

# The Twilight of Zoning

## Are rigid codes, fees, and regulations making homeownership unaffordable in Minnesota?

Zoning defines the American landscape. Its invisible grids shape where we live, work, and play. From soaring office towers in downtown business districts to tree-lined residential streets to rings of factories and warehouses and rolling farmland beyond, the impact of zoning is everywhere. And while zoning has vastly improved quality of life for millions, it has also been used to segregate, discriminate, and lock people out of homeownership. Now, as the price of new construction soars due to material expenses, labor shortages, and supply-chain issues, the costs that come with zoning are increasingly under fire from builders and other advocates of affordable housing. Has zoning policy gone too far in Minnesota and the United States? Are we zoning ourselves out of the places where we most want to live? Or is the tangle of laws, codes, fees, and regulations the price we must pay for livable communities?

### The Dawn Of Zoning In America

Before the 20th century, American towns and cities were not formally zoned in the way familiar to us today. In big cities like New York, tanneries and other polluting manufacturers squeezed alongside densely populated tenements like those in Manhattan's notorious Five Points district. Toxins poisoned the water and air, and disease ran rampant. If residents were unhappy with these conditions, they could take the offenders to court. And while the threat of lawsuits helped the wealthy gentry of Madison and Park Avenues keep their brownstone-lined neighborhoods pristine, impoverished dwellers could not afford attorneys, and were stuck in undesirable living conditions.

Despite the glaring inequities, it wasn't until a 42-story skyscraper called the Equitable building was erected in 1915 that New York got serious about zoning. Casting a seven-acre shadow on some of the city's wealthiest neighborhoods, the 538-foot-tall behemoth choked off light and air on the street level. Fearing that rapidly multiplying skyscrapers would destroy their property values and plunge them into permanent darkness, residents petitioned City Hall. In 1916\*, New York passed the nation's first comprehensive zoning code. Literally reshaping skyscrapers, it required setbacks after a certain height, creating the classic pyramid-shaped buildings that dominated skylines until the mid-20th century. The new design allowed light and fresh, freely circulating air to reach the lower and ground levels where most people lived and worked. The codes also divided the city into commercial, industrial, and residential districts.

After that, formal zoning codes were rapidly adopted by towns and cities across the U.S., although not always for the best reasons. Minneapolis and many other communities used zoning and racially biased covenants in real estate deeds to prevent people of African, Asian, and other ethnic and religious groups from owning homes in predominantly white neighborhoods. So, while the Fair Housing Act of 1968 officially ended racial discrimination in real estate, the inequities created by laws and rendered on maps leave a legacy that impacts communities of color still today.

\*Before 1916, other cities imposed a patchwork of zoning codes, such as San Francisco's racially motivated laundry-ban of 1885, which was designed to segregate Chinese people, many of whom owned or worked in laundries.

### The Postwar Boom

One of the greatest engines of disparity is the single-family-home zoning model that has dominated the American suburbs since the end of World War II. Conceived to provide homes for returning veterans as they created families and built careers, the fingerprint of this early sprawl is still seen in Minnesota communities like Edina, St. Louis Park, and Richfield. Taking advantage of inexpensive land, developers cranked out small Ranch, Rambler, and Cape Cod style homes. Over the next couple decades, millions of working-class Americans across the country were able to leave cramped urban apartments for spacious, reasonably priced single-family homes. Taking advantage of low-interest, long-term mortgages, they enjoyed a new sense of security and laid the foundation for multi-generational wealth.

### Ongoing Barriers To Homeownership

Unfortunately, the blossoming suburban dream was closed off to people of color, particularly African Americans. Although it became illegal to add racial covenants to Minnesota real estate deeds in 1953, Black home buyers were still discriminated against when they tried to obtain mortgages. Due to lingering inequities, many Black families remain locked in underserved Twin Cities neighborhoods that were first defined by federal-government redlining practices from the 1930s. Today, in the metro area, only 25% of Black residents own homes compared to a 77% homeownership rate for white residents. This marks the fifth largest racial homeownership gap in the United States.

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According to the Metro Council 2040 Housing Policy Plan, almost 40% of households in the 13-county Twin Cities region are low income, earning 80% or less than the median income for the area. Based on this data, the Met Council estimated the region would need nearly 38,000 new affordable homes to put ownership within reach of low-income buyers. A report from the Housing Affordability Institute states that \$300,000 or under is the optimal price for a starter home in the Twin Cities region. As of April 2023, the median price of a home in the Twin Cities region was \$370,000 and statewide was \$335,000. As most buyers know, finding a home in that price range can be a long, frustrating journey that often ends in disappointment. See 'Minnesota's Complex Starter Home Problem' from our 2023 May/June issue of *The Minnesota Realtor*.

However, thanks to the state-level lobbying efforts of Minnesota Realtors® (MNR) and a coalition that includes the Minnesota Homeownership Center (the Center), and Twin Cities Habitat for Humanity, many aspiring buyers will have one less obstacle on the way to the closing table—the down payment. The recently passed First-Generation Homebuyers Downpayment Assistance fund has the potential to finally close the homeownership gap. Over the next three years the \$150 million state-funded program could help up to 5,000 first-generation home buyers make down payments on homes.

But will there be enough homes in the affordable price range to accommodate these buyers? What will it take to build more?

Even though the hot housing market of the last few years has cooled, home prices are still rising (though not as quickly). Although there are numerous factors that contribute to rising building costs, new-home developers point to local zoning codes, and all the regulations, fees, and ordinances that go with them.

### If You Zone It, Can They Afford To Come?

A report from The National Association of Home Builders (NAHB) states that the large lot sizes mandated in the zoning codes of many suburban communities force developers to build larger, more expensive homes. Further, costs of zoning-approval applications, lot fees, architectural design standards, required setbacks from streets, and delays imposed by lengthy development review processes drive up the price of new homes by as much as 24%.

Although NAHB contends no single solution will make new homes more affordable, much progress could be made if cities and townships allowed denser, smaller unit housing in the form of townhomes, duplexes, triplexes, and quadruplexes. And in Minnesota, the city of St. Paul is doing just that.

### St. Paul Looks To The End Of Single-Family Zoning

Grappling with a growing population and housing shortage, home values and rents are soaring in St. Paul. Beyond its densely built downtown, the city's seven residential neighborhoods are zoned for low density, detached single-family homes. In its new 1 – 4 Unit Housing Study, St. Paul's Planning and Economic Development Department proposes dividing these neighborhoods into four residential areas, each zoned to accommodate varying levels of higher density housing. For example, the H3 neighborhood, which is located near transit corridors, would allow up to six housing units on one lot. Most of the zones would permit at least three homes to be built on lots where only one home currently stands.

City planners say the zoning changes could provide desperately needed housing inventory and open more choices in housing types: from low-maintenance carriage houses to six-unit cluster homes built around a central courtyard. Yet given the high cost of land, material and construction costs, how much of this new housing would be affordable to people with low incomes?

"The Housing Study is not focused on affordable housing," said Crystal King, Marketing and Public Relations Manager for St. Paul's Planning and Economic Development Department. "But rather about the overall housing supply and creating more attainable housing over time."

The distinction, King explained, is that attainable housing is "naturally affordable" to buyers with low to moderate incomes. Affordable housing, by contrast, specifically refers to households that can spend no more than 30% of their income to live in a home. "Affordable housing tends to be income restricted and created through programs providing housing subsidies," King added.

Of course, whether homes are deemed affordable or attainable doesn't mean much when they only exist on paper. Time is a critical factor. Even if the zoning changes are quickly adopted, it will likely be years before developers begin transforming neighborhoods through building higher-density housing units.

In an interview with the Star Tribune, Emma Brown, a St. Paul city planner stated: "A zoning change just opens up the possibility for other development. But land use—that doesn't change overnight."

Indeed. Nights can blur into years while awaiting change.

## Dense Housing Grows At Snail's Pace In Rezoned Minneapolis

In Minneapolis, which passed similar changes to its zoning code in 2018, very few multiple housing units are being built. Part of the problem is the code and the politics that frame it. In April, the Star Tribune reported that progress on a proposed triplex slated for affordable rentals stalled because the builder modified the design plans to accommodate a very narrow lot. This put the building slightly outside the code's requirements for area and height. When the developer applied for a variance from the code, Minneapolis city staff contested the changes, claiming the bulky building would not fit in with the surrounding neighborhood. The Minneapolis Business, Inspections, Housing and Zoning Committee rejected the design changes, and the building project went on hold. After a costly \$45,000 redesign the developers finally won Committee approval in February.

Aware of unintended roadblocks to developing denser, more affordable housing, the city's department of Community Planning and Economic Development is preparing a land-use rezoning study that will address the rigid restrictions imposed on developers seeking variances in the building codes. For organizations like Black Lives of Unitarian Universalism (BLUU), a non-profit that owns eight vacant lots in Minneapolis (including the one discussed in this article), the changes can't come quickly enough. Eventually, BLUU plans to build similar affordable rental triplexes on all its properties.

## Zoning Reimagined

Apart from volcanoes spewing acres of fresh igneous rock in places like Iceland or Hawaii, no new land is being created. And though the United States seems to embrace endless horizons, most people need to live near jobs in cities or towns, and close to centers of distribution that provide food, hospitals, and all manner of goods and services. We might romanticize rugged frontier dwellers living off the grid in the Alaskan backcountry, but most of us would be lost without those weekly runs to Target. That is why we must make the most of the precious land where we work, live, and play.

Zoning regulations, originally intended to regulate land use and promote orderly development, have inadvertently created scarcity, making homeownership unaffordable to many Minnesotans. And as we have seen, even when codes are changed to encourage the construction of multifamily housing or affordable housing options, turf battles and politics prevent meaningful progress. Ironically, amid tug-of-wars over scraps of land in crowded metros and suburbs, there are vast stretches of overlooked acreage in every city and town—the asphalt seas we call parking lots.

In *Paved Paradise*, Henry Grabar dissects the zoning requirements that impose mandatory parking minimums. Not only does this drive up construction costs, it swallows up wide expanses with parking lots. And because regulations often separate residential areas from commercial or retail spaces, commutes get longer, traffic jams grow, and pollution gets worse. Walkable communities with downtowns mixing commercial and residential space have become quaint relics of Americana when they should be the model for sustainable, affordable communities going forward, Grabar argues.

Minnesota, and much of the nation, has reached a crossroads. On one path, we continue the exclusionary and restrictive zoning practices that have drastically limited the supply of affordable homes and perpetuated socioeconomic segregation. On the other, we rethink every aspect of existing codes and reimagine communities to incorporate denser mixed-use zones that are more affordable, walkable, environmentally sustainable, and inclusive for all Minnesotans who want a home. The ideas already exist on paper. We just need to commit the time, material, money, land, and labor to make it a reality.

