

# Reinventing Development Regulations

By Jonathan Barnett and Brian W. Blaesser

Every community across the land can and should revise their zoning and subdivision regulations—a move that will build sustainability and resilience, increase affordability, and improve quality of life, say the authors of a new book published by the Lincoln Institute of Land Policy in October 2017.

In *Reinventing Development Regulations*, two well-known experts—urban designer Jonathan Barnett and real-estate lawyer Brian W. Blaesser—argue for major adjustments to land use regulations that are within existing legal frameworks and respectful of property rights, making the politics of the necessary changes much more manageable. Their recommendations include integrating development with natural ecosystems and using regulations to manage climate change, which is particularly urgent for communities confronting wildfires, floods, and volatile weather, which will become even more serious problems as global warming continues.

“This is an eminently practical guide to transforming development rules to deal with some of the most pressing challenges faced by communities today,” said Armando Carbonell, senior fellow and chair of the Department of Planning and Urban Form at the Lincoln Institute. The work spells out “a robust set of measures that can be implemented primarily at the local level.”

Development regulations determine the urban form of our cities, suburbs, and towns, and have a huge impact on the natural environment, influencing how, when, and where real estate development occurs. Development regulations can help solve pressing land use and environmental problems. But current regulations have structural deficiencies and biases that must be corrected to achieve public objectives for land use and development in balance with market realities.

Changing official zoning maps so they incorporate topography, streams, flood plains, and other natural features and pinpoint locations of existing buildings will make it easier to develop sustainably and adapt to the effects of climate change, the authors argue. Walkable neighborhoods with a variety of different housing types and compact, mixed-use business centers could be built today if the regulations that stand in their way are modified.

While some advocate jettisoning outdated zoning and starting over, Barnett and Blaesser lay out strategies to amend existing regulations to promote better land use without

**Barnett and Blaesser lay out strategies to amend existing regulations to promote better land use without disrupting the basic governance frameworks and real estate markets of cities, towns, and suburbs.**



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disrupting the basic governance frameworks and real estate markets of cities, towns, and suburbs. The right regulations can help cities, towns, and suburbs preserve the natural environment, create desirable civic places, conserve historic buildings, reduce housing inequality, ease the pressures for urban sprawl, and deal with floods, erosion, and wildfire, without infringing upon fundamental property rights.

- **Relate development to the natural environment.** Current regulations recognize land as a commodity but not as a living ecosystem. The authors show how to incorporate modern environmental information into a regulatory framework that, up to now, has been largely blind to it.
- **Manage climate change locally.** The consequences of a changing climate, particularly flooding and wildfire, have an increasing effect on land use and development. While the problem is global, there is a significant role for local governments in both mitigating climate change and adapting to it through changes to the way development regulations are written and implemented.
- **Encourage walking by mixing land uses and housing types.** Walking is the most efficient form of transportation for distances of a quarter of a mile, and very competitive with buses and even taxis for up to half a mile. Walking is also important for maintaining health. Current regulations make it difficult to develop walkable neighborhoods and business centers.
- **Preserve historic landmarks and districts.** Much of the success of historic preservation has been achieved in opposition to zoning and other regulations that are designed to facilitate new development. There are ways to bring designated historic buildings and districts into harmony with regulations where permitted development creates an incentive to tear down a historic structure.
- **Create more affordable housing and promote environmental justice.** Zoning and subdivision regulations have been used as a way to exclude low-income people from some communities, and the location of industry and infrastructure has had a disproportionately negative effect on low-income communities. The book addresses how to mitigate these biases in the existing regulatory system.
- **Establish design principles and standards for public spaces and buildings.** Zoning and subdivision regulations have been written to prevent the worst development, not to encourage the best. Regulations can be used to foster better design for the places most important to the public.
- **Implement regulations while safeguarding private property interests.** Any overhaul must be informed by an understanding of fundamental legal principles essential to safeguarding private property interests in the formulation and implementation of regulations, and in government decision making on proposed development projects.

*Reinventing Development Regulations* made its debut at the 18th annual Big City Planning Directors Institute in Cambridge, Massachusetts. The gathering of city planning directors from the U.S. and around the world, many of whom say their cities are overhauling zoning, is a partnership of the Lincoln Institute, the American Planning Association, and Harvard University's Graduate School of Design.

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## ABOUT THE AUTHORS

**Jonathan Barnett** has served as the director of the graduate urban design program at the University of Pennsylvania and previously at the City College of New York, and as a visiting professor, critic, and lecturer at many other universities. He worked in the reform administration of New York City Mayor John Lindsay and documented the city's innovations in the book *Urban Design as Public Policy* (McGraw-Hill: 1974). Barnett is also author of the book *City Design: Modernist, Traditional, Green, and Systems Perspectives* (Routledge, 2nd edition 2016), exploring the history and practice of city design, and coauthor of *Ecodesign for Cities and Suburbs* (Island Press: 2015), among other works.

**Brian Blaesser** is a partner in the law firm Robinson & Cole LLP and heads the Land Use and Real Estate Development Group in the firm's Boston Office. He is coauthor of the books *Federal Land Use Law & Litigation* (Thomson-Reuters: 2017) and *Discretionary Land Use Controls: Avoiding Invitations to Abuse of Discretion* (Thomson-Reuters: 2017), and co-editor of *Redevelopment: Planning, Law, and Project Implementation* (ABA Publishing: 2008) and *Land Use and the Constitution: Principles for Planning Practice* (Planners Press: 1989)

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