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VIA EMAIL

**RE: Comments on City of Minneapolis Rezoning**

Dear Meg McMahan:

Please see attached comments of Community Members for Environmental Justice (CMEJ) and the Minnesota Center for Environmental Advocacy (MCEA) regarding the Minneapolis Land Use Rezoning Study. We look forward to continued conversations about the content and implementation of the new zoning ordinance.

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Community Members for Environmental Justice | Minneapolis, MN

## INTRODUCTION

Community Members for Environmental Justice (CMEJ) is based in North Minneapolis, an environmental justice (EJ) community – a low-income community of color with multiple sources of industrial pollution generating a host of environmental health problems.<sup>1</sup> The legacy of zoning regulations in Minneapolis has had a significant impact on the pollution-industrial landscape North Minneapolis residents live with today. While zoning may have been established to protect “public health” by separating unwanted uses (i.e., homes from problematic industry), the sad reality of systemic racism has meant that as air quality and health was protected for white residents of Minneapolis, these unwanted, highly polluting uses (industry, highways, truck traffic) were strategically and intentionally concentrated in low-income communities of color. The current segregation of unwanted uses *and* people is the outcome of a trifecta of systemic land use policy systems which included racial covenants, red-lining, and racialized exclusionary zoning.<sup>2</sup> This land use policy system has played a critical role in *creating* environmental justice neighborhoods in our city.

This zoning rewrite is our opportunity to intentionally undo the systemic racism entrenched in the Minneapolis Zoning Code. Outside of policing, zoning is a policy space where cities hold a lot of power. Minneapolis is not alone – when zoning was established nearly 100 years ago in many cities across the country, it played a major role in segregation and concentration of unwanted, toxic industries in lower income and communities of color. The details in this rezoning—including where various uses are allowed—will decide how and where specific industries, and hence pollution, will be allowed. Those decisions will disproportionately affect the health and well-being of environmental justice and communities of color. Left unrectified, the zoning code will further codify and harden racial disparities in Minneapolis.<sup>3</sup>

While we are heartened by the City’s effort to prohibit the most toxic land uses, we focus our summary comments below on glaring gaps around the newly defined Production and Processing uses in the draft zoning code. Our comments are grounded in 5 key recommendations:

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<sup>1</sup> The disproportionate burden of air pollution in North Minneapolis and other EJ communities in South Minneapolis has been well documented across departments and jurisdictions including by the Minneapolis Health Department, Minnesota Pollution Control Agency, University of Minnesota, Minnesota Department of Health, and the federal Environmental Protection Agency. The area is an environmental justice neighborhood, as acknowledged by the City of Minneapolis’ Green Zones policy, 2040 Comprehensive Plan, and the MPCA’s environmental justice screening methodology.

<sup>2</sup> Dr. Ana Baptista, *Why Zoning Matters for Environmental Justice* (Jan. 24, 2023), available at [https://docs.google.com/presentation/d/190UUI5-vTZUWCD\\_dFB-UUsAdFACGwQhX1l2pfDTjKps/mobilepresent](https://docs.google.com/presentation/d/190UUI5-vTZUWCD_dFB-UUsAdFACGwQhX1l2pfDTjKps/mobilepresent)

<sup>3</sup> *Id.*

1. **Clearly identify and limit polluting industrial uses.**
2. **Require a strong EJ risk assessment with power (an effect on decisions) for conditional use permits in Environmental Justice Communities.**
3. **Require protective setbacks.**
4. **Delete special provisions for existing polluting uses and prevent them from expanding.**
5. **Ensure meaningful involvement in decision-making.**

We include our more detailed edits to the zoning draft in the following Appendices:

**Appendix A Definitions (Additions and Edits)**

**Appendix B Land Use Table (Additions and Edits)**

**Appendix C Proposed Additional “Specific Use Standards”**

While we appreciated the 30-day extension for comments into the zoning draft based on our request, we hold that CPED should have engaged in a much more robust zoning education and engagement process as required by the 2040 Plan itself. Although the 2040 Plan outlined some inspiring broad visions to meet the city’s equity and environmental goals, the zoning code is where those goals are realized— where the rubber hits the road and community members experience (in)justice in their day-to-day lives. When it comes to the zoning code and environmental justice, the “the devil is in the details.” The zoning code draft is an extremely complex 300+ page document. The language used is so technical that even trained planners have been struggling to understand it. The complicated structure of the code and the short time limit for comment was problematic and did not allow residents to fully engage. Other cities, such as Newark, New Jersey, have incorporated more robust zoning community engagement efforts that we ask CPED and the City to deploy moving forward.<sup>4</sup>

The communication by some CPED leadership to a slice of community groups (which CMEJ was not part of) regarding possible ongoing real-time revisions to the draft code after its release for public comment has also frustrated our ability to review the contents of the document. The City has not provided any notice of these changes, and the drafts posted do not show where language has been added or deleted. This process has created confusion and fails to implement the 2040 goals of facilitating meaningful community involvement in city decision-making.

Within this context, we submit the following recommendations as our best effort to push the City to see and rectify some of the critical gaps in the draft zoning code.

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<sup>4</sup> Damon Rich, *Zoning for Democracy* (Feb. 22, 2015) (attached as Appendix D).

## **I. The code must clearly identify and limit polluting industrial uses.**

This rezoning must comply with the 2040 Plan.<sup>5</sup> The 2040 Plan requires the City to “[i]dentify and limit new heavy industrial uses that harm human health or the environment throughout the city.”<sup>6</sup> But the draft code does not implement that directive.

To implement the 2040 Plan and protect residents – particularly EJ communities – from heavy industrial uses, the City must implement the following in the code:

1. Clearly prohibit high-impact uses, instead of providing “examples” and leaving the final determination to the discretion of a city zoning decisionmaker that has no public health training.
2. Remove the exception that allows the administrator to classify high-impact uses as medium or low-impact uses.
3. Reclassify certain high-polluting “examples” listed under moderate-impact uses as high-impact uses.
4. For those uses that are allowed, implement better specific use standards.
5. Encourage sustainable green industries in place of polluting uses.

We provide further detail on these recommendations below. For our specific edits to the Definitions and Land Use Table, please see Appendices A and B.

### **A. The code should clearly prohibit high-impact uses.**

Instead of *identifying* uses and prohibiting or imposing *limitations* on them, the draft code allows the zoning administrator to determine on a case-by-case basis what uses are prohibited. (Draft § 545.80.) In fact, the new code appears to *weaken* the prohibitions that were clearer in the old code. The old code listed uses that were categorized as light, medium, and general industrial. (Current § 550.30.) But the new code largely does away with that framework. The new categories of light, medium, and high “production and processing” uses contain vague, open-ended descriptions with “examples” of what may fit into those categories.

The draft code only specifically lists a handful of uses that are definitively prohibited. In addition to the vaguely defined “high-impact production and processing uses,” prohibited uses throughout the city are (1) drive-throughs, (2) rooming houses, (3) motels, (4) pet stores, and post-consumer waste processing uses that are not recycling or waste transfer facilities. (Draft § 545.80.) The “examples” of high-impact uses should be clearly prohibited as well, and the list of prohibited high-impact uses should be expanded as described below. For high and moderate-impact production and processing uses that

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<sup>5</sup> Minn. Stat. § 473.858, subd. 1.

<sup>6</sup> Minneapolis 2040 Plan, at 112.

are conditionally allowed, the limitations on those uses should be made clear as described later in this comment.

**B. High-impact uses should not be transformed into moderate or lower-impact uses at the administrator’s discretion.**

The draft code contains a gaping loophole under the definition of high-impact production uses: Even “examples” of high-impact uses may be allowed if the zoning administrator, in their discretion, decides that the uses are “equivalent to lower- or moderate-impact production and processing uses.” (Draft § 545.130(b)(3)(C)).

This language must be eliminated. It creates confusion and uncertainty. It fails to implement the directive that the City “identify” and “limit” problematic uses. And a zoning administrator is unlikely to have the public-health background necessary to make a determination of equivalence.

Eliminating this loophole will also benefit City staff. Clear standards are easier to implement and will result in a more transparent process for all involved.

**C. Several uses listed as “examples” of moderate-impact production and processing should instead be classified as high-impact and prohibited throughout the City.**

The Minneapolis 2040 Plan promises that the City will “[p]rioritize use of land in Production and Processing Areas for . . . uses *that have minimal or no air, water, or noise pollution impacts.*”<sup>7</sup> The 2040 Plan requires the City to take several specific steps to accomplish this goal:

- The City “will meet and exceed the air quality standards recommended by the EPA by eliminating the use of some of the most common industrial volatile organic compounds (VOCs) and by reducing industrial sources of other harmful pollutants.”<sup>8</sup>
- The City will “prevent[] contaminants from polluting its water system.”<sup>9</sup>
- The City will “[i]dentify and limit new heavy industrial uses that harm human health or the environment throughout the city.”<sup>10</sup>

But there are several high-polluting uses that are listed as examples of moderate impact production and processing uses that would be permitted in Production Zones per the draft. These uses, including production of the following, should be deemed high impact uses and should be prohibited:

- a) Fabricated metal;

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<sup>7</sup> Minneapolis 2040 Plan, at 111 (emphasis added).

<sup>8</sup> Minneapolis 2040 Plan, at 46.

<sup>9</sup> Minneapolis 2040 Plan, at 46.

<sup>10</sup> Minneapolis 2040 Plan, at 112.

- b) Fabricated plastic;
- c) Gypsum, drywall, and plaster;
- d) Plywood and composite wood products;
- e) Metalworked products; and
- f) Metal plating.

The production of these materials involves the emission of toxic pollutants<sup>11</sup> harmful to human health and should be eliminated from the City per the 2040 Plan.

Additionally, the draft Use Table identifies high-impact uses that are allowed with a conditional use permit (CUP). The uses listed below should be prohibited in any zone in the City:

- Facilities for crushing<sup>12</sup> concrete, asphalt, or rock;
- Concrete production<sup>13</sup>;
- “Small scale” forges or foundries (this means up to 10,000 square feet - 545.200(c)(4). That’s the size of 2 NBA basketball courts!);
- Recycling facilities, other than small scale facilities where no material is shredded, milled, or ground.

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<sup>11</sup>Metal processing and production typically results in metal pollution and other toxic emissions. *See, e.g.,* Grzegorz Izydorczyk, et al., *Potential environmental pollution from copper metallurgy and methods of management*, Environmental Research, Volume 197 (2021), <https://doi.org/10.1016/j.envres.2021.111050>

<sup>12</sup>Crushing these materials results in the emission of dangerous respirable crystalline silica. Inhaling these materials causes lung cancer. These facilities should not be located in or anywhere near cities. *See* C.D.C., Crystalline Silica, <https://www.cdc.gov/niosh/topics/silica/default.html>

<sup>13</sup>According to U.S. EPA, the cement sector is a significant source of toxic air pollution, including NOx, SO2 and carbon monoxide. *See* E.P.A., Cement Manufacturing Enforcement Initiative, <https://www.epa.gov/enforcement/cement-manufacturing-enforcement-initiative>. *See also* Mohammad Gheibi, et al., *Life cycle assessment of concrete production with a focus on air pollutants and the desired risk parameters using genetic algorithm*. J. Environ. Health Sci. Eng., Vol. 16, Issue 1 (2018) 2018 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6148234/> Stone, clay, and tile production is much less pollution-intensive than concrete and cement production and should be considered a moderate-impact production and processing use, while small-scale artisan stone, clay, and tile production can be categorized as either artist studio or artist studio (nuisance producing) as described in the suggested definition section at Appendix A of this comment.

Additionally, **the following uses should be clearly prohibited in all zones:**

Sludge processing & incineration (including the production or processing of biochar from sewage sludge), waste-to energy plants, crematoriums, dry cleaning, exterminators, pesticide businesses, live animal markets, vitrification, plasma gasification, pyrolysis, cement kilns, automobile shredder residue, medical waste autoclaving & shredding, animal rendering, electronic de-manufacturing, computer & circuit board recycling, thermal depolymerization, sewage disposal, sediment treatment plants (i.e. thermal/chemical processing, cement lock technology, sediment washing, biogenesis, sediment dewatering), tire derived fuel plants, biomass incineration, chrome plating & metals plating facilities, hazardous or medical waste processing (autoclaving, crushing, preparing, or treating), outdoor scrap metal yards (shredding, processing, sorting), materials salvage or junk facility, outdoor storage of chemicals, and truck terminals.

The city should also prohibit the combustion of coal in any manner and all electric generation plants using coal, natural gas, waste, or waste byproducts including tires, sludge, cement, and biofuel.<sup>14</sup> These uses are prohibited in other cities across the country; for example, the City of Newark, New Jersey prohibits many of these uses.<sup>15</sup>

Please see our line-by-line specific recommended edits to the Use Table at Appendix B.

**D. For uses that are allowed, the City should limit pollution through specific use standards.**

Specific use standards are an effective way to impose the “limits” required by the 2040 Plan. The code currently contains detailed criteria for Market Gardens and Sexually Oriented Uses. The City should similarly develop detailed specific use standards to limit environmental hazards, which are much more harmful to public health.<sup>16</sup> Exceptions to these standards should require a variance rather than a waiver or other administrative approval.

Please see Appendix C for proposed specific use standards. These standards have been developed based on the standards in place in Newark, New Jersey and elsewhere around the country.

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<sup>14</sup> Section 545.140 (B)(2)(C)(i) should be amended to include a prohibition on burning waste, or waste byproducts, including tires, sludge, cement, and biofuel.

<sup>15</sup> City of Newark, NJ, Newark Zoning & Land Use Regulations, Chapter 2 Section 41:2-2 Definitions, Definition of "MANUFACTURING, HEAVY," <https://ecode360.com/36712441>

<sup>16</sup> The city is not preempted from imposing these limitations. See page 13 of this comment for a discussion of preemption.

**E. Sustainable green industries should be specifically encouraged to locate in the Production Zones.**

The 2040 Plan directs the City to ensure space is set aside for production and processing businesses so that residents of Minneapolis have access to living-wage jobs.<sup>17</sup> While these comments recommend limitations and prohibitions on many high-impacting uses, it is important to emphasize that **sustainable green industrial uses exist**, and that these uses have little or no adverse impact on air quality or public health. These uses are entirely consistent with the 2040 Plan and should be listed as specific examples of Lower-Impact Production and Processing Uses in the Use Table. We recommend that they be included as permitted uses in both the PR1 and PR2 zones, as specified in the Use Table at Appendix B.

**II. The City must require a strong EJ risk assessment with power (an effect on decisions) for conditional use permits.**

The 2040 Plan emphasizes environmental justice. The very first goal set forth in the Plan is to Eliminate Disparities.<sup>18</sup> Other goals include Healthy, Safe, and Connected People;<sup>19</sup> High-Quality Physical Environment;<sup>20</sup> and Clean Environment.<sup>21</sup> If the City is going to eliminate disparities as directed by the 2040 Plan, it must proactively eliminate environmental inequities so that all citizens can enjoy a healthy, high-quality environment. Environmental justice “requires . . . intentional action by the City to protect the health of residents.”<sup>22</sup> This means ensuring equitable distribution of environmental burdens and also environmental resources,<sup>23</sup> such as green space and access to fresh, healthy food. It also means creating space for meaningful involvement of those most affected by environmental injustice.<sup>24</sup>

All too often, environmental justice initiatives have turned out to be empty promises. This rezoning is an opportunity for the City to take concrete action that will begin to correct decades of injustice. The 2040 Plan requires no less.

It is encouraging to see the City take a step forward by requiring an environmental justice risk assessment for high and moderate-impact production and processing uses. But the information required in the assessment is limited and does not account for the cumulative impacts that define the environmental justice crisis. And the draft code fails to tie the assessment to City decision-making.

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<sup>17</sup> Minneapolis 2040 Plan, at 111.

<sup>18</sup> Minneapolis 2040 Plan, at 8.

<sup>19</sup> Minneapolis 2040 Plan, at 26.

<sup>20</sup> Minneapolis 2040 Plan, at 30.

<sup>21</sup> Minneapolis 2040 Plan, at 44.

<sup>22</sup> Minneapolis 2040 Plan, at 46.

<sup>23</sup> Minneapolis 2040 Plan, at 199.

<sup>24</sup> Minneapolis 2040 Plan, at 199.



We have also recently learned that the City is considering increasing setback requirements—*unless* the proposal “passes” the EJ risk assessment, in which case the setback would be reduced to 300 feet.<sup>25</sup> While we strongly support increased setbacks for dangerous uses, this vague provision should be eliminated, especially given the gaps described below in the risk assessment process. Instead, the City should require more protective setbacks for all high and moderate-impact production and processing uses, as discussed in Section 3 of this comment.

If the City is going to move forward with the risk assessment process, it should account for cumulative impacts, include stronger notice and participation provisions, and be tied to findings that must be made in granting or rejecting a conditional use permit. The City is not preempted from enacting such requirements, as explained below.

**A. The City should eliminate exceptions to setback requirements.**

Allowing an exception to general setback requirements based on satisfaction of the EJ risk assessment would eliminate the clarity the City is trying to achieve in this zoning rewrite and fail to implement the requirements of the 2040 Plan. It would be more straightforward and effective to either:

1. Eliminate polluting uses entirely within areas of environmental justice concern—including:

- High-impact production and processing uses,
- Moderate-impact production and processing uses
- Post-Consumer Waste Processing
- Warehousing and Storage
- Vehicle Fleet Oriented Services, and
- Principal electric generation uses which combust or convert fossil fuels, waste, wood or other biomass.

2. Alternatively, impose the same 1320 foot setback<sup>26</sup> requirements uniformly across areas of environmental justice concern for these uses.

Uniform requirements across areas of environmental justice concern would be easier for everyone to follow and implement, and would be more likely to achieve the environmental justice goals of the 2040 Plan.

**B. The Risk Assessments must account for cumulative impacts.**

The City must improve the risk assessment process to accurately capture Environmental Justice cumulative impacts. The pollution in the City’s environmental justice communities does not come from any one single source. The health and environmental disparities we see come from the cumulative impact of multiple pollution

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<sup>25</sup> March 6, 2023 Draft shared at Green Zone working session.

<sup>26</sup> See Section III, below, for our discussion of setbacks.

sources that have been concentrated in certain parts of the City due to past zoning designations.<sup>27</sup> Accordingly, it is impossible to address environmental justice within the context of zoning without addressing the cumulative impacts of multiple pollutants from multiple sources.

Additionally, polluting uses per se are not the only source of disproportionate environmental harm. Loss of green space, tree cover, etc., contribute to environmental burdens. And EJ communities have preexisting vulnerabilities due to longstanding inequities that must be accounted for in order to fully understand the impact of any harmful use on that particular community.<sup>28</sup> All of these indicators should be part of a risk assessment for uses to be located within a community of environmental justice concern.

We suggest that the environmental risk assessment be changed in three key ways.

- First, in order to ensure that public health is protected, we expanded the area of the City where the risk assessment would be completed to include all areas of Environmental Justice concern as well as all census block groups where the air pollution score is in the top 20% per the MPCA's assessment.
- Second, we simplified the language to focus on the health endpoints. This second change would eliminate the need for an applicant or the City to conduct air emissions modeling. And it is focused on public health endpoints, not individual emission levels, which has the effect of avoiding any perceived state preemption issues.
- Third, we suggest the inclusion of a checklist form, similar to that used in Newark NJ,<sup>29</sup> as a transparency tool to make sure all stakeholders have accurate information about the impacts of a new facility.

Finally, we want to emphasize that the environmental risk assessment process we have proposed would be simpler for City staff to implement than the one in the initial draft. We look forward to continued conversations about the details of our proposal and its implementation.

Our recommendation for a stronger and simpler environmental justice risk assessment follows. This assessment should be used to amend the draft at sections 545.200(b)(1)(A); 545.200(c)(1)(B); and 545.200(d)(1)(B).

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<sup>27</sup> Minneapolis 2040 Plan, at 46, 199.

<sup>28</sup> See U.S. Environmental Protection Agency, *Cumulative Impacts Research: Recommendations for EPA's Office of Research & Development*, at vii (defining "cumulative impacts" as "the totality of exposures to chemical and non-chemical stressors and their effects on health, well-being, and quality of life outcomes"); Tishman Environment & Design Center, *Understanding the Evolution of Cumulative Impacts: Definitions and Policies in the U.S.*, at 8-10 (2022) (discussing indicators of cumulative impacts).

<sup>29</sup> Newark's form is available at <https://ecode360.com/36737485>

## **New EJ Risk Assessment language:**

(A) As part of the application for any conditional use permit for a new high or moderate-impact production and processing use, or a new post-consumer waste processing use, or for an expansion or intensification of any of these uses, the applicant shall prepare and submit an environmental justice risk assessment. The environmental justice risk assessment shall be submitted to the Minneapolis Health Department for review and approval. The risk assessment shall include the following:

(i) Completion by the applicant of an Environmental Review Checklist, including the full form for industrial uses.<sup>30</sup>

(ii) If the use is located in a census block group identified by the Minnesota Pollution Control Agency as an area of concern for environmental justice or if the use is located in a census block group with an air pollution score within the highest 20% of air pollution scores based on the MPCA EJ story map<sup>31</sup>, then the risk assessment shall consider whether the emissions from the proposed use would contribute to the health endpoints associated with emissions of Lead, PM2.5, or any of the top four pollutants contributing to health risk for that census block group. The health endpoints associated with each pollutant are to be determined using the MPCA Risk Assessment Spreadsheet.<sup>32</sup>

### **C. The City must ensure adequate notice and opportunities for community participation in evaluating the risk assessments.**

Environmental justice requires meaningful involvement of disenfranchised communities in the decisions that impact them.<sup>33</sup> The 2040 Plan promises that the City will “intentionally seek[] out engagement” with BIPOC communities when making decisions.<sup>34</sup> (For the risk assessments to be effective, it is essential that the City proactively engages residents and ensures they have the tools needed to evaluate the assessments.

We make the following recommendations to effectively engage EJ communities:

1. The City must ensure transparency in these assessments. The assessments must be grounded in publicly available data, or if the underlying data and models are not available, they should be

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<sup>30</sup> *Id.*

<sup>31</sup> The MPCA Environmental Justice Story map is available here: <https://mpca.maps.arcgis.com/apps/MapSeries/index.html?appid=f5bf57c8dac24404b7f8ef1717f57d00>

<sup>32</sup> The MPCA Risk Assessment Spreadsheet is available at this link under “tools”: <https://www.pca.state.mn.us/business-with-us/air-emissions-risk-analysis-aera>  
Further analysis and information about health endpoints for specific pollutants is available in the EPA RAIS Chemical toxicity value tool by EPA OakRidge Lab: [https://rais.ornl.gov/cgi-bin/tools/TOX\\_search?select=chemtox](https://rais.ornl.gov/cgi-bin/tools/TOX_search?select=chemtox)

<sup>33</sup> Minneapolis 2040 Plan, at 46.

<sup>34</sup> Minneapolis 2040 Plan, at 50, 53.

included in the assessment so the public can assess whether the representations made are accurate.

2. The City should ensure that affected residents are notified. Because the notification requirements in the code apply to all land use applications, not just conditional use permits, specific recommendations for better notice are detailed in Section 5 of this comment.
3. There should be an opportunity for the public to submit written comments on the risk assessment, in addition to participating in public meetings and hearings on the CUP application.
4. Before the public hearing, there must be a community meeting and workshop that allows residents to learn more about the proposed project and the risk assessment. Community members should also have an opportunity in this forum to provide feedback to the City and the applicant. In Newark, New Jersey, these kinds of community workshops have been effective in facilitating community involvement and more equitable outcomes.

**D. A conditional use permit should be denied if the EJ risk assessment shows the use would add to cumulative impacts in overburdened communities.**

The proposed EJ risk assessment is potentially a crucial tool to prevent additional impacts to already overburdened communities. But as this code is drafted, there is no clear language on what effect this EJ Risk Assessment would have on the decision to grant a conditional use permit or any conditions that may be placed on a CUP. If the City determines which uses to permit on a site-by-site, case-by-case basis, it will fail to protect EJ communities from the combined cumulative impacts of new and existing pollution sources. Facilities that add to this overall cumulative burden cannot be allowed. We recommend that the draft code be amended so that a CUP is contingent on the outcome of the EJ risk assessment, as detailed below.

*Tying the risk assessments to the findings required for a CUP would provide the city with legal authority to deny polluting uses in EJ communities.*

City staff have represented that conditional use permits are almost always granted, but this does not need to be the case. The Legislature has provided that a city:

may by ordinance designate certain types of developments, including certain land development activities as conditional uses under zoning regulations. Conditional uses *may be approved* by the governing body or other designated authority *by a showing by the applicant* that the standards and criteria stated in the ordinance will be satisfied.<sup>35</sup>

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<sup>35</sup> Minn. Stat. § 462.3595, subd. 1 (emphasis added).

This language clearly provides that approval of conditional uses is discretionary.<sup>36</sup> The statute further places the burden on the applicant to show that the use would meet applicable standards.

A conditional use permit is “an authorized zoning tool designed not merely for nuisance control but to provide municipalities with broad latitude to meet the changing problems of land-use control.”<sup>37</sup> It is well settled that a city may deny a conditional use permit application if the proposed use endangers “the public health or safety or the general welfare of the area affected or the community as a whole.”<sup>38</sup> However, denial of a CUP is more vulnerable to challenge if the city code fails to provide express standards and criteria guiding the CUP decision.<sup>39</sup> In this rezoning, the risk assessment process provides the City with an opportunity to implement standards that will ensure conditional use permits are not granted for uses that add to the pollution burden of EJ communities – **but the City must make this explicit in the code.**

As the code is currently written, a conditional use permit requires findings that the conditional use will not be “detrimental to or endanger the public health, safety, comfort, or general welfare”; “injurious to the use or enjoyment of other property in the vicinity”; and is “consistent with the applicable policies of the comprehensive plan.” (Draft § 525.340(c)). These standards provide little guidance for decisionmakers. To prevent further harm to EJ communities from cumulative impacts, the City should add a requirement for findings based on an EJ risk assessment where such an assessment is required. In addition, the zoning code should specify that the zoning administrator should consult with the City’s Health Department as part of the review of the Conditional Use Permit review process.

We suggest the following language to make the EJ risk assessments enforceable and to reflect the applicant’s burden of proof, consistent with the governing statute:

**525.340. - Conditional use permits.**

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(c) ~~Required findings or criteria. Each of the following findings shall be made before granting a conditional use permit:~~ Standards for conditional use permits. To be eligible for a conditional use permit, the applicant must establish the following:

...

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<sup>36</sup> See *Cont'l Prop. Group, Inc. v. City of Minneapolis*, A10-1072, 2011 WL 1642510 (Minn. Ct. App. May 3, 2011) (concluding that applicant for a conditional-use permit did not have property right entitling applicant to substantive or procedural due process, because statutes and rules provided that approval of a CUP is discretionary).

<sup>37</sup> *Zylka v. City of Crystal*, 167 N.W.2d 45, 49 (Minn. 1969).

<sup>38</sup> *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 76 (Minn. 2015).

<sup>39</sup> *Id.*

(7) Where a risk assessment is required pursuant to section 545.200 based on the air pollution score or based on location in an area of environmental justice concern, that the use would not contribute to health endpoints associated with the listed pollutants.

Other cities have tied CUP decisions to cumulative impacts to prevent continued harm to EJ communities. For example, in Denver, Colorado, facilities that store hazardous materials are not allowed in areas that already have an undue concentration of those uses.<sup>40</sup> The City of Minneapolis can, and should, do the same.

*The City is not preempted from restricting uses based on EJ concerns.*

The City has expressed concerns about state preemption. But cities have authority to determine the **types of uses** that may be allowed and **may impose conditions on uses** when there are gaps in state law.<sup>41</sup> In fact, the Legislature has provided:

*For the purpose of promoting the public health, safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in sections 103F.201 to 103F.221, access to direct sunlight for solar energy systems as defined in section 216C.06, flood control or other purposes, and may establish standards and procedures regulating such uses.<sup>42</sup>*

Accordingly, “as long as the state has not expressly precluded local regulation, there is no conflict when the state regulates a topic and the local government adds additional regulations that provide consequences greater than those already provided.”<sup>43</sup> For example, even where a feedlot required an MPCA permit, a township was within its authority to impose specific setback requirements for the facility to address odor impacts to nearby residents.<sup>44</sup> The court held that even though both the MPCA permit and the

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<sup>40</sup> See Craig Anthony Arnold, *Fair and Healthy Land Use: Environmental Justice and Planning*, at 70, American Planning Association Report No. 549/550 (2007) [https://planning-org-uploaded-media.s3.amazonaws.com/publication/download\\_pdf/PAS-Report-549-550.pdf](https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/PAS-Report-549-550.pdf)

<sup>41</sup> *Canadian Connection v. New Prairie Twp.*, 581 N.W.2d 391, 394 (Minn. Ct. App. 1998).

<sup>42</sup> Minn. Stat. § 462.357, subd. 1 (emphasis added).

<sup>43</sup> *Hannan v. City of Minneapolis*, 623 N.W.2d 281, 286 (Minn. Ct. App. 2001).

<sup>44</sup> *Canadian Connection*, 581 N.W.2d at 394.

ordinance regulated odor, there was no conflict because each addressed separate aspects of the odor issue.<sup>45</sup>

### III. The code must require protective setbacks for all high and moderate-impact production and processing uses.

In many cases, the PR2 zones are immediately adjacent to zones where people live, work, play and learn. (See Figures 1 and 2 showing the PR2 (dark purple) immediately adjacent to residential neighborhood zones (light yellow))

Figure 1 (North Minneapolis)



<sup>45</sup> *Id.* The court distinguished its earlier decision of *Board of Supervisors v. ValAdCo*, in which a township setback requirement conflicted with a setback requirement that had been imposed by MPCA. *Canadian Connection*, 581 N.W.2d at 395. The *Canadian Connection* court found it important that there were no conflicting requirements and further said that “the ordinance here focuses on land use by regulating the location of feedlots and does not attempt to regulate the actual operation of feedlots.” *Id.* (emphasis added).

**Figure 2 (Seward Neighborhood)**



Because the concentration of pollution decreases the further away one is from a point source, establishing setbacks is an appropriate and protective method to safeguard the health of Minneapolis residents. The 300 ft (one city block) setback, as proposed in the current draft, is arbitrary and has no basis in public health or environmental science data. All High and Moderate-Impact Production and Processing uses, Post-Consumer Waste Processing uses, Industrial Transportation Uses, Warehousing and Storage Uses, and Vehicle Fleet Oriented Services, should instead be set back  $\frac{1}{4}$  mile (1320 feet) feet from any Urban Neighborhood district or any permitted residential use, childcare center, K-12 school, or public park. This distance is well-supported by available pollution attenuation studies.<sup>46</sup>

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<sup>46</sup> See, e.g., G.S.W. Hagler, et al., *Ultrafine particles near a major roadway in Raleigh, North Carolina: Downwind attenuation and correlation with traffic-related pollutants*, *Atmospheric Environment*, Volume 43, Issue 6, (2009), <https://www.sciencedirect.com/science/article/pii/S1352231008010832>; Javier García-Pérez, et al., *Residential proximity to industrial pollution sources and colorectal cancer risk: multicase-control study (MCC-*



This quarter-mile setback should apply also to buffer any existing or new Community Correction Facility or Emergency Shelter. Because Community Correction Facilities and Emergency Shelters are residential uses where people live, often without any choice in the matter, the City’s zoning code should not allow polluting uses to be sited nearby. These two uses, Community Correction Facilities and Emergency Shelters, are the only residential uses permitted in the PR2 zone. The people living in them have just as much right to protection from noxious pollution as any other resident. Because of this, we recommend that these two uses be prohibited in the PR2 zone. Additionally, we recommend that all High and Moderate Impact Production and Processing uses, Post-Consumer Waste Processing uses, Industrial Transportation Uses, Warehousing and Storage Uses, and Vehicle Fleet Oriented Services be set back 1320 feet from any Community Correction Facility or Emergency Shelter.

#### **IV. The City must delete provisions that perpetuate, and potentially expand, existing polluting uses.**

The draft code must be changed to limit any potential expansion or intensification of existing, high-polluting uses. Without the amendments detailed below, the code conflicts with the directives of the 2040 Plan to protect EJ communities from polluting uses.

##### **A. Non-conforming uses must not be made conforming, permitted to expand, or allowed to intensify.**

Many of the dirtiest and most polluting facilities in the City will become “legal nonconforming uses” upon adoption of the new zoning ordinance. These uses, by definition, will not be compliant with the regulations for the zones in which they are sited. While the City cannot legally force these facilities to come into compliance with the new code due to the existing state amortization law, neither should the City allow any expansion or intensification of these uses.

“Historically, the theory behind legal nonconformities was that property would eventually comply with the zoning ordinance.”<sup>47</sup> This should be the long-term goal of the City: that all legal nonconforming uses eventually become consistent with the zoning ordinance, and ultimately, with the 2040 Plan.

For the same reasons, a property owner should be barred from swapping one nonconforming use with another nonconforming use. Accordingly, the proposed draft should be amended as follows:

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Spain), Environment International, Volume 144, (2020), <https://www.sciencedirect.com/science/article/pii/S0160412020320109>

<sup>47</sup> League of Minnesota Cities, *Land Use Non-Conformities*, (2021) <https://www.lmc.org/resources/land-use-nonconformities/>

**Section 525.310 (“Changes of nonconforming use”)**

This section should be eliminated. As drafted, section 525.310 allows a property owner with a legal non-conforming use to apply for a new and different high intensity industrial use that would otherwise be prohibited if the parcel were vacant. If asphalt shingle production is banned in a certain zone, there is no reason why the owner should be permitted to open a battery smelting facility in the same spot just because there had been a high pollution facility there for years. Instead, any change of use should be compliant with the new zoning code. A different but still nonconforming polluting use would still harm the nearby residents.

**Section 545.830 (“Change of use”)**

This section should be amended as follows, for the same reasons that Section 525.310 should be deleted:

(a) Standards. A nonconforming use may not be changed to any use other than a use permitted in the district in which the use is located, ~~unless approved by the city planning commission in accordance with the process and findings specified in Chapter 525, Administration and Procedures.~~

**525.380 – Expansion or alterations of nonconforming use.**

This section should be modified so that the only allowed alterations to nonconforming uses are those that reduce the size of the nonconforming use and decrease the adverse off-site impacts.<sup>48</sup> As drafted, this section would allow a nonconforming use, such as a pre-existing asphalt shingle factory in a zone that bars such uses, to increase both its size and the amount of dust and odors that leave the site. This is inconsistent with the purpose of the zoning ordinance and the 2040 Plan.

**545.800 Expansion or alteration of nonconforming uses and structures.**

No nonconforming use should be intensified, expanded or enlarged. Part (b) of this section should delete all text after intensified, so that it reads:

(b) Structure (conforming or nonconforming) containing a legal nonconforming use. Structures containing one (1) or more legal nonconforming uses shall not be moved to a new location on the zoning lot, expanded, enlarged in any way, nor shall such use be intensified.

**1. The HERC should not be given special status as a Conditional Use.**

The 2040 Plan explicitly adopts a goal of achieving a clean environment and healthy air, and in furtherance of this goal the Plan identified certain action steps related to zoning.<sup>49</sup> These include prioritizing land uses that have minimal or no air pollution

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<sup>48</sup> This type of reduction of intensity of a nonconforming use is similar to the one-way reduction of degree of nonconformity established in draft Sections 545.790(b) and 545.800(a).

<sup>49</sup> Minneapolis 2040 Plan, Goal 11.

and limiting uses that “do not provide a high concentration of high quality, low impact production and processing jobs.”<sup>50</sup>

Contrary to the directives of the 2040 Plan, the draft code explicitly grandfathers in the Hennepin Energy Recovery Center (HERC) waste-to-energy plant<sup>51</sup> as a conditional use in its current location.

To be consistent with the 2040 Plan, the HERC should not be granted conditional use status. Instead, as a facility with one of the highest pollutant emission totals in the City, it should be deemed a legal non-conforming use. While we acknowledge that the City cannot eliminate the polluting HERC through zoning, the City can require it to have legal nonconforming use status instead of conditional use status. If the use is allowed to remain nonconforming, it cannot be replaced once this use is eliminated. By contrast, if the use is allowed under a conditional use permit, another garbage burner can easily be brought in if HERC goes away. The City should fix this glaring loophole.

Further, maintaining HERC as a legal nonconforming use would allow for more community oversight. Under draft section 525.350, minor changes to conditional use permits are authorized by the zoning administrator, without any hearing or vote of the Planning Commission. By contrast, the City Planning Commission must review any proposed changes to a legal nonconforming use. (Draft § 525.380.) And if the City adopts the revisions outlined above, making the nonconforming use provisions more stringent, the HERC would not be permitted to expand at all.

## **2. Existing gas-fired electric generation plants should be deemed legal nonconforming uses.**

The draft code also gives existing natural gas-fired electric generation plants special status as conditional uses. Minneapolis houses Xcel Energy’s Riverside facility, a 454 MW fossil gas-fired electric generation plant, the number one greenhouse gas emitting entity in all of Hennepin County.<sup>52</sup> Fossil gas-fired electric generation plants are significant contributors to air pollution levels in the City and will eventually be phased out as the State moves towards a 100% carbon-free electric grid. Until then, these fossil

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<sup>50</sup> Minneapolis 2040 Plan, Policy 3.

<sup>51</sup> The draft code explicitly exempts municipal waste-to-energy plants from post-consumer waste processing category, which is otherwise a prohibited use. Draft 545 Use Table; sections 545.130(b)(5)(C)(i) and 545.80(f). Instead, municipal waste-to-energy plants are classified as “principal electric generation use” at sections 545.130(b)(5) and 545.140(b)(2). Then, in the Use Table, Principal Electric Generation is allowed as a conditional use in both PR1 and PR2. There is no requirement for an EJ risk assessment for these types of conditional use permits. We recommend that waste-to-energy plants be prohibited across all zones. However, if this recommendation is not accepted, we strongly urge that any CUP for a new waste-to energy facility be subject to and contingent on an EJ risk assessment.

<sup>52</sup> See MPCA, Air emissions ranking by facility, [https://public.tableau.com/app/profile/mpca.data.services/viz/Pointsourceairmissionsdata\\_v10\\_5-11130/Byfacility](https://public.tableau.com/app/profile/mpca.data.services/viz/Pointsourceairmissionsdata_v10_5-11130/Byfacility)

gas burning facilities should not be allowed to expand nor intensify their operations. This limitation can be achieved through deeming them legal non-conforming uses.

## **V. The code must ensure meaningful involvement in decision-making.**

The 2040 Plan acknowledges that environmental justice “requires meaningful involvement from all communities, especially those disproportionately affected and previously disenfranchised.”<sup>53</sup> To implement this principle, the Plan sets a goal of “Proactive, Accessible, and Sustainable Government” that “includes committing to meaningful engagement with residents and businesses when making decisions. It means improving the accessibility of engagement activities and *intentionally seeking out engagement with populations that have been underrepresented* – specifically communities of color and indigenous peoples.”<sup>54</sup> Additionally, the Plan’s goal of “Equitable Civic Participation System” promises that “the City of Minneapolis will actively build the community’s capacity . . . to facilitate meaningful resident input . . . ; and it will work to maximize the involvement of renters, people with disabilities, people of color, indigenous people and others who have been historically underrepresented in civic life.”<sup>55</sup> The updated code must implement these directives in the decision-making processes related to zoning, which have a disproportionate impact on lower income and BIPOC residents and other underrepresented communities.

### **A. The code must include better notice requirements for land use applications.**

The current and draft code only require notice of a land use application or zoning code amendment to be delivered to the applicable neighborhood group or groups on a list maintained by the City. (Draft § 525.210(b)(7)). By 15 days before the public hearing, the zoning administrator must also publish in a newspaper of general circulation, “registered neighborhood groups,” and property owners within 350 feet. (Draft § 525.220(a)(1)). But many interested residents may not receive notice through these groups, may not be property owners and may be affected by environmental hazards at a greater distance than 350 feet.

To facilitate public notice and participation in hearings, we recommend the following for all Land Use applications:

1. The City should require notice to all “residents and property owners” within 1320 feet of a site subject to a land use application. Residents who do not own property (renters) have an interest in these applications and need to be notified.

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<sup>53</sup> Minneapolis 2040 Plan, at 46.

<sup>54</sup> Minneapolis 2040 Plan, at 50 (emphasis added).

<sup>55</sup> Minneapolis 2040 Plan, at 53.

2. The code should specify that the Southside Green Zone Council and the Northside Green Zone Task Force must be notified of all land use applications within their respective Green Zones.

3. Grassroots organizations should have the opportunity to be notified in the same manner as “neighborhood groups.” The code should either (1) create a definition of “neighborhood groups” that allows organizations to submit contact information and receive direct notification of applications within a specified neighborhood or radius, or (2) provide that “notification of the application has been mailed or delivered to . . . the neighborhood group(s) and other organizations registered with the city for the area in which the property is located.”<sup>56</sup>

4. Informational mailings must include translations for community members who speak languages other than English.

5. Because notification 15 days before the hearing does not provide adequate time to analyze a proposal and prepare evidence to present at the hearing—especially for working parents and those who may be juggling multiple jobs—notification should be required at least 30 days before the hearing.

**B. The City should hold community meetings to keep EJ communities informed about ongoing developments.**

Effective community engagement requires more than notice and hearings on projects already proposed. Other cities have developed models for effective community engagement. For example, in Newark, New Jersey, the City of Newark Planning Office conducted a two-year systematic effort focused on democratizing the development and rezoning process. That included educational workshops, dozens of public meetings, a public comment period, and two hearings.<sup>57</sup>

The City of Minneapolis can implement these best practices to engage with EJ communities on an ongoing basis, strengthening relationships and enabling residents to proactively shape city policy. In addition to holding community meetings, the City should actively recruit BIPOC residents and members of EJ communities to apply for roles that influence city planning, such as membership on the Planning Commission or other committees.

As part of this process, the City should report to the community on how the rezoning process has been playing out, on a biennial basis. This report should include, at minimum, a summary of the environmental risk assessments conducted; the location of

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<sup>56</sup> The City should also clarify what is meant by “area of the property” for the purpose of notifying neighborhood groups. Instead of using this vague language, the code should require notice to groups within the “neighborhood” or that are “located within a radius of 1320 feet around the proposed use.”

<sup>57</sup> See Damon Rich, *Zoning for Democracy* (Feb. 22, 2015) (attached as Appendix D).

and emissions from each production and processing facility in the City, and any relevant facility changes; and any amendments to the zoning code. Following issuance of the report, community members and EJ advocates should be engaged to discuss how City processes can be improved going forward to better achieve the environmental justice goals of the 2040 Plan.

**A hearing should be required for zoning permits**

Under the current draft, decisions on zoning permits are made by the zoning administrator with no notice or hearing. (Draft § 525.520) The zoning administrator should not make discretionary decisions without an opportunity for community input. When an applicant seeks a zoning permit, the City should require the same notice and opportunities for community participation described above.

**CONCLUSION**

This rezoning is the City’s opportunity to implement many promises made to EJ communities over the past several years—including the goals, policies, and action steps of the 2040 Plan. But the current draft zoning code overlooks many of the actions the 2040 Plan requires the City to implement through the zoning code. Our recommendations are intended to aid the City in making the 2040 Plan concrete, effective, and compliant with the law. We look forward to continued engagement on this rezoning. Please contact us for any further clarification or discussion of how to effectively implement these recommendations.

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## APPENDIX A: ADDITIONAL DEFINITIONS

**Animal Rendering** shall mean any process that converts waste tissue into stable, usable materials. Rendering can refer to any processing of animal products into materials like purified fats.

**Artist Studio (Non-Nuisance Producing)** shall mean a place designated to be used as a place of work by artists whose work does not involve hazardous products or processes.

**Artist Studio (Nuisance Producing)** shall mean a place designated to be used as a place of work by artists and craftspersons for the production of (a) paintings, drawings, jewelry, pottery or sculpture involving the use of fiberglass, epoxy and other toxic or hazardous materials or one or more of the following processes: welding, woodworking, spray painting, silk screening or fired ceramics, (b) dance or live music involving electronically amplified sound, or (c) moving or still photography (excluding video) involving on-site film processing. Artists engaged in their residence in the production of dance, live music, creative writing, painting, drawings, pottery or sculpture, video, moving or still photography, or any other art form or craft which does not involve amplified sound or one (1) or more of the materials or processes listed above shall not be considered an artist live/work studio for the purpose of this Chapter.

**Asphalt Production** shall mean the process of manufacturing asphalt, including processes such as heating and mixing aggregates such as gravel, sand, and crushed stone with bitumen, storage tanks for storing and transporting finished product, as well as equipment for testing and quality control.

**Asphalt Shingle Production shall mean** the process of producing asphalt shingles, including the assembly of asphalt, fiberglass matting, and ceramic granules into individual shingles, storage areas for raw materials, finished products, and equipment used in the manufacturing process.

**Automobile Shredder Residue (ASR)** shall mean facilities for the shredding of automobiles and major household appliances, resulting in a mixture of ferrous metal, non-ferrous metal (e.g. alloys of copper and aluminum) and shredder waste, called automotive shredder residue or automobile shredder residue (ASR).

**Biomass Incineration** shall mean the combustion of organic materials, such as wood, crop residues, and other plant-based materials, to produce heat, steam, or electricity.

**Bulk Goods and Heavy Equipment Sales** shall mean and include retail and/or service activities that have regular exterior service or storage areas, or partially enclosed structures, including, but not limited to, home improvement centers, equipment rental and leasing, lumber and other building materials, garden centers and greenhouses, landscape construction, and lawn maintenance contractor yard, bulk materials sales and storage, and recreational vehicles and playground equipment sales and rentals. Outdoor storage and outdoor storage display areas are permitted as a conditional accessory use.

**Cement Kilns** shall mean facilities used for the pyroprocessing stage of manufacture of portland and other types of hydraulic cement, in which calcium carbonate reacts with silica-bearing minerals to form a mixture of calcium silicates.

**Chrome Plating and Metals Plating Facilities** shall mean facilities for the electroplating of metals onto various substrates, such as automotive parts, electronic components, and industrial equipment, typically involving immersing the substrate into a solution containing a metal salt, such as chromium or nickel, and passing an electric current through the solution to deposit the metal onto the surface of the substrate. Chrome plating and metals plating facilities may also include equipment for pre-treatment, cleaning, and finishing of the substrate, as well as waste treatment systems for managing the by-products and wastewater generated during the plating process.

**Computer & Circuit Board Recycling** shall mean the processing and recovery of electronic components and materials from discarded computer equipment, such as desktops, laptops, and servers, as well as other electronic devices, including cell phones, tablets, and televisions. This process typically involves the disassembly of the electronic devices, the removal of hazardous materials, such as lead, cadmium, and mercury, and the sorting and processing of reusable materials, such as plastics, metals, and circuit boards. Computer and circuit board recycling facilities may also include equipment for shredding, granulating, and refining the recovered materials, as well as waste treatment systems for managing the hazardous by-products generated during the recycling process.

**Commercial Composting** shall mean the large-scale (over 5000 square feet) composting of organic waste in proper ratios into rodent-resistant containers, adding moisture and bulking agents to accelerate the breakdown of organic materials to create compost, the organic materials that can be used as soil amendment or as a medium to grow plants.

**Crematorium, Human** shall mean a structure containing cremation chambers used to cremate human remains.



**Crematorium, Animal** shall mean a stand-alone facility dedicated to the disposition of dead animal remains by means of cremation.

**Dry Cleaning & Laundry Establishment, Large** shall mean an establishment only for the washing, drying, and/or dry cleaning of clothing in bulk brought in by a commercial customer and in which such washing and drying is performed with the use of mechanical equipment, and for which a fee is charged or a facility where the retail customer brings the laundry to another facility and it is brought to this facility for laundering. A dry cleaning and laundering plant may perform work on the premises for other dry cleaning and laundry services and serve retail customers, and includes linen, diaper, or uniform laundering services.

**Electrical or Gas Switching Facility, Power Distribution or Substation** shall mean a system of electrical or gas equipment that interconnects several electrical or gas transmission lines for the purpose of allowing the transmission lines to be serviced and maintained without disruption of power.

**Electronic De-Manufacturing** shall mean a facility for the dismantling of electronic equipment for scrap metals reclamation and component recovery.

**Exterminator / Pesticide Application Business** shall mean a business or person who either wholly or in part holds himself out to hire to apply pesticides including landscapers, tree services and aerial applicators.

**Fabricated metal Production** shall mean the manufacturing of metal products and structures, such as metal frames, structures, machinery, and equipment, through the use of various fabrication processes, including cutting, bending, welding, and machining.

**Fabricated plastic Production** shall mean the manufacturing of plastic products and structures through various fabrication processes, such as extrusion, injection molding, blow molding, and thermoforming.

**Gypsum, drywall, and plaster Production** shall mean the manufacturing of building materials, such as gypsum board, drywall, and plaster, through the use of gypsum as the primary raw material.

**Hazardous Material** shall be defined as follows:

- a. Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 Code of Federal Regulations, Sections 116.4 and 401.15, as amended; or

- b. Any chemical listed as “acutely toxic” in Appendix A of the EPA Chemical Emergency Preparedness Program, interim guidelines; or
- c. Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a Class II combustible liquid or a Class III A combustible liquid; or
- d. Any material which is listed or defined as explosive, flammable, reactive, or corrosive in the Department of Transportation, 49 Code of Federal Regulations, Section 172.101, as amended.

A mixture shall be deemed to be a hazardous material if it contains one (1%) percent by volume or more of any material listed above.

**Hazardous or Medical Waste Processing (autoclaving, crushing, preparing, or treating)** shall mean the treatment and disposal of hazardous or medical waste through various methods, such as autoclaving, crushing, preparing, or treating.

**High-Impact Production and Processing** shall mean the manufacture or compounding process of raw materials. These activities or processes may necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. In this situation, the handling of such materials must be in a controlled environment and have certification from MPCA. Typical high-impact production and processing uses include but are not limited to: concrete batch plants, concrete, tile or brick manufacturing, automobile, truck and tire assembly, ammonia or chlorine manufacturing, metal casting or foundries, gas manufacturing, dye stuffs, grain milling or processing, metal or metal ore production, refining, smelting, or alloying, petroleum or petroleum product refining, boat, pool and spa manufacturing, slaughtering of animals, glass manufacturing, paper manufacturing, and wood or lumber processing. The assembly, fabrication or processing of goods and materials uses processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety. The following processes are not permitted: Vitrification, Plasma Gasification, Pyrolysis, Cement Kilns, Automobile Shredder Residue (ASR), Medical Waste Autoclaving & Shredding, Animal Rendering, Electronic De-Manufacturing, Computer & Circuit Board Recycling, Thermal Depolymerization, Sludge Processing and Incineration, Sewage Disposal, Sediment Treatment Plants (i.e. Thermal/Chemical Processing, Cement Lock Technology, Sediment Washing, Biogenesis, Sediment Dewatering), Tire Derived Fuel Plants, Biomass Incineration, Chrome Plating and Metals Plating Facilities, Hazardous or Medical Waste Processing (autoclaving, crushing, preparing, or treating), Outdoor Scrap Metal Yards (shredding, processing, sorting), Oil and Gas Refineries, and Power Plants over 150 megawatts using coal, natural gas, waste or waste byproducts including tires, sludge, cement, and biofuels.

**Live Animal Market** shall mean a retail sales food market where, in the regular course of business, non- domesticated animals are stored alive for the purpose of on-site slaughtering, dressing and/or evisceration to be sold to consumers for the purpose of human consumption.

**Lower-Impact Production and Processing** shall mean the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment of such products, but excluding basic industrial processing and custom manufacturing. Typical light manufacturing uses include but are not limited to: electronic goods, food and bakery products, nonalcoholic beverages, paper imprinting, publishing, household appliances assembly, and clothing apparel. The assembly, fabrication, or processing of goods and materials uses processes that ordinarily do not create noise, fumes, smoke, odors, glare or health and safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building.

**Plywood and composite wood products Production** shall mean the manufacturing of wood-based products, such as plywood, particleboard, medium-density fiberboard (MDF), and other composite wood products.

**Materials Salvage or Junk Facility** shall mean an enclosed building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A materials salvage or junk facility includes an auto wrecking facility. A materials salvage or junk facility does not include waste-related uses or recycling facilities. Such use shall not be open to the public.

**Medical Waste Autoclaving & Shredding** shall mean processes for the sterilization and processing of medical waste, such as contaminated sharps, laboratory specimens, and infectious materials.

**Metalworked products** shall mean the manufacturing of metal products and structures, such as metal frames, structures, machinery, and equipment, through the use of various fabrication processes, including cutting, bending, welding, and machining.

**Metal plating** shall mean facilities for the electroplating of metals onto various substrates, such as automotive parts, electronic components, and industrial equipment, typically involving immersing the substrate into a solution containing a metal salt, such as chromium or nickel, and passing an electric current through the solution to deposit the metal onto the surface of the substrate. Chrome plating and metals plating facilities may

also include equipment for pre-treatment, cleaning, and finishing of the substrate, as well as waste treatment systems for managing the by-products and wastewater generated during the plating process.

**Moderate-Impact Production and Processing** shall mean the processing and manufacturing of materials or products predominantly from extracted or raw materials. These activities may include outdoor assembly and storage products. Outdoor manufacturing of raw materials into compost, primarily for commercial resale is a medium manufacturing activity. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Typical medium manufacturing uses include but are not limited to: alcoholic beverages, glue, leather products, carpet, porcelain products for bathroom and kitchen fixtures, solar panel manufacture, bio-fuel manufacture, bleaching products, vegetable gelatin, welding, furniture, and sporting goods.

**Oil and Gas Refineries** shall mean facilities for processing crude oil and natural gas to produce a range of refined products such as gasoline, diesel, jet fuel, heating oil, lubricants, and petrochemicals.

**Operation Facilities for Bus/Taxicab/Ambulance/Limousine** shall mean and include an area and/or building where four (4) or more emergency medical ambulances, buses, taxicabs or other livery vehicles are stored, dispatched and/or loading and unloading is carried on regularly, and where minor maintenance of these vehicles is performed.

**Outdoor Scrap Metal Yards (shredding, processing, sorting)** shall mean an outdoor facility where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A materials salvage or junk facility includes an auto wrecking facility. A materials salvage or junk facility does not include waste-related uses or recycling facilities. Such use shall not be open to the public.

**Outdoor Storage** shall mean the storing or maintaining, exterior to any permanent, fully enclosed building or structure of goods, merchandise, inventory, equipment or other tangibles for any purpose other than outdoor display. The term outdoor storage shall not include operation facilities for bus/taxicab/ambulance/limousines or truck terminals as defined herein. Goods, merchandise or products stacked on pallets and/or wrapped in packaging materials such that the items are not readily available to the public for immediate retail sale shall be considered outdoor storage and not outdoor display.

**Outdoor Storage, Chemical** shall mean the outdoor storage of chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

**Plasma Gasification** shall mean the use of plasma technology to convert waste materials into energy and other by-products.

**Power Plants over 150 megawatts using coal, natural gas, waste or waste byproducts including tires, sludge, cement, and biofuels** shall mean a power-generating facility with capacity over 150 megawatts that uses coal, natural gas, waste or waste byproducts including tires, sludge, cement, or biofuels.

**Pyrolysis** shall mean processes involving the thermal decomposition of organic materials to produce biochar, oil, and gas.

**Recycling facility, small** shall mean a facility of less than 10,000 square feet where no material is shredded, milled, or ground.

**Recycling facility, large** shall mean a facility in which recyclable or recoverable materials are collected, sorted, and prepared for transfer to another facility for processing. A transfer recycling center may not process by briquetting, compacting, chipping, flattening, grinding, crushing, shredding, cleaning or altering the materials.

**Sediment Treatment Plants** shall mean facilities using processes to treat contaminated sediment including Thermal/Chemical Processing, Cement Lock Technology, Sediment Washing, Biogenesis, and Sediment Dewatering.

**Sewage Disposal** shall mean the collection, treatment, and disposal of wastewater generated from residential, commercial, and industrial activities.

**Sludge Processing and Incineration (including the production or processing of biochar from sewage sludge)**

**Sustainable Green Industry** shall mean a production facility having minimal or no air, water, or noise pollution impacts.

**Thermal Depolymerization** shall mean the conversion of organic waste materials, such as animal waste, sewage sludge, and plastic waste, into usable products, such as fuel oil, gas, and carbon.

**Tire Derived Fuel Plants** shall mean facilities that process used tires into fuel that can be used to generate energy in industrial processes.

**Truck Terminal** shall mean and include premises for the fueling, loading and unloading of trucks, where storage of cargo is incidental to the primary function of motor freight shipment, and where minor maintenance and repair of these types of vehicles are performed. Such facilities shall be designed to accommodate five (5) or more trucks.

**Warehousing and Storage** shall mean and include structures, or a major portion thereof, used principally for the storage, sales or distribution of nonhazardous goods and merchandise to retailers, non-residential users, or to wholesalers. This use shall also include uses devoted to archives and records. This use shall not include truck terminals, truck repair or manufacturing.

**Waste-to-Energy Plants** shall mean facilities that convert waste materials into energy through various processes, such as incineration, gasification, and pyrolysis.

**Vitrification** shall mean the process of converting waste materials, such as hazardous and radioactive waste, into a solid, glass-like substance through a high-temperature process

Table 550-1 Uses Allowed

USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																USE STANDARD?	
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1		PK1
<b>COMMERCIAL</b>																		
Bulk Goods and Heavy Equipment Sales (except as noted below)								C						P	P			X
Landscaping and material sales														P	P			
Commercial Agriculture (except as noted below)						10P	10P	P	P	P	P	P	P	P	P			
Farmer's market						10P	10P	P	P	P	P	P	P	P	P			X
Lawn and garden supply store						10P	10P	P	P	P	P	P	P	P	P			X
Market Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P				X
Urban Farm														P	P			X
Commercial Recreation and Assembly (except as noted below)					5P*	10P*	5P	P	P	P	P	P	P	P				X

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USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																	USE STANDARD?
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
Amphitheater									C	C	C	C	C	C			C	X
Convention center, public											P	P	P					
Entertainment venue								5P	10P	10P	P	P	P	P				X
Indoor recreation area					5P*	10P*	5P	P	P	P	P	P	P	P				X
Outdoor recreation area					5P*	10P*	5P	P	P	P	P	P	P	P				X
Nightclub								10P	10P	10P	P	P	P	10P				X
Reception or meeting hall								P	P	P	P	P	P					
Regional sports arena											P	P	P					X
<b>Food and Beverages</b> (except as noted below)				5P*	5P*	10P*	5P	P	P	P	P	P	P	5P				X
Bar								P	P	P	P	P	P	5P				X
Restaurant				5P*	5P*	10P*	5P	P	P	P	P	P	P	5P				X
<b>General Retail Sales and Services</b> (except as noted below)				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
Animal Boarding				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
<b>Dry cleaning</b>				<del>5P*</del>	<del>10P*</del>	<del>10P*</del>	<del>10P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>				X



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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
Funeral home				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
Liquor store, off-sale							5P	P	P	P	P	P	P	5P				X
Live Animal Market																		
Package delivery service, no on-site vehicle fleet				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
Secondhand goods store				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
Shopping center				5P*	10P*	10P*	P	P	P	P	P	P	P	P				X
Small engine repair								P						P				
Tobacco shop								P	P	P	P	P	P	P				X
Veterinary clinic				5P*	10P*	10P*	10P	P	P	P	P	P	P	P				X
<b>High-Impact Commercial</b> (except as noted below)								5C			5P	5P						
Alternative financial establishment								5C			5P	5P						X
Firearms dealer											5C							X
Pawnshop								5C			5P	5P						X
<b>Lodging</b> (except as noted below)					P	P	P	P	P	P	P	P	P	P				

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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
Bed and breakfast home	C	C	C	C	P	P	P	P	P	P	P	P	P	P				X
Hospitality residence			C	C	C	C	C	C	C	C	P	P	P					X
Hotel, 5-20 rooms					P	P	P	P	P	P	P	P	P	P				X
Hotel, 21 rooms or more								P	P	P	P	P	P	P				X
<b>Medical Facilities</b> (except as noted below)				5P	P	P	10P	P	P	P	P	P	P	P				
Blood/plasma collection facility								P	P	P	P	P	P	P				X
Hospital						C					C	C	C					X
<b>Office</b> (except as noted below)				5P	P	P	P	P	P	P	P	P	P	P	P			
Contractor's office							P	P	P	P	P	P	P	P	P			X
<b>Sexually Oriented Uses</b>											5P		5P					X
<b>INSTITUTIONAL AND CIVIC</b>																		
<b>Community Services</b> (except as noted below)	P	P	P	P	P	P	P	P	P	P	P	P	P	P				



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USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																USE STANDARD?	
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1		PK1
Athletic field	C	C	C	C	C	C											C	X
Golf course	C	C	C	C	C	C											C	X
<b>Social and Cultural Assembly</b> (except as noted below)				P	P	P	P	P	P	P	P	P	P	P				
Club or lodge				P	P	P	P	P	P	P	P	P	P	P				X
Convent, monastery or religious retreat center				P	P	P	P	P	P	P	P	P	P	P				X
Religious place of assembly	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
<b>PRODUCTION</b>																		
<b>Lower-Impact Production and Processing</b> (except as noted below)														P	P			
<b>Art studio (Non-Nuisance Producing)</b>				P	P	P	P	P	P	P	P	P	P	P	P			X
Brewery or distillery							P	P	P	P	P	P	P	P	P			X
Film, video, and audio production								P	P			P		P	P			X











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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1		PK1
Hazardous or Medical Waste Processing (autoclaving, crushing, preparing, or treating)																		
Oil and Gas Refineries																		
Outdoor Scrap Metal Yards (shredding, processing, sorting)																		
Post-Consumer Waste Processing (prohibited except as noted below)																		
Recycling facility, small, where no material is shredded, milled, or ground															C			X
Recycling facility, large																		
Waste transfer facility															C			X
Materials Salvage or Junk Facility																		
Commercial Composting																		
Warehousing and Storage (except as														P	CP			

USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																	USE STANDARD?
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
noted below)																		
Contractor yard														C	P			X
Outdoor Storage																		X
Outdoor Storage, Chemical																		X
Self-service storage facility														P	P			X
Snow storage site															C			X
<b>PUBLIC SERVICES AND UTILITIES</b>																		
Basic Utilities (except as noted below)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Communication exchange					C	C	C	C	C	C	C	C	C	C	C			
Electrical or Gas Switching Facility, Power Distribution or Substation																		
Heating or cooling facility					C	C	C	C	C	C	C	C	C	C	C			
Passenger transit station	C	C	C	C	C	C	C	C	C	C	P	P	P	C	C	P	C	



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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
Waste-to-Energy Plants																		
Public Safety and Welfare (except as noted below)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Animal shelter														€	C			X
Garage for public vehicles													C		C	C		
Mounted patrol stable													C		€	C		
Pre-trial detention facility, existing on the effective date of this ordinance												P	P	P				X
Street and equipment maintenance facility															€	C		
<b>RESIDENTIAL</b>																		
Cluster Development	C	C	C	C	C	C	C	C	C	C								X
Congregate Living (as noted below)																		
Community correctional facility serving																€		X

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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
up to (32) persons																		
Dormitory						C					C	C	C					X
Emergency shelter	C	C	C	C	C	C	C	C	C	C	C	C	C	C	€			X
Fraternity or sorority			C	C	C	C												X
Inebriate housing												C						X
Intentional community	P	P	P	P	P	P	P	P	P	P	P	P	P	C				X
Overnight shelter										C	C	C	C	C				X
Residential hospice			C	C	C	C		C	C	C	C	C	C					X
Single room occupancy housing		P	P	P	P	P	P	P	P	P	P	P	P	C				
State credentialed care facility, serving six (6) or fewer persons	P	P	P	P	P		P	P	P									X
State credentialed care facility, serving seven (7) to sixteen (16) persons	C	C	P	C	C	P	C	C	P	P	P	P	P					X
State credentialed care facility, serving seventeen (17) or greater persons			C	C	C	C			C	P	P	P	P					X

USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																	USE STANDARD?
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
Supportive housing			C	C	C	C			C	C	P	P	P	C				X
<b>Dwellings</b> (as noted below)																		
Single-, two- or three-family dwelling	P	P	P	P	P		P	P										
Single-, two- or three-family dwelling existing on the effective date of this ordinance						P			P	P							P	
One (1) to three (3) dwelling units, as part of a mixed-use building						P			P	P	P	P	P	C				
Multiple-family dwelling, four (4) units or more		P	P	P	P	P	P	P	P	P	P	P	P	C			C	X
Common lot development	P	P	P	P	P	P	P	P										X
<b>TRANSPORTATION, VEHICLE SERVICES, AND PARKING</b>																		
<b>Automobile Services</b> (except as noted)								C			C	C	C	C	C			X

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	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1		
below)																			
Automobile repair, major															C				X
Automobile sales, enclosed											C	C	C		C	C			X
Car washes								C						C	C				X
Electric vehicle charging hubs								C			C	C	C	C	C	C			X
Gas stations existing on the effective date of this ordinance								☺	☺	☺		☺	☺	☺	☺				✖
<b>Industrial Transportation Services</b> (except as noted below)															C	C			X
Waste hauler															C				X
<b>Principal Parking</b> (except as noted below)							C	C	C	C	C	C	C	C	C	C	C		X
Off-site parking lots serving multiple-family residential uses and congregate		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			

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USES BY GROUP, CATEGORY, AND SPECIFIC USE	ZONING DISTRICTS																	USE STANDARD?
	UN1	UN2	UN3	RM1	RM2	RM3	CM1	CM2	CM3	CM4	DC	DS	DD	PR1	PR2	TR1	PK1	
living uses																		
Off-site parking lots serving institutional and public uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
<b>Vehicle Fleet-Oriented Services</b> (except as noted below)															C			X
Horse and carriage assembly/transfer sites														C	C		X	X
Operation Facilities for Bus/Taxicab/Ambulance/Limousine															C			
Rental of trucks, trailers, boats, and recreational vehicles														C	C			X
Truck Terminal																		
<b>Vehicle Storage</b> (except as noted below)															C	C		
Public impound lot														C	C	C		



**APPENDIX C:  
ADDITIONAL AND EDITED SPECIFIC USE STANDARDS**

[Note: Recommended deletions are in ~~striketrough~~ and recommended additions are underlined and in italics.]

**545.180. Commercial use standards**

**Commercial recreation and assembly uses**

(2) Amphitheater.

(A) The amphitheater shall be situated in such a way as to minimize the effects of lighting and noise on surrounding properties such that sound levels do not exceed 42 decibels as measured within a nearby residence. It also must not exceed 7 decibels over the ambient sound level between the hours of 10 pm and 8 am, as measured on a nearby street or public area within 15 feet from the source. In addition, bass sounds must not exceed 6db above the ambient sound level to prevent nearby residents from experiencing physical discomfort from how the sound resonates.

(B) The use shall be exempt from the enclosed building requirements of this zoning ordinance.

**General retail sales and services uses**

(4) Dry cleaning.

(A) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses.

(B) Any dry cleaning establishment that uses PERC or Hydrocarbon shall not be located in the same structure as residential units.

(C) All dry cleaning establishments and plants must meet State and Federal regulations for the handling, storage and disposal of hazardous chemicals.

**ADD: Exterminator & Pesticide Application Business.**

(A) The applicant shall agree as a condition of approval:

a. Obtain a license.

b. Comply with all rules and regulations

c. All storage shall be located internal to a building.

(5) Funeral home.

(A) Crematories shall be prohibited, except where accessory to a cemetery.

(B) The applicant shall agree as a condition of approval:

- a. Obtain a license.
- b. Comply with all rules and regulations
- c. All storage shall be located internal to a building.

**545.200. Production use standards.**

**(b) Moderate-impact production and processing uses.**

(1) *General standards.*

(A) As part of the application for any conditional use permit for a new moderate-impact production and processing use or for an expansion or intensification of an existing moderate-impact production and processing use, the applicant shall prepare and submit an environmental justice risk assessment. The risk assessment shall include the following:

(i) If the use is located in a census block group with air pollutants above health benchmarks as determined by the Minnesota Pollution Control Agency, the risk assessment shall consider whether the proposed use would contribute to those specific pollutants, as demonstrated through emissions modeling or another approved method.

(ii) If the use is located in a census block group identified by the Minnesota Pollution Control Agency as an area of concern for environmental justice, the risk assessment shall consider whether the proposed use would contribute to the top emissions from Minnesota Pollution Control Agency-permitted facilities, as demonstrated through emissions modeling or another approved method.

(B) All moderate-impact production and processing uses shall be set back ¼ mile (1320 feet) from any Urban Neighborhood district or any permitted residential use, child care center, K-12 school, public park, Community Correction Facility, or Emergency Shelter.

**(c) High-impact production and processing uses.**

(1) *General standards.*

(A) The use shall be located at least one thousand three hundred and twenty feet ~~three hundred~~ feet from any Urban Neighborhood district or any permitted or conditional residential use, child care center, K-12 school, ~~or~~ public park, Community Correction Facility, or Emergency Shelter.

**(d) Post-consumer waste processing uses.**

(A) The use shall be located at least one thousand three hundred and twenty feet ~~three hundred~~ feet from any Urban Neighborhood district or any permitted or conditional residential use, child care center, K-12 school, ~~or~~ public park, Community Correction Facility, or Emergency Shelter.

(2) *Recycling facility.*

(A) All processing, sorting, and storage of materials shall take place entirely within a completely enclosed building, except that outdoor storage of paper or cardboard in fully enclosed containers or trailers is permitted.

(B) Site shall remain clean of all stray materials.

(C) No materials shall contaminate the site.

(3) *Scrap or salvage yard, no metal shredding/*Material Salvage or Junk Facility

...

(B) All operations must occur within a building.

(C) Site shall remain clean of all stray materials.

(D) No materials shall contaminate the site.

(4) *Waste transfer facility.*

(A) As part of the application for any conditional use permit for a new waste transfer facility or for an expansion or intensification of an existing waste transfer facility, the following shall be submitted by the applicant:

(i) A vicinity plan that includes the following:

(1) A description of natural features, including streams, rivers, lakes, wetlands, and major topographical features located within three hundred and fifty (350) feet of the site.

(2) A description of the proposal and how it compares to land uses within three hundred and fifty (350) feet of the site.

(3) A description of any potential environmental hazard due to existing or proposed land uses, including soil, water, and air contamination.

(ii) An air quality plan describing stationary and mobile source air emissions, their quantities and composition, and indicating conformance with all applicable air quality regulations, including verification as to whether the proposed use requires permit from the Minnesota Pollution Control Agency.

(iii) A dust management plan describing dust emission sources, their quantity and composition, and how dust will be collected, managed, and disposed of, and indicating conformance with all applicable dust emission regulations.

(iv) A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations.

(v) A drainage plan for all stormwater management and runoff.

(vi) A landscape plan demonstrating compliance with the requirements of Chapter 550, Article V, Site Plan Review Standards.

(vii) A traffic plan describing the number of truck trips the proposal will generate and the principal access route to the facility, including a description of the facility's traffic on the surrounding area.

**ADD: (e) Warehousing and Storage**

**(1) General Standards**

**(A) All Industrial transportation service uses shall be set back ¼ mile (1320 feet) from any Urban Neighborhood district or any permitted residential use, child care center, K-12 school, public park, Community Correction Facility, or Emergency Shelter.**

**(2) Outdoor Storage**

**(A) Outdoor storage areas shall not be permitted in any required front or side yard.**

**(B) Outdoor storage areas shall be enclosed by a wall or fence of minimum five (5) feet and a maximum of eight (8) feet in height. Materials stored shall not be visible above fence.**

**(3) Outdoor Storage, Chemical**

**(A) The applicant shall agree as a condition of approval to comply with all City, State, and Federal laws, regulations, and ordinances and obtain all necessary permits and licensures shall be secured prior to the start of operation. A copy of all licenses shall be placed on file.**

**(B) Outdoor chemical storage shall comply with the following additional requirements:**

**a. A list of substances to be handled at the development must be furnished to local emergency response teams that may be called upon to provide emergency service.**

**b. An emergency response plan shall be submitted to the Police Department, Fire Department and CPED for review and inclusion in department files for the proposed property. Information shall include spill prevention and clean up, taking into account topography and runoff.**

**c. A spill containment system must be employed as required by State and Federal law.**

**d. Plans showing any underground piping, storage facilities, and related appurtenances as they involve chemical or petroleum products must be submitted.**

**e. Any above-ground piping must be designed to prevent line breakage due to collision.**

**f. All containers and piping must be constructed of corrosion resistant materials.**

**g. The emission of odorous matter from any property in such concentrations at any point along the boundaries of said property or in such concentrations as to create a public nuisance or hazard beyond such boundaries is prohibited.**

*h. No chemicals or other hazardous materials or wastes shall be deposited upon a parcel in any zoning district in such form or manner that they may be transferred off the parcel by natural causes or forces.*

*i. No containers shall be visible from the public right-of-way and shall be screened from view.*

**545.220. Residential use standards.**

*(2) Community correctional facility.*

(A) The use shall be located at least one-fourth (1/4) mile from all existing community correctional facilities.

(B) On-site services shall be for residents of the facility only.

(C) The use shall be located at least three hundred (300) feet from any zoning district other than the PR2 District.

*(C) Community correctional facilities shall be set back ¼ mile (1320 feet) from any High or Moderate Impact Production and Processing use, Post-Consumer Waste Processing use, Industrial Transportation Use, Warehousing or Storage Use, or Vehicle Fleet Oriented Services.*

*(4) Emergency shelter.*

(A) The use shall be located at least three hundred fifty (350) feet from all existing emergency shelters and overnight shelters.

(B) In the UN1, UN2 and RM1 districts, the maximum occupancy shall be determined by minimum lot size requirements in Chapter 540, Built Form Overlay Districts. The maximum occupancy shall be as approved by conditional use permit in all other districts.

*(C) Emergency shelters shall be set back ¼ mile (1320 feet) from any High or Moderate Impact Production and Processing use, Post-Consumer Waste Processing use, Industrial Transportation Use, Warehousing or Storage Use, or Vehicle Fleet Oriented Services.*

**545.230. Transportation, vehicle services, and parking use standards.**

*ADD: All Transportation, vehicle services, and parking uses shall be set back ¼ mile (1320 feet) from any Urban Neighborhood district or any permitted residential use, child care center, K-12 school, public park, Community Correction Facility, or Emergency Shelter.*

*(a) Automobile services uses.* Automobile services uses shall be subject to the following general standards and specific use standards as applicable.

*(1) General standards.*

(A) The minimum lot area for automobile services uses shall be fourteen thousand (14,000) square feet.

(B) Fuel pumps for the purpose of the retail sale and dispensing of fuel to the general public shall be prohibited.

(C) All vehicles waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with Chapter 555, Off-Street Parking, Loading, and Mobility.

(C) All vehicle repairs shall be performed within a completely enclosed building.

(D) All vehicles parked or stored on-site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of salvaged vehicles shall be prohibited.

(E) Automobile and other motor vehicle sales shall only be allowed as a principal use and shall not be allowed accessory to other automobile services uses.

(F) Vacuum facilities shall be located in an enclosed structure or located not less than fifty (50) feet from any residential use to avoid the impacts of noise.

(G) All parking areas, including vehicle storage areas, shall be surfaced as required in Chapter 555, Off-Street Parking, Loading and Mobility.

(H) Vehicle access doors shall not face a goods and services corridor

(I) Outdoor Storage. An automobile repair shop shall comply with the following requirements for outdoor storage:

a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.

b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six (6) feet high. Such fence shall be least fifteen (15) feet from the right-of-way and property.

c. Outdoor storage areas shall not be permitted in any required yard.

(J) On-site Circulation. An automobile repair shop shall comply with the following requirements for on-site circulation:

a. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.

b. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

c. There shall be sufficient area on site for all vehicle maneuvering.

d. Cars shall not be maneuvered or repositioned in the public right-of-way.

(2) Automobile repair, major.

(A) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.

(B) Spray booths are not permitted at any facility located within ¼ mile (1320 feet) of a property used for residential use.

(C) An automobile paint and autobody repair establishment shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning.

(D) An automobile paint and autobody repair establishment shall comply with the following outdoor storage requirements:

a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.

b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six (6) feet high.

c. Outdoor storage areas shall not be permitted in any required yard.

(E) An automobile paint and autobody repair establishment shall comply with the following on-site circulation requirements:

a. There shall be sufficient area on site for all vehicle maneuvering and repositioning of inventory.

b. No vehicles shall stand or be parked in the public right-of-way.

c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.

d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

(F) Odor Control. No odors should be noticeable past the property line.

(4) Car washes.

(A) Water from the car wash shall not drain across any sidewalk or into a public right-of-way.

(B) A car wash shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning. Final hand drying operations are permitted to take place in an unenclosed area.

(C) Outdoor Storage. A car wash shall comply with the following outdoor storage requirements:

a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.

b. Not more than five (5) vehicles shall be stored outdoors overnight.

c. Outdoor storage areas shall not be permitted in any required yard.

(D) On-Site Circulation. A car wash shall comply with the following on-site circulation requirements:

a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of ten (10) spaces if the conveyor line is one hundred and twenty (120) feet or less in length. Such spaces shall be increased by one (1) space for each additional ten (10) feet or part thereof that the conveyor line exceeds one hundred and twenty (120) feet.

b. The building exit for vehicles that have completed the washing process shall be at least fifty (50) feet distant from the nearest point of the public sidewalk of the adjacent street.

c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.

d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

e. Car stacking and drying in the public right-of-way is prohibited.

(b) *Industrial transportation services.* Industrial transportation services uses shall be subject to the following general standards and specific use standards as applicable.

(1) *General standards.*

(A) Any loading and unloading activities shall be located at least three hundred (300) feet from any urban neighborhood or residential mixed use district.

(B) An air quality plan shall be submitted describing stationary and mobile source air emissions, their quantities and composition, and indicating conformance with all applicable air quality regulations.

(C) A dust management plan shall be submitted describing dust emission sources, their quantity and composition, and how dust will be collected, managed and disposed of, and indicating conformance with all applicable dust emission regulations.

(D) A sound attenuation plan shall be submitted describing sources of sound and indicating conformance with all applicable sound and noise regulations.

(E) A vibration dampening plan shall be submitted describing sources of vibration and indicating conformance with all applicable vibration regulations.



(F) All Industrial transportation service uses shall be set back ¼ mile (1320 feet) from any Urban Neighborhood district or any permitted residential use, child care center, K-12 school, public park, Community Correction Facility, or Emergency Shelter.

(e) *Vehicle fleet-oriented services.* Vehicle fleet-oriented services uses shall be subject to the following general standards and specific use standards as applicable.

(1) *General standards.*

(A) The use shall be located at least one ¼ mile (1320 feet) from any Urban Neighborhood district or any permitted residential use, child care center, K-12 school, public park, Community Correction Facility, or Emergency Shelter.

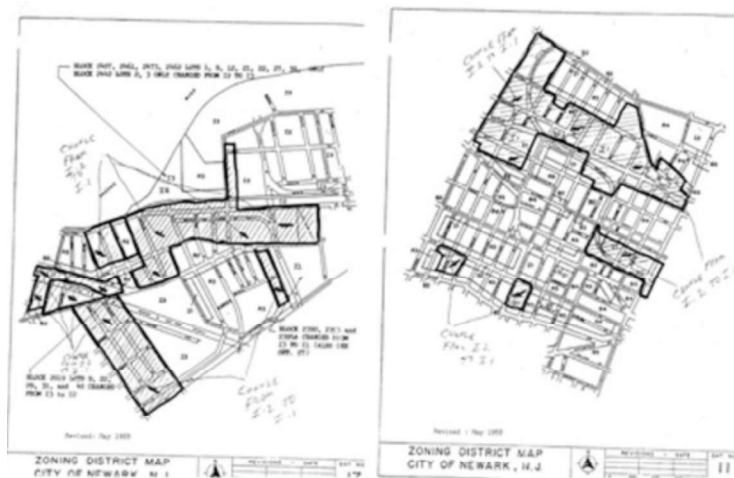
~~hundred (100) feet from an urban neighborhood or residential mixed use district.~~

(B) Fleet vehicles stored on-site shall be exempt from the enclosed building requirements of Chapter 550, Development Standards, provided each vehicle is licensed and in operable condition.

Innovative ideas that are changing the world  
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## Zoning for Democracy, Part 1

BY DAMON RICH / FEBRUARY 22, 2015 / FEATURES, INSIGHTS, LOEB FELLOWS, PROFILES



As planning director and chief urban designer for Newark, New Jersey, 2007 Loeb Fellow [Damon Rich](#)'s most recent success (after establishing the city's [first urban design regulations](#), launching [its public art program](#), overseeing design and construction of its [first riverfront parks](#), leading a [riverfront rezoning](#), and more) is a complete overhaul of the city's development codes to craft a more livable, equitable and democratic city. This is the first of a 3-part series in which Rich reflects on the why and how of this impressive achievement.

### PART 1: AIMS & ENEMIES OF ZONING REFORM

Undergoing rapid urbanization and industrialization, Newark hired Harland Bartholomew as the nation's first full-time municipal planner in 1914. Since then, like many US cities, we have often over-invested a meager planning budget in publishing ambitious documents and under-invested in improving the democratic mechanisms of accountable development.

For example, [master plans](#) (legally defined and required by state law since 1976) were prepared in 1915, 1947, 1964, 1980, 1984, 2004, 2009, and 2012, usually by consulting planners. Their contents reflect changing preoccupations of the planning industry, turning from the physical work of straightening streets and slum clearance in the first half of the century to social programs in 1980 and later. For all their multiple and sometimes conflicting visions, no master plan after 1947 was translated into zoning codes and development regulations to govern how and where buildings are built; their greatest potential power was halted like Moses at the River Jordan.

Strangely, it wasn't for lack of trying. We found files cabinets full of expensive contracts for zoning studies, interim work products and sometimes correspondence about billing disputes or reasons for aborting the project of zoning reform. Community leaders repeatedly told me the story of the showdown beginning in 2002 between the City administration and a coalition of neighborhood-based groups about the number of public meetings the planning office would hold in preparing the "Land Use Element" of its latest master plan, which in turn could become the basis for a new zoning map. In the end, the

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activists prevailed and 10 meetings, not two as originally proposed, were held. However, the effort to win additional meetings and lack of widespread understanding of the tenuous relationship between master plans and zoning ordinances led to the popular push fizzling with the completion of the master plan. This left the creation of actual zoning rules for a later date, such as defining what exactly the master plan means by the difference between “heavy” and “medium” industry, and what that means for nearby residents.

Since I became Newark’s first municipal urban designer, and later planning director & chief urban designer, three successive mayors have seen sufficient value in the Newark Planning Office to support our particular brand of hands-on public design and assertive development negotiation. While scarce resources have always gone mainly to development review, troubleshooting and infrequent small area plans, all staff had been clear for years on the shortcomings of the underlying code.

Zoning maps dating from 1933 were covered with beautiful but nearly unreadable hand-written updates and corrections. Loose-fitting zones in some neighborhoods led to undesirable teardowns and exploitative subdivisions. Elsewhere, the code reflected a legacy of so-called cumulative zoning, so that the First Industrial District included not only various industries but also apartment buildings. It promulgated 1950s notions of desirable density and buildings (e.g. not touching other buildings) and voracious hunger for parking space. The basic module of regulation, the Use List, included outdated uses like leather tanneries and pool halls and took no account of community gardens, charter schools, data centers, animal crematoria, solar and wind power installations and desirable types of upcycling industries.

The code offered little guidance about building design besides the required depth of setbacks from property lines, and permitted site plans hostile to streets and public spaces. As many areas of Newark attest, such suburban-type development patterns are dangerous in urban settings, creating pedestrian-unfriendly streets in a place where 40% of residents do not drive. The existing laws set no maximum for impervious surfaces, bringing more storm water into sewers. Its low fees encouraged half-baked applications and fell far short of recovering public expenditures on development review. While the code set the legal standards for minimal public notice about development, the standards were indeed minimal. And by locating development regulations in three separate titles of the overall municipal code, the zoning code dependably confused novices.

The City of Newark is the largest city in New Jersey, home to 278,427 people. Newark is a majority Black and brown city, with 86 percent of residents self-reporting as African-American or Latino in the 2010 Census. Many Newark residents struggle economically, with over one-quarter living below the federal poverty line and a citywide median household income of \$34,387, 62 percent of surrounding Essex County’s median of \$55,027). While 70 percent of Newark residents hold high school diplomas, only 12 percent hold bachelors degrees or higher. The power relations depicted by these demographics have meant that more planning has been done *to* Newark’s residents than *with* them.

Now, after dozens of public meetings and Newark Zoning Workshops in neighborhoods across the city, 24 months of writing, four public drafts, hundreds of public comments, two Planning Board hearings and three Municipal Council votes, the Newark Zoning and Land Use Regulations (affectionately pronounced NUZZ-LER) are law. In the next two installments of this article, I’ll describe some of NZLUR’s contents and how its adoption depended on widespread grassroots support.

Read [Part 2: MAKING THE NZLUR: REGULATORY IMAGINATIONS](#) and [Part 3: ASSEMBLING A COALITION FOR ACCOUNTABLE DEVELOPMENT](#).

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## Zoning for Democracy, Part 2

BY DAMON RICH / FEBRUARY 25, 2015 / FEATURES, INSIGHTS, LOEB FELLOWS



As Newark's planning director & chief urban designer, 2007 Loeb Fellow [Damon Rich](#)'s most recent success (following establishing the city's first urban design review, launching its first public art program, completing the city's first riverfront parks and riverfront rezoning, and more) is a complete overhaul of the city's zoning codes to craft a more livable, equitable and inclusive city. In [Part 1 of our 3-part series](#), he described the historic background of the project from inside the 101-year-old Newark Planning Office and framed the on-the-ground challenges of writing Newark's first new zoning in 60 years. Here in **Part 2** he details the results of the years of meetings, writing, public comments, drafts, revisions, hearings and votes: NZLUR.

### PART 2: MAKING THE NZLUR: REGULATORY IMAGINATIONS

The Newark Zoning and Land Use Regulations (NZLUR, nicknamed NUZZ-LER) contains rules governing the uses and design of buildings as well as many other parts of Newark's built environment, including landscaping, parking lots, fences, signs, and storm water management. The first comprehensive update of Newark's development laws in the 1950s, NZLUR simplifies and modernizes the way Newark's zoning deals with building uses in pursuit of the classic zoning goals of preventing nuisances and improving quality of life. NZLUR eliminates out-of-date uses like leather tanneries and pool halls and consolidates many others, based on what Newark residents and businesspeople have identified as development conflicts. At the urging of Newark's large community of environmental justice advocates, NZLUR clarifies manufacturing and industrial definitions for potentially noxious uses, where possible using definitions tied to state and federal standards.

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To leverage Newark's value as a walkable city, NZLUR includes common-sense design standards for buildings. These ideas grow from the successful [2009 implementation of zoning reforms](#) for Newark's most common building types, two- and three-family houses, which focussed on improving the quality and safety of Newark's streets. NZLUR sets standards for window area, front setbacks, and the location of primary entrances to keep eyes on the street. Rather than requiring variances for not meeting the supersized spatial requirements of the old code, NZLUR encourages infill and buildings that contribute to the public realm. To create streets and public spaces that fit our city, NZLUR references the [National Association of City Transportation Officials Urban Street Design Guide](#). While many conversations about zoning proceed as if "form-based" and "Euclidean" approaches are mutually exclusive, we followed the advice of Carlos Rodrigues in his useful report "[Form-Based Codes in New Jersey](#)" and added enhanced form-based provisions based on 15 generalized buildings types.

[NZLUR's design regulations](#) address the aspects of building design for which there is most agreement on the desirability of having rules: height, lot coverage, minimum window area, relationship to the sidewalk and street, maximum impermeable surfaces, maximum fence height, opacity and entrance locations.

NZLUR also includes [dozens of procedural improvements](#) to the operations of the Planning Board, Zoning Board, and Landmarks & Historic Preservation Commission. While these bodies and processes were originally established to create some limited democratic control of development, Newark is far from the only city where these putatively public processes have become inhabited mainly by attorneys and other real state professionals. In response to the feedback of residents and community-based organizations, simple mechanisms have been adopted, such as the requirement to post notice about development applications on the site of the proposed development. Also, while applicants previously were able to request adjournments before a board without mailing new notices, such an option has been eliminated.

At the Municipal Council's final public hearing and vote on February 4, even though the meeting was at icy midday, citizens and representatives from groups across the city came to testify and urge adoption. **Part 3** will dig into how the NZLUR constituency was assembled.

Read [Part 1](#) and [Part 3](#) of this series.

Tagged ECONOMIC REVITALIZATION, LOEB FELLOW, PARTICIPATORY PLANNING, POLICY, WALKABLE CITIES, ZONING I

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## Zoning for Democracy, Part 3

BY DAMON RICH / FEBRUARY 27, 2015 / FEATURES, INSIGHTS, LOEB FELLOWS



### PART 3: ASSEMBLING A COALITION FOR ACCOUNTABLE DEVELOPMENT

As Newark's Planning Director & Chief Urban Designer, 2007 Loeb Fellow [Damon Rich](#)'s most recent success (following establishing the city's first urban design review, launching its first public art program, completing the city's first riverfront parks and riverfront rezoning and more) is a complete overhaul of the city's zoning codes to craft a more livable, equitable and inclusive city. In [Part 1 of our 3-part series](#), he described the historic background of the project from inside the 101-year-old Newark Planning Office and framed the on-the-ground challenges of writing Newark's first new zoning in 60 years. In [Part 2](#), he detailed the results of the years of meetings, writing, public comments, drafts, revisions, hearings and votes. Here in [Part 3](#), Damon digs into how the NZLUR constituency was assembled.

In the middle of an icy winter day, community members from across Newark converged on the Municipal Council's final public hearing on zoning reform to urge adoption of the new standards, known as Newark Zoning & Land Use Regulations (NZLUR, pronounced NUZZ-LER). This remarkable display of support was the product of 2 years of systematic effort by the Newark Planning Office, under my direction, to democratize development and zoning.

With the strategy of Making Planning Public, the Newark Planning Office worked to demystify planning and engage community-based organizations as stronger constituents for deliberative development. In conjunction with a new attempt to overhaul Newark's zoning regulations after decades of failed attempts (described in [Part 1](#) of this article), NPO staff designed the [Newark Zoning Workshop](#) to network the power and capacity of the city's numerous community-based organizations to overcome previously fatal obstacles.

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The Newark Zoning Workshop answers the common question “Who makes decisions about how the city is built?” by blending ideas from planning, popular education, and social impact game design to convey the dynamics of urban development. Designed primarily to serve the city’s numerous modestly-sized but persistent, dedicated, and long-standing tenant and block associations, communities of faith, neighborhood associations, and other groups, the workshop uses techniques of popular education as practiced by Septima Clark and Ella Baker. It builds knowledge of zoning and development to support community-based organizations playing active roles around land use, design and development review.

This teaching method explicitly begins with and builds from existing knowledge and agendas of participants and relies on them to propel the conversation. Rather than engage people only once they are upset enough about something to get involved, the workshop first puts people in the position of deliberately crafting a zoning system to regulate use and design. Rather than an engagement of opposition, this focusses the discussion on tradeoffs, pros and cons, and possibilities of mutual benefit and builds a constituency for accountable planning and development.

In the workshop, participants begin from what they know about how the city is developed and quickly move from basics of land use and zoning into nuanced discussions of how competing interests shape development decision-making and how planning and development can be accountable to the public.

The workshop includes three activities: **Zoning for Use**, where participants lay out a small city and its land uses with a game board and blocks; **Zoning for Design**, where participants create “paper doll” buildings to explore zoning and aesthetics and **The Planning Process**, where participants use a refrigerator-friendly diagram to understand how zoning touches the ground and the ongoing role of the public in keeping the system accountable.

In the **Zoning for Use** activity, participants build an imaginary Newark using a game board; infrastructure tiles including power plants, bus depots, and hospitals and building blocks color-coded for residential, commercial, and industrial uses. Participants first build without zoning, and then discuss what went right and wrong. The group then creates a Use Table to zone the city and wrestles with what should be permitted, prohibited, and conditional. Shelters, liquor stores, and social service providers often spark heated exchanges that highlight real-world trade-offs of zoning decisions.

In the **Zoning for Design** activity, participants build houses and businesses using their selection from tape-on building materials and elements like doors, windows, storefronts, security gates, microwave dishes, parking lots, and more. The group then discusses what if any design features should be regulated by zoning such as setbacks, height, windows, fences, and parking.

Throughout the workshop, conversations move between technical regulations and differing opinions on the proper extent of regulations and the definition of the public good. Discussions frequently break out about the pros and cons of uses like shelters or social services. Stories are often shared about particular land use controversies dating back to Urban Renewal, or a local fight to close a dangerous go-go bar.

To date, community-based organizations in more than half of Newark’s neighborhoods have hosted workshops at their meetings. With the support of this constituency for zoning reform created through the Newark Zoning Workshop, the city’s new Newark Zoning & Land Use Regulations were unanimously adopted by the Municipal Council in February 2015.

“The Zoning Workshop was beyond successful. Each and every person walked away feeling informed,” said Tenagne Girma-Jeffries of the Historic Weequahic Neighborhood Association. “We were really given the tools to understand the process of zoning and how it is affecting our community. It highlights the valuable role we can play in shaping this city, especially when we understand how the stages of development work. Our focus tends to be on crime and education, but a

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major part of what will shape our communities rests in the future model for zoning. It is changing the landscape of our city as we know it.”

“The Zoning Workshop uses games that are both educational and fun to illustrate zoning principles and problems,” said Renita Aughburns of Tri-City Peoples Corporation. “The workshop exceeded our expectations through the hands-on engagement, question and answer session and the knowledge of the presenters. Attendees have requested more workshops, feeling that they gained the information that helps them to make informed decisions.”

While land use regulations differ from city to city, the workshop’s emphasis on savoir-faire and the fundamental social dynamics of land-use decision-making, rather than just the facts of zoning, makes it transferable and supports good planning as it engages people where they are and prepares them for more active civic roles. Going forward, we are excited to partner with other planning offices to export it to other cities.

NZLUR goes into effect March 6, 2015. [After an amazing seven years working in Newark City Hall](#), I will soon [step down from my post](#) to return to private practice with design and planning firm [Hector Design Service](#) and as an educator and a visual artist. To celebrate the adoption of NZLUR, my bookend achievement, NPO has worked with the NJIT College of Art & Design and over 200 Newarkers to construct the first-ever scale model of the entire city. Constructed by hundreds of hands over three years at after-school sessions, living room brunch workshops and intense studio-bound spring breaks, the model is scheduled for long-term installation at Newark City Hall this summer. I hope it energizes many people to join Newark’s home grown tradition of fierce activism for community control of our living environment.

Newark Zoning Workshop Project Team comprised Damon Rich with Natalia O’Neill Vega, Jae Shin, Perris Straughter, and Michele Alonso.

*if you haven't already, read [Part 1](#) and [Part 2](#) of Zoning for Democracy.*

Tagged ECONOMIC REVITALIZATION, LOEB FELLOW, PARTICIPATORY PLANNING, POLICY, ZONING I

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One Response to *Zoning for Democracy, Part 3*



**Angela Ballard** says:

July 14, 2015 at 1:42 am

Some time ago one couldn’t access any books by Paulo Freire in Harvard University Libraries. I am guessing this has changed!

great work! thanks for sharing

[Reply](#)

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