Smart Growth and Code Reform

People want transportation choices, walkable neighborhoods, a range of housing opportunities, and distinctive, attractive communities with a strong sense of place. Yet the codes that regulate land development—including zoning codes, land subdivision codes, and street design standards—often make the implementation of such principles difficult, cost-prohibitive, or even illegal.

Land development regulations are not automatic barriers to smart growth, but since the 1920s, when conventional zoning codes became widespread, regulations have often had that effect. In response to these barriers, in recent years many local jurisdictions have undertaken code reform efforts—everything from minor amendments to entirely new codes.

This fact sheet examines some of the barriers to smart growth that may be present in local codes, and suggests some steps that communities can take to achieve better development patterns.

How *Codes Can Impede Smart Growth*

Many zoning, land development, and subdivision codes currently in effect were originally written in the 1920s after the U.S. Supreme Court, in *Euclid v Amber Realty Co*., upheld the authority of local governments to regulate land use. Although the codes have been updated and amended several times since then, they often retain 1920s planning assumptions. These codes were written to perform a variety of functions that communities desired in the 1920s. While some of these goals remain relevant (it is usually not desirable to locate factories in residential neighborhoods), the land use tools of the past have created unintended consequences (see Table 1).

Using Code Reform to Implement Smart Growth Principles

Here are some examples of how communities can implement the principles of smart growth through code reform. This is not intended to be a comprehensive list, but a sampling of policies that have been enacted in communities across the U.S.

Create a Range of Housing Opportunities and Choices, and Take Advantage of Compact Building Design

- **Create "build-to" lines, or set maximum setbacks along with minimums.** Conventional zoning codes mandate minimum building setbacks from the sidewalk or lot line. The result: streets with buildings set too far back to create a pleasant pedestrian experience. Mandating a build-to line can encourage productive use of the space and ensure that building facades create a "street wall" that provides a sense of enclosure for pedestrians.

- **Code by building form.** Form-based codes emphasize the regulation of building form, including height, bulk, and facade details such as the placement and size of windows and doors. Some experts have suggested that form-based codes negate the need to regulate use entirely, but in practice most form-based codes regulate use. For

Table 1. Typical Local Government Coding Techniques and Their Consequences

Typical code provision	Intent	Weaknesses/barriers
Segregation of uses, including segregating multifamily from single family structures	Separation of noxious uses	Results in neighborhoods in which shopping and places of employment are located inconveniently far from homes
Maximum residential densities	Protection of property values	Results in homogenous lot and house sizes. Neighborhoods—and entire communities—in which housing is affordable only to a small segment of families
Generous parking and street width to accommodate automobiles	Safety and convenience for drivers	Results in communities that are unsafe and inhospitable for pedestrians; increased capacity fails to solve traffic congestion

example, the Arlington County, Virginia, form-based code for the Columbia Pike corridor *requires* ground-floor retail in most circumstances in order to enliven the street. Regulating building form is not the same as regulating architectural style. Form-based code proponent Peter Katz has likened architectural standards to an optional dress code that can be added into the code.[1]

- **Adopt special rehabilitation codes for existing buildings.** Several states, including New Jersey, Maryland, and Rhode Island have adopted rehabilitation codes that set more reasonable standards for upgrading older buildings. After adoption of the rehabilitation subcode in New Jersey, rehabilitation work in the state's older cities jumped—by nearly 60 percent in Newark, by 84 percent in Jersey City, and by 41 percent in Trenton.[2]

- **Allow a mix of housing types—single-family, duplexes, row houses, garden apartments, and mid- and high-rise apartments.**

- **Allow sidewalk cafes.**

Create Walkable Communities, and Provide a Variety of Transportation Choices

- **Narrow street widths and shorten turning radii.** It is common to mandate lane widths of 11–12 feet on local streets, despite the fact that 8–10-foot lanes are easier for pedestrians to negotiate and rarely present problems for motorists. In fact, noted author and traffic engineer Walter Kulash has suggested that narrower streets, when laid out in a Traditional Neighborhood Development (TND) pattern, are actually more efficient than wider, conventionally designed streets.[3]

- **Allow shared parking, and count on-street parking toward fulfillment of parking requirements.** Local governments can allow neighboring businesses to implement shared parking agreements, thus saving each business the expense of providing parking on its own. Lowell, Mass., is an example of a community that has recently changed its code to allow such arrangements. For a comprehensive list of parking management strategies, see the Victoria Transport Policy Institute's TDM Encyclopedia at http://www.vtpi.org/tdm/index.php#parking.

- **Permit road networks with high connectivity and short blocks.** Conventional codes often permit cul-de-sacs, and block faces in excess of 1,200 feet in length. Shorter, well-connected blocks provide more route options to disperse traffic, and shorten travel distances for pedestrians.[4]

- **Enact a transit-oriented development (TOD) ordinance to encourage development around transit stops.** Areas with transit can support a higher intensity of activity than even the typical mixed-use neighborhood. Realizing this, many communities have written codes that specifically apply to transit areas. These codes commonly allow higher densities: 6-10 dwelling units per acre (dua) are usually needed to support regular bus service; 12 dua and up to justify rail transit. It is often easy to accommodate a mix of single-family homes and row houses at these densities. TOD ordinances also often specify a mix of uses to generate transit trips throughout the day, instead of only during commute times. Finally, TOD ordinances mandate lower parking requirements and high levels of pedestrian access, since many transit riders will walk to and from their stops.[5]

- **Require sidewalks in all new developments.**

Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas

- **Enact a transferable development rights (TDR) ordinance.**

- **Use cluster or open space zoning.** These tools allow developers in rural areas to cluster homes on a smaller area than would otherwise be permitted, often conserving as much as 50 percent of the land as open space. A similar method of design called *conservation subdivisions* has been used in rural areas to plan communities in a way that is sensitive to critical environmental features.[6] However, unless such developments are planned to include mixed-use, pedestrian-oriented development, they can be auto-dependent, reducing their environmental and community benefits. Experts recommend linking these zoning tools with a TDR or purchase of development rights program, and planning for these small residential developments to eventually grow into complete villages and towns.

Make Development Decisions Predictable and Encourage Community and Stakeholder Collaboration

- **Use charrettes to get community guidance on changes to the code.** A charrette is "a multi-day planning process during which an interdisciplinary professional design team creates a plan that reflects the input of all stakeholders who are involved by engaging them in a series of feedback loops."[7] Charrettes quickly and decisively involve residents in all stages of a community plan—from creating the vision, to writing a code that fits the vision, to implementing the projects that are buildable under the code.

- **Implement one-stop permit shops, developer liaisons, and priority review.** Cities like St. Paul make development decisions predictable by providing "one-stop shops" for developers and business owners to get permits. St. Paul's service includes online permitting with "live help" customer support, and project facilitators to help developers understand and work their way through the process.

Steps in a Code Reform Process

Get all of the right players together.   Because code reform affects the entire local government, and indeed the entire community, it is important to involve a wide range of stakeholders from within the government and from the community at large. An extensive discussion of stakeholder involvement and public participation is beyond the scope of this fact sheet, but there are a number of resources that can help communities get started.

Audit the code.   The first step before reforming land development regulations is to audit the existing regulations and ordinances to determine where the problems lie. The American Planning Association in its *Growing Smart Legislative Guidebook* lists some questions to ask during a smart growth audit.[8]

The community should focus on the relationship of the comprehensive plan to the underlying codes. Does the plan provide the right community vision? Does the code promote that vision? If the plan is out of date, consider revising it before tackling the codes (alternatively, the revisions may be undertaken together as part of a comprehensive process). If the plan works well as an up-to-date expression of the community vision, consider which sections of the code are inconsistent with that vision.

This audit should inform everything that a community does in its code reform process from this point forward. It may reveal, for example, whether minor modifications will be sufficient to implement smart growth principles, or whether a complete revision is necessary. If a complete revision is necessary, this assessment process may also reveal whether there are urgent situations that should be dealt with by interim regulations. For example, in the interim a community may wish to pass a temporary moratorium on development that is incompatible with smart growth principles (such as big-box retail in a downtown), while it allows smart growth developments to go forward through a conventional planned unit development process.

Comply with your state framework.   When considering legal changes, make sure they are consistent with your state's enabling legislation. See APA's *Growing Smart* project for more details.

Determine who will manage the process.   In-house experience vs. outside expertise can be a trade-off; particularly in smaller localities, hiring a consultant may be inevitable because the day-to-day responsibilities of staff make commitment to code reform difficult.

Create user-friendly codes:

- Use precise, straightforward, and consistent language
- Consolidate permitted uses and numerical standards into tables rather than long text descriptions
- Use graphics to illustrate the intent of the regulations.

Plan for changes.   The updated code will have to be implemented, administered, and revised:

- Train local government staff to administer the new code
- Conduct ongoing outreach to the community and the development industry
- Document "lessons learned" from the initial projects that go through the new process, and adjust requirements if they prove to have unintended consequences. Understand that the first few test cases may need more time and careful attention.
- Measure and document the impacts, both positive and negative, of the code reforms; establish benchmarks and measure progress by maintaining data on the processing time for applications and dollars invested in development, for example.

Case Studies

Code reform can often be quite a challenge. Provisions in a code that are incompatible with smart growth may have built up over time, each with a legitimate justification and a stakeholder group interested in preserving the principle it represents. As codes are amended over time, they often become complex documents. There may be disagreement over the precise standards to set to make the code compatible with smart growth. Challenges are likely to increase with the scope of the reform; it is not uncommon for the process to take two to four years in more complex cases. Here follow a few examples of communities that have navigated these challenges successfully.

Petaluma, California

In 2003, the city of Petaluma adopted a code based on the SmartCode, a template that "provides design criteria for streets, blocks, open spaces and buildings based on their geographic location from rural preserve to urban core."[9] The city used a charrette to get community buy-in to the principles of smart growth and new urbanism.

The Central Petaluma Specific Plan and SmartCode replaced the city's zoning ordinance for Petaluma's downtown. Petaluma's new code coordinates the design of the public realm with the design of private buildings in order to create places that are pedestrian friendly and appropriately scaled. The code promotes infill in a downtown that already had a mix of uses and walkable streets, but in which development had been stagnant for several years. Since adoption of the new code, development has been booming, and developers report that project approval time has been much faster—in as little as six months in several cases.

Milwaukee, Wisconsin

Originally enacted in 1920, the Milwaukee zoning code had been modified so frequently that it became poorly organized and difficult to decipher. The code caused unnecessary nonconformities, discouraged investment,

and effectively took large numbers of properties out of the market. Because of a prevalent belief that the entire city should be replanned and redeveloped according to suburban standards, historic patterns of development were not accommodated in the code.

Under the old code, many developers were allowed to build only after a lengthy process involving the board of zoning appeals. Approximately 700 to 800 cases went to the board of zoning appeals every year, the average review took about 28 weeks, and the planning department heard complaints not just from developers but also from neighborhood residents who felt that the code was not adequately protecting community character.

Updating the zoning code took more than four years. During the process, everything that was proposed had to meet one of three rules: make the code easier to understand and use, cause fewer cases to go to the board of appeals, and clearly result in enhanced protection of a neighborhood's character. Specific actions to implement these principles included:

- Using illustrations and tables where none previously had been used
- Shrinking the code from 25 to 10 sections
- Creating a computerized, online ordinance, with links to a geographic information system (GIS) map to identify each parcel
- Writing design standards where none existed before
- Making parking requirements easier to meet
- Setting signage standards.

Dayton, Ohio

As of January 2005, Dayton is nearing the end of its zoning code rewrite. Despite an initial mandate from the city commission to complete the process in six months, it will take roughly 18 months to complete.

Dayton had last updated its planning documents in 1952. The existing zoning code has typical suburban biases, including large tracts of land and single-use zones. As in Milwaukee, simplifying the code was an important goal in the face of the temptation to add new regulatory language covering every possible outcome.

The plan board oversees the process, but more than 200 citizens are involved. Operating committees are cochaired by an appointed public official (either from the plan board, the zoning appeals board, or the historic landmarks commission) and a local civic leader. Community surveys are also used to get residents' input about what they value in their neighborhoods and how

they like to see change happen.

The new zoning code will allow for mixed land uses, assure compact development, and promote infill and greater population density. Specific ideas include allowing townhouses in areas currently limited to single-family detached housing, allowing commercial uses in residential communities, incorporating historic preservation overlays, and permitting live-work units. Dayton is also preparing to alter its setback requirements for many building types and require build-to lines (or set build-to as the goal).

Resources

Codifying New Urbanism: How to Reform Municipal Land Development Regulations (Chicago: American Planning Association, 2004).

Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change, edited by Stuart Meck (Chicago: American Planning Association, 2002). Also online at http://www.planning.org/growingsmart/.

Land Development Regulations, Smart Growth Resources (Washington, D.C.; Smart Growth Network), www.smartgrowth.org/library/ldrlist.asp.

Regional Forum on Code Reform, (Washington, D.C.: ICMA, 2003), http://icma.org/smartgrowth.

Smart Growth Zoning Codes: A Resource Guide, by Steve Tracy (Sacramento: Local Government Commission, 2003).

"Zoning: Ready to Be Reformed?" by Neal Peirce (Washington, D.C.: National Academy of Public Administration, 2003), www.napawash.org/resources/peirce/Peirce_2_2_03.html.

1 "Form First," by Peter Katz (*Planning Magazine*, November 2004).

2 http://www.state.nj.us/dca/codes/rehab/pioneerart.shtml

3 http://www.walkablestreets.com/kulash.htm.

4 *Smart Growth Zoning Codes: A Resource Guide,* by Steve Tracy (Sacramento: Local Government Commission, 2003).

5 Ibid.

6 *Growing Greener : Putting Conservation Into Local Plans and Ordinances* by Randall Arendt (Washington, D.C. : Island Press, 1999).

7 National Charrette Institute, "The Charrette as an Agent for Change," http://www.charretteinstitute.org/resources/charrettes/article.html.

8 Stuart Meck, ed., *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change* (Chicago: American Planning Association, 2002).

9 http://www.tndtownpaper.com/Volume5/smartcode.htm. The

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