



RELEASED: June 9, 2020

COVID-19 RECOVERY RESOURCES FOR COMMUNITIES #3: DEVELOPMENT CODE REFORM

Note: This is the third in a series of documents about COVID-19 pandemic economic recovery planning to be issued by DLCDC. Additional technical resources will be shared over the coming weeks and months.

For land use planners and community and economic development professionals, the COVID-19 pandemic presents an opportunity to rethink local development codes and consider the best, most effective ways to use them as tools for recovery planning and community development. In this document, we look at development code considerations.

There are a variety of strategies to consider when deciding how a community's development code can be amended to aid economic recovery planning. These strategies include reducing regulatory barriers to economic development and increasing flexibility in how properties may be used, which increases the economic resiliency of a community. When considering development code amendments as an economic recovery tool, remember that amending codes is important for long-term recovery but it isn't part of the "rapid response" suite of tools. Presently, every indication leads us to expect a long timeframe for recovery from the COVID-19-induced economic slowdown. To jumpstart the recovery efforts now, cities can look for ways to increase flexibility in their codes to enhance local business efforts.

Strategies

Below are three strategies that offer flexibility and improved opportunities for individuals and small businesses to generate income.

- Mixed Use and Form-based Approach
- Home Occupations
- Parking Mandates

Mixed Use and Form-based Approach¹

Form-based, rather than use-based, approaches to development codes increase flexibility to change the use of properties as the market evolves. Form-based development code strategies can allow more mixing of uses, both within buildings and in separate buildings within broader areas (often called "horizontal mixed use"). This way, residents are liberated to apply their creativity in finding new ways to generate income, often on property they already own or rent.

¹ While some communities may want to pursue a pure form-based code, most local governments are probably facing staffing and funding cuts that would make a pure form-based code difficult to draft and adopt. Accordingly, this section suggests using an incremental approach that emphasizes form (i.e., design standards) over use, rather than a full code overhaul to implement a form-based code. (For more information about form-based codes, visit <https://formbasedcodes.org/>.)

Communities that allow more mixed use in all zones are more walkable because different uses in close proximity to each other reduce travel distances, which makes walking (or biking) more feasible. Being a more walkable community helps decrease transportation costs, which improves affordability for all residents.

By regulating form, cities ensure that buildings and sites address and enhance public spaces like streets and sidewalks. And by allowing more flexibility in use, cities enable people to adapt to economic conditions and meet their needs in those conditions.

Recommendations for improving the mix of uses in development codes:

- Allow neighborhood services such as small retail establishments and offices to locate in residential zones and buildings, including apartment buildings. This is the norm in many countries and is also quite common in older cities and neighborhoods throughout the United States. Integration of small businesses and other neighborhood services helps create complete neighborhoods, which are neighborhoods where people can easily walk to meet their daily needs. Exempt such neighborhood service uses from off-street parking mandates. Covering neighborhood green space with off-street parking areas degrades livability for the neighbors. Neighborhood services attract mostly foot and bike traffic, and on-street parking can be managed if a shortage arises.
- Allow downtown storefronts and other commercial establishments to be converted to housing. When the retail market is suffering, this allows building owners to continue to have rental income and avoids the blighting effect of vacant buildings. It also helps address Oregon's continuing housing crisis and keeps commercial areas active, which is good for the businesses that are still open. This opportunity for flexibility in using commercial buildings can be achieved most simply by expanding the uses allowed in commercial zoning districts. Even some mixed-use zoning districts restrict residential uses on ground floors. If a community would like to see commercial establishments in a certain area (especially on ground floors) then the development code's design standards should require commercial design (e.g., storefront windows, taller ceilings, a % of transparency, etc.), regardless of the use that might occupy the building.
- Expand the use list of commercial and residential zones to include more light industrial and artisanal uses that can meet certain performance standards (controlling noise, odor, light, and other potential nuisances).

Home Occupations

In recent months, Oregon, like the rest of the nation, has experienced the fastest growth in unemployment in the state's history. While many workers will be able to return to jobs once the state of emergency ends, it is not yet known how many people will remain unemployed because of permanently closed businesses or reduced staffing. Therefore, cities are encouraged to review their regulations to make sure they support their residents' ability to efficiently establish new businesses or earn extra income in their homes. Below are recommendations cities could consider for home occupation standards:

- Standards should be directly oriented to performance, meaning control of nuisances and hazards, such as noise, dust, odor, toxic substances, time of operation, etc.

- Maintain a “prohibited list” rather than an “allowed list.” Prohibit specific home occupations that are likely to cause high levels of nuisance or risk public health, but allow all others as long as they can comply with performance standards.
- Don’t limit the area (square feet) in which a home occupation can operate. If it can meet performance standards, allow it.

Parking Mandates

Off-street parking mandates can be a big barrier to the flexibility and responsiveness the business sector will need to bounce back. These mandates, which are usually intended “to satisfy the peak demand for free parking” in completely automobile-dependent locations,² may require a business to provide automobile parking for a new use, a change of use, or the expansion of a use, increasing costs and even preventing business plans from penciling out. In some cases it is physically impossible to provide the number of parking spaces the code mandates, or doing so would damage the downtown environment (such as when a developer tears down a building or paves over green space to provide mandated parking). Similarly, residential parking mandates increase the cost of building housing, which can lead to higher rents because a developer can’t build as many units and must charge more per unit to make a project profitable. In addition, parking requirements are an impediment to walkability in both residential and business areas.

The following are different levels of strategies for how to keep development code parking mandates from putting up barriers to business and housing development:

- Remove off-street parking mandates from the development code and allow the market to determine how much parking a development will provide. This approach recognizes that developers and business owners understand their customers’ needs. In some settings, parking management tools may be needed to regulate the supply of public parking (both on-street and off-street). These tools consist of strategies like time-limited parking, charging market rate for parking, and parking permit districts. The “Resources” section of this publication has information on where communities can get assistance on parking management.
- For cities that are not yet ready to remove off-street parking mandates citywide, a targeted approach can be pursued, that includes:
 - No off-street parking mandates, coupled with parking management, downtown and in key business districts.
 - No additional off-street parking required for existing buildings or buildings under a certain size.
 - A full suite of parking exceptions in the code (e.g., for adjacent on-street parking, proximity to transit, shared parking, at least 1000’ allowed to off-site parking, in zones that allow mixed use, etc.), including a simple process for applicants to achieve exemptions by

² Donald Shoup, [“The Trouble with Minimum Parking Requirements,”](#) *Transportation Research Part A: Policy and Practice*, 33 (1999) 549-574.

showing why their parking demand will be lower than the development code requirements.

- Cities that are reticent to remove any off-street parking mandates should consider doing parking occupancy studies in key locations. The results may be surprising and will help the city make data-based parking mandate decisions in the future.

Resources

Here are some ideas, projects, and other resources related to the strategies suggested above, that can improve land use flexibility and lower regulatory barriers in order to help distressed communities redevelop properties and create economic opportunities.

- Parking Management: Oregon's Transportation and Growth Management Program (TGM) has compiled a [library of online resources](#) related to parking and parking management, including the TGM publications [Parking Management Made Easy](#) and [A Strategic Guide to Implementing Parking Reform](#). [TGM staff](#) is also available to help communities directly with their parking reform efforts.
- Allowing empty storefronts to be used as housing: APA PAS Report 472 *Converting Storefronts to Housing* (This report can be ordered from the American Planning Association: <https://www.planning.org/pas/reports/archive.htm>. It may also be available in some libraries.)
- There are three overlapping projects/movements that have shared many ideas and efforts as they promote their work to simplify zoning regulations and enable more desirable development.
 - [Congress for the New Urbanism's \(CNU\) Project for Code Reform](#) – promotes incremental code reform to remove “barriers to planning, designing, building, and enforcing compact, walkable communities.” This effort led to the development of the [Lean Code Tool](#), which communities can use to prioritize the most impactful and feasible code reforms. This tool guides communities through the process of choosing which type of code reform they would like to pursue and rates the reforms according their difficulty, so cities can decide how the incremental change will advance.
 - [The Project for Lean Urbanism](#) – Lean urbanism seeks to enable “small-scale, incremental community-building that requires fewer resources to incubate and mature.” It defines itself as occupying the space “between the demonstration projects of Tactical Urbanism and the policy-focused agenda of Smart Growth and New Urbanism.” Many of the leading thinkers from CNU are involved in the Project for Lean Urbanism and produced the Lean Code Tool. Pink Zones are one of the tools identified as a Lean Urbanism Solution.
 - *Pink Zones* – The term “Pink Zone” was coined by British researchers from the center-right think tank, [Centre for Policy Studies](#), in the report [Pink Planning](#), which proposed solutions to Britain's housing shortage. Pink zones are a lessening of red tape. The authors of the report credit the Project for Lean Urbanism with helping them develop their theory. The “Pink Zone” concept has subsequently been embraced by code reformers in

the United States. It has been applied as a geographical area where code regulations are reduced or amended in order to make it easier to develop businesses and/or housing. A prominent example of Pink Zones being applied in the United States is Detroit, Michigan's [Mix Tape Zoning Project](#).

Planners and other city staff should consult with their city attorney about any proposed changes to existing codes, plans, and policies.

Questions? Need more information?

If you are interested in learning more about any of these topics, or need advice on local implementation, contact Laura Buhl, TGM Code Assistance Planner, DLCD, laura.buhl@state.or.us or (503) 934-0073 or your [DLCD Regional Representative](#).

If you have questions about the COVID-19 Recovery Resources for Communities series of publications, please contact:
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