

What changed? New Urbanism became a major force in urban design and planning. New Urbanism has occasioned its own debate about its alleged evangelism, rigidity, and antimodernism, but it has had the salutary effect of shining a bright light on how seemingly innocuous provisions in zoning or subdivision codes affect the built world in unforeseen, durable, and sometimes pernicious ways.¹

Ben-Joseph, though certainly no doctrinaire New Urbanist, has caught this code bug. His interest is not in urban form per se but in how design standards have evolved to shape it. He writes from the demand side, as an inquisitive design professional who wants to crack the genetic code of place making. Notwithstanding the book's subtitle, it is doubtful that the town planners and land use lawyers on the supply side of codes think of them as a "hidden language." After all, they are adopted after a public process and are in plain view. The very word "code," which signifies both a set of rules to govern behavior and a system of secret communication, reflects this duality.

Ben-Joseph is intent on illuminating how these overt rules have sometimes obscure effects. He's mostly interested in deconstructing how zoning and subdivision codes cause sprawl and environmental degradation without exactly intending to, expanding the New Urbanist code critique, which was mostly about urban form, to include environmental sustainability. In focusing on the unintended effects of land use regulation, the book is part of a continuum of modern efforts to decode the built landscape.² The book's three parts address the history of codes, their effects, and suggestions for reforming them.

His account is balanced and informative, and he has a point to make: Codes rely on standardization, which does not account for local variation or changing social imperatives. Codes therefore have unintended effects that are persistent, both because codes are hard to change once adopted and because physical improvements have such a long, useful life. He favors flexible performance standards in place of prescriptive requirements, reflecting a growing trend in policy circles. Ben-Joseph's absorbing history makes clear that all organized societies, starting at least with Hammurabi in ancient Babylon, have established building rules in the interest of social order.³ Newly established societies that abjure such rules soon learn their lesson: For example, the centuries-long process of code evolution was recently replicated in the Nevada desert, where the "Burning Man" festival forsook its atavistic roots to

The Code of the City: Standards and the Hidden Language of Place Making

By Eran Ben-Joseph

Cambridge, Massachusetts: The MIT Press, 2005

Reviewed by Matthew J. Kiefer

Twenty years ago, it would have been unusual for an accomplished site planner and educator with as broad a frame of reference as Eran Ben-Joseph to write a book about land use codes, or for such a book, once written, to find an audience beyond a few dedicated town planners and zoning lawyers.

adopt basic planning and zoning rules in the interest of sanitation, safety, and enjoyment after only seven years of mounting chaos. Ben-Joseph acknowledges that codes, like most exercises in social control, arise to solve particular problems. There is a natural progression of problems, starting with defense (“don’t weaken the town wall”); through safety (“don’t build a house with wobbly walls which could topple and cause injury”), public health (“don’t locate the privy next to the well”), commerce (“don’t encroach on the street”), and consumer protection (“don’t sell a building lot with no frontage on a public way”); to, most recently, quality of life (“don’t shadow the park”).

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Ben-Joseph addresses the evolving social and religious norms that codes promote, but he is mostly interested in the problems codes create rather than the ones they solve. (He quotes Gaius Julius Caesar to the effect that “all bad precedents began as justifiable measures.”) He traces the history of standardization of building practices, with roots in 16th-century land surveying, driven by colonization and the need to regularize land transfer and settlement, and the 19th-century rise of the civil engineering profession in the service of building canals, railroads, and other public works.

The Progressive Era’s application of the scientific method to social reform led to the first zoning codes (based on Prussian precedents) to reduce land use friction in industrializing cities and to subdivision codes to regulate rampant land speculation. The public health and sanitation movement also relied on uniform standards, as did the federal housing program implemented in the 1930s to rescue the collapsed housing industry. These steps in the progress of urbanization are portrayed with hints of problems to come.

Ben-Joseph then turns to the dark side of standardization. He repeats a familiar lament about the sprawl-

inducing nature of suburban zoning and subdivision codes, which contain inflexible design standards on street widths, lot sizes, setbacks, and open space that promote excessive land consumption and impervious surface and which operate as de facto growth-control mechanisms. Significant permit delays result when a builder seeks relief from them, increasing market risk and housing costs.

Sanitation codes, he explains, are based on the fundamentally flawed premises that potable water should be used to convey human waste in pipes to be treated and discharged to distant surface water bodies, and that storm water should similarly be treated as a pollutant and evacuated from the site in pipes for remote treatment. We now know there are better solutions that harness natural processes, like waste collection for use as fertilizer and on-site storm-water infiltration. And yet prevailing practices, which had a certain original logic, are slow to change, partly due to the phenomenon of “path dependence”: Once a technology has been chosen, it is very hard to change even when it is outmoded.⁴ (But even this does not explain why such practices are now being replicated in China.)

Ben-Joseph also has an interesting take on so-called Common Interest Communities—condominiums and planned communities governed by private covenants. He reviews their appeal and both the design critique and the social critique of such communities evenhandedly,⁵ but describes how they have become laboratories for design innovation because they are often accorded relief from rigid code requirements.

Ben-Joseph then proposes solutions. He is an ardent proponent of computer-based visualization tools to improve decision-making—and indeed, their ability to model possible outcomes in advance is powerful, especially for those on the front lines of the approval process, who generally lack a design background. He wants to broaden the social science-based norms of the urban planning profession by elevating the importance of physical design and involving other professional disciplines. He urges illustrated plain English codes that vary by locale (like Duany Plater-Zyberk’s proprietary transect code, a set of dimensional requirements calibrated along a gradient from rural to urban settings⁶), and the formation of a best practices clearinghouse to spread the word about better solutions. After these sensible suggestions, he enters less charted terrain. He advocates that planning, and the design standards that result from it, set goals and not outcomes, be place-based and flexible, and allow for

experimentation and wider discretion. He also advocates more local control and permit streamlining through simplification and consolidation of multiple reviews.

The notion of a centralized permit-granting authority under local control with wide discretion to administer flexible codes raises troublesome questions Ben-Joseph does not address. The fact is that flexibility is a mixed blessing. Consistency and predictability also have great social value—not to mention fundamental constitutional underpinnings.⁷ They assure fairness and reward private investment. What Ben-Joseph calls flexibility, adaptability, and discretion, a production home builder would likely regard as risk, uncertainty, and delay. Many builders and developers would be happy to abide by fixed rules for narrower streets and natural infiltration as long as they are clear and approval is predictable. This would produce more low-impact housing more efficiently.

Local control over land use is a mixed blessing too. Discretion requires not just strong consensus about what values to promote but also trust in public officials to exercise their discretion wisely, probably in the face of neighbors who will exploit this “flexibility” to oppose additional density. Local boards are often myopic, disinclined to face local opposition or to accept their share of regional burdens, which have no political reward. Why allow for more discretion when it only invites mischief?

Ben-Joseph presumes that bad codes persist because people are blind to their unintended consequences and resist changing them for the wrong reasons. But most zoning codes undergo nearly constant revision—just not, perhaps, in the right direction. As for their unintended consequences, surely after fifty years the effects of postwar zoning are manifest on the landscape. Overcoming inertia may be more a matter of making the case for better outcomes and drafting specific code revisions to achieve them, rather than waving the gauzy banner of flexibility, which can seem like another way of saying that you don’t know what you want. Regulatory standards in the land use arena, as in other subject areas, follow a dialectic: periods of reformulation followed by periods of consolidation of gains. Social change creates disruptions—as in the land use friction caused by late-19th-century industrialization and urbanization. In response, Progressive Era zoning reformers championed new rules not to obstruct innovation but to curb abuses.

There is long lag time before the new codes are adopted, are adjusted, and can do their work, the delay

exacerbated by market cycles and “grandfathering” of existing improvements. But social change is inexorable, and eventually a new set of reformers like the New Urbanists arises to highlight the bad influence of the now-outmoded codes. The path dependency and inertia noted by Ben-Joseph—as well as the need for predictability and consistency—all inhibit change. Then, sometimes suddenly, sometimes gradually, the old rules are replaced with new ones, which will eventually suffer the same fate.

DON'T WE KNOW ENOUGH NOW TO WRITE NEW RULES? CAN'T WE SPECIFY THE RATE OF STORM WATER INFILTRATION OR THE DESIRED WIDTH OF STREETS, FROM SERVICE ALLEYS TO MAJOR COLLECTOR ROADS? HOW MUCH MORE EXPERIMENTATION DO WE NEED?

Ben-Joseph implicitly acknowledges this trajectory in his code history, but his solutions do not acknowledge our place in it today. The current period of reformulation of how we shape the built world has been under way for a long time. We are now actually implementing the shift foretold by Jane Jacobs and Christopher Alexander from rationalism, mobility, and consumption to versatility, localism, and sustainability.

The shift has recently accelerated due to more widespread acceptance of climate change as an existential threat and reduction of greenhouse gas emissions as a new organizing principle for social action. At the same time, the last presidential election shows how attitudes about government have shifted. For the first time since the “Reagan Revolution” set about shrinking the role of government in domestic life, an electoral majority seems willing to look to government to solve social problems again. In fact, it’s striking how much has changed even in the four short years since Ben-Joseph’s book was written.

After a half-century of advocacy and experimentation about better land use practices, we know much more about what outcomes we want. We are mostly experimenting with new methods to achieve them: market mechanisms such as cap-and-trade regimes⁸ and transfers of development rights; a new emphasis on public incentives such as the massive federal stimulus bill;⁹ and, as advocated by Ben-Joseph, performance standards accompanied by choice, monitoring, reporting, and adjustment in place of top-down mandates.¹⁰ We are doing our best to coax rather than bludgeon private behavior into alignment with social imperatives.

But don't we know enough now to write new rules? Can't we specify the rate of storm-water infiltration or the desired width of streets, from service alleys to major collector roads? How much more experimentation do we need? If the problem is accommodating local variation, we can set overall performance goals at higher levels of government and provide municipalities with guidance, grants, and technical assistance to choose their own particular rules. If the problem is code persistence in the face of changed circumstances, we can require monitoring and reporting and a review every five or ten years once the new code's effects, intended and unintended, can be evaluated.

With locally derived codes that are purged of vagueness and periodically adjusted, local boards can issue permits expeditiously. If you want to depart from the default rules, you can make your case, but even Ben-Joseph might hope such occasions are rare if the default rules are ones he supports. Such an arrangement might satisfy the most ardent New Urbanist and the production homebuilder too. All we would have to worry about are the neighbors.
