and Infill</i>	202
<i>8.3. Use the Wonder Bread Approach</i>	204
<i>8.4. Embrace Reality</i>	206
<i>8.5. Don't Win the Negative Trifecta</i>	216
CHAPTER 9. MAKE THE COMMITMENT	219
ACKNOWLEDGMENTS	223
NOTES	225
SUGGESTED READING	233
INDEX	235
ABOUT THE AUTHOR	243

Introduction

Zoning is not an easy topic. But for anyone interested in creating better communities it is an essential topic. In America, we believe in governing ourselves by the rule of law in order to treat everyone fairly and to avoid abuses of government power. And zoning is the system of law that most directly affects the health, safety, and quality of life of American communities. Our residents care deeply about their neighborhoods, and zoning is how those neighborhoods are made and remade over time. They also care about the economic opportunities available to them and their children, and zoning sets the rules on where you can make a living and what kind of living you can make in that location. Unlike many aspects of local governance, zoning affects people's health, safety, opportunity, and happiness in very direct ways. Elected officials know that, which is one reason they guard their zoning powers so carefully. But as the pages below demonstrate, our uses of zoning powers often produce outcomes that we do not want—or that are exactly the opposite of what we say we want. This book is about why that happens and how to stop it from happening.

It has now been more than fifteen years since I wrote *A Better Way to Zone* (Island Press, 2008), and lots of things have changed. So many, in fact, that we need to rethink why we have been given those zoning powers in the first place. In many ways, this book builds on the foundation of zoning history provided in that earlier book, as well as the fundamentals of what is wrong with many zoning codes, and how those problems can be fixed. I still endorse the description of zoning history and the advice provided in that book, but I do not repeat that material in this one. The good news is that you do not need to have read *A Better Way to Zone* to understand the discussions in this book. But if the discussions here make you want to explore other aspects of zoning governance, you can look at *A Better Way to Zone*. Or you can read any of the books listed in "Suggested Reading," each of which I have found helpful.

Over the past twenty years of my professional practice working with more than eighty US and Canadian communities, three key substantive themes keep emerging. Regardless of where in the two nations I work, the project begins with a discussion of how the community wants its new zoning rules to differ from the current regulations. The first answer is generally "We

want it to implement our new comprehensive plan.” The second is “And we want it to be much simpler and more understandable to our residents.” But then most of the communities list three specific things they want to achieve:

- More affordable housing;
- Fairer and more inclusive zoning systems; and
- More environmentally sustainable development.

Not every community mentions all three topics, but a surprising number do. So this book focuses on those three topics, which I think will be among the key challenges facing American cities and counties in the years to come.

The desire for zoning to produce more sustainable and resilient development has been a constant theme for most of my career. It probably began with Vice President Al Gore's focus on climate change and the movie *An Inconvenient Truth*, because all of a sudden nearly all my clients wanted greater levels of sustainability built into their new codes. To my surprise, that trend continued during and after the Great Recession of 2008–2010. Even when development was slow, financing was difficult, and unemployment was high, most communities did not back off from their calls for more sustainable development codes.

Community focus on housing affordability has grown exponentially since about 2010 for two reasons. First, in many areas of the country the housing market never fully recovered from the Great Recession, so we fell very far behind on housing production between 2008 and 2012 and we never really caught up. Second, as the housing supply and demand gap widened, many local governments did not focus on how their zoning regulations might be driving up housing prices. Zoning is not the only culprit, of course, but exclusionary zoning compounded problems with real estate financing, construction trade shortages, and stagnant wages. Because the current “hole” of housing undersupply is so deep, it will take a long time to dig our way out of it, so the focus on zoning housing affordability is likely to remain important for the foreseeable future.

Improving zoning equity has long been a focus of the planning profession. Since at least the 1960s, planners and planning commissioners have been aware that our zoning outcomes often protect the interests of our wealthier residents at the expense of the poorer ones. And we have become further aware that the results of those outcomes are not race, ethnicity, or gender neutral. They hurt households headed by Black and Brown and

Hispanic people, and by women, and by those experiencing disabilities, more than others. The role of zoning in excluding some people from housing and employment opportunities, and from the wealth generation that comes from home ownership in a safe neighborhood, was well documented in Richard Rothstein's insightful book *The Color of Law*. But the publication of that book in 2018 was not the start of concern over zoning inequities; it simply documented what many planners had known for a long time. In fact, concern over zoning equity has grown almost in tandem with concern about housing affordability, because those with the fewest economic resources are those hurt most by unaffordable housing.

But there is an even more important reason to focus on zoning equity: It is the right thing to do. Despite the ebbs and flows of political rhetoric and interest in social equity over time, I think most Americans—and an even greater percentage of planners—understand that structural racism is real and is embedded in many parts of our American economy and culture. But that does not mean that zoning should be used to reinforce it or compound the disparities in income, wealth, and opportunities that our economy produces. In fact, the aspirational principles of the American Institute of Certified Planners call for the profession to pay particular attention to how planning and zoning decisions affect disadvantaged populations and to highlight and change those outcomes. As the Civil Rights Act of 1964 shows, our society becomes fairer when we decide to make it fairer. Since zoning happens mostly at the local level, most of the decisions to make it fairer will happen there, and I want to encourage planners and appointed and elected officials to do exactly that.

This book is about how to address these three key challenges—affordability, equity, and sustainability—through zoning changes. But first, it explores the unwanted outcomes of current zoning systems and the thought mistakes that have led us here. Chapter 1 discusses growing criticisms that current zoning systems have contributed to unaffordable housing, unfair treatment of disadvantaged populations, and unsustainable development patterns. Spoiler alert: They have, and their impact has been significant. For those who do not live and breathe zoning for a living, Chapter 2 outlines how zoning works, not only mechanically but in terms of its DNA of exclusion. Like all tools, zoning was designed to do a specific job, and it is important to understand how and why trying to make it do something else will be difficult. It also breaks down zoning into its component parts: (1) the regulations, (2) the procedures, and (3) the map. In my experience, understanding that

zoning involves these just these three elements helps people feel less overwhelmed by the details of zoning and more confident that it can be fixed. Each of these three elements of zoning contributes to unaffordable, inequitable, and unsustainable zoning, and the fixes vary depending on which of these three elements you are working on.

Chapter 3 explores how this happened; how we got into a situation where a very powerful legal tool routinely fails to produce the communities we said we wanted. More specifically, it identifies five important “thought mistakes” we make when we draft zoning regulations and maps. I use that phrase because I think many of the problems with current zoning arise from assumptions about how zoning works and shapes our communities that are not true. Most important among those mistakes is the fact that we overfocus on the forms of new development that we want when most zoning decisions concern reuse, repurposing, and redevelopment of buildings that we already have. We treat the zoning drafting process as if we were checking the boxes of nice things we are ordering on our new car, when we know in our hearts that we will need to drive the current car for many more years.

Chapters 4, 5, and 6 address each of the key elements of zoning in turn: the rules, the procedures, and the map. Chapter 4 starts with the heart of zoning: the regulations and incentives that govern who can do what with their property. Without those rules, there is no zoning. The zoning map simply applies those rules to the face of the earth. Three subsections of Chapter 4 address each of the three key zoning challenges in turn.

Chapter 5 tackles how to fix zoning procedures. In many cases, the procedures used to apply and change zoning rules create barriers to affordability, equity, and sustainability as great as—or greater than—the rules themselves. Because zoning procedures are subject to several constraints imposed by the US Constitution and federal law, we begin with a short overview of these constraints and how they affect the zoning changes available to local government. We also discuss the appropriate role of the public in different types of zoning decisions. Chapter 5 concludes with ways to redesign costly, time-consuming, unpredictable, and unfair procedures to achieve the types of communities we say we want.

Chapter 6 addresses the third leg of the zoning stool: the zoning map. Because maps are visual, many community residents think that the zoning map *is* zoning, and they assume that fixing the map will fix zoning. This is particularly true for those who are focused on the fact that zoning maps often reflect the redline maps produced by the U.S. government in the 1930s.

But it is not that simple—not even close. The maps simply apply the zoning rules. While there are many map changes that could help erase the worst effects of the original redline maps, many of those changes could also be achieved through changes to zoning rules and incentives. More seriously, some of the most obvious ways in which the shadows of redlining might be extracted from our current zoning maps could harm the very populations hurt most badly by redlining in the first place. Chapter 6 discusses how to avoid that result.

Now we get to the fun part. There are inherent tensions between the zoning changes suggested in Chapters 4, 5, and 6. Some changes that would promote housing affordability may do so at the expense of equity or sustainability. And some changes that would improve zoning equity will exact a price in terms of sustainability or affordability. There is no silver bullet that will hit all three targets at once, but that is not an excuse for inaction. All planning and zoning involves tradeoffs between different public goals, and we make those decisions all the time. Because the “right” way to balance these interests will vary depending on the local economy, political will, and the desires of the neighborhoods most affected by the proposed change, Chapter 7 cannot tell you what that answer is. Instead, it lists six principles to use in debating the tradeoffs involved in each proposed zoning change so that the community can move forward with thoughtful zoning changes that avoid perpetuating the mistakes of the past.

Chapter 8 broadens the focus beyond the key challenges of affordability, equity, and sustainability to identify five principles that will lead to more effective and efficient zoning in general. To highlight just two of them, we need to increase our focus on reuse and redevelopment, and we need to remove outdated regulations before thinking about adding new ones. The five principles are drawn from my thirty-year career partnering with communities to draft new zoning codes. If you do something long enough you begin to notice patterns and practices that are helpful for the successful operation of a zoning system regardless of the specific goals of a given community. Chapter 8 is my attempt to summarize those lessons.

The audience for this book are the planners and appointed and elected officials who draft and apply zoning codes on a daily basis. It is not a compendium of research, and its intended audience is not the academic community. So while it contains many observations about our residents, our communities, the global and US economies, and likely zoning and market outcomes, it does not try to prove that each of those observations is true.

Where possible, I have included endnotes supporting why things are the way they are—or why they will turn out the way I think they will turn out. But there will no doubt be statements for which you would like to see a citation and there is none. If you have doubts that the statement or assumption is correct and the lack of a citation bothers you, I suggest you skip over that statement but then see whether the other reasons and sources behind the recommendation still make it persuasive to you.

A few final thoughts before you start reading. First, most of my experience as a zoning consultant has been with medium and large cities, so I think the content of the book is particularly relevant to those types of communities. If yours is a small or rural community, just keep in mind that zoning has to be tailored to the administrative and financial capacities of the government that will operate it. Smaller communities generally need simpler zoning systems.

Second, I have kept the focus of the book on zoning (and in a few cases related subdivision) regulations—that is, the legal system of urban governance that allows the city or county to regulate the use and development of land. Although zoning rules are sometimes accompanied by money incentives (and we discuss the effective use of those for housing affordability in Chapter 4), I am not a fan of “just add money” solutions. Many problems are easier to solve if you pour money on them, but money to fund government programs is always in short supply. With the exception noted above, the book does not assume that communities will be able to add money to make the recommended zoning changes work.

Third, even though I think it is essential that we improve zoning equity, discussing how to do it can be a sensitive subject, because it requires you to name who has been hurt by current zoning systems. I have consulted several sources in an attempt to find appropriate terminology, most of which have encouraged writers to use the most accurate and noneuphemistic terms possible in order to promote accurate understanding of each statement. I have used the terms “Black,” “Brown,” “Hispanic,” “White,” and “White non-Hispanic” when referring to specific racial and ethnic and communities affected by zoning. I have used the phrase “historically disadvantaged” to refer to a broader group of communities that I think have experienced disproportionately negative zoning outcomes under our current zoning systems. That phrase includes Black and Brown and Hispanic communities but also women and people experiencing disabilities. As discussed in the pages that follow, it also indirectly includes Americans with low or very low incomes. If the use of these terms gives you offense, I apologize in advance.

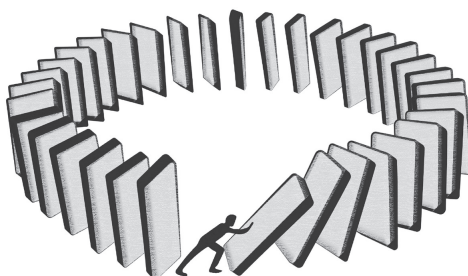
Finally, although I have spent most of my career with the firm of Clarion Associates, the opinions and recommendations in this book are mine alone and should not be attributed to the firm as a whole or any individual in the firm. Throughout my career, I have found that most community residents, planners, and appointed and elected officials appreciate clear discussions of difficult zoning topics even if they disagree with my conclusions. I hope you will do the same.

© Copyright, Princeton University Press. No part of this book may be distributed, posted, or reproduced in any form by digital or mechanical means without prior written permission of the publisher.

CHAPTER 1

The Dangerous Consequences of Current Zoning

I started my first book (*A Better Way to Zone*) with the line “zoning is not a sexy topic,” and I have had that line quoted back to me scores of times since then. But I may have been wrong. In the last few years it seems that zoning *is* a sexy topic—or at



least a hot topic (which is not the same). If zoning were a sexy topic, our discussions would focus on how it can help us govern our cities and counties well. Instead, most recent discussion seems to focus on how many problems zoning has caused. More specifically, the discussions often blame zoning for making it difficult for our nation to address three pressing challenges. Zoning is accused of (1) seriously compounding the affordable housing crisis, (2) perpetuating and exacerbating segregation of Americans based on race, class, and income, and (3) failing to make development more sustainable in light of climate change.

Those are serious allegations, and all three are at least partially true. But that does not have to be the case. Although typical zoning powers and the ways we use them have many weaknesses, they are also deeply embedded in most local government operations. Governance laws and practices tend to evolve slowly as the benefits of change become clear—not to planners (who often advocate for change) but to the elected officials who have to weigh the benefits of change against its costs. Although at least one author has argued that zoning as a system of land use regulation is so flawed that it should be abandoned,¹ this book assumes that the majority of our local governments will not be repealing their zoning controls anytime soon. Instead, the chapters that follow suggest many ways in which zoning regulations could be drafted

and implemented in ways that promote more affordable, equitable, and sustainable development and redevelopment.

At the start, however, we need to recognize that some of the criticisms of zoning seem to target theoretical forms of use-based or form-based zoning that are rarely found in the real world. As an example, critiques based on the fact that use-based zoning separates uses or create single-purpose zoning ignore the fact that many cities and counties have for decades allowed or required mixes of residential types and densities in some zone districts. Many others have adopted mixed-use zones that allow, incentivize, or require mixes of residential and nonresidential uses within a parcel or development. And they often allow these mixes by right (i.e., without the need for special approvals). The most notable example of single-purpose zoning in common use is zone districts that allow only single-family homes as primary uses of land. While that is a serious problem that should be and is being addressed, it is a mistake to visualize current zoning as a collection of zones, each of which allows only one or a few uses, because that is not the case.

Similarly, it is a mistake to think that form-based zoning does not regulate permitted uses of the allowed building forms. All form-based controls currently in use do regulate uses, although they sometimes do so with a lighter hand than they might otherwise. More generally, it is a mistake to mentally categorize current zoning codes as either use-based or form-based, since all zoning ordinances include a mix of both use and form controls regardless of the name attached to them. The differences between what are commonly called use-based and form-based zoning controls are discussed in more detail in Section 2.2. This book discusses the shortcomings of current zoning and suggestions for fixing zoning based on the types of ordinances actually in use—not conceptual models that are not adopted by local governments.

1.1. The History and Law of Zoning

The history of zoning is complex, and somewhat troubled, and discussed in detail in *A Better Way to Zone*. But it is not repeated here. However, one important change to our understanding of zoning history has taken place since that book was published. In *The Color of Law*, Richard Rothstein² reviewed in depth the various ways in which racism is embedded in the laws and practices of federal, state, and local governments—and zoning is one of his key examples. That is an extremely important book that should be

read by anyone interested in the fairness of US governance. The importance of that book on how we should understand the history of zoning is discussed in more detail in Section 1.3. In addition, key legal principles that affect how zoning can be improved are discussed in Section 5.1.

1.2. Zoning and Affordability

Over the past two decades, the cost of both rental and for-sale housing has risen much faster than American wages, which has led to a serious housing crisis that now affects most low- and middle-income households. By 2024, over 50 percent of the nation's renters were paying over 30 percent of their income for housing, 30 percent were paying over 50 percent for housing, and many households whose income would have supported a mortgage 20 years ago were now far from being able to do so. The national housing deficit is measured in millions of units, and many major metro areas have deficits of over 100,000 units. The most powerful force contributing to this crisis is inadequate housing production. Rent and price increases are unlikely to slow down or fall unless the nation produces many, many more housing units. And while land and material costs, mortgage rates, and shortages of skilled labor all contribute to this challenge, zoning is also at fault. The failures of zoning for affordability include the following:



1. *Too many predominantly single-household zones.* While a home for one family with a large yard may constitute the American Dream for many, it comes at a very high cost. Low-density residential zoning is expensive to build in the short run, provides housing for relatively few people per acre of land, requires longer pipes and wires to serve, and is more expensive to maintain over the years. All of that drives up housing costs.
2. *Too much land in predominantly single-household zones.* As documented by a National Zoning Atlas compiled for many states over the past few years,³ 50 to 70 percent of the land in many American communities is reserved for single-household homes, which means that land is not available for more affordable and mixed-income forms of housing.
3. *Too little inclusion of accessory dwelling units (ADUs).* Despite strong evidence that allowing accessory dwelling units does not significantly

change the character of neighborhoods or create negative impacts on their neighbors, many codes still do not allow ADUs, allow them only after complex review procedures, or impose strict design and parking requirements that discourage their construction.

4. *Too little inclusion of missing middle housing.* The helpful term “missing middle housing” was defined by Opticos Design founder Dan Parolek to include triplexes, fourplexes, cottage courts, co-housing, and small apartment buildings. But despite much research showing their potential to dramatically improve housing affordability, few zoning ordinances list or allow these types of housing, or they allow them only in high-density zoning districts or only after discretionary approval procedures.
5. *Too little inclusion of manufactured housing and tiny homes.* Despite the popularity of tiny homes as a discussion topic and the documented affordability of manufactured homes—both in parks and on individual lots—many codes do not mention either type of housing, and some codes that do have a manufactured or tiny home district have not mapped any lands into that zone.
6. *Too many occupancy restrictions.* Many codes include limits on the number of unrelated people—usually between two and five—who can occupy a dwelling unit, regardless of the size of the dwelling unit. As rents or mortgage payments rise, the ability to take in additional renters or to rent out rooms is not available.
7. *High off-street parking requirements.* Although evidence shows that requirements for one or two (or more) off-street parking spaces have a very significant impact on housing costs, many codes still retain these types of standards and do not offer adjustments based on the urban or suburban context in which the housing is located.
8. *Artificial limits on residential density.* Many codes still apply minimum-lot-area-per-dwelling-unit standards to multihousehold development, or apply low floor area ratios (FARs) to both single-household and multihousehold development, both of which artificially limit the number of dwelling units that can be constructed on a parcel even if the proposed development complies with all other zoning standards.
9. *Discretionary approval processes.* Although some communities allow missing middle housing and multihousehold development by right in medium- and higher-density zoning districts, others still require

an unpredictable discretionary approval process—even for housing that matches the intended development character of the district.

10. *Add-on design review requirements.* Instead of adopting objective design standards for different types of development, many codes still require an additional layer of discretionary design review even if the housing use itself is a by-right use in that location.

1.3. Zoning and Equity

In *The Color of Law*, Richard Rothstein⁴ accurately points out how land use zoning was originally proposed—and successfully defended as a constitutional exercise of local authority—as a Plan B. Land use zoning was a response after the US Supreme Court invalidated overt racial zoning (i.e., local prohibitions on Black people owning property in some zoning districts) in the case of *Buchanan v. Warley*.⁵ The use of zoning regulation to promote and perpetuate racial and class segregation did not just occur soon after the *Buchanan* decision. Those motives were explicitly stated and highlighted as reasons why the use of land use zoning should be upheld as constitutional, and in the 1926 case of *Village of Euclid v. Ambler Realty Co.*⁶ the US Supreme Court agreed that it was constitutional.



The power to exclude unwanted land uses and forms of development has always been the core strength of zoning, but *The Color of Law* helped us understand that racial and class exclusion was a driving force in the design of those tools. Whether or not individual local officials have been motivated by desires to exclude races or classes, zoning has been remarkably effective in creating land use patterns that do just that. That should make today's planners and appointed officials very sensitive to who is being excluded by zoning and how each proposed zoning change perpetuates, increases, or decreases segregation in our communities.

The key ways in which zoning has created or perpetuated racial, ethnic, or class segregation in America's communities include the following:

1. *Redlining.* Many current zoning maps look suspiciously like the maps issued by the federal government beginning in 1937 to guide

residential lenders to areas of perceived lower lending risks; maps that were themselves explicitly based on the race, ethnicity, income, or class of the populations in each area.

2. *Concentrating polluting land uses.* Many zoning ordinances concentrate polluting land uses in a few areas but then allow residential development in or close to those areas, resulting in documented higher environmental risks and poorer health and longevity to the disproportionately Black, Brown, Hispanic, and poor residents of those areas.
3. *Limits on entry-level commercial activities.* Many zoning ordinances still prohibit or significantly limit the ability to engage in disfavored businesses in many zone districts based on their perceptions of the clientele or operators of those businesses, even though there are few if any documented negative impacts of those uses. Disfavored activities sometimes include hair and nail salons, tire shops, thrift stores, check cashing facilities, day labor halls, or hookah bars, all of which can provide needed services and employment to historically disadvantaged communities.
4. *Strict limits on group homes.* While the federal Fair Housing Act prohibits many types of discrimination against people experiencing physical or mental disabilities, many codes still try to exclude group homes from low-density residential neighborhoods or apply expensive additional standards, or they require complex (and often contentious) approval procedures. In addition, many codes make it difficult to locate group living facilities for those not protected by the Fair Housing Act, such as the homeless, those being diverted from or released from the criminal justice system, or victims of domestic abuse.
5. *Strict limits on home occupations.* Those with fewer financial resources often cannot afford to pay for housing for their families and also pay for a separate place of business to earn the money they need to keep their families housed and fed. While newer zoning codes often take a more flexible approach to income-earning activities allowed in the home, many still prohibit the very types of activities or uses of accessory structures and yards needed to make a home business viable.
6. *Complex development and design standards.* While intended to improve the appearance of a community, complex development and

design standards make it harder for smaller developers and businesses to compete with larger and better-funded companies.

7. *Complex and time-consuming development approval procedures.* The longer and more complex the development approval procedure, the harder it is for those with limited English proficiency, limited financial resources, and no professional help to get a development approval. The complexity and uncertainty of zoning procedures discourage many from even applying.

In addition to the types of regulations listed above, almost any zoning regulation that increases the cost of housing, development, or opening or operating a new business creates disproportionate impacts on households headed by Black or Brown people, women, and people experiencing disabilities. That is because each of these populations has significantly lower incomes than the American population as a whole.⁷

Because of the seriousness of these zoning outcomes, the American Planning Association has produced both a *Planning for Equity Policy Guide*⁸ and an *Equity in Zoning Policy Guide*⁹ listing specific changes that local governments can make to their planning and zoning policies and regulations to address these issues. In the chapters that follow, I present some of the ways in which zoning can be changed to reduce the very negative impact zoning has had on historically disadvantaged populations.

1.4. Zoning and Sustainability

The ways in which zoning regulations discourage environmentally sustainable development are many and serious. At a minimum they include the following:

8. *Not allowing enough mixed use.*

Many codes still discourage healthy mixes of residential and nonresidential uses that require longer driving, biking, and walking distances between the places where we live, work, play, educate, and consume public services. Avoidable driving is a significant contributor to greenhouse gases.

9. *Missing connections.* Many codes still do not require the types of sidewalk, trail, path, and bicycle connections that would encourage



walking and biking as alternatives to driving for shorter trips. This, too, increases greenhouse gas emissions and discourages forms of safe exercise that could help address America's obesity challenges.

10. *Limiting renewable energy.* Many codes unnecessarily restrict the locations in which wind, solar, and geothermal energy can be produced, distributed, and used, as well as failing to support the rising need for electric vehicle charging stations and alternative fuel stations. Allowing more and easier use of renewable energy can accelerate the retirement of fossil fueled generating plants.
11. *Limiting local food production.* Because growing food was long considered a rural rather than urban activity, many zoning codes still restrict or prohibit community agriculture, farmers' markets, and other venues where local food can be sold to the public. This contributes to greenhouse gas emissions by requiring more food to be packaged and shipped over greater distances and increases reliance on processed or packaged foods that may not be good for your health.
12. *Failing to reflect rising climate risks.* Many ordinances do not take into account predicted sea level rise, increased likelihood of flooding due to more intense storms, or the increased risk of wildfire due to climate change. They still allow new development to occur in areas that we now know are risky and even allow rebuilding in the same areas after a flood or fire occurs.
13. *Not adequately valuing the existing built environment.* Too often, zoning codes include standards that are easier to meet by demolishing an old building and replacing it with a new one. They ignore the energy, labor, materials, and carbon embedded in the existing structure and the environmental cost of disposing of those materials and then bringing in construction materials for the new building.

CHAPTER 2

How Zoning Works

It is hard to fix something that is broken until you understand how it was designed to work. This chapter describes the foundation of how zoning works, so that the following discussions about fixing it can be more focused and productive. Section 2.1 clarifies the DNA of zoning, and Sections 2.2, 2.3, and 2.4 describe the mechanics of three key components found in all zoning ordinances.

2.1. The DNA of Zoning

To understand zoning, you need to understand what it was designed to do, because it does that very well. And you also need to understand what it was *not* designed to do, because trying to make it do that can feel like trying to push water uphill.

2.1.1. Zoning Was Designed to Exclude

Zoning was designed to exclude, and it is very effective in doing so. That sounds like a simple statement, but understanding its implications is key to fixing zoning. Zoning regulations can rarely make someone build what they do not want to build—but it can absolutely prevent them from building what they want to build. The

power to exclude anything—buildings above a certain size or height, buildings that do not match a defined form, businesses or land uses that are disfavored, or development that does not meet desired quality or parking standards—opens up opportunities for overexclusion by local governments.

At best, the list of things excluded from a zoning district reflects a balance of the opinions of rich and poor, Black and Brown and White, employed and unemployed, single and partnered, families and singles, youth and elderly, and both current and potential residents in the community. If and when that



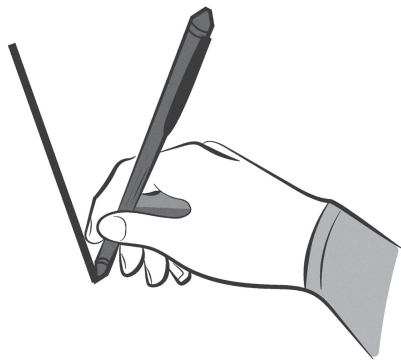
happens, the exclusions may not produce many unintended consequences. They may exclude development and activities only from some areas while allowing them in other parts of the community that everyone agrees are where and how they should occur and that are fair to all involved. At worst, the power to exclude can reflect the values of only a limited slice of the community while ignoring those who would like to see different forms of development, types of buildings, or business and employment opportunities that are not allowed or are allowed only after an expensive approval process. At very worst, the power to exclude types of development and business activities is an effort to exclude the racial, ethnic, lifestyle, or income groups that community leaders fear would operate and patronize the excluded types of buildings and activities.

The word “exclusionary” should not be confused with “bad,” however. It is simply the way zoning works. Excluding lower-income residents from the right to live in neighborhoods with high levels of amenities, schools, housing, and services is certainly bad. But excluding an investor from building a large retail building on a small-scale neighborhood retail strip may not be bad. Excluding high-end residential development from a lower-income community with a strong desire not to be gentrified may not be bad. Excluding commercial parking lots from low-density residential neighborhoods is almost certainly not bad. One key to fixing zoning is to take a much harder look at who and what is being excluded from each district and the actual impacts (not the stated intent) of that exclusionary regulation.

While zoning can also include incentives—discussed in more detail in the Section 4.1.2—they work only if the incentives are large enough to make development profitable. It is an exception to the basic exclusionary power of zoning, but a limited one, as evidenced by the fact that many zoning incentives go largely unused.

2.1.2. Lines Are Usually Necessary

Because zoning establishes some of the rights, opportunities, and obligations of property owners, they need to be enforceable, and for them to be enforceable, lines must be drawn. Each zoning regulation must apply to either the entire community or a defined area of the community, and the areas



in which they apply need to be understandable to property owners, neighbors, potential investors, and everyone else. Many zoning regulations apply to a defined zoning district whose boundaries are shown on a zoning map. This is another fundamental point for those involved in fixing zoning. Zoning is almost never effective without lines, and the drawing of lines is how exclusion happens.

There have been a few scattered efforts to implement zoning without lines, however, often under the general heading of “performance zoning.” For example, the City of Fort Collins, Colorado, once adopted a Land Development Guidance System that allowed (in theory) any land use to be located next door to any other land use as long as all the unwanted impacts of the new use on the existing adjacent use were mitigated. But it had a short life, because it turned out that many property owners want to know what will be built and what will happen in the building next door. The desire for predictability based on zoning districts with lines and known rules turned out to be stronger than the desire for the flexibility provided by a code without lines, and the Land Development Guidance System was repealed. In other cases where zoning has tried to avoid drawing lines, it has replaced those lines with highly discretionary review and approval processes that can increase the time, expense, uncertainty of development and further disadvantage our poorest residents.

The need for specific lines is one of the features that distinguishes zoning from planning maps. But each of the lines is drawn by humans, and humans are imperfect and subject to a wide range of motives in drawing those lines. Except in extreme cases, zoning lines are not arbitrary, but they could certainly have been drawn a block east, or west, or north, or south of where they were drawn. Because each line is inherently imperfect, it may be wise to avoid drawing more lines than necessary. In fact, the more lines you draw (by creating more zoning districts or by applying each district to smaller, dispersed areas of the map), the harder it is to explain to the public why that line is important to protect the public interest.

At best, zoning district lines reflect break points in the historic patterns of development that need to be reinforced or changed, or the limits of where a new type of development is to be encouraged. At worst, they reflect someone's desire to “wall out” or “wall in” certain types of development or the people who are likely to operate or use them. Because line drawing is the tool by which the exclusionary DNA of zoning operates, it is very important to evaluate who bears the burden, or reaps the benefit, of the change in opportunities represented by a zoning district line. This is one reason why many newer zoning ordinances strive to replace many finely differentiated

zoning districts with fewer zoning districts that each allow a wider range of building forms and uses. When drawing lines, the important question is not “Can we find a difference between these two sides of the line?” but “Is the difference between these two sides of the line so important to the public interest that it is worth enforcing through zoning?”

2.2. The Rules

Many of the ways in which zoning thwarts the achievement of affordable, equitable, and sustainable development are embedded in the rules of the code itself. So we start there. If zoning operates through rules, then the most direct way to get different outcomes is to change those rules. Keep in mind, however, that there are at least two other ways in which zoning outcomes can be changed. The second way is to change the procedures by which those rules are drafted, applied, changed, and enforced, which is discussed in Chapter 5. The third way is to change the zoning map so that the zoning rules apply in different areas of the community, which is discussed in Chapter 6.

The most basic of zoning rules are those that regulate both the forms of buildings that can be built and the uses of land and buildings that can occur in each district. For convenience, we refer to these as “form controls” and “use controls,” and almost all zoning codes apply both types of controls throughout the community. Although there are no “pure” form-based codes or use-based codes currently in use, it is helpful to discuss them briefly as concepts.

Before I start, however, it is worth clarifying what the term “by-right” development means, because it is used frequently. It means that the application will be reviewed and approved without the need for a public hearing. But it does not mean that anything goes. By-right development still needs to meet all the zoning regulations that apply to that type of land use and building and site. By-right means the decision will likely be administrative (assuming all the rules are met) and will be largely insulated from political influence.

2.2.1 *Permitted Form Standards*

Form-based codes emphasize regulation based on the form of the building as more important than listing the uses permitted in that building. They often organize their substantive rules into zoning districts based on the shapes and sizes



of buildings permitted in each district. Some form-based codes assign names to particular building types (e.g., “apartment building,” “mixed-use building,” or “suburban house”), but many others do not. Similarly, some form-based codes define specific forms of building frontages (e.g., “arcade,” “shopfront,” or “stoop”) that are permitted in specific zone districts or with specific defined building forms, but others do not. Even if they do not name building or frontage forms, most form-based controls still contain rules addressing the design or placement of doors and windows facing the street and the articulation of the façade in general, since these are important to public perception and usability of the building, but many use-based codes do the same. While some model form-based codes also define forms of public spaces (e.g., parks, plazas, greenways, playgrounds), thoroughfares (e.g., streets and sidewalks and the spaces that people and vehicles use to move around), and subdivision blocks, those are rarely adopted as local zoning regulations.

Permitted uses are treated as a secondary concern, but (regardless of labels) usually categorize uses as permitted, permitted within limits, permitted as a supplement to a more important use, or not permitted. Some codes go further to specify which of the allowed uses may occur in different building forms, and not all allowed uses can occur in each of those forms. Although not really a part of form-based zoning theory, many form-based codes currently in use still require public hearings for the approval of some allowed uses, simply because elected or appointed officials did not want to give up control over individual approvals of those uses. Most form-based codes also include development standards that apply in some or all of the form-based zoning districts to address things such as landscaping, lighting, and signage.

While over 400 communities have adopted form-based controls for some or all of their area, this tool is most often used in downtowns and dense areas where the shape, form, and fit of buildings matter a lot to the creation of a walkable urban environment. These are areas where a wide variety of uses are going to be allowed anyway and where the location of specific uses in specific buildings does not really matter and will change over time without significantly changing how well the area works. Despite the focus on form over use, many form-based codes make an exception for low-density neighborhoods and often limit the use of single- and duplex-household building forms to single- and duplex-household uses. When triplex, fourplex, or other missing middle housing forms are permitted, they too are often limited to those numbers of dwelling units. When it comes to the low-density residential areas that make up over half of many communities, use and form controls

often coincide, and a creative design that allows three units to occupy a building that looks like a duplex may not be permitted.

Because the lines drawn for form-based districts focus more on building forms than on listed uses, they may be less frequently used to exclude unpopular land uses. However, the fact that some codes still require conditional use approvals, and the fact that lower-density residential forms are often limited to favored lower-density residential uses, shows that the desires and the ability to exclude are still there. In addition, drafting complex form standards that require expensive construction can exclude small or innovative developers just as effectively as complex use standards that exclude desired land uses.



2.2.2. Permitted Use Standards

Use-based codes (sometimes called Euclidean codes because use controls were the primary subject of the *Euclid v. Ambler* Supreme Court decision), look at development regulation differently. They define lists of uses that are permitted, conditionally permitted, permitted with objective limits,

permitted only in support of other uses, or not permitted in each zoning district. They often start with the districts in which the list of permitted uses is narrowest (e.g., open space or low-density residential districts) and ending with the broadest (e.g., the downtown commercial or mixed-use districts).

The shape, size, and form of buildings in each district are a secondary concern. At their simplest, each district includes a set of dimensional standards defining the minimum dimensions of lots, the maximum heights of buildings, and the minimum building setbacks from property lines. These very basic controls are sometimes called “the invisible box” because they define a volume (not too tall, not too close to your neighbors or the street) within which any building design and location is permitted. Other codes go further to include maximum setbacks (to keep new buildings near the street) or minimum required heights (to avoid the construction of small new buildings in areas designated for dense development). Having addressed permitted uses in detail and allowed building forms in much less detail, most use-based codes generally do not go the extra step of defining which allowed uses are permitted in which allowed building forms, but some do.

Although the basic dimensional standards that govern the form of new buildings often do not address the details of building design, many codes include development standards that address the same issues covered by form controls. These often include requirements for doors and windows facing the street and for articulation of street façades to avoid boring blank walls. In newer codes, development standards for parking often require that parking be placed behind or beside buildings (rather than in front of them), a topic that many form-based codes address in a different way.

Until the last twenty-five years, most zoning codes focused much more heavily on regulating uses than on regulating building forms. As a result, the fundamental power of zoning to exclude things was exercised primarily through the exclusion of unwanted land uses. That often included exclusion of most housing other than single-household homes from much of the community, but it also included exclusion of unpopular commercial uses from some commercial and industrial districts. It is often easier to list examples of exclusion that lead to unaffordable housing or limited business opportunities in use-based than in form-based codes. That is because it is easier to name a particular unwanted land use than to describe the building form that usually contains that use and because use-based controls have been in use much longer than form-based controls.

Since many communities want to see the same general types of street-oriented, pedestrian-friendly, mixed-use, multistory building forms in dense commercial and mixed-use areas, many newer codes require that type of development, regardless of whether they are labeled as a form-based or use-based zoning code. They just do it in different ways, and in most cases the label does not determine what winds up being built. Most importantly, both form-based and use-based controls can contribute to unaffordable, inequitable, and unsustainable development if they exclude needed land uses and building forms.

2.2.3. Development Standards

In addition to whatever combination of form and use standards they contain, most codes include development standards that apply to some or all of the zoning districts, and some or all of the land uses, and that are unrelated to specific land uses or building forms. Examples include minimum or maximum parking requirements, minimum landscaping and streetscaping standards, outdoor lighting regulations, and sign regulations. They may also include internal site layout standards, site access and circulation controls, or on-site open space standards.

Development standards can operate as a third form of barrier to more affordable, equitable, and sustainable zoning outcomes. In other words, even if the community's building form and permitted use regulations would allow the types of development we want to encourage, overly strict, detailed, or rigid development standards can stop that development from happening. And when development standards increase the costs of development, the added costs usually affect smaller and less experienced builders the most. The types of barriers created by different types of development standards are discussed in Chapter 4.

When I was learning to drive, my father taught me never to drive with one foot on the accelerator and the other on the brake. He said, "In an emergency, you may push on the wrong one or on both at the same time, and the car will not do what you want it to do." Allowing specific building forms and land uses and then attaching complex or expensive development standards to them is a lot like driving with one foot on the gas and one on the brake.

2.3. The Procedures

While most public discussions of zoning impacts on affordability, equity, and sustainability focus on exclusionary form and use rules, the role of zoning procedures receives too little attention. Developers often point to complex, unpredictable, and time-consuming procedures as the key barrier that prevents them from achieving more sustainable and affordable development. And advocates for greater zoning equity point to zoning procedures as a key way in which current practices exclude historically disadvantaged residents.

Almost all zoning ordinances include at least five different types of procedures:

1. A zoning text amendment procedure;
2. A zoning map amendment procedure to change the boundaries of base and overlay zoning districts;
3. A development review procedure (or more than one);
4. A procedure for granting a hardship variance to individual properties; and
5. A procedure for appealing decisions made by staff or appointed bodies in administering the zoning code.

In addition, some codes include separate procedures to review the architectural design of proposed projects or to review their environmental, transportation, or health impacts. Others have a procedure to allow deviations from code standards for reasons other than hardship (e.g., neighborhood-sensitive design or protection of mature trees). Failure to coordinate all the procedures required for a particular development, or to ensure that they are consistent with each other, is a major source of frustration for both zoning applicants and their neighbors. It is also one reason why builders often prefer to design and submit projects with which the community has lots of experience and where the procedural outcome is more predictable. Overlapping and unpredictable procedures act as a brake on innovative housing solutions, new forms of mixed-use, and creative approaches to environmental challenges.

Importantly, zoning procedures almost always include criteria that the staff or appointed or elected body must use in making their decisions, and these criteria are often another major barrier to innovation and to reversing past inequities. Stated bluntly, the more criteria there are, and the more vague or complex they are, the smaller the chance that any project out of the ordinary or significantly different from what is around it will be approved. That is a good way to preserve the status quo and exclude projects and people that have been excluded in the past, but a very bad way to create better communities for the future.

2.4. The Map

Form controls, use controls, and development standards operate when the zoning districts where each regulation applies are shown on a zoning map. In older cities the zoning map is often eerily similar to the maps published by the federal government in the 1930s to redline and discourage housing investment in some neighborhoods based on race,

ethnicity, income, or class. Of course, in newer communities that did not exist in the 1930s (including most postwar suburbs) and smaller communities for which federal maps were not prepared, that is not the case. Importantly, the resemblance—or not—of a zoning map to a redline map is mostly irrelevant to the sustainability and affordability impacts of zoning. The exclusion of most forms of housing except single-household dwellings creates all the negative environmental impacts of low-density development, increases



long-term maintenance costs, and acts as a barrier to living in those zoning districts regardless of whether there ever was a redline lending map for the community. So although it is tempting to discuss fixing zoning maps by “removing redlines,” the need for reform is much broader than that. This complex topic is discussed in more detail in Chapter 5.

While it is tempting to think there is only one zoning map that shows which zoning district applies to each property, that is often not true. In many communities there are not only base zoning districts but overlay zoning districts whose regulations supersede the base regulations. This happens when the community wants to apply special protections to a defined area (e.g., a steep hillside area) or allow additional activities (e.g., a theater zone allowing more exciting signs) without changing each of the base zoning district in the area. In many communities the zoning maps show this as a hatch or pattern on top of a base zoning district color. But in some cases overlay zones or other forms of supplemental land use controls are contained in a separate map posted or available somewhere else in the local government (e.g., a fire risk map located in the fire department). For purposes of this book, however, I will discuss the zoning map as if it were one map.

CHAPTER 3

What Is Wrong With Our Current Approach

Why—and how—does zoning make it so hard to achieve affordable, equitable, and sustainable development? The answer to that question lies largely in how we think of zoning. As anyone who has tried to pound a nail using the handle of a screwdriver knows, how you think about using a tool may be different from what the tool was designed to do. The pages that follow describe how the ways we think about zoning influence how we use it and why the results are not always what we wanted. And each of these thought mistakes influences the discussion in the chapters that follow.

3.1. Too Focused on First-Time Development

Almost every comprehensive plan I have reviewed in recent years concludes that one key way to address the challenges of affordability, equity, and sustainability is through better, more compatible, more contextual infill development and redevelopment. That is true because no matter how many times experts study the issue, more compact and efficient development patterns produce more economic and environmental benefits than the alternatives. That should not surprise anyone. But while preferring infill development is easy to say and defend, it turns out to be very hard to do. To paraphrase the book of Romans, “What I want to do I do not do, and what I want not to do I do.”

Infill development is often redevelopment but not always. Infill could be new development of never-developed land, and redevelopment could occur on land that is not surrounded by other development. But the discussion that



follows focuses on redevelopment in infill contexts, because that is by far the most common scenario. Generally, a property that has plenty of neighbors has already been built on or used for something, but that something is no longer viable or the property has become vacant. Once land has been developed and used, the question is not “What should this property be?” but “What should this property be next?” Like planning discussions, zoning discussions often assume that the rules will be applied to an empty parcel of land when that is very often clearly untrue.

3.1.1. Most Development Is Redevelopment

Most of what goes on in American cities—and a fair amount of what goes in more urban areas of counties—is redevelopment. Building permit officials know this. City councils and planning boards know this. Most of the builders and residents who want a land use approval are interested in changing a land use or a structure that has already been established or built so that it better meets their needs or the needs of the market. Although many cities have less raw land and more developed land, changes to the zoning code are often drafted as if raw land development were the norm. Even when a lot has been developed with buildings, and those buildings are later demolished because they are damaged or obsolete, the land itself has been developed. It often has pipes and wires installed up to the boundaries of the lot—or right across it. It may also have remnants of lead paint, heavy chemicals, or other pollutants in the soil. Those site constraints significantly influence the best and most feasible reuse of the lot.

The predominance of changing and fixing old buildings rather than building new buildings is borne out by building permit data. In 2022, for example, the City of Des Moines, Iowa, issued a total of 321 building permits for new residential and nonresidential buildings and additions, while it issued 2,670 permits for residential and nonresidential remodels, alterations, repairs, and other residential changes.¹ That’s about a 9 to 1 ratio. So unless you are a brand new suburb with no old buildings that need renovations or repurposing, most of your construction activity is probably improving things that have already been built.

Despite knowing that most development is redevelopment, many planners think in terms of desired patterns or details of development that can happen only when raw land is developed for the first time. To be clear, this mismatch between vision and reality is very much a part of the comprehensive planning process. We want citizens, planners, and property owners to think

beyond current reality to imagine a fairer, more livable, and more sustainable future, and we want to see those aspirations embodied in comprehensive plans. The problem occurs when a serious mismatch between aspirational visions and economic reality gets translated into zoning and development standards. More specifically, the trouble happens when the vision cannot be supported by market forces today or in some reasonably predictable future.

As an example, many zoning codes try to “raise the bar” on development standards. They require private developers to invest more in site and building quality than they otherwise would have in order to raise the image or the community and property values in surrounding areas. That is one of the primary reasons we have zoning: to implement planning goals for a better future and to prevent individual property owners from starting a spiral of lower quality development. But zoning standards that far exceed what the market can support and what is technically possible on the ground tend to discourage redevelopment or result in a steady stream of requests for exceptions and variances. Neither reflects good governance policy. The gap between zoning based on aspirational development thinking and zoning that will work for real-world redevelopment needs to be narrowed.

This mismatch between land use dreams and possible future realities occurs because zoning has always reflected an underlying tension between the goals of good design and good governance. Good designers have always considered site constraints when they create a site plan and have always considered the surrounding built environment when they create a building design. Often this requires the designer to refine the design several times in order to optimize the relationship between the building and its site and context. Unfortunately, it is difficult to codify site-specific design principles.

On the other side of the tension, zoning ordinances are administered by local governments that have limited staff and budget to review each site and building design. While they can support an iterative design review process to optimize design in a few areas of the community (usually the more historic or downtown areas), they do not have the time or resources to review an evolving design many times before granting or denying each approval. In addition, in economically depressed areas where profit margins are thin, private builders often cannot afford an iterative review process. The economics of the project depend on a fairly quick and predictable approval.

Zoning should be written so that a property owner can read the rules and be fairly certain about the outcome of their application. If their use and design meet those rules they get an approval, and if not then they do not get

an approval. The pressure to balance good design with predictable review often results in zoning that does not adequately reflect the site or market constraints of developed lots. We need to allow much more flexibility for redevelopment to reflect and accommodate unique site conditions and constraints than we have in the past.

3.1.2. Most Challenges Are in Developed Areas

A second reason to focus on zoning for redevelopment is that infill projects are where the impacts of unaffordable, unfair, and unsustainable development are felt most acutely. Because America is about 70 percent urbanized, most of the Americans affected by unaffordable housing, gentrification, and climate change already live in developed areas. Even the largest new greenfield subdivision or mixed-use development will house and provide workspace and schools for only a small portion of the population. Unfortunately, many zoning codes tend to reflect greenfield thinking because those new development sites provide lots of opportunities to design innovative solutions for water use, stormwater treatment, and missing middle housing. That is true not only because the state of these arts continues to improve but because there are fewer neighbors around raw land projects to object to the innovative aspects of the development. Even expensive sustainable utility or mobility systems can become financially feasible for the developer if the costs can be spread over 100 or 1,000 homes. In addition, less popular uses or buildings can be hidden within the overall greenfield development, and their potential negative impacts on neighboring properties can be minimized.

In contrast, infill and redevelopment sites almost always have more neighbors, some of whom may not like innovative designs or engineering or types of housing. And since infill development often has to connect to and work with existing utility and stormwater systems, the options to incorporate new and more sustainable designs and technologies are more limited. Infill sites also tend to be smaller than greenfield sites, so the costs of innovative technologies and the internal subsidies needed to produce more affordable housing can only be spread over a smaller number of future homes and businesses.

The impacts of inequitable zoning rules and procedures also tend to fall most heavily on and around infill and redevelopment sites, for several reasons. Developed areas tend to have more neighbors, and some of those neighbors may face rent increases or displacement caused by nearby

(continued...)

Index

- Page numbers indicating tables are in **bold type**. Page numbers indicating photos are in *italics*.
- accessory dwelling units (ADUs)
- conditional approval process for, 50–51
 - effects of zoning on, 11–12
 - exclusion of ADUs from single-household neighborhoods, 181
 - maps of single-household zoning, 61
 - opportunities for public participation in zoning, 155
 - regulating use of, 180
- adaptive reuse, 206–207, 215
- administrative adjustment, 128, 168, 170
- affordable housing
- affordability strategies, 70–81
 - changes in last two decades, 11
 - failures of zoning contributing to lack of, 11–13
 - increased travel times as complication to, 41–42
 - manufactured homes, 82–85
 - medium-density housing in commercial districts, 63–66
 - medium-density housing on institutional properties, 66–68
 - missing middle housing in low-density residential zones, 60–63
 - mortgage costs after Great Recession of 2008, 34
 - offering affordability incentives, 73–74
 - preservation strategies, 82–86
 - production strategies, 59–70
 - removing unnecessary density limits, 68–70
 - role of money in, 71–72
 - tailoring affordability mandates, 74–81
 - true cost of housing, 34
- aging in place, 96–97
- . *see also* Americans with Disabilities Act
- Americans with Disabilities Act, 94–95, 97
- An Inconvenient Truth* (movie), 2
- animal control, 133
- appeal, 168–171
- Arrival City* (Saunders), 98
- author, 239
- automobiles. *see* cars
- bicycles and bicyclists, 15–16, 42, 197, 199
- blank sheet thinking, 35, 37, 38
- Buchanan v. Warley*, 13
- Building a Better Norfolk Zoning Ordinance, 119–120
- building codes, 98, 118, 206
- building-related emissions, 31
- built environment, the, 16, 29, 187–188, 206, 214
- buses. *see* public transit
- “by-right” development, 20
- carbon dioxide emissions, 31
- cars

- limits on commercial activities
 - involving, 99
- making choices about whether to
 - purchase, 41–42
- number of trips and related emissions, 33, 125
- parking of, as small accessory use, 132
- pricing of, 73
- relocation of on-site parking, 199
- repair shops prohibited as home occupation, 104
- repairs shops in rezoned districts, 209, 210
- chickens, 133
- cities, 64–65, 96–97, 98
- Civil Rights Act of 1964, 3, 102
- Clean Air Act, 110–111
- Clean Water Act, 110–111
- climate change
 - challenges in developed areas, 30–31
 - sea level rise, 117–120
 - stream and river flooding, 114–116
 - wildfires, 120–122
 - zoning ordinances failing to reflect rising risks, 16
 - zoning to produce more sustainable and resilient development, 2
 - . *see also* greenhouse gas (GHG) emissions; pollution
- coastal armoring or coastal hardening, 117–118
- coastal flooding. *see* sea level rise
- Coastal Resilience Overlay (CRO) zone, 119
- co-housing, 12
- commercial district, 63, 123, 128, 188
- commercial exclusion, 99–100
- community-scale facilities, 129–130
- conditional approval, 49–50, 159
- conditional uses, 47–48, 162
- constraints, 4, 30, 38, 53
- cottage courts, 12
- COVID pandemic and post-COVID era, 34, 51, 104, 108
- density limits, 68–70
- design controls, 55, 99, 144
- development codes, 2, 162, 169, 171
- development standards, 23–24
- disabilities, people with, 94–97
 - . *see also* Americans with Disabilities Act; group homes
- discretionary approval, 12–13, 48–49, 51, 159
- duplexes, 21–22
- elderly people, 94–97, 109
- Elliott, Donald, 239
- eminent domain, power of, 71, 111, 112
- emissions. *see* building-related emissions; greenhouse gas (GHG) emissions; vehicle emissions
- equity, improving
 - access to high-quality public services, 106–108
 - avoiding concentrations of environmental risk, 110
 - for the elderly and disabled, 94–97
 - in employment opportunities, 98–100
 - for home occupations, 103–106
 - overview of, 87–88
 - protecting historically disadvantaged households, 90–94
 - reducing exposure to public health risks, 108–112

- role of income in, 88–90
- through amortization of existing risks, 110–112
- in unique established business communities, 100–103
- Equity in Zoning Policy Guide* (American Planning Association), 15, 159
- exclusionary zoning, 2, 61, 62, 183, 221

- Fair Housing Act, 88–89, 94–96, 101–102, 179
- Fair Housing Amendments Act (FHAA), 169–170
- Federal Emergency Management Agency (FEMA), 114–116
- Fifth Amendment, 144–146, 148–152
- First Amendment, 152–153
- flooding, stream and river, 114–116
- floor area ratios (FARs), 12, 69–70, 198
- food production, 131–137
- form-based codes, 20–21, 23
- form-based zoning, 10, 21, 201, 215
- fourplexes, 12, 21
- Fourteenth Amendment, 146–148
- functional obsolescence, 64–65

- gentrification, 30, 40–42
- geothermal energy, 16, 126, 127, 129
- Gore, Al, 2
- Great Recession of 2008, 2, 34, 45
- greenfield development
 - features of, 30, 31, 32, 33, 34
 - standards of, 38
 - and vehicle emissions, 31
- greenhouse gas (GHG) emissions, 15, 16, 131
- group homes, 14, 95–96, 138
- guns and gun sales, 104

- health codes, 98
 - . *see also* public health risks
- historically disadvantaged neighborhoods and communities
 - access to high-quality public services for, 106–108
 - availability of fresh food in, 137
 - changes that negatively affect, 193
 - concentrating LULUs in, 110–111
 - effect of housing variety and affordability on, 181
- health and opportunity outcomes
 - in, 192
- how to un-redline, 180
- improving access to services in, 108
- investment in, 34
- protecting business communities
 - used by, 100–103
- protecting households of, 90–94
- shortage of key facilities in, 106–107
- use of term, 6
- zoning changes that negatively affect, 193
 - . *see also* disabilities, people with; LGBTQ+ communities; poverty and low-income populations; racism; redlining
- home occupations and home-based businesses, 103–106
- housing crisis. *see* affordable housing
- Hurricane Katrina, 116, 117

- immigrants, 91, 98
- inclusionary zoning, 74–81
- industrial properties, 127, 128, 129–132, 135
- infill development, 27–28, 49–50, 159–161

- infrastructure, 35–37, 39
- institutional district,
- land
 - exclusion of unwanted land uses, 23
 - existing land ownership patterns, 37–38, 53
 - land use control, 50, 141
 - percentage in predominantly single-household zones, 11
 - permitted accessory uses of, 128
 - polluting land uses, 14
 - raw land, 28, 31, 38, 48, 160
 - zoning as land use regulation, 9–10
- LEED-ND (Leadership in Energy and Environmental Design for Neighborhoods) rating system, 33
- LGBTQ+ communities, 101
- locally unwanted land uses (LULUs), 109–111
- low-density residential development, 21–22, 25–26, 38–39, 55
- Lynch, Kevin, 54
- manufactured housing, 12, 82–85, 92, 184
- medium-density housing, 63–68
- missing middle housing, 12, 21, 60–63
- mixed-use development, 30, 55
- National Environmental Policy Act, 110–111
- National Flood Insurance Program (NFIP), 114–116
- National Trust for Historic Preservation, 32
- naturally occurring affordable housing (NOAH), 43, 180–181
- negative tripecta, 48–49, 158, 216–217
- nonzoning tools, 183–184
- nuisance law, 111–112, 133, 135
- off-street parking, 12
- overlay zoning districts, 182–183
- Parolek, Dan, 12
- pedestrians, 125–126, 199
- places vs. place neighborhoods, distinctions between, 53–56
- Planning for Equity Policy Guide* (American Planning Association), 15
- police power, 69, 71, 201
- pollution, 14, 109, 110, 123, 126–127
 - . *see also* building-related emissions; emissions; locally unwanted land uses (LULUs)
- poverty and low-income populations, 6, 42–44, 94, 108–112
 - . *see also* historically disadvantaged neighborhoods and communities
- Pruitt-Igoe urban renewal project, 43
- public health risks
 - animal control staff as evaluators of, 133
 - choosing to move because of, 175
 - in disadvantaged neighborhoods, 108–110
 - health codes based on, 98
 - from improperly processed foods, 132
 - improving equity in exposure to, 108–112
 - raising of chickens and, 135
 - . *see also* health codes
- public hearings, 21, 143–144, 161–166
- public safety, 98–99, 104, 114, 121
- public transit

- aging population and, 64
- alignment of land use and transportation systems, 197
- buses, 102, 160, 412
- greenfield sites and, 34
- rail, 32, 41–42, 64
- racism, 13, 62
- rail. *see* public transit
- redevelopment
 - benefits of, 34
 - and changes to infrastructure and utilities, 35–37
 - development as redevelopment, 28–30
 - and equity, 39–40
 - project studies, 159–161
 - promoting sustainability through, 31–33
 - reduction of commuting costs, 34–35
 - size and scale of, 197–198
 - sprawl fed by complicating, 38–39
 - study by National Trust for Historic Preservation, 32–33
 - taking advantage of existing infrastructure, 32
- redlining, 13–14, 25–26, 174–181
- religious institutional land development, 66–67
- Religious Land Use and Institutionalized Persons Act (RLUIPA), 152–153
- renewable energy, 126–131
 - . *see also* geothermal energy; solar energy; wind energy
- renting and renters, 177
- residential density, 12
- residential investment risk maps, 174
- residential neighborhoods, 55, 174–175
- Resource Conservation and Recovery Act, 111
- restrictive covenants, 137–141
- rezoning, 79, 84, 91, 107, 123, 155–157, 161, 163, 164, 166, 208
- role of the public, 4, 154, 157
- Rothstein, Richard, 10–11, 13, 87
- Saunders, Douglas, 98
- sea level rise, 117–120
- segregation, class and racial, 9, 13, 69
- single-household neighborhoods
 - allowing duplex housing in districts limited to, 166
 - allowing triplexes in districts limited to, 90
 - elderly living in, 96
 - exclusion of ADUs from, 181
 - lot sizes, 68
 - proliferation of after World War II, 60–61
 - requiring universal design, 97
 - small group homes treated as, 95
- size and scale, 52, 107, 197–198
- “Smart Location,” 33
- solar energy, 16, 126–131
- stereotypes, business, 99–100
- Superstorm Sandy, 116, 117
- sustainability and resilience, zoning to improve
 - avoiding areas of climate risk, 113–122
 - backyard agriculture, 132–133
 - community-scale renewable energy generation, 129–130
 - connectivity, 125–126
 - industrial-scale wind and solar farms, 130–131
 - local food production, 130–137

- medium-scale community garden
 - uses, 133–137
- mixed use development, 122–125
- overview of, 113
- promoted by redevelopment, 31–33
- regulations that discourage, 15–16
- renewable energy, 126–128
- risks from sea level rise, 117–120
- solar and wind power, 128–129
- stream and river flooding, 114–116
- wildfire risk, 120–122
- sustainable development, 15–16, 20
 - . *see also* sustainability and resilience, zoning to improve
- tax revenues, 45–47
- taxing power, 71
- Tensions Between Key Zoning Changes, **188–189**
- The Color of Law* (Richard Rothstein), 10–11, 13, 87
- The Image of the City* (Lynch), 54
- “the invisible box,” 22
- The Spectrum of Public Participation, 155, **156**
- tiny homes, 12
- transportation and transit systems. *see*
 - bicycles and bicyclists; cars; public transit; ride-hailing services
- triplexes, 12, 21
- unemployed, 17–18
- Uniform Relocation Act, 93
- Upland Resilience Overlay (URO) zone, 119
- unpredictability, 44, 48, 55, 114, 115, 120, 157, 158, 163
- urban design, 198, 200–201
- US Constitution, 144–153
- use-based codes, 22–23
- variance, 24, 47, 128, 147, 167–170, 212, 215
- vehicle emissions, 31
- Village of Euclid v. Ambler Realty Co.*, 13
- wealthy thinking, 39–40, 44–45
- wheelchairs. *see* assistive technology
- wildfires, 120–122
- wind energy, 16, 128–129, 130–131
- women
 - effects of zoning inequity on households headed by, 2–3, 15
 - Fair Housing Act and, 90–91
 - home occupation regulations and, 103–104
 - household earnings of, compared to men, 89
 - percentage of elderly, living in poverty, 94
 - use of term, 6
- Yes in God’s Backyard (YIGBY) movement, 66–67
- zoning, general information on
 - designed to exclude, 17–18, 23
 - districts, 19–20, 182–183
 - effects of zoning inequity on minority households, 2–3, 15, 17–18, 31, 89
 - inclusionary, 74–81
 - nonzoning tools, 183–184
 - ordinances, 14, 24
 - original goal of, 44
 - purpose of, 53
 - regulations, 108
 - rules, 20–24, 52, 57–58, 185–193

- substantive themes of, 1–2
- for tax revenues, 45–47
- visual technology in, 52–53
- . *see also* conditional uses; exclusion-ary zoning; form-based codes; form-based zoning; use-based codes; zoning maps, fixing
- zoning, principles for improved complex review procedures, 216–217
- the current built environment, 214–216
- doors, windows, and wall articulation, 199–200
- nonconforming uses and buildings, 208–214
- overregulating uses, 200–202
- redevelopment and infill, 202–204
- site orientation and location, 198–199
- size and scale of redevelopment and new development, 197–198
- unnecessary zoning rules and use regulations, 204–205
- vacant buildings, 206–208
- what matters most, 195–202
- zoning, resolving conflicts of changing evaluate market responses, 190–191
- focus on the most vulnerable, 189–190
- identify tradeoffs, 187–188
- long-term outcomes, 192–193
- no one exempt from, 191
- short-term impacts on vulnerable communities, 192–193
- unfair past outcomes, 192
- zoning maps, fixing, 25–26, 173–184
- zoning procedures, fixing
 - administrative adjustments, 167–170
 - appeals, 170–171
 - due process, 144–146
 - equal protection, 146–148
 - First Amendment protections, 152–153
 - individualized study requirements, 159–161
 - legal framework of zoning, 144
 - public hearing requirements, 161–164
 - regulatory takings, 148–152
 - review criteria, 164–166
 - role of the public, 154–156
 - self-interest, 156–157
 - state law, 153–154
 - time, expense, and unpredictability, 157–159
 - types of procedures, 24–25