



One of the many dimensions of planning for health is providing convenient options for transportation and recreation, such as cycling.

The Healthy Communities Movement Today

PLANNING TOOLS

“HOW DO WE CREATE A BUILT ENVIRONMENT that encourages a healthy lifestyle with the goal of improving the overall health of our nation? One way is through continued collaboration among planners and public health professionals. More communities are incorporating health endeavors and engaging public health professionals in their comprehensive planning efforts.” APA President Carol Rhea, FAICP, recently raised this question and challenge in the American Public Health Association’s *Public Health Newswire*. APA and APHA are collaborating through the Plan4Health project (plan4health.us) to build local capacity to address population health goals.

Collaboration, Rhea believes, is fundamental to improving overall health. The idea of collaboration between these two disciplines may precede the 1985 Beyond Health Care Conference in Toronto, when Leonard J. Duhl, MD, a professor of public health and urban planning at UC Berkeley, proposed the Healthy Cities concept. Today a strong, well-

organized, and unstoppable movement to create healthy communities is maturing.

A decade ago, Riverside County, California, became an early adopter when it embraced the Healthy Communities concept. Staff members from the planning and public health departments were inspired after attending the Local Governments Commission’s 2006 New Partners for Smart Growth conference in Denver.

Five years later, Riverside County enacted a Healthy Riverside County Resolution and adopted a Health Element into

its general plan. Public Health Deputy Director Michael Osur (one of the authors of this article) led the way. To date, most of the 28 cities in the county have adopted either one or both of these documents as part of their planning policies and tools.

The Healthy Cities movement is not exclusive to the APHA and APA partnership. Many notable milestones mark the evolving thinking and practice of both individual professionals and organizations from both disciplines. A few prominent efforts from the past 10 years include:

2003 While serving as director of the National Center of Environmental Health at the Centers for Disease Control and Prevention, Richard Jackson, MD, published an editorial in the *American Journal of Public Health* titled “The Impact of the Built Environment on Health: An Emerging Field.”

2004 APA, in partnership with the National Association of County and City Health Officials organized a symposium on Land Use and Health.

2006 APA and NACCHO copublished “Integrating Planning and Public Health: Tools and Strategies To Create Healthy Places.”

The National Association of Local Boards of Health published “Land Use Planning for Public Health: The Role of Local Boards of Health in Community Design and Development.”

APA’s *Journal of the American Planning Association* dedicated an issue to the intersection of planning and health.

2011 APA’s Planning and Community Health Center published “Comprehensive Planning for Public Health” survey results.

2012 APA incorporated a Healthy Communities Declaration within the APA Policy Guide on Smart Growth.

2014 APA and APHA teamed up and launched Plan4Health.

LEADING LAND-USE AND REAL ESTATE organizations have also started important healthy communities/cities initiatives intended to foster additional opportunities for collaboration and increase

understanding about the intersection of planning and public health at the local, national, and international levels.

The Urban Land Institute created the Building Healthy Places Initiative. The American Institute of Architects published *Local Leaders: Healthier Communities Through Design*.

The Congress for the New Urbanism has embraced health through the promotion of smart growth principles in planning and design. CNU’s Health Districts Project also illustrates a specific approach recognizing the connection of health and place through a healthcare lens. Jeff Speck, AICP, a planner and leading member of CNU, wrote about the crucial role that walkability plays in improving people’s health in his book *The Walkable City*.

PUBLIC HEALTH ORGANIZATIONS are also developing frameworks and tools to strengthen collaborations between the stewards of the built environment and community health advocates in California.

The Bay Area Health Inequities Initiative has developed a model healthy planning guide to increase understanding about the intersection of planning and health; in addition, it has created a public health framework for reducing health inequities.

The Public Health Alliance of Southern California has emerged as a collaborative of nine public health departments working with planning agencies to address the water crisis in California, the integration of health into transportation and land-use planning, and access to affordable, healthy foods. In addition, the alliance focuses on the use of health data in policy making, program development, and community investments.

STATE, REGIONAL, AND LOCAL GOVERNMENTS as well as foundations and APA California’s planning affiliates are tapping into this wealth of resources to increase capacity between planners, public health professionals, and advocates.

The Governor’s Office of Planning and Research has launched the Healthy

Planning Leadership Series of webinars to assist jurisdictions with the topics related to healthy communities.

The Southern California Association of Governments’ *2016–2040 Regional Transportation Plan/Sustainable Communities Strategies* includes a Public Health Appendix. The California Endowment is in the midst of the 10-year, multimillion-dollar Building Healthy Communities initiative taking place in 14 of the most disadvantaged communities in the state.

Since 2008, the Healthy Eating Active Living campaign has ignited the spirits of 180 cities that have joined the campaign through funding from Kaiser Permanente and the California Wellness Foundation.

The California Planning Roundtable developed a Healthy Communities Definition based on the Health in All Policies model to introduce planners to the concept. CPR has also published “Social Determinants of Health for Planners” to aid in the understanding of terms used primarily by public health professionals.

This overview reveals how much the healthy communities movement has grown. It is only a matter of time before all planners—professionals and members of elected boards and commissions—fully embrace public health data, thinking, philosophy, and values as part of their daily planning work.

Improving the overall health of our nation, as Rhea suggests, will only occur through collaborations at many levels. It will also require continuous capacity building in all sectors responsible for building communities. That requires overcoming inequitable conditions in which people live, work, play, and learn.

We have learned over time that the basis for determining community and individual health is equity. This must be at the front and center of this movement. We must build health into our everyday lives.

—Michael Osur and Miguel A. Vasquez, AICP

Osur is deputy director of the Riverside County (California), Department of Public Health. Vasquez is a healthy communities advocate, planner, artist, and urban thinker in Riverside.

Shifting Focus: Planners as Commissioners

BEST PRACTICES

IN ADDITION TO THEIR PROFESSIONAL WORK, planners often serve on planning commissions and other related boards. A 2013 survey indicated that as many as 32 percent of planning commissioners may be planners—some are academics, some are retired, and others are still actively practicing. What prompts a planner to serve on a commission? We asked several planning commissioner planners about their volunteer service.

Public service, being helpful, and thinking of the future generations were the motivations for our respondents. “I had this bracelet with pictures of my grandchildren. When someone asked, I would show them the pictures and say that it was so they would have a good place to live,” says Ann Bagley, FAICP. For almost 10 years, Bagley served on the Dallas Plan Commission.



DON ELLIOTT

Don Elliott, FAICP, serves on the Denver Planning Board. He wanted “to experience the challenges of balancing neighborhood concerns with the overall best interests of the city. And because Denver has an innovative zoning ordinance, I wanted to . . . be a part of making it work.”

A move to a new community prompted Marya Morris, FAICP, to join the plan commission in Glencoe, Illinois. “I moved to Glencoe in 2008 . . . and was interested in serving on any board or commission where my background as a professional planner might be helpful,” she says. Morris joined the commission in May 2009.



MARYA MORRIS

When asked what challenges their commissions faced, the big-city commissioners responded at length. The first issue may be an emerging one for many communities—Airbnb. Elliott says that short-term rental companies, such as VRBO and Airbnb, have created tensions between neighbors-as-neighbors and neighbors-as-property-owners.

For Bagley, equity rose to the top of the list. “Dallas has a lot of challenges: a north/south divide between the haves and the have-nots,” she says. Elliott pointed to lack of affordable housing. “The global economy continues to hold wages down while housing costs increase, so this is a structural problem of the U.S. economy (and even more serious in the booming Denver economy),” he says. “We need to find better ways to allow more creative housing, sharing of housing, and sustainable financing streams to subsidize housing for the very poor. The market cannot solve this one unless planners cooperate.”



ANN BAGLEY

Changing perspectives

How does serving on a commission change the perspective of a planner? “I had a lot of experience drafting urban design standards, sign regulations, and zoning standards,” says Morris. “When I joined the commission and had real-live applicants in front of me, I became more interested in helping to find a way to accommodate the applicant’s request rather than being a stickler

for hard and fast adherence to the written standards.”

Bagley’s thinking also shifted as she assumed a new role. “The other surprise was how hard it was to make a decision sometimes,” she says. “Many times I would not agree with the staff report. I said to several staff members that if I were in their position, I would probably write the same report, but with my background and community knowledge I looked at the case differently. I always told them in advance if I was going to ask a hard question. No blindsiding.”

Elliott’s view from “the other side of the table” focused on his fellow commissioners. He commended the thoughtfulness of his colleagues’ comments and was impressed by “their discipline in staying on point and keeping focused on the specific criteria they have to apply to each kind of decision”—something boards may find challenging. Elliott observed that some planning commissioners may not always understand where the decision they are making fits into the city’s overall governance system.

Elliott was very impressed with “the seriousness with which the board takes public comments—even if it is clear that the board does not have authority to make decisions or condition approvals the way they want us to.” He also appreciates the variety of participants in the planning process in Denver and commends the politeness of almost all public comments.

In Dallas, Bagley was equally impressed by locals’ dedication. “I gained a great deal of respect for those who gave their time to improve and protect their communities by serving on a board or commission,” she says.

Planning commissions have been around since 1907. Are they still playing the role they should be playing in the community? “Yes,” says Elliott. “However, Denver has just started four major planning efforts—land use/transportation, parks, pedestrians, and transit—and it will be a continuing challenge to balance our time between our ‘regular’ workload (reviewing rezonings, urban renewal and

neighborhood plans, and design review in some areas) with the 'exceptional' work of keeping involved with the new major planning efforts. We could be more effective if some of the criteria for planning board reviews and decisions were refined based on recent experience."

Finally, we asked the planners what advice they had for new planning commissioners or board members. "First, I would suggest new plan commissioners find another commissioner who's served for a while and ask if they would be willing to serve as a mentor," Morris says. "In so many discussions, my commission has benefited from the institutional memory of several of the longest-serving plan commissioners. But it's important to make sure that all conversations with other commissioners adhere to the state laws regarding open meetings."

"Listen to the public carefully—but don't always condition approvals based on their input," says Elliott. "Sometimes the correct solution is to change the standard or criteria applicable to all development of that type rather than throwing an unex-

pected condition or limitation at a property investor. . . . Keep focused on the long-term overall health of the community—you are the only group charged to do that. If the city council wants to allow the short-term to outweigh the long-term interest, so be it—they are elected to make those decisions, but by keeping focused on the long-term you can often give them "political cover" to do what they know is right even though some of their voters disagree."

Both Bagley and Elliott emphasized preparation. "Read your materials before the meeting," Bagley says. "Ask questions."

"Staff reports and materials are usually very helpful and will help you avoid making some mistakes in judgment," says Elliott. "When staff [members] think that no one is reading their materials, they start caring less, and eventually the quality of your staff declines."

All three planner commissioners were in agreement about training. Bagley says new members should ask for it.

"I joined the commission at a time when there had been no turnover for a

long time," says Morris. At my first meeting, I was given a binder of all applicable plans and ordinances but no training. New commissioners should request training on any topics or procedures . . . so that they can be productive and engaged.

"I would've benefited from some training on everything from parliamentary procedure to an overview of village government, including the roles and responsibilities of the plan commission and other boards and committees, and a history of issues that have come before the commission."

Morris sees the need for training or education extending beyond the commission. "The public would benefit from education on planning; the planning commission would be more effective if we were able to spend more time educating the public about the city's system of balancing long-term/short-term and neighborhood/citywide interests."

—Carolyn Torma

Torma is APA's director of education and citizen engagement.

PART ONE OF A TWO-PART SERIES

Legal Issues with Form-Based Codes

LAW

FORM-BASED CODES

are emerging as one of the most influential trends in the practice of land development regulation, particularly in recent years. (My article, "The Rise of Form-Based Codes," in the Winter 2012 issue of *The Commissioner*, offers more information about how FBCs differ from conventional zoning and subdivision regulations, why they are increasingly popular, and what communities should think about when considering them. See the sidebar on page 44 for a recap.)

One important issue a community should consider when assessing any regulatory option is its legal risks. Is this tool authorized in my state? Does it present a

risk of violating constitutional rights? Because FBCs are still new in comparison to more traditional regulatory tools, few enabling statutes address them directly and there are few cases that test their constitutional parameters. However, individual elements have been tested in court, and a growing number of states recognize them as part of a permitted regulatory tool. This article summarizes what we know today about the legality of FBCs.

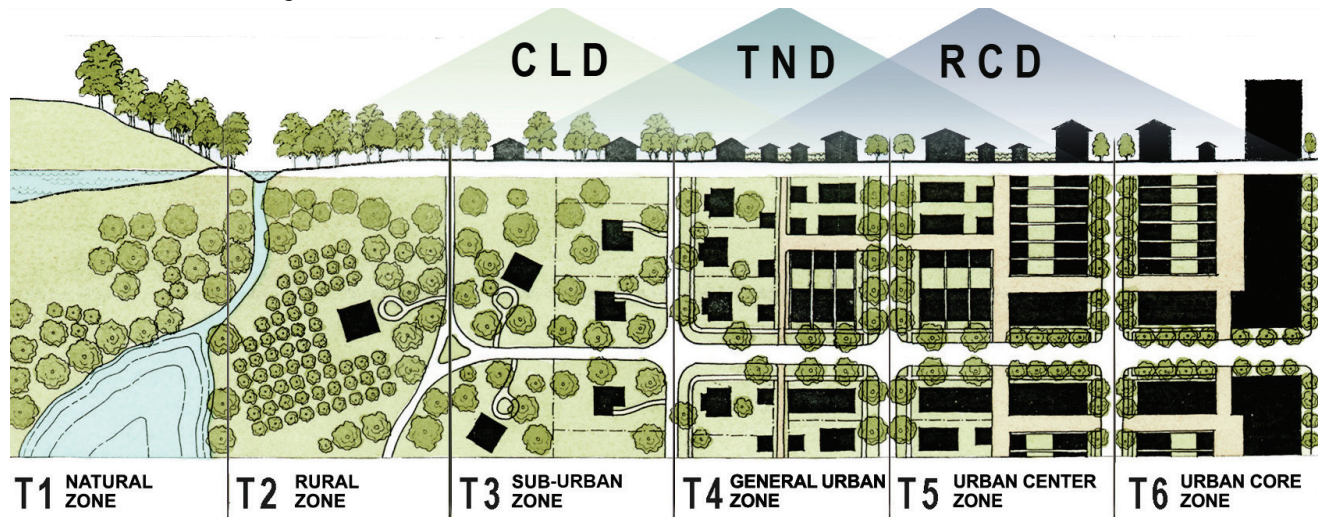
This article is the first of a two-part series. In this first section, I will discuss definitions and the authority for these codes. In part two, I will cover constitutionality and zoning litigation, as well as other legal issues. Let's begin with this question—are you permitted to use FBCs in your community?

Authority

The most fundamental threshold question relating to the legality of any land development regulation is whether it is authorized by state law. There are two basic models of local authority: home rule and Dillon's Rule. In home-rule states, local governments have all powers not denied (preempted) by state law. To date, no state has expressly preempted FBCs. In Dillon's Rule states, FBCs are allowed if they are expressly authorized by state law, or if that authorization is implied by state statute. The salient elements of an FBC appear to fall well within traditional grants of zoning authority. The Standard Zoning Enabling Act regulations govern height, number of stories, and size of buildings in addition to use regulations—

THE TRANSECT AND COMMUNITY UNITS

Transects describe the continuum of rural to urban uses. Here, CLD indicates hamlet, TND the village/neighborhood, and RCD the most urban downtown neighborhood.



What is a Form-Based Code?

The Form-Based Codes Institute (an advocacy group) defines FBCs as land development regulations that use “physical form, rather than separation of land uses, as their organizing principle.” Many modern codes have a series of design standards, ranging from the old-fashioned design review board to building fenestration and modulation standards. However, districts and corridors in an FBC regulate building and frontage-type regulations, rather than uses and conventional zoning standards. They can build from the region and regulate down to the district, corridor, block, lot, and building scale.

There are even different types of FBCs—such as frontage codes, building typology codes, and the SmartCode, an FBC based on the “transect.” Codes that include both FBC and conventional zoning elements are often referred to as “hybrid codes.”

—From “The Rise of Form-Based Codes,” *The Commissioner*, Winter 2012

Definition of Transect

Naturalists use a concept called the “transect” to describe the characteristics of ecosystems and the transition from one ecosystem to another. Andres Duany has applied this concept to human settlements, and since about 2000 this idea has permeated the thinking of new urbanists. The rural-to-urban transect is divided into six zones: core (T6), center (T5), general urban (T4), sub-urban (T3), rural (T2), and natural (T1). The remaining category, Special District, applies to parts of the built environment with specialty uses that do not fit into neighborhoods. Examples include power plants, airports, college campuses, and big-box power centers.

The transect is useful for designing and developing what Duany calls “immersive environments”: urban places in which the whole is greater than the sum of its parts. Duany Plater-Zyberk & Company describes the concept thus: “The Transect arranges in useful order the elements of urbanism by classifying them from rural to urban. Every urban element finds a place within its continuum. For example, a street is more urban than a road, a curb more urban than a swale, a brick wall more urban than a wooden one, and an alley of trees more urban than a cluster. Even the character of streetlights can be assigned in the transect according to the fabrication from cast iron (most urban), extruded pipe, or wood posts (most rural).”

—Center for the New Urbanism (cnu.org/resources/tools)

but not rigid use regulations. Zoning districts regulate buildings and structures in addition to uses.

Several states now expressly recognize FBCs in their land-use enabling statutes. Missouri authorizes “transect-based zoning” for municipal governments—a type of zoning that “prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban” (Mo. Rev. Stat. § 89.010, 89.400). While “transect” zoning is the basis for a leading FBC model (the SmartCode), the Missouri statute says little about the regulatory components of a transect-based code.

Other states authorize “traditional neighborhood development,” commonly applied to first-generation FBCs for subdivisions and greenfield developments that became common several decades ago. Virginia authorizes “site design incorporating principles of new urbanism and traditional neighborhood development” as a component of voluntary, incentive-based zoning. Indiana addresses authority in its codification statute, authorizing “form based codes or ordinances that employ combinations of maps, plats, charts, diagrams, tables, text, and images” (Ind. Code Ann. § 36-7-4-610).

Pennsylvania has perhaps the most comprehensive statute to date, authorizing both mandatory and voluntary TND regulations (Pennsylvania Municipalities Planning Code, 53 Penn.Stat. § 10702-A). Better yet, the Pennsylvania statute has a comprehensive definition of TND (53 Penn.Stat. § 10107) that addresses mixed uses, centers and edges, and street design. It also recognizes the use of TND regulations in both new development and in urban infill contexts (53 P.S. §da 10705-A), adapting the TND authority to the full range of a modern FBC, and recognizes specific kinds of land development controls common to FBCs, such as design standards, building placement, street geometry and connectivity, parking placement, and minimum (in addition to maximum) densities and intensities (53 P.S. §§ 10706-A, 10708.1-A).

Several states now either mandate or encourage elements of form-based coding as part of comprehensive, statewide planning legislation. Wisconsin's legislation calls for a statewide TND code, with cities and villages with a population of at least 12,500 required to adopt an ordinance similar to the model TND code (Wis. Stat. § 66.1027). In California, the future land-use element of a general plan may "express community intentions regarding urban form and design" (Cal. Government Code § 65302.4). Florida embraces principles of form-based coding as a way to encourage more efficient development under its statewide "concurrency" system with "policy guidelines and techniques to address potential negative impacts on future development" from the application of transportation level of service standards, such as "[i]n urban infill and redevelopment, and urban service areas." This allows communities to calibrate the application of FBCs with corresponding transportation efficiencies, such as encouraging walkability and transit ridership in lieu of vehicle trips.

—Mark White, AICP

White is a partner in the law firm Smith & White, LLC, in Lees Summit, Missouri.

HISTORY

MAPPING AMERICA



MAPS ARE BOTH TOOLS and expressions of planning. No more extensive or dynamic tools have been created than the U.S. Geological Survey maps. Established in 1879, the U.S. Geological Survey was based on the plan developed for Congress by the National Academy of Sciences. The primary purpose of the survey and its work was "to study the geologic structure and economic resources of the public domain." Mining resources were of paramount interest.

Within 15 years, the survey was collecting data and mapping agricultural resources, and within 25 years new work focused on the identification and mapping of fossil

fuels. Following a major drought in the Great Plains, water resources were carefully recorded and measured. Responding to a dynamic world, the survey recorded and mapped the 1964 Alaska earthquake and assumed a new role predicting and documenting the aftermath of natural disasters.

The tools of mapping evolved dramatically from on-the-ground measurement and recording in the 19th century to aerial photography starting after World War I. The USGS moved on to satellite photography in 1972 and today, it is exploring 3-D mapping using Lidar technology.

—Carolyn Torma

RESOURCE FINDER

Form-based codes are being used across the country. Find out more about their use, characteristics, and implementation.

APA PUBLICATIONS
Rules That Shape Urban Form
(PAS Report 570)
planning.org/publications/book/9026894

APA ON-DEMAND EDUCATION
Zoning to Shape Urban Form
planning.org/events/course/3024414

How Form-Based Codes are Transforming Southwestern Cities
planning.org/events/course/9104838

Lessons Learned from Form-Based Codes
planning.org/events/course/3030984

Transit-Oriented Redevelopment and Form-Based Codes
planning.org/events/course/3031087

WEB RESOURCES
Form-Based Code Institute
formbasedcodes.org

SmartCode
smartcodecentral.com

Wisconsin model traditional neighborhood development ordinance
tinyurl.com/gu9f2qh