



# Equity Zoning Diagnostic – Initial Observations

*Evanston, IL*

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ZoneCo, LLC

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## OVERVIEW

ZoneCo, LLC was retained by Connections for the Homeless in 2021 to undertake a review of the Evanston Zoning Code to assess ways the Zoning Code may be contributing to social or economic inequity and increasing housing costs in Evanston. This is intended to be a short summary of our initial review and assessment for purposes of informing public engagement. A more complete review, analysis, and findings will be forthcoming once public engagement is undertaken.

The American Planning Association emphasizes the importance of equity within planning and policy and asserts that “equity is defined as ‘just and fair inclusion into a society in which all can participate, prosper, and reach their full potential. Unlocking the promise of the nation by unleashing the promise in us all.’ The inclusive, holistic nature of this definition provides the foundation for considering and applying equity in all facets of planning, all levels of planning, all means of planning, and in all planning policies. Planning for equity is intended to challenge those planning practices that result in policies, programs, and regulations that disproportionately impact and stymie the progress of certain segments of the population more than others.”<sup>1</sup>

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<sup>1</sup> Ross, Lynn et. al., “Planning for Equity Policy Guide”, <https://planning.org/policy/>, 2019: 3, [https://planning-org-uploaded-media.s3.amazonaws.com/publication/download\\_pdf/Planning-for-Equity-Policy-Guide-rev.pdf](https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/Planning-for-Equity-Policy-Guide-rev.pdf)

## CATEGORIZING PROVISIONS

The zoning code contains roughly 800 provisions. For the purposes of this assessment, we have categorized each provision into one of three categories:

Categorization of Provisions	
Policy	<p>There are instances where overarching policy goals are listed within the zoning code.</p> <p>For example, “Purpose Statements” found throughout the code contain prescriptive language about what a particular provision or provisions are trying to accomplish, like the following: <i>“The R3 two-family residential district is intended to provide for infill development of single-and two-family residences in moderate density neighborhoods and to preserve the present physical character of such neighborhoods.”</i><sup>1</sup></p>
Procedures	<p>All zoning codes contain procedures which are essentially action steps that must be taken to receive planning approvals or permits.</p> <p>For example, <i>“an application for a special use permit may be filed with the Zoning Administrator by the owner or lessee of the subject property or other person having a legal or equitable interest in the subject property.”</i><sup>1</sup></p>
Development Standards	<p>The development standards communicate which uses are permitted and how the building and site must be constructed or arranged.</p> <p>For example, <i>“the maximum floor area ratio in the D2 district is 2.75,”</i> or <i>“the maximum building height in the MU district is forty-one (41) feet or three (3) stories, whichever is less.”</i><sup>1</sup></p>

<sup>1</sup> Excerpts taken from the City of Evanston Zoning Code

## INITIAL FINDINGS

### Policy

There are passages throughout this code that communicate the overarching policy goals guiding zoning regulations. These passages identify community goals and objectives underlying and shaping adopted zoning standards, which are usually drawn from long-range planning documents. In the initial review, we made the following observations:

- There are inclusionary housing bonuses within the code, which demonstrate a commitment to attainable and affordable housing for residents (though not for very-low- and extremely-low-income residents). Each inclusionary zoning section references section 5-7-3 of the City Code which states an objective to “promote the public health, safety, and welfare of the residents of Evanston by requiring residential developments or developments which contain a residential component to include a certain percentage of dwelling units in a proposed development to be priced affordably for low-income, moderate-income, and middle-income households or to make a payment in accordance with the terms of this Chapter.”

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- Equity and equitable outcomes are not mentioned within the purpose statements, public benefit statements, or anywhere in the code despite the presence other general prescriptive statements related to preserving natural, historic, architectural, and environmental features.
  - The planned development code lists “provision of a variety of housing types in accordance with the City's housing goals,” as a desirable public benefit, which displays a commitment to achieving the community’s housing goals.
  - Within the R zoning districts, which is where the majority of the city’s residents reside, there is no reference to the City’s housing goals.
  - There were several policy goals related to lessening congestion. Populated areas, especially cities, inherently have congestion due to a more concentrated population than rural areas. Where any city has a high level of accessibility/activity, which is positive, it will also have congestion. The goal of lessening congestion can be used selectively and in discriminatory ways to prevent the construction of smaller, more concentrated units that tend to be more affordable.
  - Small businesses frequently do not have the space needs of larger businesses and retailers, and in most cases do not have the resources or the desire to pursue large lot development. It is positive that several business districts aim to accommodate “small neighborhood business districts”, “small storefronts”, and “unique, small scale, pedestrian oriented retail shops, services, and restaurants”, which makes business ownership more accessible generally.
  - There are multiple instances where maintenance of “character” is a stated policy goal. The term “character” could be used to reinforce or enforce exclusionary dynamics in the built environment if they already exist in a given zoning district.

## **Procedures**

Construction or alteration activity that requires any kind of permit or planning approval is required to follow a set of procedures. It can be challenging to fully understand how procedural steps in any zoning ordinance are experienced by residents, and public engagement will help to understand resident experiences. In the initial review of procedures, we made the following observations:

- Amendments to the zoning code require a public process to determine whether the amendment is in the best interest of the community. Segments of a community might be in favor of an amendment, or they may be in opposition. In Evanston, in instances where there is opposition to an amendment by 30% of adjacent property owners, then support for the amendment is required from  $\frac{3}{4}$  of the City’s Council Members to approve the amendment. Given that this provision allows a minority of adjacent property owners to trigger an additional obstacle to an amendment, the city should study instances where this provision has been triggered and ensure that it is not being used in a way that is discriminatory to housing types that are generally more affordable (smaller, attached dwelling types).
- The review purview of the Design and Project Review (DAPR) Board is overly broad, specifically for the review of the “construction of a new building or structure, or modifications to the exterior of an existing structure (including additions) for any land use requiring a building

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permit”. As written, the DAPR reviews all building/construction activity or alterations occurring within the city no matter how large, small, impactful, or insignificant so long as it requires a permit. It is reasonable to have additional design review where there is a district or collection of properties with distinct architectural features, however, this review purview is excessively broad (especially given the broad nature of the Board’s review criteria).

- The City should study the projects rejected by the DAPR to ensure that specific uses or building types are not being discriminated against at a greater rate.
- In addition to a review of the DAPR purview and process, undertake an assessment to ascertain whether the regulatory environment contributes additional costs to housing.
- Where low-income residents are in violation of the zoning ordinance due to lack of funds, the code should direct property owners to the Owner-Occupied Housing Rehabilitation Program; this program is positive and demonstrates commitment to treating homeowners equitably.
- It is positive that the Housing and Community Development Committee is mandated to have housing advocate and professional appointments; however, neither the Planning Commission nor the Zoning Board of appeals must have a housing or equity professional on either Board, which should be examined given the high proportion of residentially zoned land in Evanston.

### **Development Standards**

Development standards are the provisions within a code that govern how uses, buildings, and site features are organized on a given property. In the initial review of development standards, we made the following observations:

#### **Residential Zones and Residential Uses:**

- Generally, zoning codes outline the purpose and intent of individual zoning districts. The City’s housing goals are not represented within the policy goals for the R districts at the beginning of each district section. It is understood that land for development or redevelopment is limited within the R districts, however, there should be a reference to policy goals, and they should be reflected within zoning standards.
- Zoning codes sometimes mandate land utilization that is economically inefficient (i.e., excessive lot standards and setbacks) and where this occurs, those inefficiencies will be more easily borne by residents with higher incomes. This has an inherently exclusionary or segregationist effect on housing. The following standards are excessively restrictive in some instances in the R districts (and in some cases the standards are found outside of the R district, but apply directly to residential properties):
  - Lot coverage maximums;
  - Floor to area ratio maximums;
  - Height maximums;
  - Minimum lot size, especially where additional lot size is required per residential unit on-site; and

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- The limited range of housing types permitted in the R1, R2, R3, especially since regulations can mandate that their form and design be complementary to existing structures
  - The term “family” throughout the code. The building code is a more effective tool to regulate overcrowding, health, and safety of residents. Additionally, households should have an inherent right to form based on whether the members are related or unrelated. It is reasonable for a municipality to implement regulations that guard against overcrowding or unsafe conditions, but mandating familial structures is an inherently flawed and discriminatory way to regulate these things.

### **Planned Developments (PD) in Residential Districts:**

- There are some positive provisions in this section like mandatory pedestrian pathways and tree preservation, which promote livable design.
- A PD is intended to be a tool that provides flexibility in land use that complements the zoning code. Applicants go through a public process to ensure that their proposals are advantageous for the City of Evanston in meeting planning goals and objectives even if they do not conform to the existing zoning code. The following restrictions are antithetical to the goal of utilizing the PD flexibly to meeting planning objectives:
  - The provision that states that "maximum height increase over that otherwise permitted in the residential districts shall be no more than twelve (12) feet." is counter to the flexibility that is generally intended for the PD, especially given that 12 feet will only accommodate one additional story.
  - The maximum increase in dwelling units permitted within the PD, which is none in R1-R3, and 25% in R4-R6, is overly restrictive.
  - The additional allowances for lot coverage are restrictive. The provision of open space, parks, or permeable surface area are concrete objectives. The lot coverage standards are mandating inefficiency without a tangible goal.

### **Other Zones:**

- The following standards may be acting as a barrier within the B1, B1a, and B2 to creating dense, walkable, mixed-use development that provides a high level of accessibility to residents:
  - Maximum building heights;
  - Minimum lot sizes;
  - Lot coverage maximums; and
  - Floor to area ratios.
- It is positive that the first 3,000 square feet of building space for a non-residential property in any D district is exempt from providing a minimum number of parking spaces. However, the downtown does not appear to have an overall parking strategy that informs parking space

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minimums. Generally, downtown sites are historic, and the pattern of development reflects construction prior to large-scale adoption of the private automobile. Parking space minimums in the Downtown districts could be creating an additional barrier to development within an area that should prioritize walkability and accessibility.

- Best practice is currently to recognize that Downtown is an area where a resident could feasibly live without a car (and many residents likely do). Accordingly, when parking is developed for new residential units, the cost of developing/utilizing parking is passed through exclusively to occupants that are utilizing the parking.
- The limitations that the development standards within the U1, T1, and T2 impose have the potential to severely restrict residential density. Because the City has been experiencing conflict related to where students live, the City should assess whether these limitations have facilitated additional student demand for housing within the R districts due to an undersupply of student housing in those districts.