Zoning on Trial—

Can this 19th Century Model Keep Pace in a 21st Century World?

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Justice Sutherland: *"the scope of their application must expand or contract to meet the new and different conditions while are constantly coming within the field of their operation."* Village of Euclid v. Amber Reality (1926)

Edward Bassett (1922): *"A vital city is growing and changing. It cannot be run into a fixed mold where it will stay forever. Police Power zoning can be altered to fit the changing needs of a growing city…"*

Policy Debate Resolution

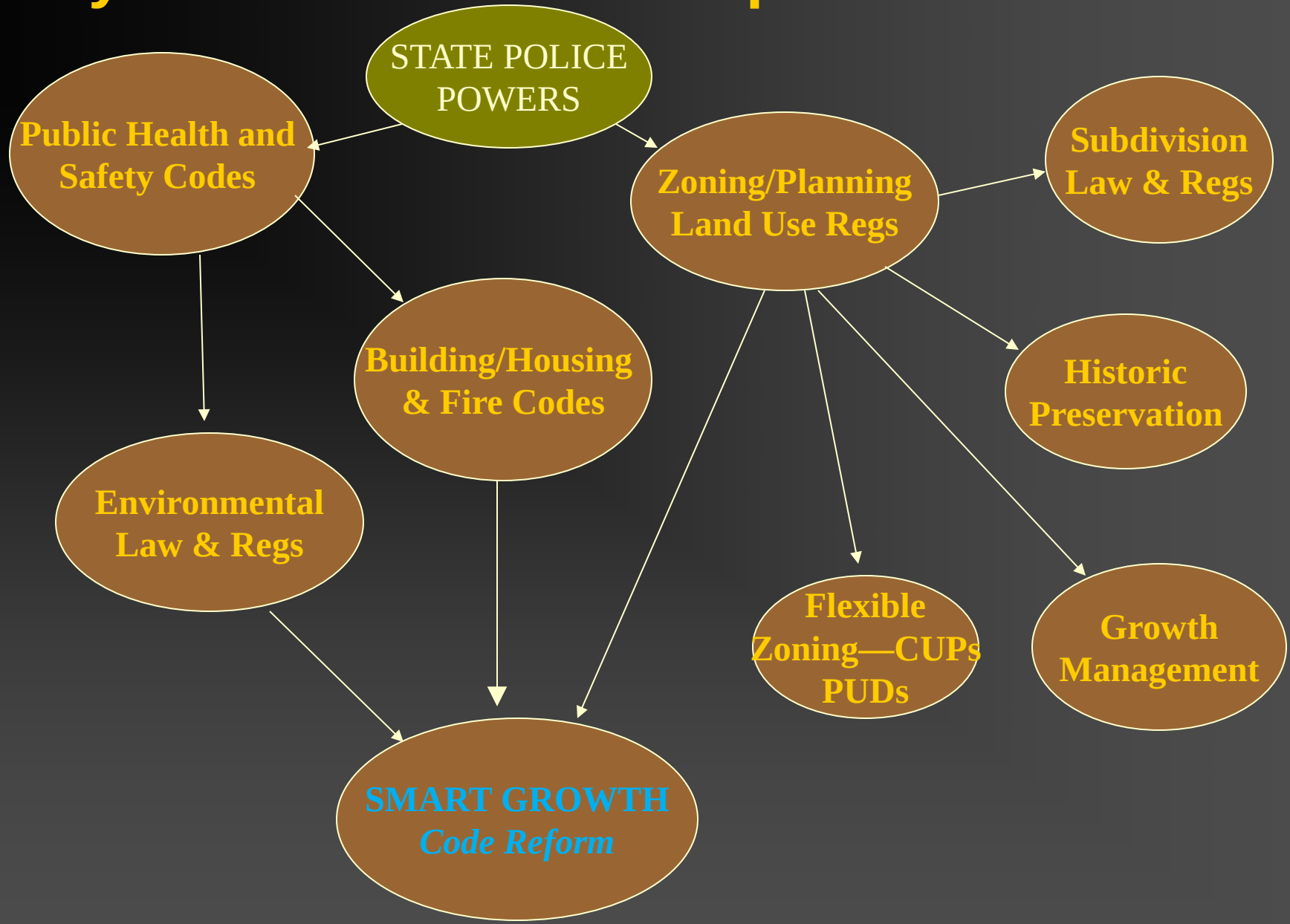
Traditional **Euclidean zoning** and associated land development procedures constrain the ability of communities to effectively address the land use and development complexities of contemporary society;

therefore, be it resolved, that communities should reform their zoning codes by integrating policies and principles from form based codes, unified land development codes, and other contemporary models for regulating land use and development.

Today’s Game Plan

- Define Terms
- Preview Prosecution Case
- Defense of Zoning
- Rendering an Opinion on the Future of Euclidean Zoning

Family Tree of Land Development Codes

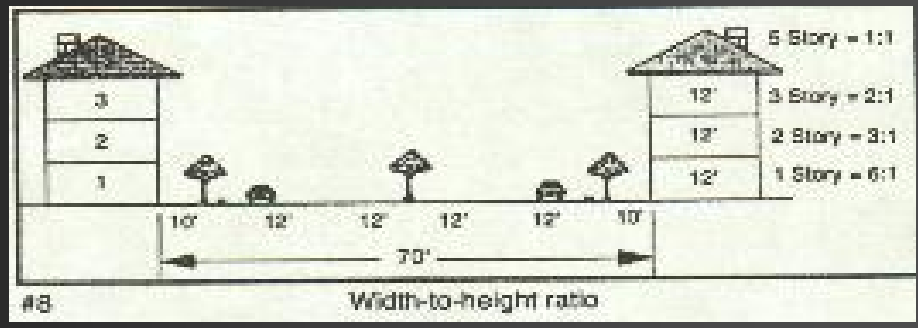


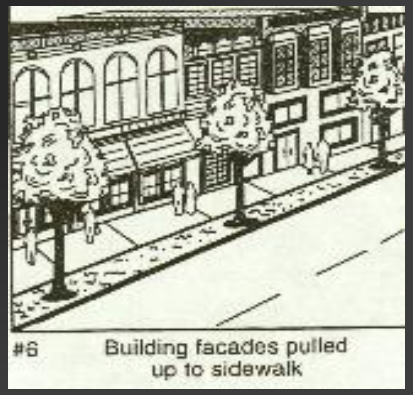
Modern Universe of Land Development Codes

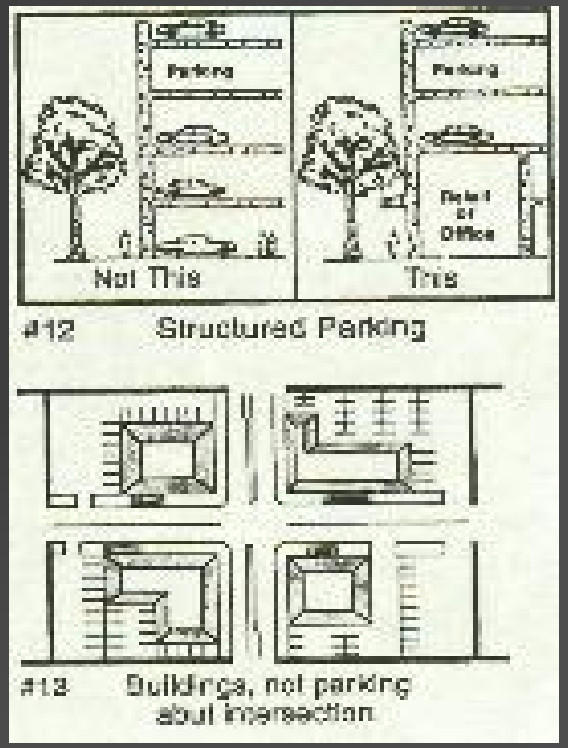
- State Planning and Subdivision Statutes
- State Environmental Review Statutes
- State Building, Housing, and Fire Codes
- Local Codes and Ordinances
  - Zoning Code and Procedures
  - Land Development Codes and Procedures
  - Building Codes and Subdivision Regulations
  - Street and Engineering Standards
  - Environmental/Sustainability Codes

What does Zoning and Land Development Codes Control?

- Type and mix of uses
- Size of lots
- Building type, size and height
- Building setbacks
- Street and sidewalk width
- Parking requirements
- Infrastructure





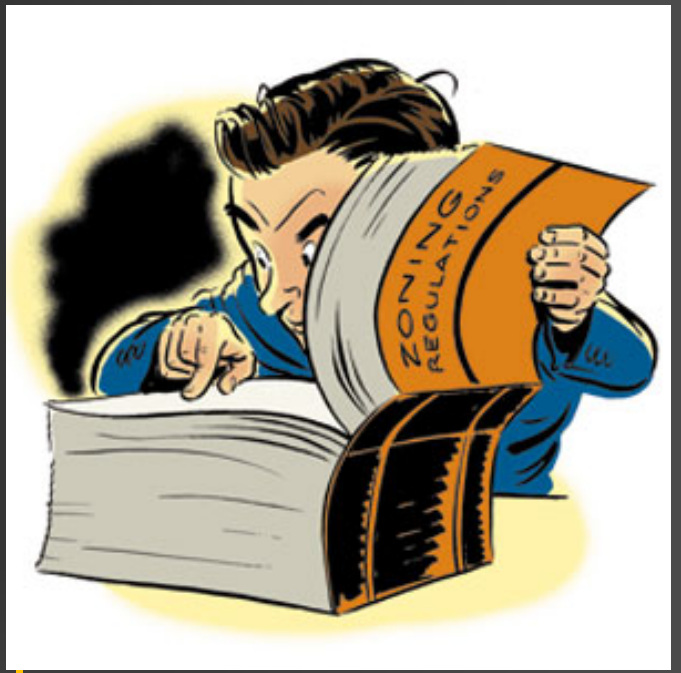


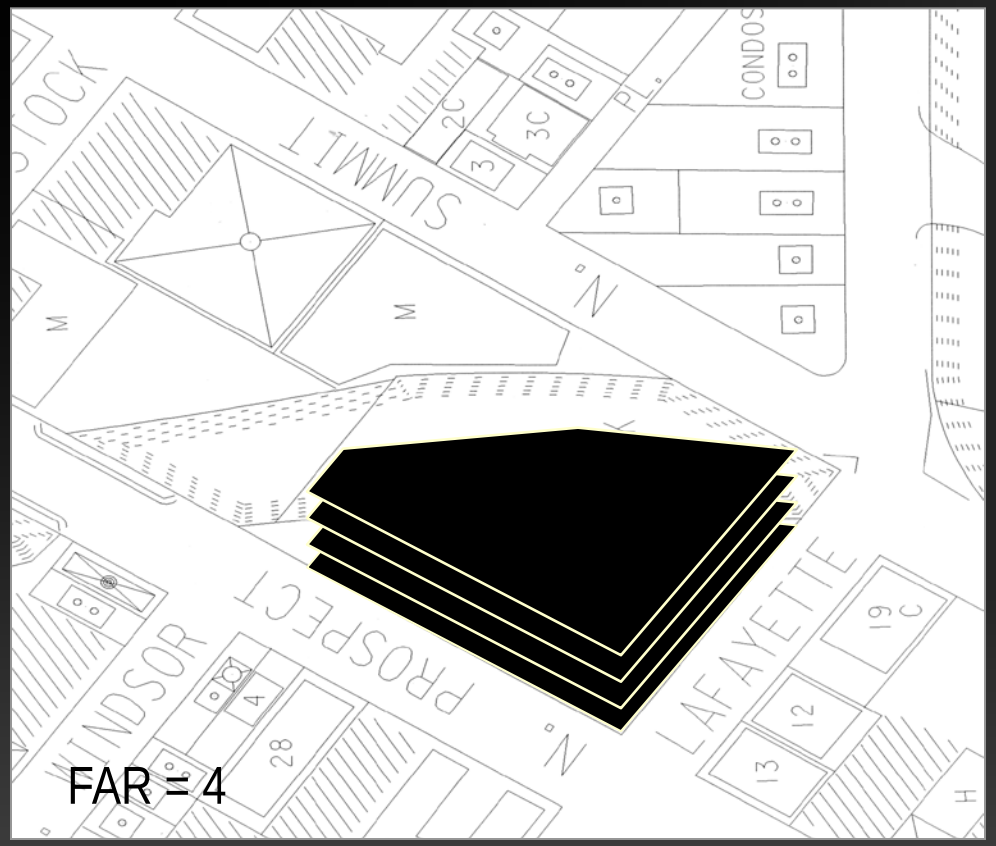


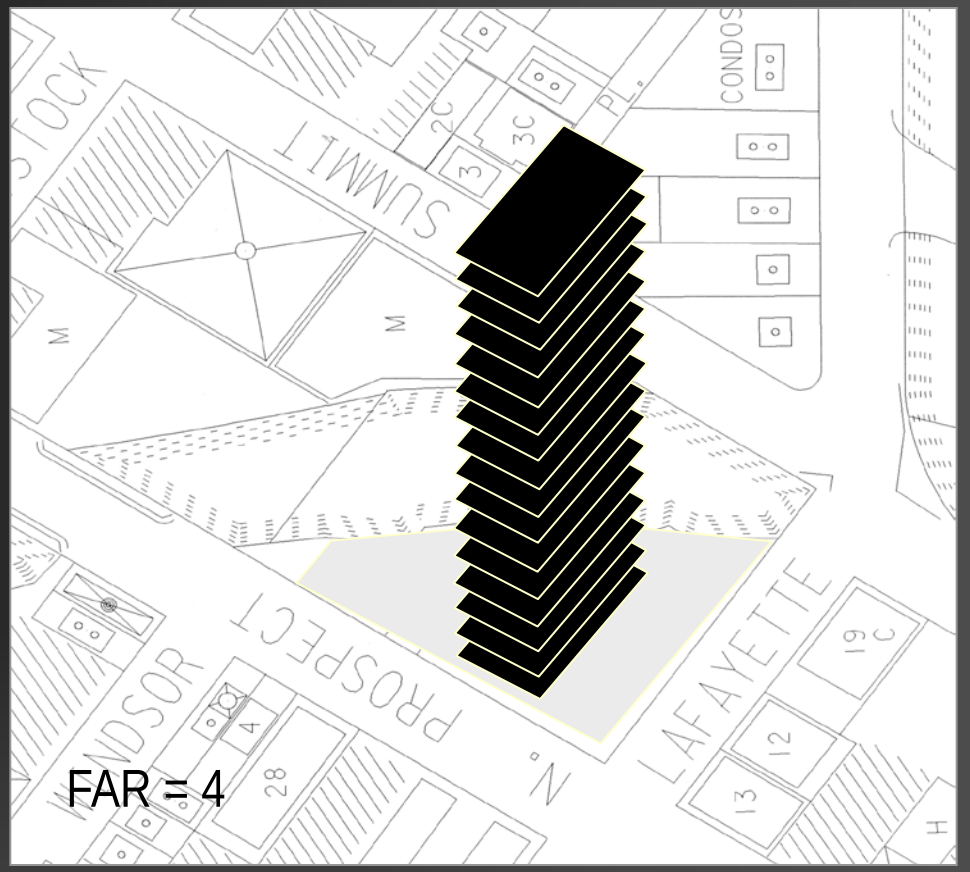
Source: www.user.guru.net/domz

TRADITIONAL EUCLIDEAN ZONING

- Uses segregated and disconnected
- Rigid dimensional standards—mathematical precision
- Limited development standards
- Legalistic format—few illustrations, tables, or flow charts
- Not always tied to comprehensive plan
- PROSCRIPTIVE







A problem with conventional zoning: Floor area ratio doesn't tell you much about what a building will look like or how it will relate to street and other buildings

Infringes on Property Rights







Sprawl & Zoning's Segregation of Uses

- Active Living Research—suburban form and relationship of levels of physical activity and health outcomes. (Reid Ewing)
- Fiscal implications of suburban development
- Environmental degradation

Exclusionary Zoning

- Restrictive zoning standards—facilitate large lot developments
- Exclusive residential towns
- Mt. Laurel Doctrine—fair share regional housing



This publication includes selections from the SmartCode.

SMARTCODE

A COMPREHENSIVE SMART GROWTH MUNICIPAL ORDINANCE

Curbing Sprawl Development With A Code

By Andrés Duany
Duany Plater-Zyberk & Company

The word "growth" once had positive connotations for Americans: better jobs, better shops, better education, a better quality of life. But mention the word today and you are likely to hear discussions about congested traffic, higher taxes, crowded schools, and the paving-over of the landscape.

How did it come to pass that a nation proud of three centuries of growth, one whose people built the constellations of beautiful villages, towns and cities that span a continent, should have so radically changed its outlook?

The reason is that the methods by which municipalities "grow" have changed. Prior to the Second World War, areas mapped out for development included each of the essential town-making elements — streets, parks, housing, commercial and civic build-

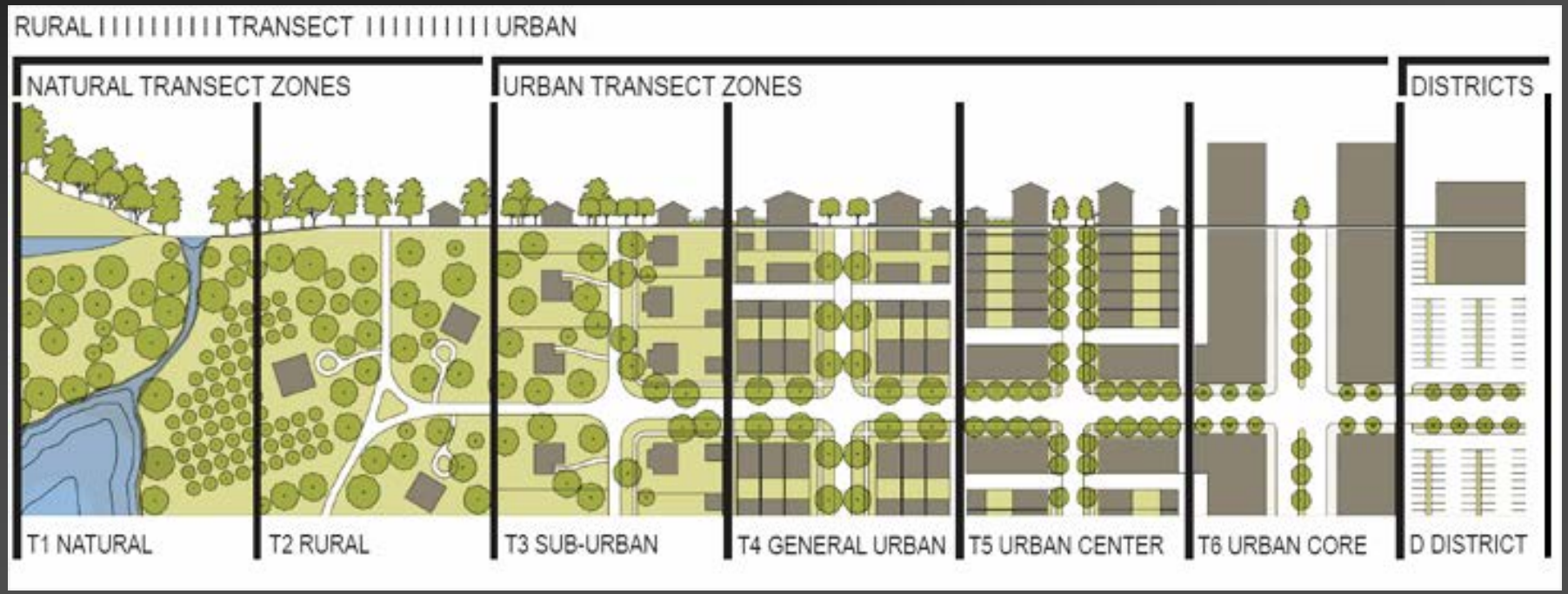
housing subdivision (single-family, townhouse or apartment), a shopping center or a business park replaces it.

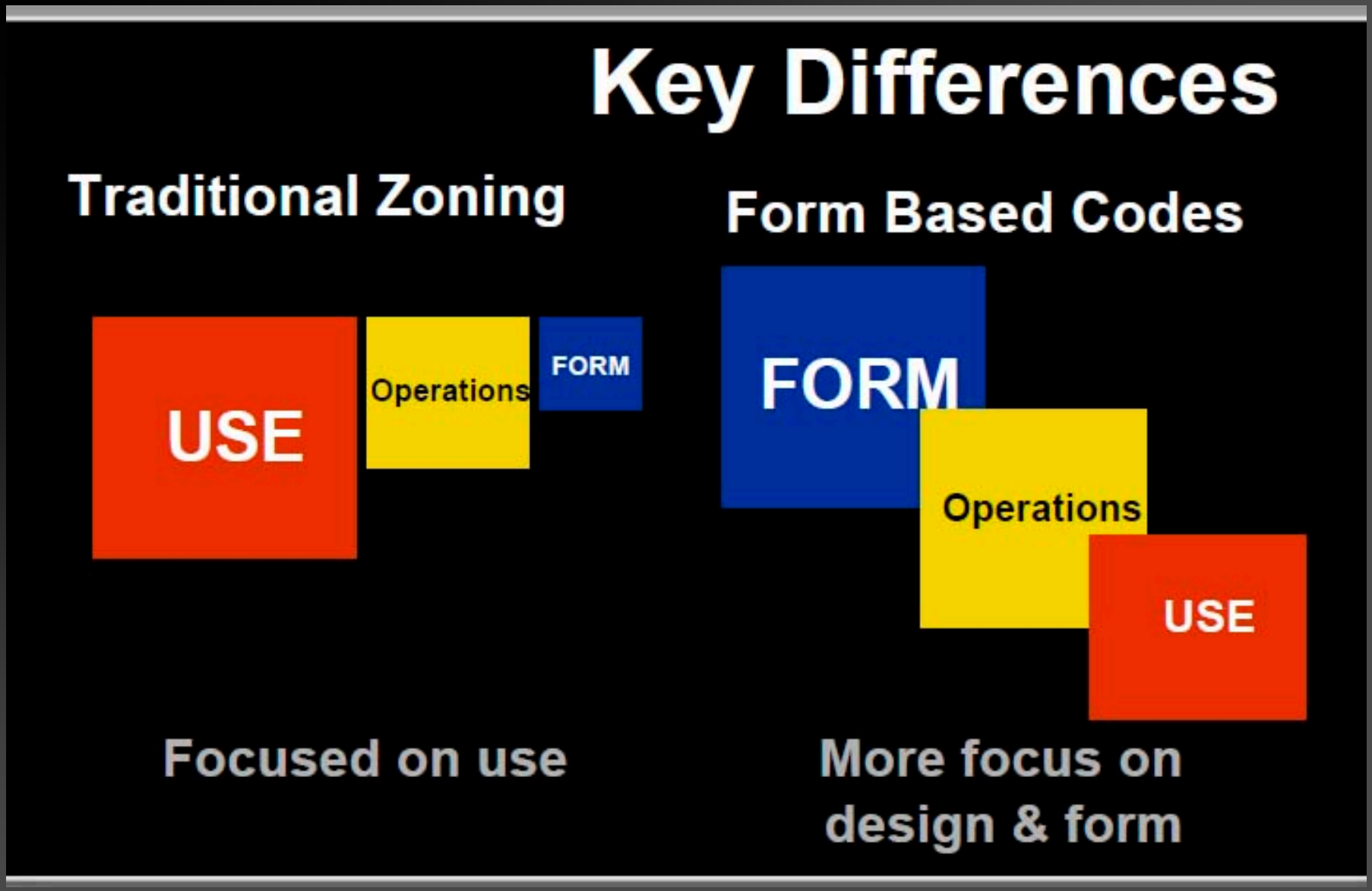
An armature of zoning codes addressing each of the specialty areas dictates the details of this process without an effective means of keeping in mind the big picture. The result is a collection of monocultures: a segregation of the elements of community into specialized areas, a condition often referred to as "sprawl."

Individually, the decisions made in regards to planning are quite plausible, but collectively they lead to a pattern that is dysfunctional. Wide residential streets, for example, seem like a reasonable way to speed emergency vehicles on their way. Yet wide streets are more dangerous for pedestrians, particularly children, and often allow for

must be given the proper tools. The best of intentions by planners to incorporate smart growth principles into the planning of their municipalities have often been thwarted by non-permitting or restrictive zoning codes. An attempt to work around the code requires either numerous revisions to the existing code or a slew of variances. Both of these choices, while admirable, are frustrating and time-consuming to implement. A third option is to adopt an *enabling code* – one that encourages good development practices to be put into practice. An example of this type is the SmartCode.

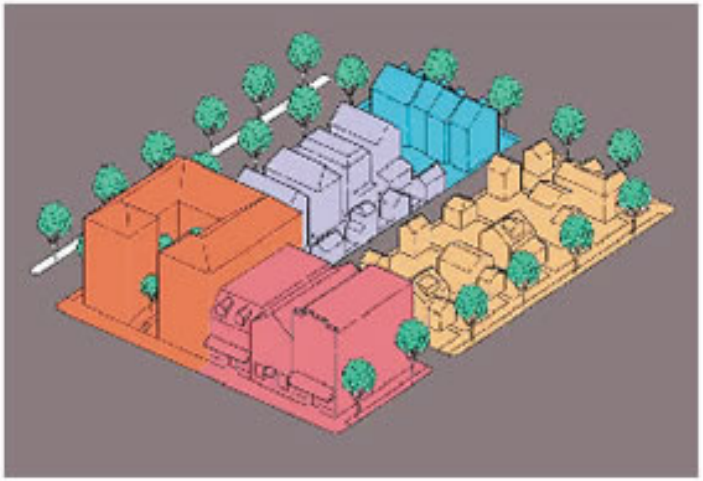
The SmartCode is a planning tool that promotes a sustainable urban pattern while protecting landscape that is considered ecologically and culturally valuable. This





Source: *Smart Growth Tactics: Form Based Codes -new approach to zoning-Michigan Planning Association*, *and* *Graphic credit: LSL Planning, Inc.*


SINGLE FAMILY DWELLINGS
HEIGHT
DISTANCE FROM STREET
SUBURBAN + URBAN + GENERAL URBAN + URBAN EDGE + URBAN CENTER + DOWNTOWN + SPECIAL CONTEXT
CONTEXTS ARE BASED ON CHARACTER
HELPS ENSURE THAT NEW DEVELOPMENT IS COMPATIBLE WITH ITS SURROUNDINGS



Key Differences

Traditional Zoning	Form Based Codes
Use-based	De-emphasize use
Districts	**Neighborhoods/streets**
Emphasis on individual uses of property, rigid use of lot size & building placement	Emphasis on building relationships & on fitting building to its use & surroundings
Segregation of land uses	Mixed uses
Uniformity in neighborhoods	**Diversity in neighborhoods**
Limited ability to effect change	Ability to transform or preserve
Limited design standards	Focus on building/site form
Setbacks	Build to lines
Focus on site; little on right-of-way	**Attention to street & streetscape**

Source: Form Based Codes Power point, LSL Planning Inc.

Sustainable Development Code

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1.ENVIRONMENTAL HEALTH AND NATURAL RESOURCES
1.1. Climate Change
1.2. Low Impact Development and Green Infrastructure
1.3. Natural Resource Conservation/Sensitive Lands Protection
1.4. Water Conservation
1.5. Solid waste and recycling

2.NATURAL HAZARDS
2.1. Floodplain Management
2.2. Wildfires in the Wildland-Urban Interface
2.3. Coastal Hazards
2.4. Steep Slopes

3.LAND USE AND COMMUNITY CHARACTER
3.1. Character and Aesthetics
3.2. Urban Form and Density
3.3. Historic Preservation

4.MOBILITY & TRANSPORTATION
4.1. Transit Oriented Development
4.2. Mobility Systems
4.2.1. Complete Streets
4.2.2. Pedestrian and Bicycle Systems
4.2.3. Public Transit
4.3. Parking

5.COMMUNITY
5.1. Community Development
5.2. Public Participation and Community Benefits

6.HEALTHY NEIGHBORHOODS, HOUSING, FOOD SECURITY
6.1. Community Health and Safety
6.2. Affordable Housing
6.3. Housing Diversity and Accessibility
6.4. Food Production and Security

7.ENERGY
7.1. Renewable Energy: Wind (small- and large-scale)
7.2. Renewable Energy: Solar (including solar access)
7.3. Energy Efficiency and Conservation

8.LIVABILITY
8.1. Noise
8.2. Lighting
8.3. Visual Elements

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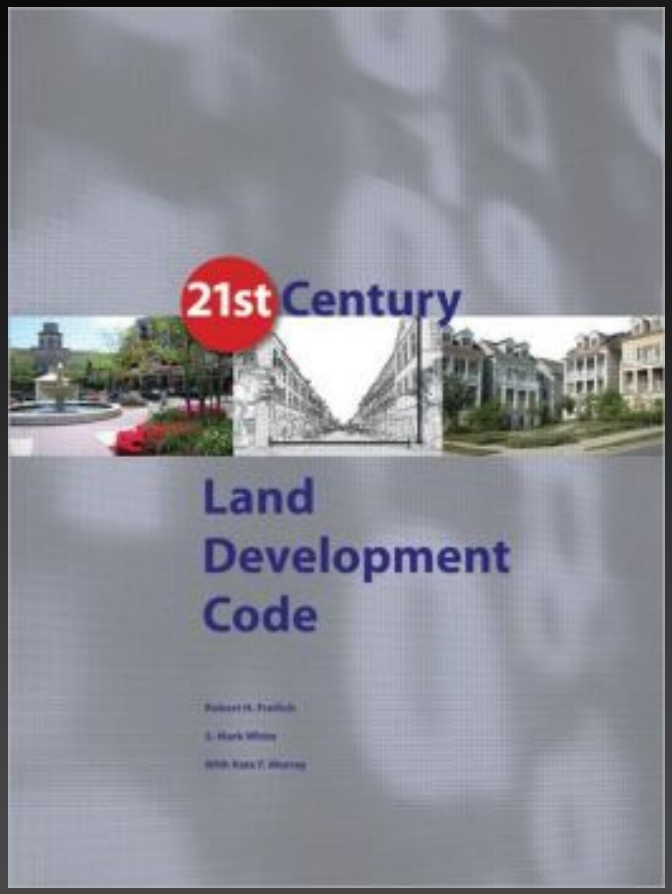
ROCKY MOUNTAIN LAND USE INSTITUTE

Unified Land Development Code



- Consolidates zoning and land development rules and processes
- Integrates contemporary land use issues: sustainability, TND, TOD, religious uses, home occupations and telecommunications, etc.
- Book: tables, forms, checklists and procedures.

Freilich & White, 2008

What changes are needed to your



Zoning Ordinance?

The Institutionalization of Zoning

- Degree of predictability for development industry
- Preservation of single family neighborhood
- Protection of property values
- Local government zoning infrastructure
- Flexible types of zoning
- Underlying legal foundations of zoning

Uncertainty of FBC?

- Place making over public safety
- Industrial uses and LULUs under FBCs?
- Emerging businesses—food truck courts

Code Administration, Enforcement, and Compliance

- Day-to-day administration and enforcement
- Transition from the old code to the new
- Training and orienting city staff
- Outreach to community and development industry
- Review and evaluate for unanticipated consequences

Quick Fixes—format, procedures, standards

- Revise regulations so buildings and streets better shape public spaces
- Revise parking requirements so that cars do not interfere with the creation of high quality public spaces
- Design streets, sidewalks, plantings, street furniture and street trees to create an attractive and pedestrian-friendly public realm
- Allow a variety of uses to create vitality, synergy, and enhance the pedestrian experience

Source: Paul Crawford, Crawford Multari & Clark

Menu of Middle Building Types



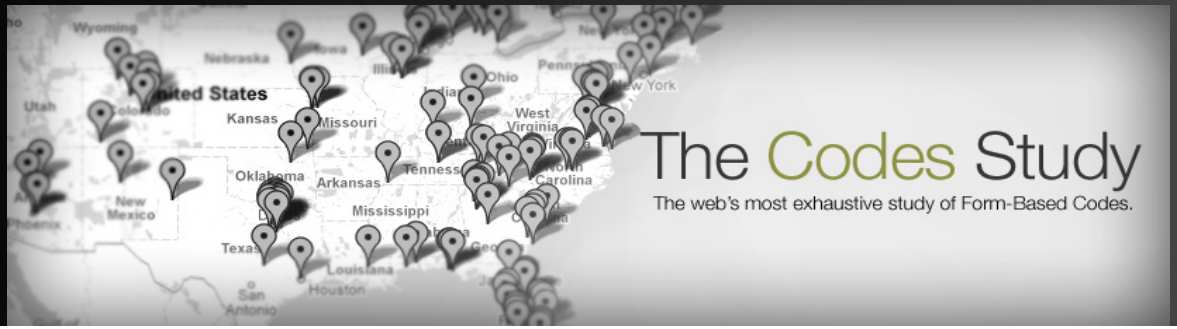


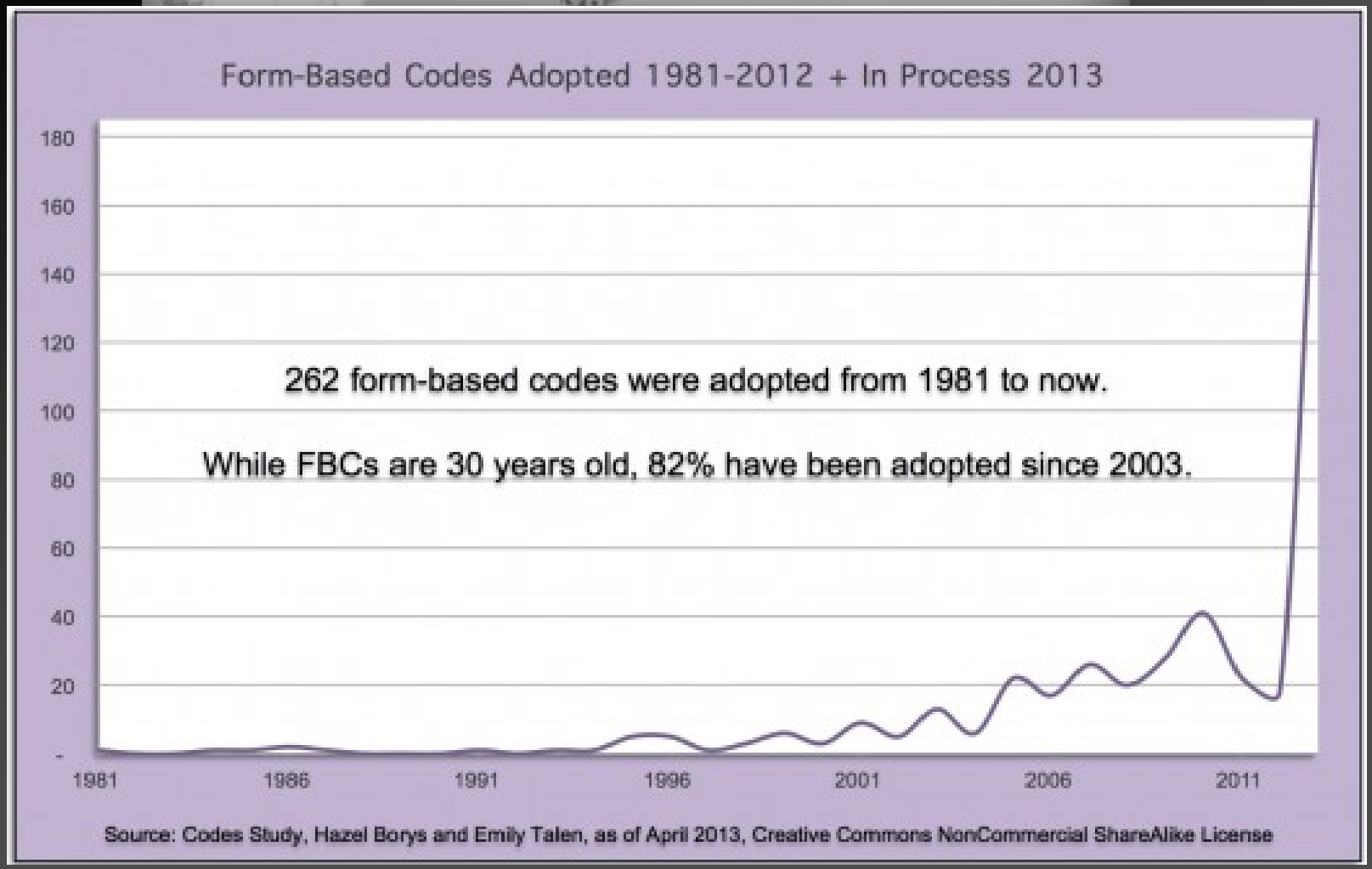


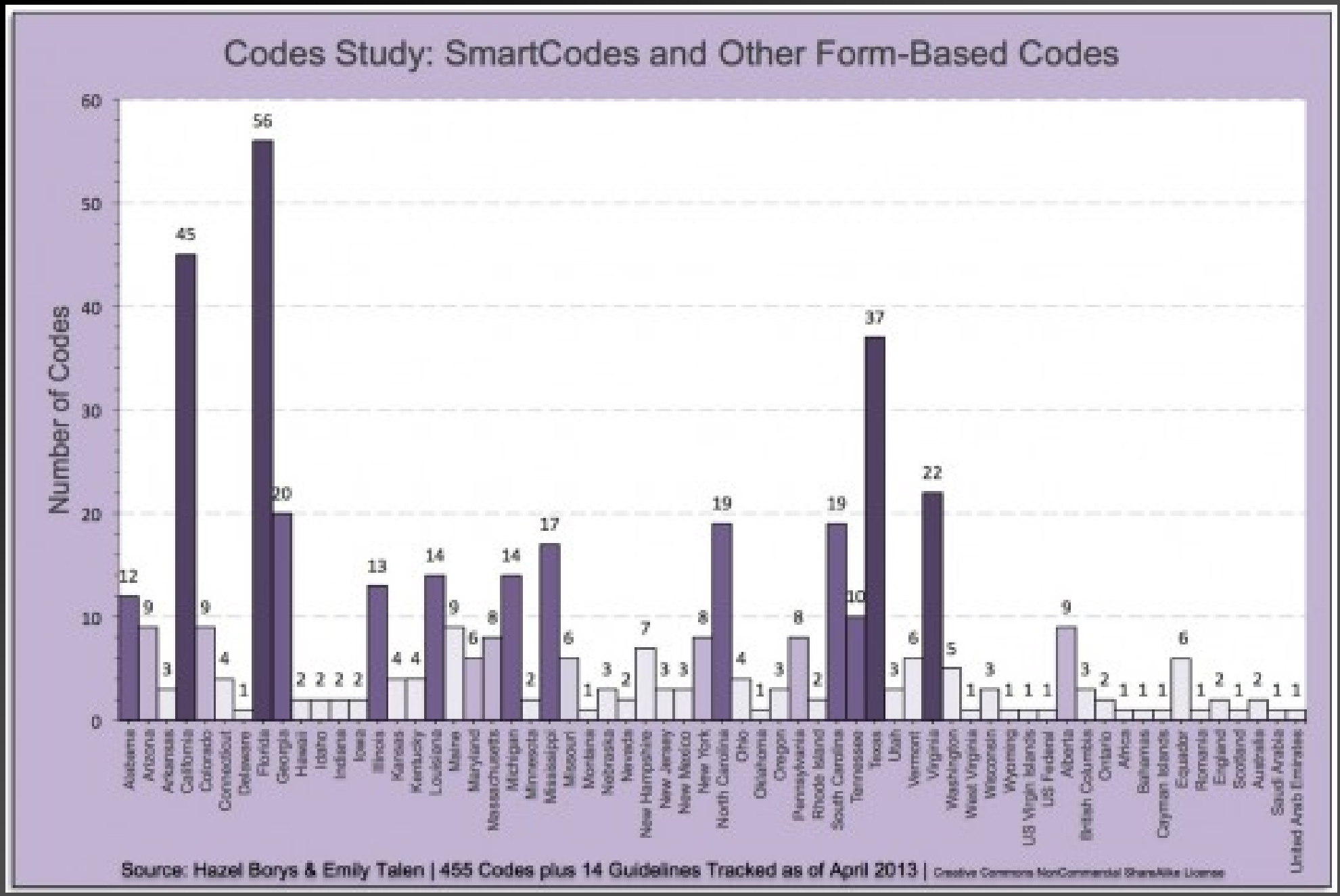


Code Reform Snapshots

- City-wide code updates
  - Dayton, OH
  - Baltimore, MD
  - Philadelphia, PA
  - Washington, DC
- Form-based codes:
  - Miami 21
  - Cincinnati, OH
  - Nashville, TN
  - Milwaukee, WI
- Special-purpose overlay zones and districts
  - Petaluma, CA
  - Cleveland, OH


The Codes Study
The web's most exhaustive study of Form-Based Codes.
Wyoming
Nebraska
United States
Kansas
Missouri
Ohio
West Virginia
Utah
New Mexico
Oklahoma
Arkansas
Mississippi
Texas
Louisiana
Houston
San Antonio


Form-Based Codes Adopted 1981-2012 + In Process 2013
180
160
140
120
100
80
60
40
20
-
1981
1986
1991
1996
2001
2006
2011
262 form-based codes were adopted from 1981 to now.
While FBCs are 30 years old, 82% have been adopted since 2003.
Source: Codes Study, Hazel Borys and Emily Talen, as of April 2013, Creative Commons NonCommercial ShareAlike License


Codes Study: SmartCodes and Other Form-Based Codes
Number of Codes
0
10
20
30
40
50
60
12 9 3 45 9 4 1 56 20 2 2 2 2 13 4 4 14 9 6 8 14 2 17 6 1 3 2 7 3 3 8 19 4 1 3 8 2 19 10 37 3 6 22 5 1 3 1 1 1 9 3 2 1 1 1 6 1 2 1 2 1 1
Alabama
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Florida
Georgia
Hawaii
Idaho
Indiana
Iowa
Illinois
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming
US Virgin Islands
US Federal
Alberta
British Columbia
Ontario
Africa
Bahamas
Cayman Islands
Equador
Romania
England
Scotland
Australia
Saudi Arabia
United Arab Emirates
Source: Hazel Borys & Emily Talen | 455 Codes plus 14 Guidelines Tracked as of April 2013 | Creative Commons NonCommercial ShareAlike License

Resources

- APA www.planning.org
- Congress for New Urbanism www.cnu.org
- Smart Growth Network www.smartgrowth.org
- **EPA Smart Growth Office**

www.epa.gov/smartgrowth

- **New Partners for SG Conference**

www.newpartners.com

