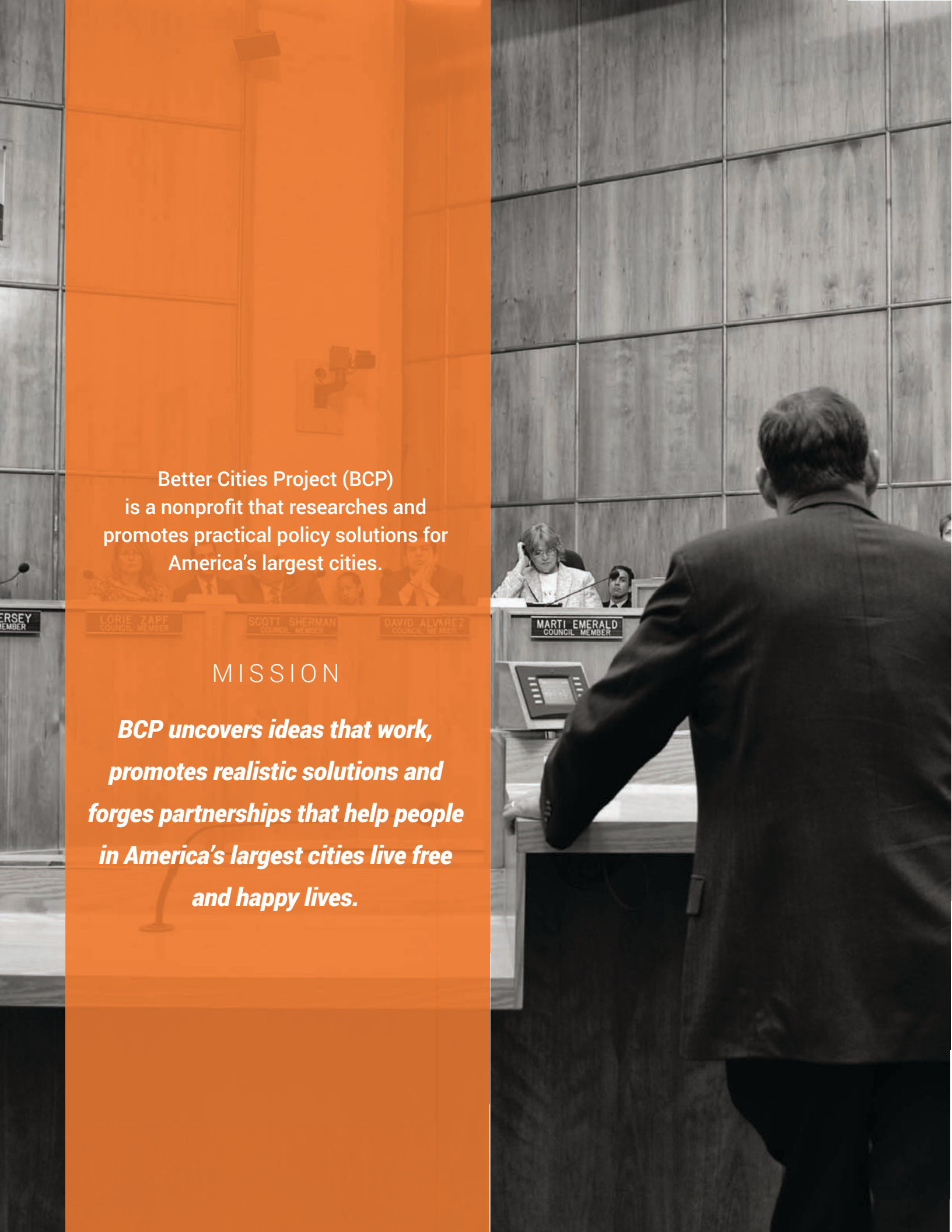




GETTING BACK TO WORK

An Economic Recovery
Playbook For America's Cities



Better Cities Project (BCP)
is a nonprofit that researches and
promotes practical policy solutions for
America's largest cities.

MISSION

***BCP uncovers ideas that work,
promotes realistic solutions and
forges partnerships that help people
in America's largest cities live free
and happy lives.***

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INTRODUCTION: WHAT'S NEXT?

Faced with pandemic-driven economic contraction, every city leader now faces a big question: What's next?

The stakes couldn't be higher. Recovery won't be uniform — some communities will bounce back more quickly than others, and pockets of growth will exist alongside sustained economic contraction.

We think there are practical answers to the question of what's next, and we've compiled them into this economic recovery playbook and its companion website at gettingbacktowork.org.

Some recommendations are broad and others are specific enough to warrant model ordinance language, which we have included. But all share a few traits:

- ▶ **They're practical.** Every recommendation is something a city can undertake without wholesale reorganization or months-long studies.
- ▶ **They're backed by research.** We've tapped experts from around the country for solutions based on their years-long investigations into what works.
- ▶ **They're focused on short- to medium-term time-frames.** Because that's where the greatest opportunity for a powerful recovery lies.

For cities to thrive, their leaders need the tools and information to make informed, innovative decisions. The policies suggested in this guide can be a foundation, not just for getting back to normal, but for your community to flourish for years.

Greg Brooks
President, Better Cities Project

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ECONOMIC DEVELOPMENT

BY JOHN C. MOZENA

Evidence-based strategies in the wake of COVID-19

During the Great Recession, cities across the United States dramatically expanded their use of targeted economic development incentives in an attempt to curb job losses and jump-start economic recoveries. In retrospect, the evidence is clear: Most programs were broadly ineffective at creating jobs or growing economies. However, the costs they incurred frequently still burden municipal budgets today, hindering fiscal resiliency when it's most needed.

In the aftermath of COVID-19, cities will be tempted to make the same sort of economic development deals. It is critical for local government officials to recognize that the standard economic development model of subsidies, tax abatements and other incentives is ineffective at best and harmful at worst to job creation and economic growth. Despite the claims of sophisticated consultants who travel the country advertising their ability to maximize incentive packages for corporate clients, economic development subsidies simply do not get the job done.



Academic research and real-world experience demonstrate that economic development incentives:

- ▶ **Do not create any more jobs or economic growth than would have happened otherwise.**
- ▶ **Impose costs on cities in the form of reduced revenues and increased liabilities.**
- ▶ **Make local economies less free, less fair, less inclusive, less resilient, less entrepreneurial, less innovative and more biased in favor of large incumbent businesses.**

Political pressure for state and local officials to “do something” to spur business activity will be significant and supported by the businesses and consultants that stand to profit. But policymakers should ensure constituents understand that these programs come at a cost to taxpayers, to the business community as a whole and to public services such as police, fire, public health, roads, schools and more.

History shows those costs are often unacceptable.

Constituents understand this trade-off if it is explained to them. In their investigations into the interactions of politics and economic development, Nathan Jensen at the University of Texas at Austin and Edmund Malesky at Duke University found that while nonpartisan voters broadly support economic development “job creation” when presented to them without context, that support disappears when voters learn these incentives take resources that otherwise would be available for other government programs or available for return to taxpayers. Anyone concerned about backlash from constituents can and should focus on educating the public about the costs these programs impose on a community.

By avoiding the targeted-incentive trap, cities can instead focus on how existing resources and regulatory structures encourage or discourage business activity of all shapes and sizes – and adapt them to the post-pandemic world. Readers should examine the other chapters in this playbook for ideas on how they can spur real economic growth without impoverishing public coffers.



3 BAD IDEAS

Professional sports stadiums are arguably the worst thing cities regularly subsidize – they sit empty and unused far more often than not, and offer largely part-time seasonal jobs. Even a high-attendance baseball stadium’s 3 million fans per year across 81 games is only equivalent to the annual customer count of a single big-box store. All told, pro sports teams generate a fraction of a percent of the average city’s economic activity, despite how loudly the fans may cheer.

Data centers have massive up-front capital and energy costs for operators. Their payrolls, however, are tiny. Once built, they require very few employees to manage what are essentially warehouses for computers operated remotely by programmers in other states or countries. That’s how some data center deals have ended up with price tags of more than \$1 million per subsidized job. Unless you’re selling them electricity, data centers have minimal economic impact.

Distribution centers for online retailers or logistics companies are located where the customers are, where the roads are and where there’s available property. Tax incentives won’t get a retailer or logistics company to put a distribution center someplace where its customers aren’t or where the property or road infrastructure will interfere with its daily operations.

THE EVIDENCE AGAINST INCENTIVES

Economic development incentives are one of the few topics that unite experts from left, right and center against them. They are programs with such broad opposition that an economist from the free-market Mercatus Center can write in a conservative publication like *National Review* that “Alexandria Ocasio-Cortez Is Right about Amazon’s Corporate Welfare,” or where traditional opponents such as Americans for Prosperity and public-sector unions can find common cause in working to scale them back at the state level.

In fact, virtually the only research that supports the common model of economic development incentives are studies paid for by subsidy recipients or other beneficiaries of the massive economic development industry.

Driven in part by new Government Accounting Standards Board (GASB, pronounced “gazz-bee”) accounting rules that made tax abatements public record, high-profile experts have become increasingly vocal in their conclusion that incentives incur huge costs while delivering few — if any — benefits. And they have the real-world numbers to prove it.

Richard Florida, one of the best-known urban policy experts in North America, bluntly calls targeted business incentives “useless,” pointing out that there is no connection between how much a city or state spends on them and any meaningful measurement of economic well-being. Using data from a *New York Times* investigation, he wrote in 2012, “We found no statistically significant association between economic development incentives per capita and average wages or incomes; none between incentives and college grads or knowledge workers; and none between incentives and the state unemployment rate.”

Researchers at the University of Connecticut and University of North Carolina-Chapel Hill put it even more simply: “This simple but direct finding — that incentives do not create jobs — should prove critical to policymakers.”

One reason for this certainty: Enough time has passed for many deals from the Great Recession era to be ripe for



SPOTLIGHT THE TIF EQUATION

One local tax mechanism that does often impact site selection is tax increment financing (TIF), but the usual result of TIF is not meaningful job creation or economic growth.

Rather, TIF districts generally tend to drain existing or potential economic activity from elsewhere in a community and concentrate it in the district. While this may create the impression of success, the actual result is all too often a reshuffling rather than a revitalization of a local economy.

TIF districts do well at the expense of nearby neighborhoods, and frequently by draining resources from schools and other valuable public services.

It’s also critical to recognize that the “pays for itself” TIF model is dependent on steadily upward growth. In a flat economy or recession, the TIF equation can turn against a community, especially if bond debt or other obligations were incurred. In the current downturn, many municipalities are being forced to cover TIF district liabilities right when their general funds can least bear the strain.

BY THE NUMBERS: THE COST OF BAD ECONOMIC DEVELOPMENT

3x

Economic development incentives are three times larger as a share of the national economy than they were in 1990.

540

More than 540 multi-jurisdictional economic development agencies compete with each other around the country.

1.8%

State and local taxes account for only 1.8% of the average business's costs.

10

The aggregate cost of U.S. state and local incentive deals could fund 10 state budgets combined.

analysis. The results are overwhelmingly negative, such as from researchers at the University of Illinois at Chicago who looked at Rust Belt states' incentive programs and found no "compelling evidence that economic development subsidies created or retained jobs to help municipalities recover from the Great Recession."

Why? Because state and local economic development incentives rarely change what businesses were already going to do. Timothy Bartik at the Upjohn Institute for Employment Research surveyed the available research and came to the conclusion that in seven out of every eight state and local incentive deals, recipient businesses would have done the exact same thing without the incentive, based on all the other business and economic factors already in play. Since even the incentives that do change a site selection decision sometimes end up costing more than they were worth,

it's realistic to estimate that more than 90% of the incentive deals made around the nation incur more in costs than they deliver in benefits to the community.

Businesses make decisions about what to build and where, how many employees to hire and other such choices based on a complex web of factors. While the details of each decision are unique, some common threads appear in surveys of business decisionmakers, site selection consultants and others involved in these sorts of decisions. They include availability to attract skilled labor; ease and speed of construction and occupancy; the regulatory environment; and small business and entrepreneurship. The remaining chapters in this playbook address how municipal leaders can improve those things in their cities — for everyone, not just the bigger companies whose development attorneys have them on speed dial.

TAXES AND FISCAL POLICY

BY JOE COLETTI

How should you think about finances?

You don't need to be told that getting through the next couple years will be a challenge. Your first task was to deal with a global pandemic that spreads faster the more people connect. Like a business that books restructuring charges in a quarter when it's losing money already, taking the opportunity now to set a strong financial foundation will help make future decisions easier and likely set up your city for greater successes.

The most effective response we knew in March was to close those businesses that most define our cities — the restaurants, bars, theaters, sports venues, hotels, churches, mosques, stores, gyms, salons, even libraries, schools and colleges — and encourage people to stay home. As the shutdowns went from two weeks to four weeks and beyond, businesses found it harder to stay alive and a public health threat also became an economic threat.

Now, it's not clear when or how our economies will rebound. Some neighborhoods are hurting worse than others and some businesses will never recover.

But while you struggle with the personal and social tolls on the place you love, and possibly even your own business, you also must balance the city's budget.

Sales taxes have fallen and will remain low for months, as will other revenue sources except maybe property taxes, which usually are paid through escrow accounts tied to mortgages. Many cities have provided grace for municipal water, gas and electricity, which means enterprise funds will also have less money.

Most municipal expenses, however, cannot shrink as much. Trash still needs to be collected. Police still need to patrol the streets. Buses still need to run, even with few riders.

What do you do?

Clarity can come from crisis, and this crisis may be an ideal time to reconsider the city budget from first principles on good financial management and good government.

SPENDING

You can't out-earn bad spending habits forever. Cities and counties of all sizes have been raising taxes and dipping into reserves to cover day-to-day expenses – some as a matter of habit for years or even decades.

- ▶ **Know what you have spent and what you will spend.** This means tracking the bills that will be due in the coming months, when they are paid and how that compares to past spending.
- ▶ **Control what you spend.** Are there ways you can reduce the cost of programs you must maintain? What future obligations are you taking on with each dollar spent today?
- ▶ **Use standard accounting principles.** Comparing your spending with other local governments is a worthwhile and important yardstick – and you can bet that if you're not doing the comparison, members of the media or citizens eventually will.
- ▶ **Make it difficult to increase inflation-adjusted spending per resident.** Circumstances will force you to run a lean budget this year. Residents and investors will be glad to see guardrails to keep spending growth in check even as the economy recovers and revenues grow. Restrained spending in the past would have helped now. Providing restraint now could make the crisis a little less painful.

DEBT

Leverage is powerful, but with great power comes great responsibility.

- ▶ **Limit total debt and limit how much locally generated tax revenue can be dedicated to principal and interest payments.** Set those limits low and do not take on debt that would exceed them.
- ▶ **Borrowing should not be used to increase current spending.** In the recent past, it was tempting to take on debt to have more available for current expenses. Now, as then, the debt-service cost will be tacked on to other operating costs – exactly the wrong trendline for already-stressed city budgets right now.
- ▶ **There's no free lunch, even from the Fed.** In the midst of the COVID-19 crisis, the Federal Reserve offered to purchase \$500 billion in short-term debt from states, the 140 counties with populations above 500,000 and the 90 cities with populations above 250,000 to help them through the cash crunch.

SPOTLIGHT BACK-TO-BACK DISASTERS CHALLENGE NASHVILLE

John Cooper knew when he became mayor of Nashville, Tennessee, that the budget was precarious. Spending had grown faster than revenue across city government, which left large and growing budget shortfalls – up to \$41.5 million for the current fiscal year by the time Cooper was elected in November 2019. Then a killer tornado struck on March 2, taking the lives of as many as 28 people and causing an estimated \$1.1 billion in damage. Less than three weeks later, the physical damage was matched by the public health crisis and economic devastation of the coronavirus.

Nashville is expected to lose \$472 million over 16 months as a result of the pandemic. With no reserves to help, Cooper has recommended a 32% property tax hike to raise \$332 million, savings and cost reductions of \$165 million, and other revenue increases of \$69 million. Some of the \$122 million in federal assistance through the Coronavirus Aid, Relief and Economic Security (CARES) Act could help reduce the tax increase if Congress allows its use to offset lost revenue. His cuts have been minor, but 50% reductions in economic incentive payments and assistance to nonprofits and chambers of commerce could set the stage for more fundamental restructuring of city government. If reform does follow, Nashville's fiscal crisis could leave the city better able to meet future fiscal threats.



STATE AND FEDERAL

Mandates and money go together like peas and carrots.

- ▶ **Look at your budget for what is necessary simply by being a city, what your residents want and what the city does to be eligible for state or federal grants.** There are benefits and costs to creating a municipal government. Some costs are imposed by the state to ensure the city can carry out its core functions. Ensure residents know what those core functions are and managers understand their responsibility to keep costs low.
- ▶ **There are usually strings attached; consider them.** Cities can improve their fiscal health by understanding and carefully weighing the liabilities created when voluntarily taking state or federal funds.
- ▶ **Have clarity about your assumptions and funding sources.** Clearly indicate in budgets the amounts dependent on other government funding and the amounts mandated by state or federal governments.

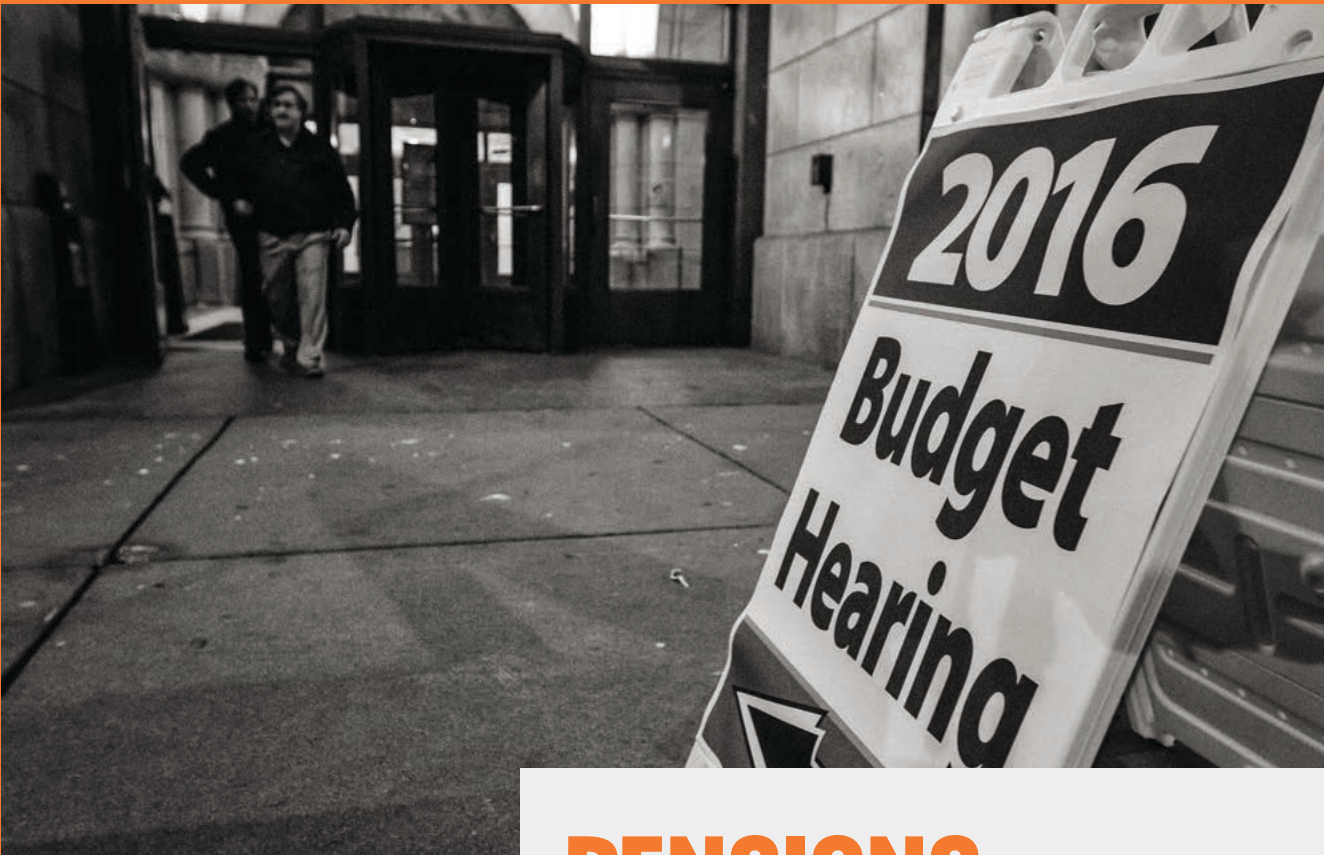
This may look like a useful tool to help with cash flow, but most cities should be glad they don't qualify and those that are large enough would do better to bear the pain now than to delay it and add even modest amounts of interest. Taking on debt to bridge lost revenue means when the debt comes due, today's troubles will be competing with tomorrow's immediate needs. The debt is not an investment that means higher revenue in the future, and given the deep uncertainty about the post-COVID economy, you want options not obligations.

- ▶ **If you do borrow, use debt for major capital expenses, not operations.** Get voter approval to use general obligation bonds and make clear the property tax increase needed to pay for the new debt.

REVENUES

There is always a temptation to increase taxes to paper over poor decision-making. Fiscal discipline comes not only from restricting revenue, but from restricting the number of revenue streams.

- ▶ **Have a small number of taxes and fees so they do not mask the fiscal burden of government for you or your taxpayers.**
- ▶ **Make a tax on land or real property with limited exemptions the primary tool for raising local revenue.** It provides more-consistent revenue and likely fluctuates less than a sales tax. Do your best to keep tax revenue neutral with each revaluation for the first year so tax increases are visible. It would be better to vote on revenue before spending.
- ▶ **Use taxes to fund government and fees to fund specific functions.** Do not use taxes or fees to coerce behavior modification.
- ▶ **Limit the ability of general government or specific agencies to profit from fees and fines.** For example, all receipts from fines and forfeitures go to education funding in North Carolina, which means municipalities have less financial incentive to write speeding tickets and people can trust their government more.



It is becoming trickier to balance the interests of retired workers, current and future employees, taxpayers and government beneficiaries. Few cities or states have enough set aside to cover the pension promises they have made to employees. Bad decisions made in the past affect those in office today and those who will be hired tomorrow.

PENSIONS

IN GOOD SHAPE? LOCK IN SUSTAINABILITY.

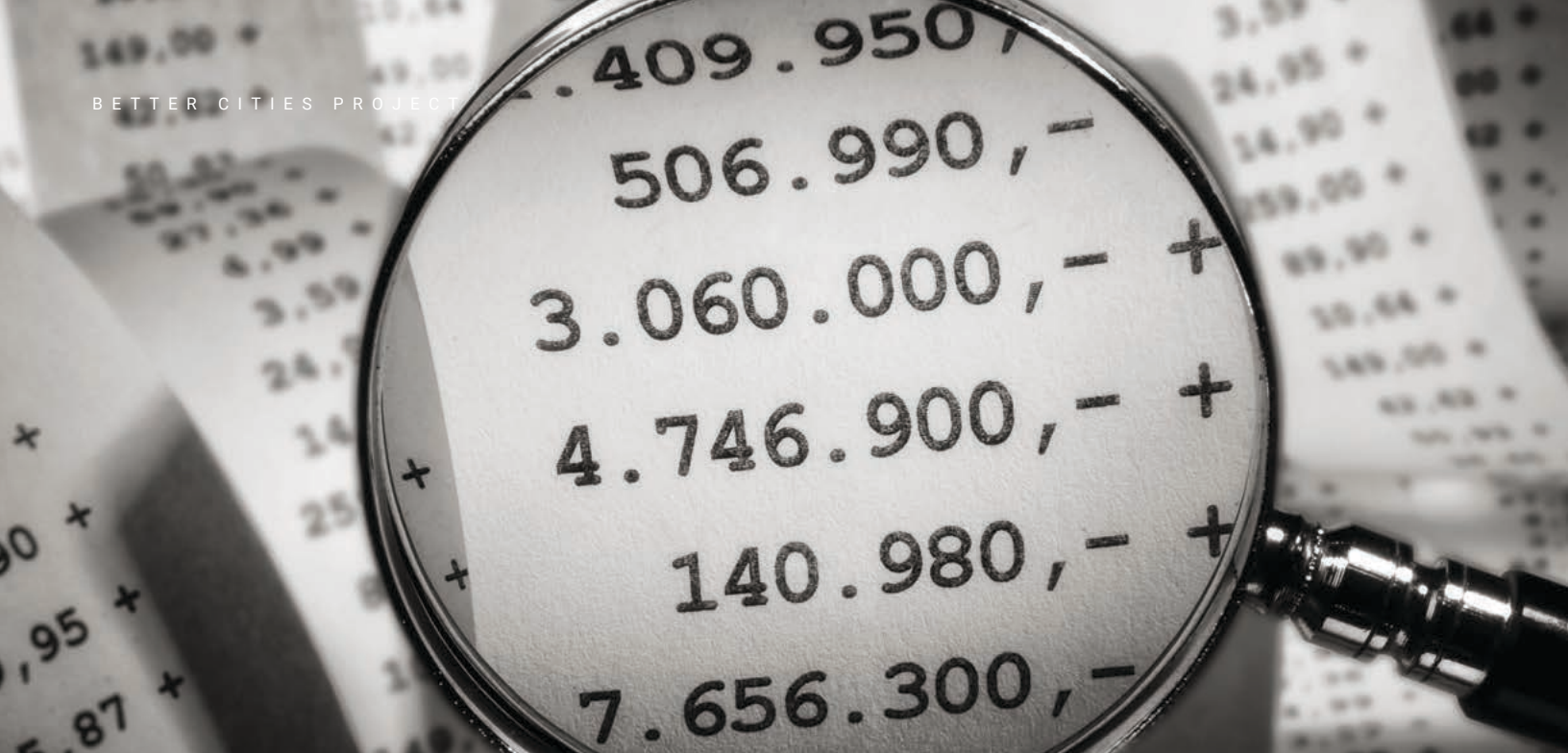
If your city is well-prepared for the future pension and health care needs of retirees, take steps now to ensure continued sustainability with lower discount rates, higher employer and employee contributions, and potentially changes in the plan for new employees.

ON SHAKY GROUND? FOCUS ON SOLUTIONS.

If your city already cannot afford its promises to retirees, you will need to work with your citizens, employees and state government to balance employee benefits and current services. This is not easy at any time, but the need to tackle these difficult questions can be clearer in a crisis.

BONDING PENSION DEBT IS A BAD IDEA.

High general-debt levels only make this more complicated because bondholders are first in line to be paid unless a city declares bankruptcy.



REPORTING AND OVERSIGHT

The information needed to run government well is the same information residents, activists, journalists and businesses would want. Municipalities do not collect data on their operations and financials to make informed decisions on the best use of people or resources.

- ▶ **Make financial information understandable and available.** This includes making Comprehensive Annual Financial Reports (CAFRs, pronounced “caffers”), available in a way that citizens can understand and compare to other local governments in your state. Post finances in a machine-readable format within six months of the fiscal year-end.
- ▶ **Meet or exceed Generally Accepted Accounting Principles (GAAP, pronounced “gap”) and Government Accounting Services Board (GASB, pro-**

nounced “gazz-bee”) statements in your reporting. Consider using accrual-based accounting for financial reports to know when costs are incurred, not simply when cash goes out.

- ▶ **Clearly account for liabilities such as pensions, retiree health benefits and infrastructure maintenance and replacement.** Have that accounting independently verified.
- ▶ **With so many cities facing crises, states could respond with greater oversight. Be prepared for it.** If your state does not already have one, it may create a commission to monitor local government finances, approve debt issuance and provide assistance in some cases. Such a commission could step in before a state would take over and appoint an emergency manager for a city.

No city will come through the current crisis completely unscathed, but some were — and more can be — better prepared. Applying these simple principles to your budget can help your city come out of this crisis stronger.

RESILIENCY

As your finances recover, you can implement changes that will leave your city better prepared for the next crisis.



BORROW LESS AND SAVE MORE.

Build savings to prepare for storms, other natural disasters and economic downturns. Once you have built an adequate reserve without taking on new debt for capital projects, you can make paying down existing debts and unfunded liabilities a priority.



STAFFING, EQUIPMENT AND TECHNOLOGIES SHOULD CHANGE WITH THE TIMES.

All three should be managed in a way that is responsive to changes in the economy or citizens' needs.



LOOK FOR WAYS TO SAVE MONEY THROUGH SHARED CONTRACTS.

Natural partners include the state, ad hoc groups of cities with similar needs or intergovernmental associations.



SHARING EXPERTISE CAN BE A SOURCE OF REVENUE.

Some cities provide water to neighboring towns and others share fire departments and sheriffs' deputies with their counties. IT and administrative services are also possibilities

HOUSING AND ZONING

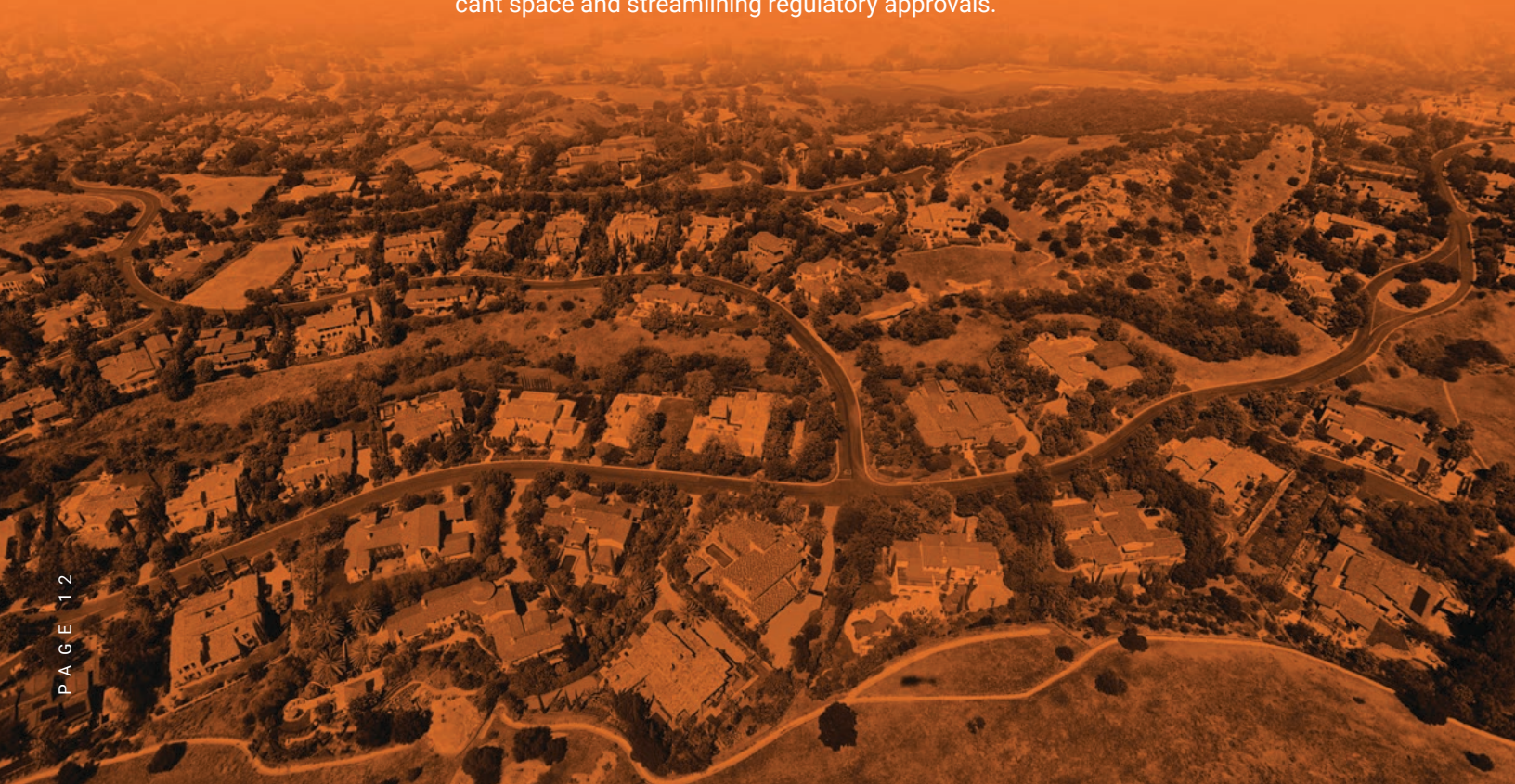
BY SALIM FURTH, EMILY HAMILTON
AND BRIAN HODGES

The right housing solutions can make communities economically resilient – and healthier, too

Rebounding from the COVID-19 crisis requires great private investments alongside public efforts to restore economic vitality. Cities that attract and accelerate those private investments – in jobs, housing and human services – will be well on the way to a complete recovery.

Where housing costs are high, allowing new housing construction is low-hanging fruit as an economic recovery strategy. New housing investments boost tax bases and attract workers and entrepreneurs. Housing expansion also eases financial strains for existing residents by slowing rent growth.

Three steps can address long-standing challenges in most cities that are exacerbated by the COVID-19 crisis: safely housing the homeless, encouraging rapid re-use of vacant space and streamlining regulatory approvals.



SAFELY HOUSING THE HOMELESS

Homelessness is not a new problem in cities, but it may become more widespread and riskier because of the COVID-19 crisis. Although homelessness is more closely linked to high housing costs than to poverty, it is likely to rise in 2020 as employment collapses. Providing safe places for the very poorest to live is not only a matter of improving public health, it's directly related to the underlying purpose of economic policy: creating an environment where every resident can thrive.

Traditional dormitory-style shelters may also spread viruses, and homeless people may be understandably hesitant to risk sleeping in them. Since homeless people come in frequent contact with the healthcare system, their exposure to contagion creates additional risk for medical professionals and other patients.

Cities can ease the costs of homelessness, both in traditional and contagion terms, with single-occupancy shelters. These include sheds, tiny homes, 3D-printed homes, converted motels and even vehicles owned by homeless people. These can be publicly or privately funded and delivered.

In virtually all cases, using single-occupancy shelters requires either case-by-case or blanket exemption from zoning laws. For example, cities could give all non-profits permission to provide shelter for the homeless in

Related: Accessory dwelling units, page 18.

their buildings or in temporary shelters on their land, such as a portion of their parking lots.

Cities and non-profits can also provide services to clusters of single-occupancy shelters. At the most basic level, assigning overnight police protection to a specified parking lot protects people living in their cars and RVs.

Individual bathrooms – as in a converted motel – are ideal for controlling contagion. But in most cases, shared bathrooms, or even portable toilets, are an improvement on the absence of dedicated bathrooms. Local governments should install, or allow non-profits to install, portable sinks as well so that people can properly wash their hands after using shared toilets.

SPOTLIGHT COMMUNITY FIRST! VILLAGE IN AUSTIN

Just beyond the city limits of Austin, Texas, Mobile Loaves & Fishes built a master-planned community for people who had experienced chronic homelessness. Their 51-acre site includes RV parking places, cottages and a central hall. Mobile Loaves & Fishes builds many services into the Community First! site, including several businesses where residents earn a living. It looks like a state park campground. But unlike a campground, the village needs to be located near the jobs, commerce and customers that the surrounding city provides.

The village's FAQ explains its zoning: "Community First! Village sits just outside of the City of Austin city limits; therefore, there is no zoning. We do, however, have to comply with certain state regulations involving density and water quality." In zoned areas, regulatory approval would be necessary to introduce the Community First! model. Cities can work with non-profit partners to identify and re-zone specific sites for village-style occupancy.



REPURPOSE COMMERCIAL SPACE

After a major dislocation, economies come back differently. We don't know exactly how things will change, so cities will need flexibility to rapidly return to a thriving economy. Every sector of the economy is being hammered by the COVID-19 crisis, but commercial space – both retail and offices – can expect the most vacancies.

Many individual shops and retail chains will go out of business; in-person retail may permanently lose market share to online sales. Restaurants may do a larger share of business via delivery, reducing their demand for floor space.

Offices have had a crash course in remote work and workers have had a taste of working from home – it's likely more workers will seek remote-work accommodations. As the recession continues, we expect some companies will ditch their office leases as the least disruptive way to cut costs. Other companies may move toward a campus model, with a mix of office time and remote work.

By contrast, residential demand should remain comparatively strong, especially in lower price tiers. Many cities came into 2020 with pent-up demand. The Great Recession showed that even a housing crash did not lower rent much in high-cost cities. And in most places, home prices rebounded within a few years.

Resilient residential demand and declining commercial demand can be accommodated by allowing re-use of vacant commercial space. This could be accomplished

with a text amendment to local zoning codes to loosen use restrictions in commercially-zoned areas:

- ▶ **Include single- and multifamily housing as an allowed (by right) use in zones that currently allow offices and substantial retail.**
- ▶ **Waive parking requirements, setbacks and bulk restrictions for re-use of existing structures.** In Buffalo, the removal of parking minimums for re-use unlocked vacant downtown buildings that had not been viable under the previous zoning.

Commercial strips with a handful of residential conversions mixed in will be healthier than those with a handful of long-term vacancies. And commercial conversions may provide the type of moderate-price alternative housing that industrial loft conversions provided a generation ago.

Some cities will want to pursue these policies on a discretionary basis – granting variances and special permits rather than passing a text amendment. That approach would likely have limited benefit, since only well-capitalized builders will risk being stuck with distressed commercial property.



STREAMLINE THE HOUSING CONSTRUCTION APPROVAL PROCESS

Approval processes vary widely across localities. In some jurisdictions, projects generally proceed “by right” — projects that comply with zoning rules receive straightforward approvals and building permits. In other cases, cities require long, costly approval processes to secure permits, and what will (and will not) be approved is unclear at the outset. One statistical study found that the time that it takes for proposed housing developments to receive approvals is the most consequential aspect of regulation. The following section on accessory dwelling units offers a potential path to removing subjectivity and speeding up permit times for



More housing is built, and it is built faster and cheaper, when permit-approval processes offer speed and certainty.

SPOTLIGHT

ENDING CITIZEN ADVISORY COUNCILS IN RALEIGH

In 2020, the Raleigh, North Carolina, city council voted to eliminate the city's Citizen Advisory Councils. One of the councils' roles was to make recommendations about whether or not to approve development proposals to Raleigh's zoning commission and city council.

Newly-elected pro-housing city council members pointed out that the councils favored participation from the slice of Raleigh residents who have the time and resources to participate in long meetings. Requiring projects to go before the councils also slowed down approvals, raising the cost of housing construction and in turn reducing new housing supply.

Raleigh officials have said that they are seeking new platforms for citizen engagement that better reflect the interests of all residents.

this relatively low-cost housing typology.

Some cities have elements of the approval process that empower residents who oppose new housing in their neighborhoods. For example, Washington, DC, has 40 elected Advisory Neighborhood Commissions (ANCs) that hold public meetings and issue advisory opinions on proposed developments. The city's zoning and review boards make the final call, but they must give the ANC's recommendations "great weight."

Even jurisdictions without hyperlocal elected bodies often rely on public meetings where residents can express whether or not they like new development proposals as an important part of their housing approval processes. But research shows what many city officials likely already know; attendees at public meetings are not representative of their communities. Attending meetings requires residents to have the time and resources to spend voicing their opinions about changes in their neighborhood or city. Attendees unsurprisingly tend to be older and wealthier than the average resident in their jurisdiction, and they're more likely to be homeowners. Further, discussing specific development proposals at public meetings tends to draw out opposition rather than gathering a representative sample of a neighborhood or localities' opinions about new housing construction.



EACH DISCRETIONARY STEP IN THE PERMIT-APPROVAL PROCESS CONTRIBUTES TO THE “VETOCRACY.”

Each discretionary step in the permit approval process contributes to the “vetocracy” that stands in the way of new housing supply. Many bodies have the ability to delay or block new development, but people with the widely-held view that more housing should be available at lower prices don’t have an opportunity to override the vetoes of specific projects.

In housing development, time is money, and requiring developers to sit on projects — and loans — for months or years contributes substantially to construction costs. Delays in permitting directly increase the costs of home building and, in turn, eventual rental and sale prices for housing. And increases in the time it takes for new housing construction to be approved ultimately results in fewer viable housing developments. Further, when approval processes are uncertain, homebuilders will propose fewer housing projects than they

would otherwise because seeking approval may cost thousands or even hundreds of thousands of dollars for an uncertain return.

For a model of streamlined permitting, local policy-makers should look to Houston, arguably the most pro-housing city in the U.S.; since 1990 Houston’s population has increased by more than one-third, yet its median house price is lower than the national median. Houston does not require any discretionary review, and it even offers 24-hour permitting for single-family developments and simple commercial projects.

Houston’s process also offers public health benefits; unlike other cities, the Houston online approval process doesn’t require meetings, or even a trip to the planning department. Decreasing contact will make city employees and residents safer.





HOUSING PRODUCTION: SETTING ACCESSORY DWELLING UNITS FREE

Addressing the housing shortage endemic in most cities is a key part of economic recovery.

The COVID-19 pandemic highlights housing as a basic human need that, when met, has communitywide health and social benefits. And, as cities move forward with their recovery efforts, housing — its construction, affordability and suitability to the population’s needs — can be a big driver of economic growth and resilience.

But too few homes are being built and they are too expensive. It’s as simple as that.

Earlier this year, Freddie Mac estimated that the U.S. needs an additional 2.5 million homes to accommodate the households we already have. This figure, however, does not capture the full extent of the housing shortage because it does not include the projected need for new housing over the next decade. Nor does it take into account the skyrocketing home prices that have made purchasing or renting in metropolitan areas difficult, if not impossible, for many people — particularly in larger cities like Los Angeles where “affordable” housing can cost up to \$1 million dollars for an apartment.

Building more homes requires more buildable land or more density on existing land — things most major cities limit via zoning. Existing rules may severely restrict new housing or repurposing via separate areas for single-family and multi-family homes or other mixed uses. Combined with large minimum-lot sizes or restrictions on who can live on a property, these policies prohibit the flexible density needed to address the housing shortage.

INCREASING HOUSING QUICKLY WITH 3 LEVERS

Cities have three powerful levers to increase housing relatively quickly via accessory dwelling units (ADUs):



MOVE TO LEGALIZE ADUs

This addresses a gap in most cities’ housing supplies.



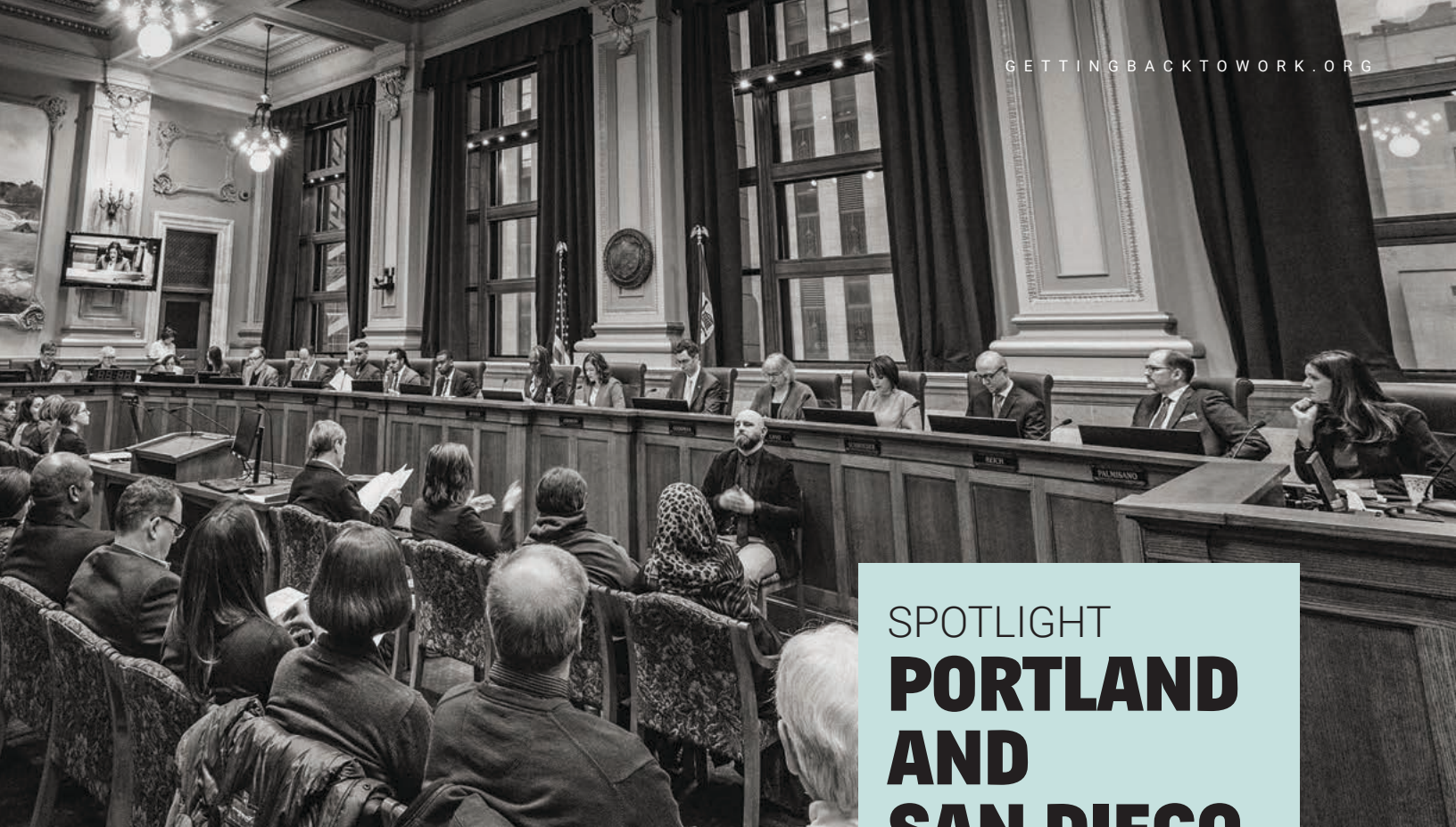
END OCCUPANCY RESTRICTIONS

Cities should reform rules that restrict who can share a home.



REFORM PERMIT REVIEWS

Predictable processes lower costs and speed development.



SPOTLIGHT PORTLAND AND SAN DIEGO

STEP 1: LEGALIZE ADUs

Allowing homeowners to construct ADUs — tiny homes, in-law apartments or granny flats — with relative ease on lots zoned for single-family use will substantially expand the supply of small, affordable homes. This is critical for middle- and low-income households that are increasingly strained to afford housing in urban areas where most jobs are located.

While an ADU will not replace the need for a family home, such units play an important role in making more use of less land. ADUs also provide social benefits to families and communities because they often result in multi-generational households that reduce the demand on apartments and/or assisted living. And when not used for family members, ADUs provide an opportunity to add new rental units that can assist homeowners with mortgage payments.

Cities can further improve affordability by streamlining ADU permit-approval processes. Adopting rules that, for example, pre-approve architectural designs or exempt ADUs from regulatory fees imposed on new single-family development can drastically reduce the cost of building ADUs, spurring an increase in supply.

San Diego updated its building code to give homeowners the right to build ADUs, with very few restrictions. The city also streamlined the permit process by pre-approving several building plans.

The results are noteworthy. The first year, San Diego saw 15 new ADUs. But, since easing its permitting requirements even further, San Diego property owners produced 179 new granny flats in 2019. Since adopting similar regulations, Portland, Oregon, has allowed ADUs on an estimated 116,000 residentially developed lots, resulting in 2,000 being built.





STEP 2: **REMOVE OCCUPANCY RESTRICTIONS**

For the ADU strategy to work, cities should also reform rules that restrict who can share a home. Many cities have occupancy restrictions in their zoning codes that insist that a home or apartment be occupied by family members, prohibiting the number of unrelated people that can share a house or live in an ADU. These rules stifle increasing housing capacity by restricting who can live in the newly built homes.

SPOTLIGHT **SANTA CLARA**

In Santa Clara, California, the median price for a single-family home exceeds \$1 million and the average rent is close to \$3,000 per month.

Since enacting laws to streamline the ADU permit process and eliminating many regulatory costs, Santa Clara has reduced the average cost by as much as \$60,000.

Currently, the average cost of an ADU ranges from \$80,000 for an attached unit to \$160,000 for a detached one — a small fraction of the cost to rent or buy a home.

STEP 3: LIMIT COSTS

Permit-review costs drive home prices. As the housing and zoning section shows, costs and impact fees imposed during the permitting process can significantly increase the cost of ADUs. Rolling back the regulatory mark-up on permitting significantly reduces the cost of each new unit.

Another way to limit cost is to recognize that simple projects like ADUs should not require an architect and extensive review. Cities can pre-approve a selection of common building plans and streamline permit review for projects using those plans.



While broad solutions to the housing crisis require additional state and local reforms, the steps above allow cities to immediately expand the community's housing capacity and sharply reduce the cost of new units. This, in turn, has positive downstream impacts on economic stability, resiliency and long-term growth.

SPOTLIGHT BOWLING GREEN & BELLINGHAM

Bowling Green, Ohio's zoning code contained a provision declaring it a misdemeanor for more than three unrelated persons from occupying a home together, regardless of the number of rooms or adequate parking. In 2019, a federal court declared the law unconstitutional, finding no reasonable basis for treating four unrelated individuals differently than four related people.

Bellingham, Washington, is home to a major university which attracts a large number of renters. The city code, however, contains an occupancy restriction similar to Bowling Green's. In response to the Bowling Green case, the city decided to suspend enforcement of the law while the state considered a bill that would prohibit occupancy laws. That bill did not make it to a final vote and Bellingham's occupancy law remains on the books.

The solution to this problem in Bellingham and elsewhere is in the hands of local government, which has authority to revoke its code provisions. Alternatively, the city could enact an ordinance prohibiting enforcement of occupancy restrictions as follows:

Finding that many unrelated occupant limits on households worsen the community's housing shortage by preventing full utilization of homes, discriminating against nontraditional households and providing no public benefit, it is the intent of the city with this act to prohibit local governments from limiting the number of unrelated persons occupying a home.

Except for occupant limits on group living arrangements regulated by state or federal law, and any restrictions on occupant load of the structure as calculated by the applicable building code, the government may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

PERMITTING AND LICENSING

BY ANASTASIA BODEN
AND STEPHEN SLIVINSKI

Strategies to promote job growth

When jobs are scarce, many people turn to entrepreneurship and self-employment as a means of earning a living. A regulatory environment friendly to business creation and job growth will be central to local economic recovery for most cities.

Unfortunately, well-intentioned and often overlapping laws frequently stifle people from entering a new trade. Although many of these laws appear independently justifiable, in practice they can create a regulatory thicket that prevents people from pursuing legitimate businesses without improving public health or safety.

There is no better time to support entrepreneurs. In addition to considering withholding fines for good-faith violations of the law and temporarily refraining from enacting any new regulations absent some compelling public health or safety rationale, cities can use the following three strategies to foster business growth and economic resiliency.

SUPPORT OCCUPATIONAL LICENSING REFORM

Occupational licensing laws are generally defended as a means to protect the public's health and safety. However, studies have indicated they are a poor tool for that end. They tend instead to reduce competition and, as a result, lead to higher prices.

These laws are most often passed at the state level, meaning employees and employers in any city in a state are subject to them. But some city- and county-level occupational licensing rules are piled on top of the state laws. This can lead to duplication and higher costs to starting and running a business. It can also decrease employment opportunities for city residents.

New data from the Institute for Justice helps quantify the extent of city- and county-level occupational registration. Not at all cities regulate occupations beyond the state-level laws. For instance, Portland only regulates three occupations beyond the state's minimum criteria. Meanwhile, Denver regulates more than 90. A report from the Mackinac Institute shows that Detroit requires licenses for at least 60 occupations, even though half of those already require a license from the state of Michigan.

Municipal and county level occupational licensing requirements vary widely, from a low of 3% of regulated occupations in Atlanta to a high of 92% in Miami.

Most people assume occupational licensure only applies to professions like medical professionals or lawyers. But across hundreds of cities, licensure is required for occupations with relatively low risk of harm. New York City recently cracked down on unlicensed dog walkers. And Detroit requires licenses for window washers, movers, snowplowers and other jobs that could be the difference between a paycheck and public assistance for residents – if licensure didn't stand in the way.

PROMOTING INNOVATION: 4 TOOLS FOR POLICYMAKERS

To promote entrepreneurship and innovation, cities have a number of tools at their disposal:

TRIM THE FAT



Eliminate municipal licensing laws where there's no demonstrable connection to public health or safety.

DE-DUPLICATE



Eliminate licensure where it's redundant to state requirements, and allow reciprocity for state licenses.

LOOK AT ALTERNATIVES



Consider alternatives to licensure, like registration, private certification or mandatory bond.

LOCK IT IN



Enact a local "Right to Earn a Living Act" to avoid proliferation of licensure laws creating a barrier to finding work.



MODEL ORDINANCE

A MUNICIPAL RIGHT TO EARN A LIVING LAW

One way cities can protect residents' ability to earn a living is by creating "sunrise ordinances" that require elected officials to consider various criteria before passing regulations that make it harder for residents and business owners to earn a living.

For example, a city might require lawmakers to demonstrate a public-health or safety threat substantial enough to warrant new regulations, and to prove a significant connection between any new law and that harm, before passing a law affecting the ability to enter a profession. Cities might also be required to consider less restrictive alternatives to licensure, and to engage in sunset review after several years to ensure its laws keep up with changing times.

In 2017, Arizona became the first state to pass a Right to Earn a Living Act. In addition to limiting restrictions on professions to those necessary to serve public-health or safety objectives, the law allows citizens to petition agencies and localities to repeal laws that harm them. If the agency refuses, the petitioner may challenge the law in court under a heightened standard of review.

By encouraging repeal and setting a high bar for laws to pass muster in court, the Act is meant to encourage better regulation and to avoid litigation.

Tennessee has also adopted a Right to Earn a Living Act, and the model ordinance below is based on the language of that law.

Model Ordinance:

- (1) The City shall limit occupational regulations with respect to businesses and professions to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives. "Occupational regulations" shall be defined as any law, ordinance, regulation, rule, policy, fee, condition, test, permit, administrative practice, or other provision relating to a market, or the opportunity to engage in any business, profession, or occupation;
- (2) Before imposing an occupational licensure requirement, the City shall consider less restrictive alternatives, including registration, bonding or insurance, and certification.
- (3) Every other July 1st, the City shall conduct a comprehensive review of all occupational regulations within the jurisdiction for the purpose of determining whether each entry regulation serves a public health, safety, or welfare objective. The City shall repeal any occupational regulation that does not serve a public health, safety, or welfare objective, or modify the regulation to bring it into conformity with Subsection 1.

ENCOURAGE ENTREPRENEURSHIP AND NEW BUSINESS GROWTH

Every city has their own process for someone to start a new business. In some cities, it may only take two steps. In other cities, it can take more than 10.

Even among the cities with a fairly standard set of limited procedures for starting a business, there may be frictions that increase the cost in terms of time. Requiring the filing of forms in person instead of online – or perhaps there is no ability by the city to process the forms electronically – is an example. Unnecessary duplication of reporting is another.

It may seem like these costs are trivial, but they can accumulate over time and over a broad enough scale to create high impediments to new business starts. According to the Doing Business North America study published by the Center for the Study of Economic Liberty at Arizona State University, for most cities these permitting processes can take a few days. For places like Baltimore, it takes nearly a month. For a city like San Francisco, it takes over 45 days.

Substantial differences in these procedures in the time-to-market in a city can be a dampener on long-term business creation – not just in terms of how many businesses are created, but also the speed at which they are created. In the highly-competitive environment for workers, entrepreneurs and capital that cities face, substantial regulatory delays can make a difference.

Large corporations can usually clear these hurdles easily, and city hall is generally willing to help expedite the permitting and paperwork process for the mega-employer moving in.

The same cannot be said for homegrown entrepreneurs and small- or medium-sized business (which, in fact, are usually one and the same). Taken together, these types of businesses are the biggest employers in most cities. Reducing the potential for swift business starts can impact the employment growth generated by those firms.

4 STEPS TO REDUCE MUNICIPAL PERMITTING BURDENS

Simple steps can be taken by cities to reduce the permitting burden required of new businesses:

1. REDUCE
Reduce the number of steps required, not only by reducing the number of forms but by also eliminating the requirements that don't pass a simple cost-benefit analysis.

2. EXPEDITE
Provide expedited electronic filing of required forms to speed the process along.

3. NAVIGATE
Create an ombudsman or "navigator" role inside the city government to help new businesses work through the permitting requirements.

4. GUARANTEE
Create a "challenge culture" in city government by instituting a public guarantee that a business owner can trust he or she will be moved through the process within a certain strict and brief time frame.

BOOST HOME-BASED BUSINESSES

Self-employment is an important way for people to earn a living in difficult economic times, making it critical that cities support home-based businesses.

Even before COVID-19 required many of us to work from home, telecommuting and home-based businesses had long been on the rise. According to recent estimates, 52% of small businesses are home-based. From tutors, to music teachers, to hair braiders, to transcriptionists, many people are taking the first step to entrepreneurship by starting up at home.

Part of the appeal of home-based businesses is reducing start-up costs, but people also choose to work from home because it gives them flexibility. Evidence shows that home-based business owners are more likely to be people who need an alternative to traditional 9-to-5 jobs. Self-employment within the household allows caregivers, people who are disabled or those with special-needs family members to stay close to family and to choose their own hours.

People may now sell goods online or offer music lessons via Zoom with ease. But antiquated laws in many cities make it difficult, if not outright illegal, to start up a business from home. For example, many laws only allow a home-based business if it is “customary” or “incidental” to the residential use. These

vague terms give homeowners little guidance on whether their business is allowed and the standards can be applied in contradicting ways depending on the jurisdiction.

Some cities offer a list of permitted occupations, but they’re frequently narrow or outdated — many laws specifically allow “millinery” (hat-making), or forbid clairvoyance.

Some of these laws are so strict that they even prohibit entirely virtual businesses, like selling used clothes online, uploading tutorials to YouTube or offering collectibles on eBay. In some cities, it’s illegal to have even just one person on premises for business purposes, even though homeowners enjoy an unlimited right to have people over for any other reason. These limitations bar a person from teaching violin at home, or throwing a Mary Kay party.

Some states have eased their home-based business regulations. Utah was among the first to standardize the treatment of home-based businesses across the state, and a similar bill nearly passed in Arizona. Maine and California have taken an industry-specific approach and enacted bills aimed at making it easier for people to sell goods made in home kitchens and to start home daycares.

CITIES CAN LEAD, EVEN WHEN STATES WON'T

Local leaders can support self-employment at home by following best practices to allow home-based businesses while also ensuring that there are no substantial impacts on neighbors:

- ▶ **Provide clarity.** Eliminate vague language like “customary” or “incidental use” and provide clear, objective criteria for whether a home-based business is allowed.
- ▶ **Establish standards for zero-impact home-based businesses** and allow them to operate without a permit.
- ▶ **Establish a permit scheme and reasonable fees for home-based businesses that do not meet zero-impact criteria.** When compliance is straight-forward and affordable, business owners have an incentive to submit to the permitting process and cities are better able to enforce their laws.

SPOTLIGHT

SAN DIEGO EMBRACES HOME-BASED ENTERPRISE

San Diego is an example of a city that has modernized its laws to encourage home-based entrepreneurship. Historically, the city forbade employees and customers from visiting a business run from the home, which made it practically impossible to start many categories of home-based businesses. Owners could get around that obstacle by paying \$5,000 for a Neighborhood Use Permit – something out of reach for many small start-ups.

That all changed in 2018, when San Diego passed a new ordinance that allows home-based businesses to start up without a permit and authorizes one employee, customer and vendor to visit the premises. A broad ban restricts activities that impose a nuisance on neighbors, and businesses that require more visitors or other special accommodations are able to apply for a special permit.

The reform allows businesses with little impact on neighbors to form and operate more freely.

For a study of home-based business laws in localities across the country, see the Center for Growth and Opportunity's recent survey, *Zoning for Opportunity: A Survey of Home-Based-Business Regulations*



OPEN

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TRANSIT AND TRANSPORTATION

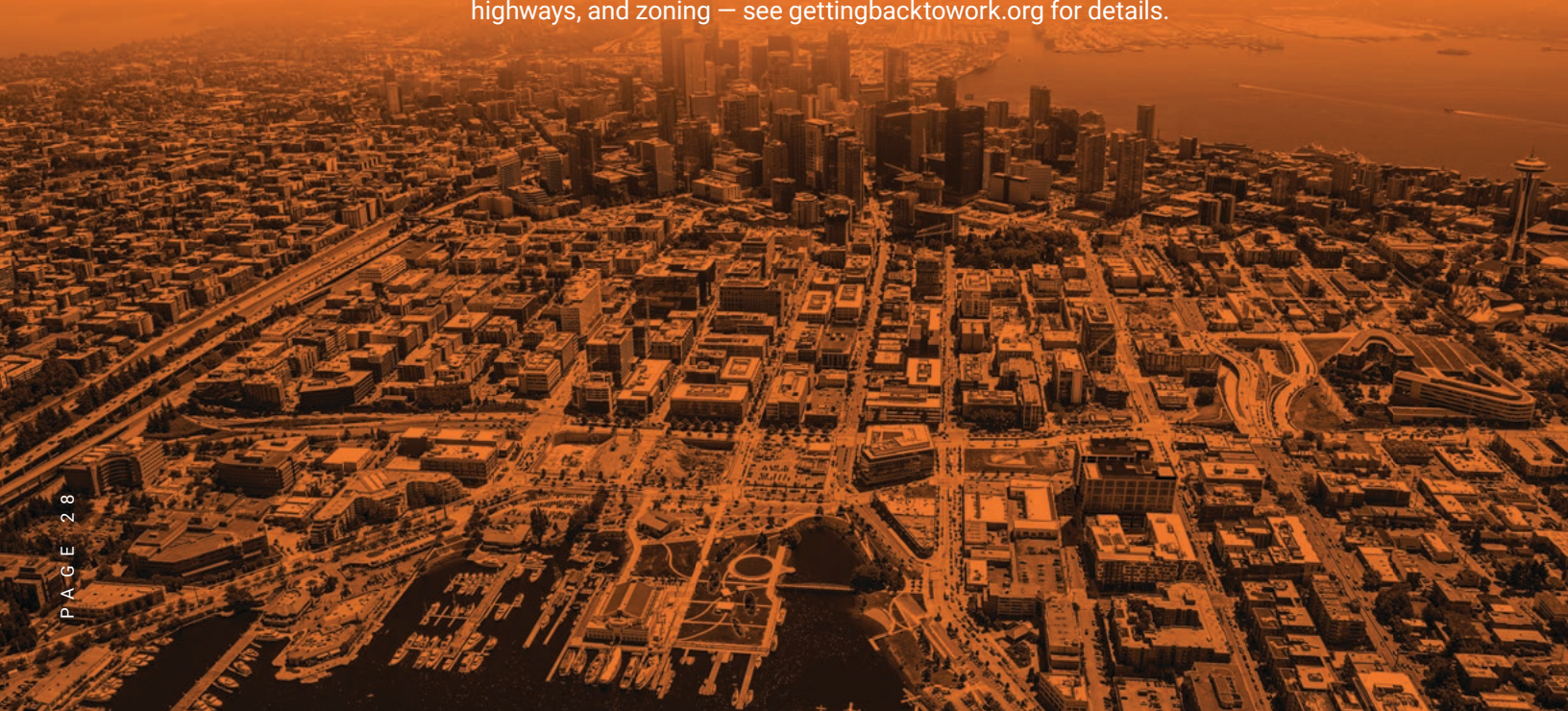
BY BARUCH FEIGENBAUM

Now's the time for cities to embrace flexible options

Transportation is largely a world of slow, thoughtful decisions – infrastructure isn't planned or built overnight, and transit systems can take decades to go from the drawing board to reality. But even against that backdrop, cities can take steps with their transportation systems today that will pay short- and long-term economic benefits in cost savings and flexibility.

Every major city is different, but the overall goal, economically, should be the same: Adopted policies should decrease the financial risk and burden of transportation on taxpayers. While congestion pricing may work in New York, it may be unnecessary in Phoenix or Houston.

This section focuses primarily on transit options, but opportunities that would spur economic development while delivering potential savings and flexibility also exist in highways, and zoning – see gettingbacktowork.org for details.



TRANSIT OPPORTUNITIES MEAN FLEXIBILITY, SAVINGS

Major cities have options to promote mass transit development, including:



LOWER FIXED COSTS AND REDUCE INFRASTRUCTURE

Contract out transit service to private providers.



CREATE NEW PARTNERSHIPS FOR PARATRANSIT DELIVERY

Partner with ridesharing companies to deliver and expand paratransit.



EMBRACE COMPETITION

Eliminate laws enabling transit monopolies.



MAKE IT EASIER TO START NEW SERVICES

Simplify permit processes for e-scooters, jitneys and ferries.



REALIGN SERVICES WITH CURRENT AND FUTURE DEMAND

Reorganize bus services to match demand and need.



CONTRACT SERVICE

Cities can contract out transit operations and maintenance to private providers, potentially lowering expenditures and shifting the burden of unforeseen costs away from taxpayers. Private transit operators can also bring efficiencies of scale, best practices and innovations to local transit systems.

In Los Angeles County, 22 cities formed the Foothill Transit agency to provide cheap and effective contracted transit service. Today, all of the agency's bus routes are operated by Transdev and Keolis, international transit operators.

For contracting transit, a city should:

- ▶ Adopt a process for entering into transit contracting that includes competitive bidding (a minimum of three bids) primarily focused on financial considerations
- ▶ Set clear requirements on routes, schedules and service quality; service quality minimums may require nightly cleaning, altered schedules (to be posted two weeks in advance), hourly service on each route, and procedures that limit noise pollution to 80 decibels
- ▶ Clearly place financial risks on private operators and off of taxpayers
- ▶ Grant private operators flexibility for major events and weather emergencies

PARTNER WITH RIDESHARING COMPANIES

Private rideshare companies, such as Uber and Lyft, can offer better paratransit services at lower costs than traditional providers. While some individuals may require additional aid to enter a vehicle, ridesharing can capture much of the demand and even meet wheelchair accessibility guidelines. Paratransit ridesharing can make use of on-demand reservations using smart phones, which makes trip-planning easier, increasing mobility for those who need assistance.

The Massachusetts Bay Transportation Authority has an on-demand paratransit pilot program with ridesharing companies Uber, Lyft and Curb. Currently these private operators do not offer complementary paratransit service compliant under the Americans with Disabilities Act (ADA), largely due to regulations not technical capability. Uber already offers its WAV (wheelchair-accessible vehicles) service in Boston, Chicago, New York, Los Angeles and Philadelphia.

To promote using ridesharing companies for paratransit a city should:

- ▶ Legalize ridesharing companies
- ▶ Provide subsidies to rideshare companies that offer paratransit services; riders would typically pay a small part of the overall cost, typically \$1-\$5 for each trip with cities/mobility authorities paying the rest; Uber's average charge is \$13.36 while the average paratransit trip costs taxpayers \$29
- ▶ Help private companies become ADA compliant to expand the scope of ridesharing

OPEN TRANSIT TO COMPETITION

Most public transportation agencies, such as Denver's Regional Transportation District and the Maryland Transportation Authority, function as monopolies, either from state-level law or city-level contracting practices. Municipalities should end city-level monopolies and pressure states to remove statutes that forbid private-sector transportation services. Many transit agencies lack the capital or ability to expand service to underserved areas, leaving room for private-sector actors without risk to taxpayers.

Additionally, cities can bundle together transit routes by geographic districts or route type. Bundling profitable and unprofitable transit routes into a single contract preserves service for the transit-dependent while allowing companies to remain profitable and competitive. Even with private operators, certain routes may



continue to need subsidies either from the transit agency or directly through the city.

To end a transit agency monopoly a city should:

- ▶ Remove legal bans on private transit operators
- ▶ Guarantee that fees paid by private transit companies go toward relevant expenditures
- ▶ Redirect subsidies, as transit costs decrease, to infrastructure useful by both government-owned and private transit

SIMPLIFY PERMIT PROCESSES FOR PRIVATE TRANSIT ALTERNATIVES

Simplifying the permit process for private-sector transportation would promote transit that can survive in the market without subsidies, particularly modes that require minimal capital investment. The following four modes of transportation could meet demand in various cities: ridesharing, e-scooters, ferries and jitneys.

Ridesharing companies such as Uber and Lyft are versatile and ubiquitous, throughout major cities. Jitneys, small private shuttlebuses, can provide effective point-to-point transit on high demand routes. After eliminating public transit monopolies, cities should craft jitney service quality procedures that ensure minimum safety and cleanliness, but allow for maximum route and scheduling flexibility to best match demand levels. In Atlantic City, New Jersey, jitneys already connect heavily frequented locations, such as the airport, train and bus station, hotels, convention center, and the Boardwalk. Both jitneys and ridesharing vehicles use existing roads and pay motor fuel taxes and tolls.

Electric scooters have demonstrated an ability to ex-

REORGANIZE BUS SERVICES

Cities should analyze bus ridership and service patterns every five to 10 years and adjust service accordingly. The needs of transit-dependent riders should be prioritized when determining publicly-subsidized routes. While some routes with limited demand may need subsidies, private operators can operate high-demand routes used by transit-choice riders who can afford to pay the full cost of the trip.

In 2015, Houston, Texas's Metro transit agency successfully reorganized their bus network, cutting certain routes, shifting away from a hub-based pattern and expanding intra-suburban routes to meet demand and need. Planners found the biggest need was additional Sunday service and the agency cut weekday service to expand weekend service. Bus ridership

grew in Houston despite nationwide declines in transit ridership. In the aftermath of Hurricane Harvey, Metro was able to restore service quickly and alter routes based on the needs of city residents.

NJ Transit is a counter example. Despite operating an extensive route network, service holes remain in suburban areas. Hip, a private bus company, is working to fill that void connecting suburban communities directly to Manhattan in areas NJ Transit underserves or does not serve at all.

To reorganize their bus network cities should:

- ▶ Analyze ridership patterns regularly
- ▶ Adjust routes every five years
- ▶ Prioritize service for transit-dependent riders



ist sustainably across the country, proving especially useful in regions with warm weather year-round. These companies often pay fees to the municipality for law enforcement costs and bike lane maintenance or expansion. However, overburdensome permit fees can force e-scooter companies to cease operations in a city, as Lime did in Tempe, Arizona, because of a \$7,888 business license fee.

Ferries are important transportation assets in areas with major bodies of water. Ferry companies can operate profitable routes, set market-based parking fees and invest in real estate directly around their terminals. Capital costs for ferries are relatively low, as the body

of water already exists, and non-fare revenue potential in real estate and parking is relatively high.

A simplified permit process requires:

- ▶ Clear and predetermined application requirements
- ▶ An elimination on the ability to place limits on the number of providers for a given mode of transportation
- ▶ A requirement that any fees on private transit companies go toward expenditures that address their needs or relevant externalities
- ▶ Fees set no higher than a level that addresses the aforementioned costs

TRANSPARENT, OPEN GOVERNMENT

BY PATRICK TUOHEY

During the recovery, everyone will be watching

We all understand that transparency in government is an unalloyed good, but that doesn't mean it's welcome or easy. Open government is more than assigning the information technology officer to build – or hiring a consultant to build – a web-portal showcasing every financial transaction. Transparency is more than a public information officer fielding open records requests.

Open government is not transactional, it's cultural. It is the result of elected officials and the civil servants on who we depend agreeing that openness and transparency are important values, and that everyone in the organization will adopt a policy of defaulting to it. Done correctly, open-government initiatives activate and engage the citizenry, creating a virtuous cycle of better-informed and more-involved citizens who can, in turn, provide input that supports thoughtful and responsive policymaking

Open government starts with a simple presumption that complete, timely information should be available to all interested parties for use without restriction. Once a culture of transparency is instituted, everyone understands how they can contribute to the whole.

While open, transparent government allows citizens to keep tabs on their representatives, it's more than just one more burden on the public sector. Wide, ongoing public participation increases the responsiveness and effectiveness of government, which benefits from people's knowledge, ideas and ability to provide oversight. Transparency helps you do your job more effectively, creates an important public record of how you and your colleagues worked to meet the public need and increases public confidence in your good intentions.



TRANSPARENCY: A POWERFUL TOOL FOR BOTH THE PUBLIC AND LOCAL LEADERS

In the 2012 Recovery Act Transparency: Learning from States' Experience, researchers found that while data was used widely if unevenly by journalists and activists, "State officials were the principal users of Recovery Act data as it allowed them to manage and track federal spending in near-real time." They went on to conclude that state officials' ability to manage the disbursement of funds was the most significant impact of transparency.

As you consider the other recommendations in

this playbook, think about how much easier your job would be if there was a place you could go to see if these policies were having the desired effect. Tracking and sharing information on business openings, licensing applications, inspections, approvals and the like helps the city facilitate business growth. If things are moving too slowly, good data collection helps identify obstacles and address them in real time, before you start getting calls from residents, home builders, and elected officials. Transparency helps you do your job.



OPEN GOVERNMENT ALLOWS YOU TO DEMONSTRATE SUCCESS

There will certainly be studies and legislative inquiries into how federal money was spent and which cities were best at putting it to use. Taking the time now to make sure that actions and outcomes are recorded will not only help you with the work at hand but help demonstrate to others your success.

The 2012 Recovery Act study affirmed Louis Brandeis' 1913 statement that "sunlight is said to be the best of disinfectants; electric light the most efficient policeman." It concluded the mere presence of openness standards was itself a positive: "Transparency requirements served as a deterrent, which contributed to low rates of fraud, waste, and abuse of funds."

That is good news: We all work better when we know we're accountable. Municipal government can be a thankless task or worse; clear and open data can protect good initiatives and even defend against strongly held bad ideas.



“TRANSPARENCY REQUIREMENTS SERVED AS A DETERRENT, WHICH CONTRIBUTED TO LOW RATES OF FRAUD, WASTE, AND ABUSE OF FUNDS.”



COLLECTIVE BARGAINING TRANSPARENCY

As this is being written, the US unemployment rate is more than 15% and likely underreporting those out of the workforce. Job losses will likely be lighter among public employees; add in financial anxiety and the prospect of higher taxes to make up for reduced revenue, and it's easy to imagine the public calling for dramatic reductions in public staffing.



This may be alleviated with good-faith efforts by city officials and unionized municipal workers to spread that pain around fairly. People can be made to appreciate the continuing need for municipal employees — especially in the midst of a pandemic — but they don't want to feel that they are being forced to support sweetheart contracts. Part of that can be accomplished by introducing more transparency in public employee collective bargaining.

Contract transparency is the norm in nearly half the states across the country. Some states open the entire process to the public; others include an exemption when government officials are strategizing among themselves. Once public officials meet with union negotiators, however, the public is allowed to be informed and monitor the process.

If your city doesn't have transparency requirements for collective bargaining or if the state law is weak, now's the time to consider this important reform. Open collective bargaining sessions to the public, require a 24-hour notice of the session and make sure that draft and finalized bargaining agreements are made public and easily accessible.



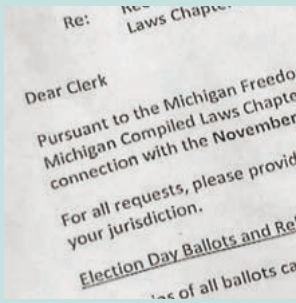
TRANSPARENCY GENERATES PUBLIC SUPPORT

Americans’ willingness to place the United States economy on hold to preserve medical resources and to protect the weakest among us is remarkable. It demonstrates an amazing ability to make personal sacrifices for the good of the whole — sacrifices that can seem more rewarding if local government is able to clearly articulate the payoff.

The impacts of open government go beyond policy; they’re a matter of fundamental trust as well. A 2014 study by Stephan G. Grimmelihuijsen and Albert J. Meijer published in the *Journal of Public Administration Research and Theory* makes it clear that transparency is not a panacea. Those knowledgeable about public policy are not necessarily swayed by transparency, but:

Strong transparency policies result in a rise in the perceived benevolence of government among participants with little prior knowledge and a low level of general trust in government. In contrast, weak transparency policies result in a decline in the perceived competence of participants with little prior knowledge and a high level of general trust in government.

The public is more likely to give you the benefit of the doubt if they think you’re being forthright. That store of goodwill will be important to you and your colleagues as you work to recover from the economic hardships of COVID-19.



SURVEY

WHO'S FILING PUBLIC-INFORMATION REQUESTS IN 2020?

While the news media continues to lead in litigating public record lawsuits, for the first time since 2009, the National Freedom of Information Coalition's (NFOIC) Biennial Open Government Survey showed that members of the public outnumbered newspapers as the larger client group for attorneys pursuing open government cases.

Most respondents cited a problem with a lack of enforcement or penalties for agencies and officials who violate them. Less than 13% of respondents reported a decrease in open records or open meetings violations in their jurisdiction over the past two years.

Fifty-seven percent of respondents reported an increase in making open government requests in state and local jurisdictions over the last two years.

Of the more than 100 survey respondents from across the U.S., nearly half were journalists and about one-fourth identified as state coalition members of NFOIC. Other self-identified stakeholder groups included attorneys, civic technologists, press association representatives and a handful of government agencies/elected officials. Thirty-five attorneys responded to the survey question about their client base.

Other findings:

- ▶ Nearly 87% of respondents said the incidence of open records or open meeting violations in their state and local jurisdiction stayed steady or increased over the past two years.
- ▶ More than half of respondents said government officials' understanding of and voluntary compliance with open government requirements in their state and local jurisdiction decreased over the past two years.
- ▶ Reported reasons for government agencies denying access to records varied, from disingenuous rationalization of exemptions to inappropriate game playing and ignorance of the law. The biggest obstacle respondents said they faced in getting information was a lack of response or delayed response (84%), followed by invalid exceptions (66%) and unreasonable fees (63%).
- ▶ 21% of respondents said there were worse policy reforms, amendments and legislative changes to public disclosure and open meeting laws affecting their state; 15% said it had improved.

This pandemic has demonstrated that Americans are able to rise to the occasion if they are given what they need to make informed decisions. Transparency and openness are not just goals in and of themselves. Municipalities that adopt financial transparency programs, collect and share information related to their basic functions and open up their collective bargaining process not only improve outcomes, but engender favorable opinions among residents. And perhaps most importantly, demonstrate that they are willing partners in the economic recovery.

THE TEAM

This playbook would not have been possible without the deep expertise of municipal-policy experts from around the country. From economics to law and from planning and transportation to government transparency and economic development, their research and recommendations are shaping tomorrow's municipal landscape.



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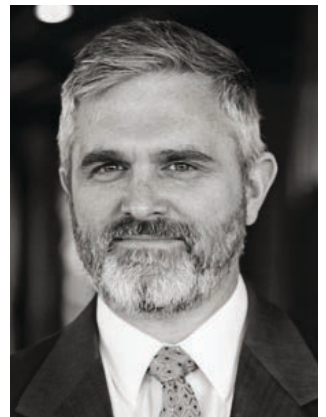
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NEXT STEPS **READY TO GET YOUR CITY BACK TO WORK? WE CAN HELP.**

This playbook isn't the final word on getting American cities back to work quickly; it's a starting point.

And whether you have an office at city hall, a desk in a newsroom or a seat at the kitchen table as an informed citizen, BCP and the Getting Back To Work project team can help you explore these and other policy suggestions in depth.

VISIT [GETTINGBACKTOWORK.ORG](https://gettingbacktowork.org)

You'll find the full text of this report online, as well as additional linked research and recommendations that can help you find your city's best path forward.

SIGN UP AT [BETTER-CITIES.ORG](https://better-cities.org)

Our updates keep thousands of local elected officials and engaged citizens informed about the latest ideas in municipal policy.

GET IN TOUCH

BCP can help identify specific research and recommendations relevant to your city's challenges, direct you to the right experts for answers and offer presentations related to these and other topics.

Thoughtful policy solutions for America's cities — the kind that empower people to prosper and thrive — are more crucial than ever.

The next decade of economic growth in America will likely be determined by the actions cities take to recover from COVID-19 and the shutdown that ensued. There's a tremendous opportunity to rediscover our strengths and lay aside old, unhelpful habits.

This playbook — and its online companion — offers real-world policies and practices cities can adopt quickly to help spur growth.

Americans stood with their leaders to slow the growth; this is an opportunity for leaders to stand with Americans to speed the recovery.

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