

REVISED DRAFT
APA Equity in Zoning
Policy Guide

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1. Introduction and Overview

1.1 GOALS OF THE POLICY GUIDE

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

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

The goal of this Policy Guide is not to repeat and restate any of that work, but to build on it and to focus on the ways in which planning bias is reinforced and implemented through zoning. Equitable planning is essential to eliminate those zoning and design regulations that disproportionately burden by Black, Latino, Indigenous, and other communities of color, the elderly, persons experiencing disabilities, persons of different national origins or religious faiths, and the lesbian, gay, bisexual, transgender, queer/questioning, intersex, and asexual/aromantic/agender (LGBTQIA) community – which are often referred to in this document as “historically disadvantaged and vulnerable ” communities and individuals. Where zoning rules or procedures have a particularly negative impact on one or more of the communities included in that phrase, they are sometimes identified separately.

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

The goal of this Policy Guide is to identify specific ways in which the drafting, public engagement, administration, mapping, and enforcement of zoning regulations can be changed to dismantle the barriers that perpetuate the separation of historically disadvantaged and vulnerable communities. While acknowledging the importance of dramatic changes in plans and policies, this Policy Guide focuses on identifying and removing those (often facially neutral) zoning laws and regulations that implement and perpetuate inequitable planning policies, including but not limited to the pervasive and continuing effects of “Redlining”, particularly on the Black community. It sets forth APA’s

advocacy positions to improve equity in zoning, and calls on all practicing planners and planning officials to support these positions.

1.2 THE NEED FOR LOCAL, STATE, AND NATIONAL ACTION

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

More importantly, local zoning authority almost always operates within the limits established in state constitutions and zoning enabling legislation. In many cases, the changes recommended in this Policy Guide would be accelerated if state governments acted to prohibit the exclusionary use of zoning powers, and some states have already moved in that direction. In addition, or as an alternative, states could offer financial incentives or condition access to other state funds on local government implementation of some or all of these recommended changes.

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

1.3 CROSS-CUTTING ISSUES THAT COMPOUND THE IMPACTS OF ZONING

Before focusing on how to make zoning more equitable, it is important to acknowledge the many systems that reinforce discrimination and systems of privilege, and that thwart better opportunities and outcomes for many American households. The intertwined impacts of these systems all tend to compound the unfair impacts of zoning—and will continue to do so even if zoning is “fixed.” While better zoning alone cannot end systemic racial and ethnic segregation, prevent the erosion of cultural communities that wish to remain intact, or dismantle long-established systems of privilege, it can be used as a tool to help achieve all of those goals. In fact, it is a particularly important tool, because it is the law, and many other financial and economic institutions point to and use the exercise of the “police power” through zoning as the reason why they cannot or need not reform their own practices. Fixing zoning can have a “trickle-up” effect to promote broader change to reduce the human costs of impacts of racist practices throughout the economy and the nation.

A. Lack of Diversity in the Profession

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

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

B. Real Estate and Lending Practices

For generations, some portions of the real estate and banking industries have favored lending to, constructing, and selling properties in whiter and wealthier neighborhoods while discouraging those activities in communities with more Black, Latino, or other non-white households. Close relationships between a predominantly white development and banking industries and local governments administering zoning regulations compound these impacts. The federal government has systematically supported those efforts through a variety of mechanisms, including FHA regulations favoring single-household suburban housing "occupied by the same racial and social classes," funding highways and other public improvements that made it easier for households to segregate by income, locating interstate highways to divide neighborhoods based on race or ethnicity, making it difficult or impossible for returning Black soldiers to qualify for the G.I Bill, and making mortgage interest deductible for those favored buyers who were able to buy homes. These practices have led to vast disparities in income and wealth through appreciation in property values. While the federal government has taken some steps to mitigate some of the impacts of past decisions through legislation like the Fair Housing Act or the Community Reinvestment Act, current lending and sales practices will continue to make it more difficult for historically disadvantaged and vulnerable communities to access some of the increased opportunities that better zoning can create. Working together, these practices are a very important form of embedded racism.

C. Infrastructure and Public Facility Location and Financing

The equity and opportunity available in America's neighborhoods are heavily influenced by the location of infrastructure, streets, sidewalks, schools and pre-schools, parks, trails, and open spaces, which are largely determined not by zoning but by local government and school district decisions about where to spend their available discretionary funds. While developers can be required to mitigate their impacts on each of these public facilities, individual developers generally cannot be legally required to do "more than their fair share" through zoning to make up for systemic injustices of the past. Where strong market forces support development developers are often willing to do more than what the law requires through a Community Benefits Agreement (CBA), and zoning can encourage or require these types of agreements. Importantly, zoning generally cannot be used to force the replacement or upgrading of infrastructure or amenities unrelated to a proposed development, or to force the local government to allocate discretionary funding in specific neighborhoods.

D. Private Covenants

Many neighborhoods in America have a second level of legal protection against types of structures and land uses that they do not want to see in their neighborhoods – restrictive covenants that buyers agree to when they purchase their homes, and that are enforced by Homeowner’s Associations that may not share the goals of equitable zoning reform. Covenants are “private law” among the property owners (and sometimes the developer) to which the city or county government is often not a party. Local governments generally do not enforce restrictive covenants, and do not modify their zoning to match private covenants. Although enforced through private lawsuits, covenants can be and often are just as effective as zoning in preventing affordable housing, innovative types of housing, rental units, Accessory Dwelling Units (ADUs), or social services from entering a neighborhood. Zoning does not have the power to rescind private covenants; that generally requires the action of the state or federal government to declare specific types of covenants unenforceable. In addition, private covenants often include private assessments that result in their communities having streets, sidewalks, open space, and recreational facilities far better than those in other neighborhoods. For all of these reasons, the aims of equitable zoning reforms are often thwarted by private covenants.

E. Serious Income Disparities

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

As Richard Rothstein demonstrates in The Color of Law, when the Supreme Court invalidated overt racial zoning, many communities realized that zoning based on permitted forms of housing or minimum lot size could achieve the same result by making many neighborhoods less affordable to less white, less abled, and less wealthy households. While originally adopted as a successor to overtly racial exclusion targeting Blacks and Asians, zoning has had the effect of excluding much broader segments of the American population from many residential areas and job opportunities. Zoning cannot change the fact that anything that makes housing, education, transportation, health care, or childcare more expensive will tend to perpetuate the disadvantages faced by historically disadvantaged and vulnerable communities as well as other low-income Americans.

While zoning regulations do not grant or withhold development permission based on the race, ethnicity, color, national origin, or religious faith (and only rarely based on the gender, age, or disability) of the property owner or occupant, they often have disparate impacts based on the income of the occupant. Larger lots, bigger houses, bigger parking lots, and higher open space requirements make property more expensive and limit the number of low-

income households who can afford to use, own, or occupy neighborhoods with those benefits.

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

F. The Need for Complementary Non-Zoning Solutions

Many of the impacts of zoning on historically disadvantaged and vulnerable communities can only be mitigated by actions that are not part of zoning regulations. Effective mitigation of negative zoning impacts may require the execution of Community Benefit Agreements obligating the developer to employ persons or provide services or resources directly benefitting the neighborhood where development occurs. While complementary agreements often accompany zoning actions, they are contracts that are distinct from the zoning approvals that allow a project to happen. Alternately, mitigation may take the form of a decision by the local government to build or repair or upgrade a neighborhood park or other facility. Or mitigation could include a developer offering compensation for or providing a right-of-return for residents displaced by new development at prices those residents can afford, or other benefits that are also generally documented in contracts separate from the zoning approvals themselves. Or mitigation may come in the form of a land bank or land trust created to give the local government or a non-profit new ways to stabilize and reinforce the existing culture and economy of a neighborhood without gentrification. Because the specific impacts of each development on each neighborhood are different, it is difficult to agree in advance about what types of offsets or benefits need to be offered, but it does seem clear that there is a growing need for non-zoning agreements and commitments to accompany zoning actions if the equity of zoning outcomes is going to improve.

2. What is Equity in Zoning?

At the start, it is important to define what is meant by “zoning equity”—and that requires revisiting the difference between “equity” and “equality.” Simply put, equality requires that everyone be given the same opportunities to participate and benefit from a project or program. But different people have different abilities to participate in or influence zoning rules and procedures. Equal opportunity often leads to unequal outcomes—and in America those outcomes are often disproportionately felt by Blacks, Latinos, women, those experiencing disabilities, and other historically disadvantaged and vulnerable individuals. Equity in zoning means that those who write, administer, or enforce zoning regulations take clear steps to avoid or “undo” the unfair outcomes compounded by unequal ability to

participate in all parts of the zoning process. The AICP Code of Ethics and Professional Conduct underscores this duty, and this Policy Guide identifies specific steps to do that.

The job is difficult because zoning is inherently designed to exclude. Zoning is very good at preventing individual property owners from making investments in property, building structures, or engaging in activities that the local government has decided should not occur in a certain location because potential harm to the public health, safety, and welfare. While it can prevent money from being spent in ways that are not in the community's interest, zoning is much less effective in making investors build things they do not want to build or to use properties in ways they do not want to use them. It can seldom force investors to invest where they do not want to invest--unless it subsidizes that development. Zoning can condition permission to do something an investor wants on their willingness to do some things the community wants, but if those conditions make the investment uneconomic, and the local government does not agree to make up the difference, the investor can decide to walk away.

While the exclusionary nature of zoning is simply a fact, the impacts of that fact harm historically disadvantaged or vulnerable communities more than others. Often, the most serious impacts are on households headed by Blacks, Latinos, women, or those experiencing disabilities . As zoning is used to selectively exclude unwanted types of buildings and land uses from some neighborhoods (or to allow them in some neighborhoods while excluding them from others), some areas become more attractive to investors than others, and the same is true for residents and business owners. Those with more time to participate in the system have more ability to influence the rules, and those with more money have more ability to buy property, operate businesses, and live in the neighborhoods that best meet their needs.

2.1 ENDING DISPROPORTIONATE EXCLUSIONARY IMPACTS

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

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

While zoning can be revised to be less exclusive, the impacts of those changes may be very different when mapped in different neighborhoods. A change that could allow new types of housing that reduce exclusion from wealthy residential neighborhoods (for example, removing a ban “Missing Middle” housing or rental housing) could open new opportunities

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

This Policy Guide also addresses how apparently neutral zoning rules may need to be carefully tailored and mapped to avoid unintended consequences. In many cases, this will require different zoning tools to be applied in different neighborhoods of similar size, scale, and character, opening some neighborhoods to new types of development while protecting others from the same type of development. In many cases, these distinctions may need to be based largely on whether the change will have a positive or negative impact on those most seriously harmed by past zoning practices and decisions, and to prevent similar practices from arising in new forms in the future.

2.2 THREE KINDS OF EQUITY IN ZONING

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

1. Equity in the “Rules” of zoning – what the substantive rules of zoning allow, prohibit, or incentivize in different parts of the community.
2. Equity in the “People” in zoning – who is involved in drafting the rules and incentives, who is notified and engaged in whether to change those rules for different areas of the community and who is involved in enforcement.
3. Equity in the “Map” of zoning districts – where the rules are applied through zoning maps and whether that reduces or reinforces exclusion and segregation in America.

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

3. The Rules – Equity in Substantive Zoning Regulations

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

In many cases, a change that could be achieved by changing the rules could also be achieved by remapping lands into a different zoning district where different rules apply (as discussed in Chapter 5). For most communities, there is no “right” way. A change to the zoning ordinance text that would allow more diverse housing in a given zoning district (a rule change) could also be achieved by adopting an remapping the area to allow those same types of housing in a specific area (a map change). The right way is the one that produces outcomes that undo past harms and avoid creating new harms to historically disadvantaged and vulnerable communities, and for which planners can gain the political support necessary to make the change. While each community will need to identify its historically

disadvantaged and vulnerable communities based on its unique context, some relevant factors may include race and ethnicity, and: household composition and size, average median income, concentrations of substandard public facilities and infrastructure, poor access to good jobs and services, and other available historical data.

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

1. **Public Health.** Land use patterns are linked to public health by influencing the provision of green open space, the distribution and quality of health care and rehabilitation services, the walkability and “bike-ability” of neighborhoods, the availability of affordable, healthy, and culturally appropriate food, and access to places of nature, recreation, and physical activity.
2. **Environmental Justice.** According to the EPA, environmental justice is achieved when all residents maintain “the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.” Communities of color, in particular, have long been exposed to higher levels of environmental and health hazards due to zoning that permits housing near pollution from major highways and waterways, as well as regulations that permit or concentrate industries and facilities that create those risks in certain neighborhoods. Climate change will exacerbate these impacts by increasing the frequency and intensity of flood and fire events.
3. **Fair Access to Housing.** Fair access to housing goes beyond the ability for any resident, regardless of income, to afford the mortgage or rent payments required for the available housing in their community; it also considers the ability for residents to live near their place of employment, in their preferred housing and ownership type, and in communities with a shared culture or identity if they so choose. The APA Housing Policy Guide provides much more detailed policy guidance on this topic.
4. **Fair Access to Economic Opportunity and Services.** The ability to use, create, or reach a place to earn a living, to form and expand a business, and to access quality education and necessary civic institutions and public services are also strongly influenced by zoning through use controls, design controls, and the length and complexity of administrative procedures.
5. **Aging in Place.** As the share of adults who are 65 or older increases, the accessibility, affordability, functionality, and safety of the built environment becomes increasingly important. The types and mix of uses allowed in a zoning district, maximum residential densities, development standards related to universal design, and connectivity requirements are all components of standard zoning regulations that effectively determine if an adult can stay in the same community as they age.

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

Although the rules discussed in this chapter often appear in the zoning ordinance, some of the rules may instead appear in design standards or guidelines in separate documents. Often these documents are referred to in the zoning ordinance, and property owners are required to comply with them just as if they were part of the zoning ordinance. To fully

remove the sources of zoning inequities, they will need to be addressed in both the zoning ordinance itself and in related development and design standards and guidelines.

3.1 ZONING DISTRICTS

Most zoning ordinances divide their communities into districts based on the forms of buildings permitted (“form-based” zoning), based on mitigating the specific impacts of proposed development or matching community character (“performance” zoning), or based on the uses of land and buildings in the district (“use-based” or “Euclidean” zoning), or a mix of the three. In many communities, this blend of controls is approved as a negotiated “Planned Unit Development” unique to a specific property. While the labels “form-based” or “use-based” generally describe the primary focus of the regulations, in practice almost all zoning districts regulate both the form and use of land and buildings within their boundaries. While form-based districts often have more flexible regulations on the use of property and eliminate or minimize the need for public hearings on the use of land, many retain use controls very similar to those in use-based zoning (particularly for lower density residential neighborhoods). Similarly, while use-based zoning districts often have relatively simple building form controls (e.g., maximum heights and minimum/maximum building setbacks), others include much more detailed building design standards. The regulation of both building forms, performance, and permitted uses can create barriers to opportunities for historically disadvantaged and vulnerable communities, and overly detailed controls of any type should be avoided. The discussion in this chapter will address sources of inequitable zoning arising from both building form and building use regulations, regardless of the “Euclidean,” “performance-based,” “form-based,” “Planned Unit Development” or other label attached to the zoning district.

In most communities, implementation of the policies described below will require careful consideration of the demographics, economics, social and physical vulnerability, and potential for displacement of the existing population. The same zoning change that may open up opportunities for better housing, livelihoods, and services in one part of the community may lead to speculative investments and displacement of historically disadvantaged and vulnerable households and businesses in another. New zoning rules must be tailored and applied so that they increase opportunities rather than leading to speculative displacement of these households and businesses, and must be applied carefully to avoid being co-opted as tools to further protect wealth and privilege.

A. Base Zoning Districts

- **Zoning District Policy 1. Establish new residential zoning districts or amend existing residential districts to allow more types of housing types, and avoid districts limited to only single-household detached dwellings.** History shows that single-household residential zoning has a disproportionate impact on the ability of historically disadvantaged and vulnerable groups to access both housing and the wealth accumulation that has often accompanied housing ownership. If maximum residential densities are regulated, they should accommodate the revised broader menu of housing options. This often means allowing a broader range of building forms, lot sizes, and residential uses in low-density residential neighborhoods. More information on policies to create more affordable housing are available in the APA Housing Policy Guide.

- **Zoning District Policy 2. Establish new mixed-use zoning districts or allow a wider mix of uses in existing zoning districts to increase opportunities for historically disadvantaged and vulnerable populations to live closer to sources of employment and needed services.** Cities and counties should consider existing conditions and demographics and identify neighborhoods that have traditionally been separated from employment opportunities and that would benefit from additional permitted uses. Take care to avoid introducing new uses that could significantly increase land values and lead to forced displacement of existing residents.

B. Overlay Zones

- **Zoning District Policy 3. Where supported by a historically disadvantaged or vulnerable business community, consider establishing specialized or overlay zones to help preserve business districts that have historically served and been focused on the needs of these communities.** In many communities, traditional business, entertainment, or service centers serve as sources of jobs, revenue, and pride for the historically disadvantaged and vulnerable areas they serve. This is particularly true when businesses serve a racial, ethnic, or religious groups or the LGBTQIA community that want specific goods and services in a context not often provided by the broader economy. An overlay district can be used to recognize and preserve their cultural and economic contribution to the community, as well as allowing the additional flexibility in building forms and uses needed to accommodate current activities and to strengthen the image of the area for the future. These types of overlay districts acknowledge that it is not always a unique building or architectural style that fosters a unique sense of place, but rather a collection of businesses, residential dwellings, and/or civic uses that establish a shared community identity.
- **Zoning District Policy 4. Where supported by a historically disadvantaged or vulnerable residential neighborhood, consider establishing specialized or overlay zones to help protect “Naturally Occurring Affordable Housing” (residential properties that are affordable to low- and moderate- income, but are unsubsidized or protected by any local, state, or federal program) from speculative development pressures.** This can be done by defining and protecting established building forms, by prohibiting the demolition of more affordable types of housing, or by limiting the amount by which existing single-family homes can be expanded within a given time period. Preserving the existing scale and fabric of smaller and more affordable housing can help slow the replacement of smaller, affordable housing with much larger and more expensive homes in those neighborhoods that want to preserve current levels of affordability. This tool should be used only with the clear understanding that restricting private investment will mean that the existing housing stock may age and may remain substandard compared to surrounding areas without a similar overlay district. In addition, this tool should be clearly limited to disadvantaged and vulnerable neighborhoods, and should not be used to protect islands of protected housing in neighborhoods of wealth and privilege.
- **Zoning District Policy 5. Establish specialized or overlay zones to improve health outcomes and environmental justice by preventing concentrations of polluting or harmful facilities and activities near historically disadvantaged and vulnerable communities.** A key element of pursuing environmental justice is balancing preventative and mitigative strategies. An overlay zone can accomplish both by severely restricting the expansion of

existing harmful industrial uses or requiring environmental remediation for redevelopment. These types of zoning districts should be developed in close collaboration with the surrounding BIPOC and other disadvantaged communities so that concerns about health, the environment, and employment reflect the values of the community.

3.2 LOT AND BUILDING FORM AND DESIGN STANDARDS

Building form and design standards were first established to advance public health, safety, and welfare during a time when overcrowded urban housing was spreading disease and increasing fire risk. Early zoning ordinances focused on setbacks between buildings to limit the spread of fire, ensuring access to clean air and sanitation to slow the spread of disease, and protecting public space and streets from overcrowding and congestion. More recently, building form and design standards have focused on public welfare (rather than health and safety) with regulations that protect neighborhood character, advance sustainability, and improve development quality. Each of these regulations has impacts on both development and human opportunities, and some of those negative impacts are disproportionately borne by historically disadvantaged and vulnerable communities. Cities and counties should consider how building form and design standards may increase the cost of building and maintaining a property, create barriers to access, and encourage or discourage investment and livelihoods in these communities.

A. Lot and Building Dimensional Standards

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

- **Form and Design Policy 1. Reduce or eliminate single home residential minimum lot size requirements and eliminate minimum dwelling size standards and maximum Floor Area Ratio limits that effectively require construction of more expensive homes.** While large minimum lot sizes are often defended on the basis of neighborhood character, their impact has been to perpetuate patterns of economic and demographic segregation of historically disadvantaged and vulnerable communities. There are many examples of neighborhoods with broad mixes of lot sizes and housing that maintain very high qualities of life without perpetuating those exclusionary impacts. Allowing a greater diversity of housing through changes to both form and use regulations is a key to allowing less expensive “missing middle” housing (a range multiple units housing types similar in scale and form with detached single-family homes, such as townhouses, cottage housing developments, manufactured housing, and accessory dwelling units) in more locations.
- **Form and Design Policy 2. Reduce or remove limits on multi-household development density, minimum dwelling unit sizes, or maximum dwelling units per acre that tend to force the construction of fewer, larger, more expensive dwelling units within these buildings.** In addition to limiting the ability of households to live closer to needed schooling, child care, employment, and services, these types of artificial limits make it difficult for America’s aging population to “age in place” in the neighborhoods they love. Regulations that focus on the form, size, and placement of these types of buildings, rather than the number of dwelling units in them, should be considered. If larger units

are needed to accommodate growing populations of larger families, regulations may better promote the needed housing by requiring more units with more bedrooms.

B. Lot and Building Form and Design Standards

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

- **Form and Design Policy 3. Avoid adopting building form and design standards that significantly or unnecessarily increase the costs of development, and avoid those that could prevent historically disadvantaged and vulnerable households from moving into a neighborhood, creating or growing a business in that neighborhood, or from making improvements to their property.**
- **Form and Design Policy 4. Add standards to allow those with reduced mobility or without access to a motor vehicle to easily access and circulate in all neighborhoods.** These include standards requiring Universal Design or other accessibility programs that go beyond the minimum requirements of the Americans with Disabilities Act, in order to ensure that our neighborhoods function for the elderly as well as those experiencing disabilities.
- **Form and Design Policy 5. Avoid drafting or allowing the use of architectural style design standards that have negative connotations among communities of color and vulnerable populations.** For example “Antebellum” and “Spanish-Colonial” styles may discourage Black, Latino, or Native American households from feeling welcome in a neighborhood or community due to the historical use of these architectural styles to assert power over these communities. Other defined styles may create similar reactions from Asian or Pacific Islander communities.
- **Form and Design Policy 6. Remove or modify restrictions on specific building or site features that are commonly found in historically disadvantaged and vulnerable neighborhoods.** Examples of development standards that place disparate burdens include bans on window-mounted air-conditioning units, outdoor clothes lines, parking of a single commercial vehicle, basketball hoops, or carports. Limits or prohibitions on these types of typical site features should only be developed in collaboration with those neighborhoods most likely to be affected by them.

3.3 PROPERTY USE REGULATIONS

Use regulations identify the types of uses allowed by-right, conditionally, with discretionary review, or as accessory or temporary uses in different zoning districts and often include standards to mitigate potential impacts of those uses. Whether they appear in form-based or use-based zoning districts, use regulations can disproportionately affect historically disadvantaged and vulnerable populations in several ways. Narrowly defined uses that focus on the name of the activity rather than its land use, traffic, or environmental impacts sometimes single out additional restrictions for unpopular forms of retail, sales, or production activities that are frequent sources of employment for these communities. The

same is true for strict limits on home occupations based on their names rather than their impacts on the neighborhood, since these communities are more likely to need to use their homes to generate income to live and raise their families. Requirements for public hearings and discretionary approvals for specific uses also tend to have disproportionate impacts on these households, since they are often less able to invest the time and energy necessary to complete those procedures. The large number of use-related recommendations in this portion of the Policy Guide is indicative of the wide range of ways in which permitted use controls have created inequitable zoning results.

A. Residential Uses

Most of the land in most American communities is zoned for residential development and use. Historically, many zoning districts are grounded in idealized concepts of a small, nuclear, two-generation family that is no longer the norm. Many of these districts permitted only single-household, detached houses (and sometimes supporting civic uses like schools and places of worship). The wide use of these practices has contributed significantly to rising housing prices and the inability of historically disadvantaged and vulnerable households to find quality affordable housing in areas with quality schools and services, as well as demographic and income segregation in many communities. In many cities and counties, making a wider range of diverse forms of housing available will require changes to both building form and use controls.

- **Permitted Use Policy 1. Where supported by historically disadvantaged and vulnerable populations, expand the list of allowed residential use types to include one or more of the following “non-traditional” and “missing middle” housing that is more available to America’s diverse, aging population.** Types of housing that are missing from many zoning ordinances—or only available following a public hearing—include cottage or courtyard dwellings, duplexes, triplexes, fourplexes, attached single-household homes (townhouses or stacked townhouses), co-housing, tiny houses, live-work dwellings, single-room occupancy (SRO), and both attached and detached accessory dwelling units (ADUs). By including appropriate standards on these uses, they can often be made available in a wide range of residential zoning districts without the need for a public hearing or negotiated approval. To support the viability of ADUs, co-housing, and multi-generational living, a second kitchen should generally be permitted.
- **Permitted Use Policy 2. Allow accessory dwelling unit (ADUs) without the need for a public hearing, subject to only those conditions needed to mitigate potential impacts on neighboring properties.** ADUs are complete, smaller, secondary dwelling units that are located within a principal dwelling or in a detached accessory structure, and administrative approval of ADUs significantly decreases the time, cost, and risk of the development review process for applicants and encourages property owners to use their own resources to increase housing diversity. While ADUs may support the stability of existing neighborhoods by accommodating extended families or creating an opportunity to generate revenue from tenants, they can also spur speculative investment that displaces current residents – and that is particularly true when ADUs are used as short-term rentals – so this tool should only be used in historically disadvantaged and vulnerable communities when supported by those communities.
- **Permitted Use Policy 3. Allow manufactured homes in many residential districts, protect existing manufactured housing parks, and allow the creation of new manufactured**

housing parks with quality common open space and amenities. While the redevelopment of older or underused properties for higher intensity uses is part of a healthy local economy, redevelopment of manufactured or housing parks can create unusual hardships if the residents cannot afford to pay to move their units or cannot find affordable replacement housing. Cities and counties should allow the installation of individual manufactured homes in a variety of residential districts, as well as the creation of new manufactured home parks in desirable residential areas. They should protect existing manufactured housing parks from predatory redevelopment and displacement of residents by limiting options for redevelopment without the approval of the governing body.

- **Permitted Use Policy 4. Treat assisted living facilities, congregate care communities, retirement villages, and supportive housing types as residential and not commercial uses and allow them in a wide variety of residential zoning districts.** Although supportive housing facilities often include commercial activities such as providing healthcare or other support services, they function as residential facilities and should be treated as such. Classifying supportive housing types as residential uses also expands opportunities for existing, elderly residents to “age in place.”
- **Permitted Use Policy 5. Treat housing with supportive services for people with disabilities the same as similarly sized residential uses.** Group homes or supportive housing for those with physical and mental disabilities are protected by the federal Fair Housing Amendments Act (FHAA), and the required broad reading of the FHAA means that zoning should not treat group homes any differently than similar sized homes for people without disability. Under court decisions interpreting the FHAA, this approach needs to extend to residential facilities for those in programs to address substance abuse and addiction, which is a recognized form of disability. Ensure that the zoning regulations allow small group homes wherever single-household homes are permitted and allow large group homes wherever multi-family housing of the same size is permitted.
- **Permitted Use Policy 6. Replace zoning references to “family” with a definition of “household” that includes all living arrangements that function as a household living unit.** The definition of “family” is an important, and often overlooked, part of zoning regulations when it comes to disproportionate impacts on historically disadvantaged and vulnerable communities. Many definitions related to household composition are based on outdated concepts of small, nuclear families and a largely white cultural-specific concept of family live that excludes other ways of living (for example, South Asian joint families or Latino multi-generational living). Ensure that the definition includes people related by adoption, guardianship, or foster placement, and accommodates larger groups of unrelated individuals living as single households in a cooperative community. If the definition includes a maximum number of unrelated persons, ensure that it is no lower than the number of related persons that would be permitted in the same size residential home.
- **Permitted Use Policy 7. Allow administrative approval of “Reasonable Accommodation” for persons experiencing disabilities.** The FHAA requires that requests for reasonable variations and exceptions to zoning rules to accommodate persons experiencing disabilities (such as a request that a wheelchair ramp that extends into a required setback) be considered and that decisions on those requests be reasonable. Establish a

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

- **Permitted Use Policy 8. Consider adopting Universal Design requirements for a significant portion of new housing construction to better accommodate the needs of the elderly and those persons experiencing disabilities.** While the Americans with Disabilities Act (ADA) generally does not require accessible design for single-household homes, Universal Design requirements ensure that some key accessibility provisions (like doorways wide enough to accommodate wheelchairs and at least one at-grade entrance) are incorporated into single-household dwellings. Requiring these elements in a portion of new homes constructed can substantially expand the ability to “age in place.”

B. Commercial Uses

Commercial uses, including retail, personal, and medical services, are not only a large source of employment, but they also provide necessary goods and services for community residents and drive many local and regional economies. Historical practices in commercial zoning have resulted in inequitable patterns of development and a lack of fair access to employment and basic necessities. The recommendations below are intended to dismantle the negative stereotypes of some commercial uses, expand the provision of essential goods and services into historically disadvantaged and vulnerable neighborhoods, and increase access to employment opportunities.

- **Permitted Use Policy 9. Evaluate the permitted uses regulations applied to small-scale commercial uses and eliminate any restrictions and standards that are not based on documented public health, safety, economic, or other land use impacts of the use on surrounding areas.** Businesses such as check cashing, massage parlors, plasma clinics, nail salons, and tattoo parlors are often limited or prohibited in most commercial zoning districts despite the fact that they have similar operating characteristics and land use impacts as other commercial uses like banks, personal services, and urgent care clinics. In many communities, these uses serve as significant providers of goods, services, and employment in the surrounding areas. Any restrictions on commercial uses should be based on documented land use impacts and should be adopted only after consultation with the business communities that will be affected to balance those impacts with potential employment opportunities and to avoid over-concentration of those uses in historically disadvantaged and vulnerable neighborhoods.
- **Permitted Use Policy 10. Allow small-scale child and elder care and outpatient medical and health support facilities in a wide variety of zoning districts to allow convenient access by all residents, and treat non-residential addiction services like other outpatient treatment facilities.** America’s aging population will require increasing amounts of medical, dental, physical and occupational therapy, and other supportive services located conveniently to the neighborhoods where they “age in place.” In addition, serious shortages of convenient childcare have a disproportionate impact on single-parent, often female-headed, households. Outpatient addiction treatment centers operate similarly to

other types of outpatient facilities and should be treated as such. Because substance addiction is a growing medical and mental health challenge that affects all demographics, these facilities should be allowed with few restrictions in a wide variety of commercial zoning districts, and should not be subject to public hearing or development standards that are not also applied to other types of outpatient treatment facilities. For each of these use, avoid regulations that add costs or repeat state regulations or licensing requirements.

- **Permitted Use Policy 11. Ensure access to healthy food by allowing smaller grocery stores, local cuisine restaurants, and artisanal food producers with limited operational impacts near low-density residential neighborhoods and in “food deserts”, and by ensure that there is not an overconcentration of food outlets that do not carry fresh, healthy food in disadvantaged.** Grocery stores and local food producers are important contributors to public health and are needed in almost every part of the community on a daily basis. Zoning regulations and procedures that create barriers to these uses should be removed or revised to allow wider access to healthy food. At the same time, the overconcentration of convenience stores and other stores that provide easy access to health compromising substances like alcohol and tobacco in historically disadvantaged and vulnerable communities should be limited or removed entirely.

C. Industrial Uses

Due to a long history of zoning practices that located or allowed environmentally harmful or polluting uses in or near historically disadvantaged and vulnerable neighborhoods, these communities, and particularly BIPOC communities, have suffered disproportionate burdens from air and water pollution, lack of safe or clean open and green space, and other environmental hazards. While current environmental regulations sometimes prohibit the creation of similar new industrial uses, existing sources of environmental risk often remain in place and are protected by their “legal nonconforming” status. The recommendations below are intended to reduce the disproportionate impacts from environmental hazards on these communities. This topic is also addressed in Chapter 5.3, and can be addressed through changes to zoning maps as well as rules.

- **Permitted Use Policy 12. To improve environmental justice, prohibit the location of new industrial uses and the expansion of existing industrial uses that do not meet current public health and environmental safety standards, and (where permitted by law) use amortization powers to end the operation of these nonconforming uses, particularly in historically disadvantaged and vulnerable communities.** Where existing environmentally harmful uses continue to operate as legal nonconforming uses, prohibit expansion of those uses unless the expansion will result in reduction and remediation of existing risks to public health and safety. When these uses are located close to schools, health care facilities, and other facilities serving vulnerable populations, expansion should be prohibited regardless of the size of the facility. Amortization allows municipalities to terminate nonconforming land uses to eliminate continuing industrial operations that exacerbate adverse health outcomes without displacing residents.
- **Permitted Use Policy 13. Classify low-impact and artisan manufacturing uses as commercial uses and allow them in more zoning districts.** While the term “industrial” is typically associated with large facilities with large neighborhood impacts, there are many small-scale assembly, processing, and fabrication activities with few or no negative

impacts on the surrounding area. Because these uses are often grouped with the more intense industrial uses, there are often significant unnecessary limits on where they can be located. Allowing the small scale artisanal production and retail sale of products in the same building lowers the barriers to economic activity to those without the resources to maintain multiple properties to run their business.

D. Agricultural Uses

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

- **Permitted Use Policy 14. Allow small-scale urban agriculture – including but not limited to community gardens, greenhouses, beekeeping, and poultry raising – in a wide variety of zoning districts, and allow light processing, packaging, and sales of products grown on the property.** To protect public health, ensure that soil conditions on an urban agriculture site are not contaminated, particularly when the site has been previously used for commercial or industrial purposes. Remove barriers to construction of supporting facilities needed to protect plants due to climatic or soil conditions. Allowing light processing, packaging, and sales of community agricultural products as accessory uses related to the growing of local food also provides a source of local employment.
- **Permitted Use Policy 15: Allow farmer’s markets and other facilities for local food distribution in a wide variety of zoning districts, as either temporary or permanent uses.** Wide public access to healthy food is as important as the technical availability of healthy food – particularly for those who do not have the ability to grow it themselves.

E. Home Occupations

Zoning regulations often severely limit the types of revenue earning activities that can be conducted from a residential dwelling unit, which has a significant impact on those who do not have the resources to rent a separate business location, including but not limited to historically disadvantaged and vulnerable communities. In some cases, zoning limits are based on stereotypes regarding the activity being conducted rather than its impacts on the surrounding neighborhood. Removing prohibitions or overly restrictive requirements on home-based businesses are of particular benefit to single-parent or guardian households or other households with small children, elderly relatives, or other dependents by allowing them to run a business or maintain employment without the additional costs of childcare, eldercare, or commuting.

- **Permitted Use Policy 16: Update home occupation regulations to broaden the types of activities allowed to be conducted from dwelling units of all types.** Ensure that any restrictions on home occupations are based on documented neighborhood impacts and eliminate special permit requirements where possible. Regulations should focus on preventing negative impacts on the surrounding area, rather than trying to list specific permitted home businesses. Limits on the use of accessory buildings, prohibitions on employment of even one person from outside the household, additional requirements for

off-street parking, and prohibitions on cottage food operations all create significant barriers to economic activities and likely have a disproportionate impact on historically disadvantaged and vulnerable communities.

F. Temporary Events

- **Permitted Use Policy 17. Reduce zoning barriers for temporary events, entertainment, and outdoor sales, including garage/yard sales in residential areas, “pop-up retail” sidewalk sales and mobile food vendors where those barriers are likely to reduce social and economic opportunities for historically disadvantaged and vulnerable individuals.**

Temporary use regulations are often heavily restricted due to perceived or potential traffic and noise impacts, even though those impacts will be short-lived. Temporary events are often tied to cultural celebrations that foster a sense of community within a neighborhood and offer additional sources of temporary employment without the need to invest in a permanent place of business. Temporary use restrictions should be based on balancing the short-term impacts of these events with the social, economic, and cultural benefits they create. Larger temporary events should be required to be accessible to those using mobility devices such as wheelchairs and walkers, and to provide accessible support facilities (such as parking and restrooms).

3.4 SITE DEVELOPMENT STANDARDS

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

A. Who Must Comply

Because site development standards can add significant costs to a new development or redevelopment project, it is important to clarify what level of investment triggers the need to comply with those standards. Smaller investments generally require only partial compliance, or are exempt altogether, while larger investments require full compliance. Site development regulations are often tailored to allow additional flexibility for infill and redevelopment projects and can also be tailored to allow additional flexibility if necessary to allow needed investment and employment in historically disadvantaged and vulnerable neighborhoods.

- **Site Development Policy 1. Draft thresholds for compliance with specific site development standards to avoid disproportionate impacts on historically disadvantaged and vulnerable neighborhoods.** The “triggers” for compliance with different types of site development standards should be developed after close consultation with the affected neighborhoods so that they reflect a good balance between the desire to maintain and upgrade the quality of the neighborhood with the need to sustain investment and employment by existing businesses and affordability to residents of the area. These thresholds may differ based on the cultural backgrounds or traditional living arrangements and workplaces of different communities.

B. Access and Connectivity

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

- **Site Design Policy 2. Require high levels of accessibility and connectivity for pedestrians, bicycles, and motor vehicles in all new development and significant redevelopment.**

Require that bicycle routes, sidewalks, internal walkways, and pedestrian crossings are safe and usable by persons experiencing disabilities. Consider requiring Complete Streets and going beyond the standard requirements of the Americans with Disabilities Act and embrace a Universal Design approach to create neighborhoods that are “usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.” Prohibiting the creation of new “gated communities” with single or limited points of access, which lengthen walking, bicycling, and motor vehicle trips and are a significant contributor to exclusionary development patterns. Consider requiring large projects with multiple buildings across multiple lots to incorporate low vision, blind-supportive, and deaf-friendly design features such as wide sidewalks, raised crosswalks, and other tactile markers to differentiate pathways.

C. Required Parking

Minimum off-street parking regulations raise the cost of housing and other development and often make redevelopment of older infill sites difficult or impossible, which likely has a disproportionately negative impact on historically disadvantaged and vulnerable neighborhoods. Often, these minimum requirements far exceed what is needed to achieve their original purpose, which was to protect public health and safety by reducing congestion on surrounding streets and to prevent overflow parking and related traffic from commercial uses in adjacent residential areas. Average temperatures are often higher in historically disadvantaged and vulnerable neighborhoods, and reducing parking reduces the amount of impervious surfaces that create those urban heat islands. Reducing or eliminating parking minimums can also increase the amount of land used to build housing, parks and open space, or other community-supporting uses rather than maintaining large swaths of surface parking or parking structures that sit vacant or underused.

- **Site Design Policy 3. Eliminate or reduce minimum off-street parking requirements in areas where those requirements serve as significant barriers to investment and are not necessary to protect public health and safety or pedestrians, bicyclists, or motorists using the facility.**

Minimum parking requirements are often based on newer suburban development precedents that may not be applicable to denser, urban contexts or redevelopment projects. However, because of poor public transit access to employment opportunities, some historically disadvantaged and vulnerable households may have no choice but to own a motor vehicle (or more than one) to reach more dispersed work opportunities, and some employers may need more off-street parking because their workforce arrives from widely dispersed neighborhoods not served by other forms of transportation. Reductions in parking requirements should be based on careful

consultation with affected neighborhoods and employers to balance the affordability and walkability benefits of less parking with the need to accommodate vehicles needed for employment without compromising public health and safety.

- **Site Planning Policy 4. Do not require minor building expansions, minor site redevelopment projects, or adaptive reuse of existing buildings to provide additional parking unless the change will create significant impacts on public health or safety due to increased traffic congestion or overflow parking in residential neighborhoods.** A major barrier to opening a small business or operating a restaurant or personal service use is additional parking requirements that are triggered when the intensity of site use increases. This can disproportionately impact historically disadvantaged and vulnerable businesses owners who have more constrained sites may lack the resources to make significant site improvements to accommodate a relatively small change in use. Often, the time involved in evaluating incremental parking requirements for small changes in property use far outweighs the benefits of those parking adjustments to public health and safety.

D. Landscaping, Open Space, and Tree Canopy

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

- **Site Planning Policy 5. Draft zoning standards that require or incentivize new development and redevelopment to increase the amount of landscaping, open space, and tree canopy in those neighborhoods that currently have less of these site design features.** This may mean tailoring zoning standards to require higher levels of these site features in some neighborhoods, which may in turn require that the zoning rules provide added flexibility on other standards to offset added development costs. Ensure that new landscaping is located and sized to avoid obscuring sight lines for pedestrians, bicyclists, and motor vehicles that would increase risks to public health and safety.

E. Lighting for Public Safety

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

- **Site Planning Policy 6. Require adequate levels of lighting of sidewalks, walkways, public transit stops, and parking lots to protect the health and safety of vulnerable populations.** Through shielding requirements, “dark sky” fixtures, limits on uplighting, and better light trespass standards, lighting needed for public safety can be readily balanced with

community desires :to see the stars.” Because excessive lighting standards have sometimes been used to increase surveillance of Black, Latino, and other persons of color, lighting standards should be drafted after careful consultation with the residents and businesses in the neighborhoods where they will be applied, so that they balance public safety for all.

4. The People – Equity in Zoning Procedures

While community participation has long been emphasized in creating community plans, it is not always a priority when drafting and implementing zoning regulations. This may be in part because zoning is perceived as a “technical” topic. It is one thing for residents to discuss a vision and goals for their community, but another for them to grasp and debate the legal ramifications of specific zoning regulations, let alone an entire zoning ordinance. But that is a serious mistake, because informed participation is critical to eliminating racism and discrimination in zoning. All community members have a right to be involved in the drafting, administration, and enforcement of zoning controls, as well as in changes to the zoning map. Equity in zoning requires that communities ensure diverse, inclusive, and effective participation in writing and changing the zoning rules; drawing and changing the zoning map; applying the zoning ordinance to development applications; and deciding how the rules will be enforced.

The continuing need to achieve much greater diversity and maximum participation in the planning profession was addressed both in the Planning for Equity Policy Guide, and in the introduction to this Policy Guide, so that discussion is not repeated here. Additionally, the Planning for Equity Policy Guide includes several important recommendations regarding community engagement and empowerment that apply to zoning as well as planning, and those policies are not repeated here. Instead, this section focuses on specific opportunities to improve engagement and participation related to zoning.

- **Capacity-Building Policy 1: Design and offer events or classes to help historically disadvantaged and vulnerable communities to understand and participate in zoning procedures, and to learn from members of those communities how current zoning procedures are affecting their neighborhoods, businesses, and quality of life.** Cities and counties that have offered “zoning 101” or “zoning academy” events and programs often report a significant increase in public understanding of the most effective ways to make their wishes known and understood throughout the zoning process. In seeking diverse participants, cities and counties may need to make accommodations for non-traditional work schedules and participants’ needs to bring children to sessions. Events offering public education or seeking public input should be offered both virtually and in-person, at varying hours, potentially at locations where participants normally gather. If possible, offer childcare, meals, and possible stipends to recognize the value of participants’ time.
- **Capacity-Building Policy 2: Ensure that planners receive diversity, equity, and inclusion (DEI) training.** As the planning profession works to build diversity over time, planners at work should enhance their sensitivity and knowledge of issues and concerns relevant to historically disadvantaged and vulnerable populations and neighborhoods, as well as their co-workers who are members of these communities.

4.1 APPOINTING ADVISORY AND DECISION-MAKING BOARDS

Although the ultimate authority to adopt and apply zoning regulations is almost always held by an elected City Council or Board of Commissioners, some powers are often delegated to appointed boards that are authorized to make recommendations or to make certain types of decisions. Examples include Planning Boards, Zoning Commissions, Historic Preservation Committees, Zoning Appeals boards, and officials appointed to conduct public hearings on zoning applications. The extent of authority granted to these bodies varies widely, but that does not change the importance of ensuring that their composition reflects the demographic and economic makeup of the community they represent. This Policy Guide has previously noted that the planning profession remains a predominantly “white” profession that often does not reflect the diversity of the communities it serves, and the same is often true of appointed zoning-related boards and officials. Some of the inequities in drafting, applying, and enforcing zoning regulations discussed in Sections 4.2 through 4.5 below may not be fully addressed until these boards truly reflect the diverse populations of our cities and counties.

- **Appointment Policy 1. The composition of non-elected boards and advisory committees should reflect the community, including proportionate representation from historically disadvantaged and vulnerable communities.** While “expertise” in zoning, planning, real estate development, and real estate markets has often been the key criterion for appointment to these boards, that approach often results in membership that does not reflect the makeup of the community. Professional expertise is important, but these boards also need to include significant local community expertise and lived experience. Their memberships need to bring those different kinds of knowledge that can be conveyed by more diverse voices that better understand the impacts of zoning decisions on all of our neighborhoods.

4.2 WRITING AND CHANGING THE ZONING RULES

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

In addition, zoning rewrite projects must include significant outreach efforts so they reflect input from diverse groups in the community, and particularly from historically disadvantaged and vulnerable communities. The rewrite process should include input from a standing advisory committee reflective of the community composition, and any proposed changes should be subject to public review and feedback long before there is an actual hearing on adopting those changes.

Just as importantly, the zoning drafting process should include specific opportunities to evaluate the potential impact of revised zoning regulations on all of our diverse neighborhoods. Some of these impacts may become evident through the community

engagement process, but a more wide-ranging review by planners who will implement any updated regulations should also figure in the process. It may be appropriate to perform an equity audit of the current zoning regulations based on the recommendations in this Policy Guide. This consideration should extend beyond zoning district boundaries on a map, and will necessarily rely on knowledge of local circumstances. For example, would a change to home occupation permissions make it difficult for small child or adult daycare services to operate from family homes? Would new industrial use limitations disproportionately impact public health or employment in lower-income neighborhoods? Considering unintended or secondary consequences, and who will be most affected by them, is paramount to any zoning regulation update effort.

- **Drafting Policy 1. Those framing, writing, and/or reviewing the zoning rules should reflect the demographic composition of the community and should include representatives from historically disadvantaged and vulnerable communities.** Ideally, input from these groups should occur twice: once when amended language is being drafted, and again *before* that language is presented to a decision-making body. If changes are not incorporated based on public input prior to the hearing, discussion of that input should become part of the public hearing.
- **Drafting Policy 2. Ensure that drafting efforts include tenants as well as property owners.** This is important because historically disadvantaged and vulnerable communities generally have a higher percentage of renters than the overall population, and because the zoning changes can lead to gentrification and displacement that particularly impacts these community residents.
- **Drafting Policy 3. Ensure that there are multiple opportunities for review of potential zoning impacts on historically disadvantaged and vulnerable communities.** These reviews need to happen with sufficient time to receive meaningful and equitable input before public hearings on the proposed regulations begin.
- **Drafting Policy 4. Avoid overly complicated regulations. Complicated regulations, and those that require detailed supporting documentation, make it difficult for residents (and particularly non-English speakers) to engage effectively in the drafting process.** They also discourage zoning applications from those who do not have the resources to hire professional help to get through the zoning process.
- **Drafting Policy 5. Draft objective and clear standards and review criteria to ensure a more transparent and efficient zoning ordinance.** Similar to overly complicated regulations, vague and subjective standards are difficult and time-consuming to interpret. Overly subjective standards also make it easier for those individuals familiar with the public process (who are typically wealthier and often white) to oppose projects that might reduce zoning barriers to more equitable development.

4.3 APPLYING THE ZONING RULES TO INDIVIDUAL PROPERTIES

Although the drafting of zoning rules discussed in Section 4.2 and the adoption of area-zoning maps discussed in Section 5.1 are very important, most zoning activities involve the application of zoning rules that have already been drafted and adopted. The activities discussed in Sections 4.2 and 5.1 are often called “legislative” actions because they affect large areas of a community, they are almost always approved by the governing body, and that body has wide discretion to do what it thinks is best for the entire community.

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

- Decisions made by staff to confirm whether a development application complies with the adopted rules (often called an “administrative” or “ministerial” action, because it involves no discretion),
- Decisions by an appointed body that involve some level of discretion as to whether a development application meets standards and criteria stated in the zoning code (sometimes called a “quasi-judicial” decision, because the appointed body is acting similarly to a judge who applies the law to the facts of a specific case), and
- Decisions by the City Council or County Commissioners regarding an application covering one or a few properties (which are generally also “quasi-judicial” actions).

A. Administrative and Ministerial Decisions

Administrative and ministerial decisions are generally made by staff, and are the most common type of zoning decision. Because these decisions do not require staff to exercise discretion or judgment, the key to equity is to ensure that the zoning rules themselves do not have disproportionate impacts on historically disadvantaged and vulnerable communities (See Section 4.3 above). Because staff are often trained to make the same decision in the same way for similar applications, without knowledge of the applicant’s race, ethnicity, national origin, religious affiliation, gender, sexual orientation, or level of physical or mental ability, some of the opportunities for inequity through the public hearing process (discussed below) can be removed. The “applicant neutrality” of this type of decision-making has led some communities to focus on making as many zoning decisions as possible administrative decisions. The alternative is to make the same type of decision a “quasi-judicial” decision before an appointed or elected body, and then make exceptional efforts to overcome the potential biases introduced through a public hearing requirement (also discussed below).

B. Decisions That Require a Public Hearing

While requiring a public hearing before making a zoning decision can increase opportunities for members of historically disadvantaged and vulnerable groups to be heard before decisions are made, they also create opportunities for inequities to enter the zoning decision-making process. In addition to the common use of vague or subjective criteria (discussed above), inequity can enter the hearing process because of (1) how the public is notified or those hearings; (2) the ways in which the public is permitted to participate in the hearing; and (3) the ability of different segments of the community to understand and participate in the hearing.

C. Notifying the Public

The importance of effective public notification, and improved ways to do that, are addressed in APA’s Planning for Equity Policy Guide, and those same recommendations apply in the zoning context. Traditionally, notice has been provided to property owners within a defined radius of the proposed development project. There are several inherently inequitable aspects to this practice.

First, limiting notification to owners of property effectively disenfranchises the significant proportion of any community's population that does not own property. Beyond limiting the number of people who receive notice, mailing requirements often do not include notice to renters. Because historically disadvantaged and vulnerable communities are often disproportionately renters rather than property owners, mailing requirements that ignore renters introduce significant bias into the public hearing process. Because property owners are, by and large, older, whiter, and wealthier than other segments in a community, that means that notice may not be received by a proportionate number of the households in these communities. In areas with significant tribal or indigenous populations, ensure effective notice to those groups when developments are proposed on adjacent lands.

If who is notified can prejudice outcomes, that bias can be further exacerbated by how the public is notified. Depending on the type of decision being made, many zoning ordinances require mailed notice (sometimes certified), advertisements to be published in a "newspaper of record," and/or posted signs on the potential development site. Posted signs are an effective means of reaching a broad audience—anyone passing by can see the sign, learn what is proposed on a site, and understand how they can express their opinion on the proposal—provided the passersby can read them. Any community with significant numbers of residents whose first language is not English should require signs in alternate languages, or at least non-English instructions on how to find additional information in other languages.

The limitations of publishing an ad in a newspaper of record are multiple. Ads of this type are likely to be seen by a group similar in age and background to the property owners who received notice. It is not likely to be seen by younger residents who rely on electronic media for news and information, and almost guaranteed not to reach anyone in the community whose first language is not English.

Local governments have access to numerous means of communication that can more readily reach a diverse audience: their city or county website, social media accounts, and electronic notification by email or text notices. Many communities are already making use of these tools, but relatively few have written them into zoning regulations or put them on a par with required mailings or newspaper ads.

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

- **Zoning Notification Policy 1. Review, update, and expand traditional notification procedures.** Expand the range of acceptable venues where notice required to be published will reach a wider range of recipients. Send mailed notice to tenants as well as property owners. If the neighborhood where the property is located has significant numbers of non-English speakers, send the notification in multiple languages, or at least indicate how non-English speakers can follow up to learn more. Expand posted notice requirements to apply to more application types, possibly even those that do not require a public hearing. Be sure each type of notice is translated into languages commonly spoken in the neighborhood where the property is located, and that notice is provided in a form that is accessible to those with visual impairment.

- **Zoning Notification Policy 2. Formalize and expand requirements to use newer means of notification.** To ensure that historically disadvantaged and vulnerable communities are notified, identify interested community members and groups (housing authorities, tenants unions, community activist groups) and maintain updated lists of their contact information. Use websites, social media, text messages, or other electronic means to provide additional notice. Every application should be available for review on the city or county website, even for administrative decisions that do not require a public hearing. When a public hearing will be held, the site should include a way for the public to submit project-related comments rather than requiring them to write a letter or draft an email. Social media should be used provide notice about project applications, and to publicize upcoming public hearings. While not everyone can receive electronic notices, it is a valuable means of additional notice for many and should become a mandatory way to contact neighborhood associations and interest groups. Most communities publish electronic Board and Council agendas, and these calendars should be easy to find, and accessible by links from related pages.

D. Conducting the Public Hearing

As noted above, requiring a public hearing introduces a predictable source of bias into zoning administration. While most people care about their neighborhoods, some have a greater understanding of zoning laws and regulations, how to engage with their local government, and how to express themselves in ways that can influence zoning decisions. Historically disadvantaged and vulnerable communities are often less able than others to engage effectively in public hearings. For this and other reasons, many newer zoning ordinances reduce the number of decisions that require a public hearing and instead focus on extensive, representative public engagement to draft zoning rules and incentives that allow more decisions to be made administratively while avoiding negative impacts on these communities.

When public hearings are required, they should be conducted with as few barriers to participation as possible. Limiting public comment to a fixed time of day (particularly during working hours) and at a fixed location automatically disadvantages those who have work or family obligations at that time or lack the mobility to attend. Fortunately, many communities are offering expanded opportunities for virtual engagement in public hearings. Others are requiring planning staff to record staff reports a week or more in advance of the hearing, making it available through the city or county website, and offering the ability to write or record comments that are then replayed and made a part of the record during the public hearing itself. However, there is still a serious “digital divide” in most communities, as well as a language divide, and those who do not have high-speed internet access from home or a working understanding of English are the same groups that have typically been disenfranchised by traditional methods of participation.

- **Public Hearing Policy 1. Require public hearings when there is a genuine need to use discretion in applying zoning criteria and standards to the facts of a specific proposal and property.** To the greatest degree possible, draft objective standards and criteria that effectively avoid unintended negative impacts on historically disadvantaged and vulnerable individuals and neighborhoods, and allow those decisions to be made administratively.

- **Public Hearing Policy 2. Maximize the ways in which individuals can participate in public hearings, and avoid limiting engagement to a specific time and place.** Allowing public comment for a period before the hearing itself, and allowing virtual participation, can significantly increase participation from historically disadvantaged and vulnerable communities.
- **Public Hearing Policy 3. Bridge the digital, language, and ability divides. After expanding public notice as discussed in Section 4.4, provide ways for public comments to be received through verbal conversations with staff or in writing.** Make materials related to the hearing available in commonly spoken languages other than English, and in a format accessible to those experiencing visual impairment. Provide interpretation and translation services for those languages commonly spoken in the neighborhood where the property is located.

4.4 ENFORCING THE ZONING RULES

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

Historically disadvantaged and vulnerable communities are sometimes less familiar with what zoning requires, the need to apply for zoning approvals, or the need to maintain their property in compliance with zoning standards. Because these communities often have lower than average incomes, they may also be less able to respond quickly to bring their properties into compliance with zoning standards.

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

- **Zoning Enforcement Policy 1. Ensure that local government discretion to enforce zoning rules is not disproportionately focused on historically disadvantaged and vulnerable neighborhoods, unless the residents of the neighborhood itself have requested higher levels of zoning enforcement.** In some cases, disadvantaged neighborhoods request additional enforcement to address negligent landlords, tenants, or poor maintenance that creates public health and safety risks for the surrounding area. Those requests should be respected.
- **Zoning Enforcement Policy 2. Adopt a wide range of ways to bring violations into compliance with zoning requirements, and adequate time for people to do that.** Keep in mind that residents of historically disadvantaged and vulnerable neighborhoods may not have as much time or money to do so quickly, or the same ability to obtain loans needed to bring the property into compliance.

- **Zoning Enforcement Policy 3. When nonconformities are discovered, focus enforcement efforts on those that create significant threats to public health and safety, while allowing wide latitude to continue using buildings and engaging in activities that do not create risks of injury, death, or damage to surrounding properties.** Because many historically disadvantaged and vulnerable communities have fewer options about where to live and how to earn a living, the ability to continue to use existing buildings and to continue to operate and support existing businesses that do not create risks to others is particularly important.

5. The Map – Equity in Zoning Maps

Regardless of how good the zoning rules are, and regardless of who wrote them, zoning rules do not exist in a vacuum. They are applied through zoning maps, and those maps can embed and perpetuate disproportionate impacts on historically disadvantaged and vulnerable communities just as effectively as unfair rules and procedures. More specifically, many current zoning maps reflect the damaging overuse of Urban Renewal powers in some neighborhoods, the location of freeways to divide neighborhoods based on race or ethnicity, and initial reliance on “redlining” maps that discouraged investment in Black, Latino, and Asian neighborhoods. More recently, zoning maps have been revised to implement planning for climate resilience, to increase residential densities to promote affordability, and to respond to the removal of outdated freeways, but each of these changes also has the potential to create disproportionate impacts on historically disadvantaged and vulnerable communities. Amending zoning maps to promote social, climate, or economic equity is difficult work, because each action carries with it the likelihood of unintended consequences. This chapter addresses ways to think about and minimize those consequences.

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

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

- Constrain land supply for needed types of development;
- Concentrate polluting and harmful land uses and facilities in some neighborhoods;
- Limit access to key public services and facilities; and
- Perpetuate separation of populations based on old “redlining” maps.

Each of these sources of inequity are discussed separately below. In many cases, these unfair outcomes could be addressed by changing the zoning rules applicable in different zoning districts (as discussed in Section 3.1), but they can also be addressed by changing the zoning designations applied to different neighborhoods.

5.1 DRAWING AND CHANGING THE AREA-WIDE ZONING MAPS

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

Initiatives to consider community-wide or area-wide changes to the zoning map raise the same kinds of challenges to effective engagement as changes to zoning rules—and Drafting Policies 1, 2, and 3 apply to these types of community-wide or area-wide map changes. Because they affect large numbers of property owners and renters, it is particularly important that consultants, advisory groups, and assigned staff reflect the makeup of the areas to be affected as much as possible. In addition, because historically disadvantaged and vulnerable populations are particularly affected by the impacts of map changes, it is particularly important that the proposed changes be reviewed for potential impacts on affordability, gentrification, and environmental justice.

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

- **Zoning Map Policy 1. Those recommending changes to the zoning map should reflect the demographic composition of the community, and should include representatives of historically disadvantaged and vulnerable communities.**
- **Zoning Map Policy 2. Ensure that zoning map revision actions include residential tenants as well as property owners.**
- **Zoning Map Policy 3. Ensure that there are multiple opportunities for review of potential zoning impacts on historically disadvantaged and vulnerable communities.**

5.2 MAKING LAND AVAILABLE FOR NEEDED TYPES OF DEVELOPMENT

Because membership in a historically disadvantaged and vulnerable community tends to be correlated with lower-than-average income, members of these communities may be more likely to live in particular types of housing and to earn their livings in different types of employment. In many communities, they are more likely to live in multi-family apartments, in smaller houses on smaller lots, or a particular configuration of the home, such as a traditional “shotgun” house or mill village. Zoning maps that designate too little land for these types of housing have a very serious disproportionate impact on these communities by driving up the cost of housing.

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

While it is important to zone enough land to accommodate each of these activities, it is equally important to ensure that the locations of those lands do not perpetuate segregation

based on race, ethnicity, national origin, or religion. In addition to revising zoning rules to allow these forms and types of housing and workplaces in more zoning districts, these disparities can be addressed by remapping more areas of the community into zoning districts that allow them.

- **Zoning Map Policy 4. Analyze local conditions to determine development types that correlate with homes, businesses, and services needed by and affordable to historically disadvantaged and vulnerable communities.** Apply zoning districts that make adequate amounts of land available in locations that do not perpetuate historic patterns of segregation.
- **Zoning Map Policy 5. Where rezoning occurs as a part of development application, and the development could be built under multiple zoning districts, designate the one that permits the greater variety of alternative development forms that could provide housing, employment, and service opportunities for disadvantaged and communities.** Avoiding over-restrictive or highly detailed zoning regulations allows a wider range of property owners and investors to develop in ways that reflect the existing fabric and scale of the community.

5.3 REMOVING DISPARITIES IN NEIGHBORHOOD HEALTH RISK

A second way in which zoning maps can create or perpetuate disproportionate impacts on Black, Latino, and other communities of color is by concentrating polluting or harmful land uses, or the forms of structures that can accommodate them, in or close to the neighborhoods where these populations live. The environmental justice movement and stronger environmental regulations are two forces already working to reduce these inequities. Because of their potential impacts on health and property values, these types of uses are sometimes referred to as Locally Unwanted Land Uses (LULUs). There is dramatic evidence that individuals exposed to polluting industries, highways, or other activities for extended periods of time have significantly higher health risks and shorter life expectancies, and pre-existing health conditions are made worse through that exposure.

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

In addition, the relocation of LULUs leads to re-sorting of the population. Those with more resources tend to move away from unpopular facilities and developments, which can lower land values and make housing more affordable to lower-income populations, which then move in. Since historically disadvantaged and vulnerable communities tend to have lower-than-average incomes, the proximity of these households to LULUs may tend to re-establish itself over time. The lower land value itself can become a seemingly rational reason additional LULUs would be built nearby, further concentrating the effect.

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

- **Zoning Map Policy 6. Revise zoning maps to avoid the future location of polluting or environmentally harmful facilities and other Locally Unwanted Land Uses in neighborhoods that already contain a disproportionate share of those uses and facilities.** Ensure that zoning maps allow practical locations for these and future similar uses in other areas of the community where they will not exacerbate health impacts on populations that have already been exposed to these and similar negative health impacts. This analysis should consider how long existing nonconforming uses are likely to operate and how that affects the concentration of uses in different neighborhoods.
- **Zoning Map Policy 7. Where zoning districts include protections from potential negative effects of development in adjacent districts, revise zoning maps to avoid shifting those potential negative impacts onto historically disadvantaged and vulnerable communities.** Ensure that zoning districts containing significant populations of color include the same protections from the impacts of nearby development as those containing whiter and more wealthy citizens.

5.4 REMOVING DISPARITIES IN ACCESS TO KEY SERVICES AND FACILITIES

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

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

- **Zoning Map Policy 8. Revise zoning maps to ensure that needed health, educational, religious, and civic facilities or services are permitted and simple to establish in or near all residential areas of the city, including historically disadvantaged and vulnerable neighborhoods.** In many cases this simply involves removing prohibitions on specific uses based on outdated stereotypes about the scale, impacts, or clientele that may need these services.

5.5 REMOVING HISTORIC SEGREGATION THROUGH MAPPING

A fourth way in which zoning maps create inequity is by perpetuating zoning boundaries that were initially designed to separate historically disadvantaged and vulnerable communities from other neighborhoods. In recent years, there has been increasing attention on the origins of the zoning maps used in American communities. More specifically, the attention has focused on the fact that traditional zoning emerged after the U.S. Supreme Court

invalidated overtly racial zoning in *Buchanan v. Warley*, and appears to have been aimed at least in part on the same goal of separating different segments of the population from each. As discussed in Section 1.2.E, there is a strong correlation between historically disadvantaged and vulnerable populations and lower-than-average incomes, so zoning that separates people based on income levels has the indirect effect of also separating them based on race, ethnicity, gender, and ability.

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

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

One answer to redline-based zoning maps is simply to remap both divided neighborhoods to the same zoning district, thereby equalizing the opportunities for investment and development on both sides of the line. But that solution has potentially serious consequences. The effect of redline-based zoning maps was often to decrease the value of land in the historically disadvantaged and vulnerable neighborhood and increase it in the neighborhood next door or across the highway. Adopting the same zoning district in both areas may well lead to speculative investment in the disadvantaged neighborhood. That new investment may well come from investors outside the neighborhood and could lead to gentrification and displacement of the existing residents. If this happens, the result of “equalizing” the zoning map may mean that few existing residents can obtain the loans needed to redevelop their properties and that living conditions do not improve for those living in the formerly redlined neighborhood. Map changes may be more effective if paired with sustained technical and financial assistance to the residents of formerly redlined neighborhoods, so that the residents can remain in their neighborhoods of choice and become their own advocates to remove physical and regulatory barriers.

- **Zoning Map Policy 9. Analyze zoning map boundaries based on discriminatory lending policies or the construction of divisive public works, and revise maps to remove those historical boundaries if doing so would increase the economic health and welfare of the historically disadvantaged and vulnerable community.** Do not remove those zoning boundaries when they are desired by the existing residents and businesses to discourage speculative investment, gentrification, or displacement of its residents. Removal of redline-based barriers should only be done after close consultation with the affected community to balance increased economic opportunity with the preservation of desired cultural or community character.

- **Zoning Map Policy 10. Where zoning map changes have potential impacts on historically disadvantaged and vulnerable neighborhoods, consider the use of non-zoning agreements and commitments to offset those impacts or offer compensating benefits to the neighborhood.** This may involve the creation of a revolving loan fund to expand the resources available to current residents, or other agreements requiring that developers share the new opportunities created by remapping by employing or partnering with existing residents, property owners, and business owners in the neighborhood. It could also include granting a “right of return” allowing existing residents displaced by redevelopment to own or rent housing or business locations within the new development. It is important that efforts to “un-redline” zoning maps anticipate these types of impacts on the existing neighborhoods and include tools to mitigate their impacts.

6. Related Policy Guides

Aging in Community (2014)
Community Residences (1997)
Environment: Waste Management (2002)
Factory Built Housing (2001)
Food Planning (2007)
Hazard Mitigation (2020)
Healthy Communities (2017)
Historical and Cultural Resources (1997)
Homelessness (2003)
Housing (2019)
Planning for Equity (2019)
Provision of Child Care (1997)

7. References and Further Reading

[In process]