

Changing Landscapes

Land use planning curriculum for natural resource professionals

- P** rinciples, people, and policies
- L** and planning and pressures
- A** pproaches
- N** atural resource planning tools

P4: Developing and Measuring Effective Local Policy

Overview

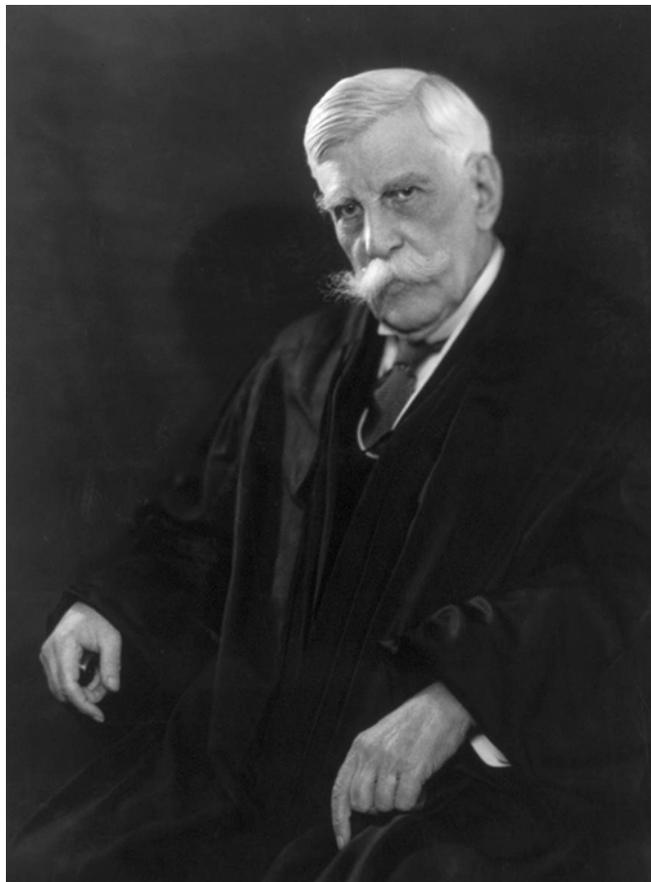
This factsheet discusses the concept of policy, how it is created in local government, and how it can be evaluated for success or failure. The factsheet presents a brief overview of policies related to managing urban trees and fire. It uses these examples to show how policy can be effective drivers of change.

Definition and Development of Policy

Policy can be defined as something that “displays, makes known.” Policy is a principle, plan, or course of action pursued by a government, organization, or individual. Public policy can be formal, legal, and binding—as

in the case of a municipal zoning ordinance that protects native trees from being removed during development. However, public policy can also be more subtle, such as the will of a city council and how its members vote on certain issues.

“Police power” is what gives municipalities the authority to enact and enforce zoning ordinances and other policies. It is based on the authority and responsibility of government to protect the health, safety, welfare, and morals of all people. If police power is used unjustly, a property owner can seek relief in court on the basis of a “taking of private property.” A taking is not a legal action. It is a problem of government overregulation that goes so far as to result in confiscation of private property without payment of compensation or due process. U.S. Supreme Court Justice Oliver Wendell Holmes in *Pennsylvania Coal Mine v. Mahon* 260 (1922) wrote, “The general rule at least is, that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” Today, too far continues to be evaluated on a case-by-case basis. All States in the United States provide municipalities the authority at some level to enact, amend, and enforce zoning and other ordinances through State



United States Supreme Court Justice Oliver Wendell Holmes, Jr., wrote in 1922 that “while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.” (Photo: <http://en.wikipedia.org>)



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municipal codes and special legislation, such as State planning codes, building codes, and safety codes.

Municipalities are commonly authorized by the State to create policy using a number of regulatory and nonregulatory tools. These are some of the common tools that municipalities use:

- Comprehensive Plans (sometimes known as General, Master, or Development Plans) guide future growth and development. Elements (chapters) of comprehensive plans direct future growth and development, land use, transportation, housing, capital budgeting, and natural resource conservation. These plans provide the logical nexus for the use of ordinances and other police power.
- Zoning, subdivision, land development, and other ordinances provide requirements for the type, density, and location of land use and the design and application requirements of subdivision and other development.
- Resolutions passed by a governing body in support of certain actions or organizations such as a volunteer effort.
- Decisions and prevailing philosophy of elected officials.

Public policy can be flexible and often changes as elected officials change, as citizen demographics shift, as a result of court decisions, or when conflict mandates policy change. Conflict over economic, social, and environmental issues associated with growth and development is often a driver of ordinances and policy change. A benefit of expressing policy in zoning or other ordinances is a certain degree of stability. Formal procedures to enact or amend zoning and other ordinances, including a review by planning commissions, review by county or other agencies, noticed public hearing, citizen review, and voting, can make enacted ordinances more difficult to change when there is a change in elected officials and their administrations.

Conflict over economic, social, and environmental issues associated with growth and development is often a driver of ordinances and policy change.

Community Tree Plans: An Example of Public Policy

Many municipalities have developed community tree plans to provide standards and regulations for managing street and park trees. These plans can guide daily and long-term care and budgets. The most common goals of community tree plans are to improve a community's image, pride, and commerce; and increase the quality of and accessibility to a community's natural resources.

Community tree plans can help communities more effectively administer their street tree program, manage risk, and reduce municipal liability. Tree plan objectives often include a requirement for an annual assessment and the removal of hazardous trees, proper species selection, and pruning. Other objectives may involve issues related to funding and community education.

Each objective within the plan has associated strategies. An effective administration strategy might be to provide an annual work plan and budget to elected officials. A possible outreach strategy might call for the tree commission to work with the local paper to ensure that one positive educational article about the commission's work each spring for Arbor Day is published.

Some community tree plans stand alone, while others are incorporated as elements of municipal comprehensive plans. These plans do not need to be long and complicated. The best approach to developing community tree plans is to formulate a clear vision and set realistic goals with concrete objectives, sensible short-term strategies, and measurable criteria for success. It is important to set strategies that can be completed and celebrated.

Although they are not an ideal tool for land use planning, zoning and other municipal ordinances are often reactive—they are adopted in response to citizen outrage about something that has happened or that should have happened. An example is when a developer removes a woodlot that had been used by a neighborhood for walking and other recreation purposes. There may be a strong citizen outcry to elected officials to protect this type of landscape. Often this outcry results in revisions to an existing ordinance or the adoption of a new zoning ordinance that addresses the issue. Municipalities should consider reaction and conflict when developing ordinances. Often it is “borrowed” ordinances that are outdated, incomplete, or even irrelevant that do not withstand controversy. Municipal policy should be locally developed to reflect the values, standards, desires, and abilities of a particular municipality.

When developing ordinances and other policy tools, a municipality should consider the following broad objectives:

- Provide equity for all. Treat small and large landowners alike.
- Be efficient. Provide the most benefit for the cost, including costs borne by developers in following ordinances.
- Strive to achieve a legitimate purpose. Policy tools such as ordinances must be able to demonstrate they have positive impact on public safety, welfare, and health.
- Impede personal liberty as little as possible. Zoning and other ordinances cannot be so stringent that they disallow property owners “reasonable and conforming” use, which is the basis of the “takings” issue.

Most debates over ordinances and other policies boil down to concerns and debates over one of these broad objectives.

The Policy Evaluation and Monitoring Process

Municipalities need to formally evaluate ordinances and other types of policy for technical, economic, and administrative success and carefully monitor them after enactment. To do that, they must identify and clearly state the goals, objectives, criteria, and measures of the policies.

Goals are formal, broadly worded statements that identify what the policy is intended to achieve in the long run.

Objectives are statements that are more focused, timely, and concrete than goals and are more readily achieved. Objectives represent interim targets or milestones toward desired goals and are often short term in nature, perhaps one year in scope.

Strategies are the day-to-day and month-to-month specific actions that will be taken to accomplish objectives.

Criteria are specific standards used to evaluate and monitor objectives and strategies related to a specific policy. Each criterion can have multiple tangible or quantitative measures. In addition, measures can be used to rank and prioritize policy alternatives as well as to evaluate their success. Possible measures include costs, benefits, effectiveness, risk, liability, political viability, administrative ease, equity, and public sentiment. In general, accepted criteria address:

- **Technical feasibility:** Does the ordinance achieve its purpose in a technical sense—that is, will it work?
- **Economic and financial possibility:** What are the benefits and at what cost? Do the benefits outweigh the costs?
- **Political viability:** Is the policy acceptable to decisionmakers, public officials, citizens, and other influential groups?
- **Administrative operability:** Is there authority to carry out the policy? Does staff have the commitment and capability to administer and enforce the policy?

Example of Policy Evaluation or Monitoring Method

The example below shows a logical approach that uses criteria and measures to evaluate the success of a broader policy goal to increase public safety. In this example, public safety is expected to be increased by reducing flooding related to stormwater flow and also by reducing the threat of wildfire. Use a systematic, clear method to evaluate and monitor policy effectiveness.

Goal	Increase public health and safety.	
	Stormwater	Wildfire
Objectives	Decrease peak flow volumes.	Decrease damage and destruction of homes and structures.
Strategies	Enact a stormwater ordinance that incorporates Low Impact Development design and other BMPs.	Enact an ordinance that mandates vegetative management using Firewise principles.
Criteria	Reduce peak flow volume. Reduce stormwater management costs to municipality.	Reduce structural damage from wildfire moving into the defensible space of a home.
Measures	Peak flow volumes and annual stormwater management costs.	Number of structures lost or damaged and associated costs.

Urban Forestry Policy

Many communities have forestry ordinances that their local government can enact and enforce to help better care for trees and support tree care programs. Some commonly used ordinances include:

Street Tree Ordinances preserve, protect, and maintain municipal-owned trees along streets and in parks. They often contain a permit process to plant, remove, and maintain public trees.

Shade Tree Commission Ordinances create municipal commissions that are typically responsible for annual work plans, budgeting, volunteer management, and educational efforts that are part of planning and managing street and park trees.

A community forestry ordinance is successful if it improves a community’s image, the quality of development, and property values. Other signs of successful ordinances include acceptance by developers and citizens, less conflict, and legal judgments favoring an ordinance.



Street tree ordinances help preserve, protect, and maintain street trees. (Photo: Chesapeake NEMO)

Subdivision and Land Development Ordinances outline the required application materials and development permit review process. They provide for design and construction standards and for the bonding of landscaping, streets, and other public improvements.

Zoning Ordinances restrict the type, density, and location of development. They are often used to protect open space, trees and woodlands, riparian areas, steep slopes, and wetlands during development.

Zoning ordinances and subdivision and land development ordinances are not part of planning per se. They are examples of regulatory tools that can be used to enact a municipality's comprehensive plan. These ordinances often work together. For example, a zoning ordinance would provide for the size of lots and the number of residential units in a subdivision, and a subdivision and land development ordinance would direct how the homes and streets were designed and placed on the parcel. Both would provide the standards and regulations used to evaluate zoning and the subdivision plan during the permit application. For a subdivision or other plan to be approved, or for a grading or other development permit to be issued, the application must conform to existing zoning and ordinances.

Public Involvement in Ordinance Development

Involve all stakeholders—both those who are directly and indirectly affected—in developing ordinances. Involving people in planning and decisionmaking ensures their understanding of the ordinance and boosts overall support and buy-in for the ordinance. Public involvement has repeatedly been shown to decrease the long-term costs of conflict such as higher administration and enforcement costs.

Community forestry ordinances can fail when they:

- Are borrowed, rather than locally planned
- Don't include public and business participation
- Don't include an educational component
- Don't have well-defined permitting, review, and appeal processes
- Don't provide technically sound standards
- Are not well administered or enforceable

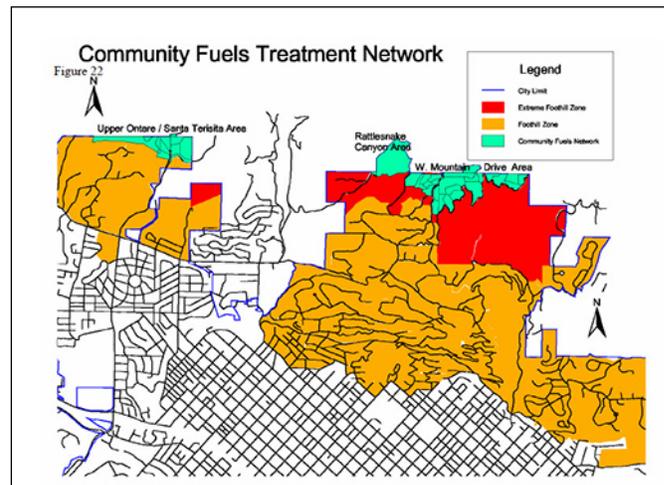


Involve all stakeholders in developing ordinances.

Case Study — Santa Barbara, CA, Wildland Fire Plan

Mediterranean/chaparral landscapes that are fully stocked and often have dead understory vegetation; steep topography; and compressed, hot, high-velocity winds cause many residential areas of the city of Santa Barbara to be in extreme fire hazard zones. As a result, the city has experienced the Painted Cave, Tea, and other large, destructive fires. These fires have repeatedly destroyed and threatened life, property, natural resources, and the economy.

In an effort to reduce wildland fires, the city council approved the Wildland Fire Plan in 2004. The plan was one of the first in the country and is part of the Safety Element of the city's General/Comprehensive Plan. The Fire Plan has four main chapters: Fire Hazard and Risk Assessment, Values Threatened by Wildland Fire, Fire Hazard and Vegetative Management Zones, and General Fire Protection Strategies.



Map depicting the Santa Barbara Community Fuels Treatment Network. (Map: City of Santa Barbara (CA) Wildland Fire Plan (January 21, 2004))

In addition to the Wildland Fire Plan, the city has adopted other policy. Although this has not been adopted by a zoning ordinance, the city's General Plan discusses using transfer of development rights to move development density out of extreme fire zones. The city's zoning ordinance mandates that larger lots be provided on steeper slopes to provide more fire defensible space. The city's building code mandates certain roof and siding materials, sprinkler systems, and double-paned windows of tempered glass to protect building entries from the tremendous heat of wildfires. The city's landscape ordinance mandates fire department review of all development landscape plans and the planting of vegetation more adaptive to fire-prone landscapes. The long-term removal and maintenance of vegetation and defensible space by homeowners is enforceable under the city ordinance.

One successful program that has resulted from the Wildland Fire Plan is the Community Fuels Treatment Network. This program is funded by a city council-approved Wildland Fire Assessment District tax. The program's goal is to reduce fuels while being environmentally responsible and protecting important hillside views. Using the District's tax funding and grants, the program removes thousands of tons of vegetation annually in an effort to reduce the heat produced by any fire. Vegetative inspections and removals are paid for by the city on both private and public property in an attempt to cover a complicated matrix of private and public properties.

The city's fire policy still faces some opposition to the higher cost of building materials, homeowner disagreements about what vegetation should be removed and planted, and continued opposition to controlled burns because of smoke and other concerns. The most important part of the Wildland Fire Plan is that it takes a comprehensive approach to the entire problem of wildland fire in an urbanized area.

Santa Barbara Wildland Fire Plan: <http://www.santabarbaraca.gov/gov/depts/fire/fireplan.asp>

Santa Barbara General Plan and Ordinances: <http://www.santabarbaraca.gov>

National Fire Protection Agency. 2008. 1141 Standard for fire protection infrastructure for land development in suburban and rural areas. Quincy, MA. 35 p.

Relevant Factsheets

N2 – *Comprehensive Planning for Natural Resource Conservation* – Provides an overview of comprehensive planning and discusses some tools that can be used to protect natural resources and develop strong policy.

N3 – *Regulatory Approaches to Protecting Natural Resources* – Discusses zoning subdivision ordinances and presents two examples of legalized public policy.

N4 – *Nonregulatory Approaches to Natural Resource Conservation* – Discusses how nonregulatory tools, such as developer incentives and education, can help effectively manage growth.

Resources

Elmendorf, W. *Managing natural resources: a guide for municipal commissions*. Penn State College of Agricultural Sciences, Agricultural Research and Cooperative Extension. University Park, PA. 88 p.

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Acknowledgements

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