

ZONING PRACTICE

JANUARY 2010

AMERICAN PLANNING ASSOCIATION



➔ ISSUE NUMBER 1

PRACTICE SOCIAL SERVICES



A Sound Approach to Regulating Social Service Facilities

By Margaret Wuerstle, AICP

The real and perceived impacts of social service facilities on America’s neighborhoods have been a controversial topic of discussion in many jurisdictions across the country.

Social service uses such as homeless shelters, halfway houses, supportive housing, and soup kitchens have a clear social value and usefulness. They can also have undeniable adverse impacts on residential and business environments. The challenge confronting government leaders is how to provide humane, dignified, and comprehensive solutions to poverty and homelessness while ensuring healthy urban neighborhoods for everyone.

UNDERSTANDING THE ISSUES OF REGULATING SOCIAL SERVICE FACILITIES

Deinstitutionalization refers to “the replacement of long-stay psychiatric hospitals with smaller, less isolated, community-based alternatives for the care of mentally ill people”

(Lamb and Bachrach, 2001). The rationale was based on the concepts that the mentally ill would live better lives in community-based care than they could under state hospital conditions, and that such care would be more therapeutic and more cost-effective than hospital-based care. Studies indicate that the expectations of deinstitutionalization have not been achieved. Consequently, a new generation of deinstitutionalized persons with severe mental illness is homeless and creating significant challenges to service providers and communities (Lamb and Bachrach, 2001).

Federal law defines a *homeless* person as one who “lacks a fixed, regular, and adequate nighttime residence . . . and has a primary night residence that is: (a) a supervised publicly or privately operated shelter .

. . (b) an institution that provides temporary residence for individuals intended to be institutionalized, or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings” (*APA Policy Guide on Homelessness*, 2003). Additionally, the *chronically homeless* are individuals that typically have mental illness or substance abuse issues in addition to extreme poverty, and as a consequence, these individuals experience long-term homelessness (Lamb and Bachrach, 2001).

According to a recent National Coalition for the Homeless survey of state and local homeless coalitions and service providers, 49 percent of all respondents indicated that more than 10 percent of their clients were homeless due to a foreclosure (Downing et al, 2009).

Consequently, social service providers are expanding their services, and religious institutions are now providing much more than worship services. A 2003 point-in-time count conducted in Cincinnati established the benchmark on chronically homeless as 54 percent of homeless individuals on any given night. Further benchmarks have now established that 58 percent of the chronically homeless have substance abuse issues; 33 percent have mental health problems; and 21 percent may be dual-diagnosed with substance abuse and mental health issues (Cincinnati Consolidated Plan, 2005–2009). One can reasonably assume that individuals with alcohol and substance addictions or untreated mental illness are prone to unpredictable behaviors. It is the occurrence of these erratic, offensive, and sometimes dangerous behaviors that have created the concerns reported by neighborhood residents.

Religious institutions have expanded their ministries in response to the needs of their congregations and provide emergency shelters, soup kitchens, and even car repair services for needy individuals. The Federal Religious Land Use and Institutionalized Per-

➔ This map shows the concentration of Part 2 crimes in Cincinnati’s Over-the-Rhine neighborhood. The concentric circles represent 0.25- and 0.50-mile radii from a large homeless shelter listed as the place of residence for many of those arrested.



• Home_Address_of_All_Part_2*
 ● Arrest_Addresses_for_217W12th_PI2**
 Neighborhood_Boundaries
 Streets

*Home address given by those arrested for Part 2 crimes in 2008
 **Address of arrest for all those giving their address as 217 W. 12th St. in 2008

City of Cincinnati

ASK THE AUTHOR JOIN US ONLINE!

Go online from February 8 to 19 to participate in our “Ask the Author” forum, an interactive feature of *Zoning Practice*. Margaret Wuerstle, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

Margaret Wuerstle, AICP, is the chief planner and zoning hearing examiner for the City of Cincinnati. She has worked in various capacities in the planning field for over 30 years and is a former mayor of Dunkirk, New York. Wuerstle is a member of the American Institute of Certified Planners and a Licensed Professional Planner in New Jersey. She is also an adjunct instructor at the University of Cincinnati, where she teaches courses in land-use controls and zoning.

son Act (RLUIPA) has significantly reduced the ability of local governments to regulate these land uses if they are provided by a religious institution.

RLUIPA prohibits the government from treating a religious assembly or institution on “less than equal terms than a non-religious assembly; discriminating against any assembly or institution on the basis of religion; completely excluding religious assemblies in a jurisdiction; or placing unreasonable limits on the religious assemblies, institutions or structures within a jurisdiction” (Williams and Souchuns, 2003). However, it does not give a free pass to religious organizations. RLUIPA was enacted to address congressional concerns about unfair treatment of religious land uses, not to provide religious land uses with immunity from land-use regulations (Weinstein, 2008).

Many churches and synagogues that provide shelter for the homeless as part of their mission may claim that these activities are protected as a First Amendment expression of their faith and therefore are constitutionally exempt from zoning regulations. This may be accurate depending on the circumstances of the case and which court hears the case. State and federal courts have not dealt with these claims consistently. Municipalities must be able to show that any regulation that infringes on religious expression serves a compelling public purpose that outweighs concerns about religious expression (Schwab, 2000).

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended prohibits discrimination because of race or color, religion, sex, national origin, familial status, or disability. The Fair Housing Act (FHA) does not preempt local zoning laws, but it does prohibit local governments from making zoning or land-use decisions or implementing land-use policies that exclude or otherwise discriminate against protected individuals with disabilities.

Persons with disabilities are individuals with mental or physical impairments that substantially limit one or more major life activities. The disability discrimination provisions of FHA do not protect persons who currently use illegal drugs, persons who have been convicted of manufacture or sale of illegal drugs, sex offenders, juvenile offenders, or persons with or without disabilities who present a direct threat to the persons or property of others. FHA *does* protect people who are recovering from substance abuse. In Massachusetts, the Worcester Regional Research Bureau released a study in response to civic concerns over the concentration of social service programs in certain areas of the City of Worcester that presented justification for using zoning regulations to preserve the integrity of neighborhoods. More importantly, the study confirmed that individuals actively using drugs and alcohol are not protected under FHA and further offered that individuals must be “in recovery” for at least 30 days before they are considered to have a disability that is protected under federal law (Worcester Regional Research Bureau, 2005).

CINCINNATI TAKES STOCK

A 2007 court decision that upheld a zoning approval for a 100,000-square-foot integrated social service facility, known as the CityLink project, was the “tipping point” that forced Cincinnati to pursue zoning text amendments for the regulation of social service facilities.

Residents in the Over-the-Rhine (OTR) and the West End neighborhoods in Cincinnati are particularly fearful of the impacts caused by the saturation of human service facilities and tried to prevent CityLink from opening in their neighborhoods. Once the court decision was issued, concerned citizens from OTR, West End, and other neighborhoods petitioned the city council to take action to address the concentration of controversial social service facilities.

The city council and the planning commission both felt that land uses should be sited only in those areas that the city determined to be appropriate and not as a result of unintended loopholes caused by a lack of clarity in the zoning code. To this end, city officials directed staff to amend the zoning code to include clear definitions for social service agencies and to specify the zoning districts that would permit these uses. Additionally, on June 25, 2008, the city council passed Resolution #41-2008 directing the city manager to use his authority, to the extent permitted by law, to adhere to the policy “that social service agencies and programming shall not be concentrated in a single geographic area and shall not locate in an area that is deemed impacted.”

On September 10, 2008, 14 social service agencies and individuals filed a complaint in U.S. District Court for the Southern District of Ohio in response to the resolution. The social service providers asserted that the resolution constituted a violation of the substantive due process rights secured by the 14th Amendment of the U.S. Constitution because it failed to define what was meant by “an area that is deemed impacted,” “concentration” in a single geographic area, or “social service agency.” Without definitions of the critical terms contained in the policy adopted by the resolution, the orders given to the city manager were considered to be vague and overbroad. The vagueness of the terms would deprive the social service providers of their substantive due process rights to know what conduct was expected of them regarding social services and programming in neighborhoods (*Greater Cincinnati Coalition for the Homeless, et al v. City of Cincinnati*, 1:08CV603, S.D. Ohio 2008).

Additionally, the social service providers claimed that the resolution violated the Equal Protection clause of the U.S. Constitution also found in the 14th Amendment. The complaint argued that the city had no study or any other

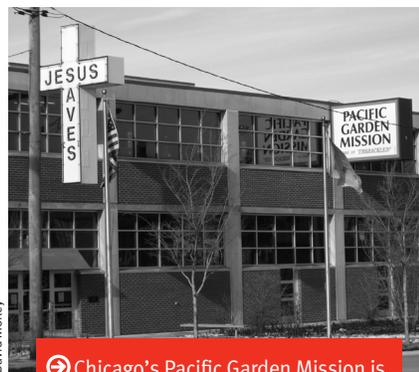
documentation to justify this conclusion. Without any data to support the conclusions, the resolution impacted the social service agencies located in or providing services in the OTR neighborhood by denying equal protection of the law as guaranteed by the U.S. Constitution, and holding some organizations to a different standard than other agencies performing similar services in other neighborhoods without any justification for that different treatment.

Staff established the Cincinnati Social Service Committee (SSC) when the planning commission directed staff to create zoning text amendments with input from the social service providers and neighborhood representatives. A total of 28 meetings were held with the goal of developing zoning text amendments that would address the definitions, location, and concentration of social service agencies in the city. The SSC consisted of a broad representation of social service providers and concerned citizens who worked to provide meaningful feedback to city officials.

The regulation of social service facilities is a complex issue that requires an understanding of some of the causes of poverty and homelessness, as well as the legal issues associated with regulations that affect religious establishments and protected classes of individuals. The identification and definition of “controversial social service facilities” is an essential component in understanding this issue and assessing the need for regulations for these uses. Over 3,000 nonprofits were identified in Greater Cincinnati and its adjacent counties. The SSC neighborhood representatives were concerned with those social service uses whose clients might display negative behaviors or activities in close proximity to residential areas. In the end, the discussions focused mostly on homeless shelters, integrated social service campuses, soup kitchens, and certain types of supportive housing such as “wet houses” or the Housing First Model.

The Housing First Model of supportive housing has gained momentum in recent years as a viable alternative to the standard care for persons who are homeless with serious mental illness or alcohol and substance addictions. Housing First offers immediate, permanent housing without requiring treatment compliance or abstinence. Unlike traditional standard programs, which require “treatment first” or detoxification and sobriety before independent housing will be provided, Housing First programs separate housing from treatment, considering treatment as being voluntary and housing being a fundamental need and human right.

Best practice trends also point to collaboration of certain agencies and services by sharing a common physical location. Many successful examples exist throughout the United States. The Haven for Hope campus centralizes a multitude of services for the homeless including an 800-bed emergency shelter 1.5 miles west of downtown on a 22-acre site in San Antonio, Texas. The purpose of this facility is to provide a comprehensive process from beginning to end that allows for the transformation of a person coming off the streets. It includes Prospects Courtyard, a covered open area for the chronically homeless who are not yet comfortable entering a building.



David Morley

Chicago's Pacific Garden Mission is the oldest continuously operating homeless shelter in the country. In 2007, Pacific Garden relocated to a new, energy-efficient 150,000 square foot facility on the city's near south side.

Traditional theories indicate that social service facilities should maximize access for their clients while minimizing the cost of services. Accordingly, many social service providers have concentrated in struggling lower income neighborhoods where there is low-cost rent, affordable real estate, and little opposition from property owners. The social service representatives on the SSC felt that social services did not have a direct correlation to negative community impacts; on the contrary, available research highlighted the positive impact of social service facilities on adjacent communities, such as an increase in property values and decrease in crime.

Residents, on the other hand, expressed concerns over the “negative” impacts of social service agencies on the host neighborhoods. Many of the identified impacts were related to drug abuse and mental illness, which are more consistent with the services provided for the homeless, although not necessarily across the board. The resident representatives identi-

fied the following impacts: public intoxication; violence; profanity; panhandling; solicitation; proliferation of litter; evidence of public urination; large numbers of individuals loitering; open containers of alcohol; suspicious behavior/drug usage or sales; erratic behaviors by clients; quality of life—increased crime and high frequency of Part 1 and Part 2* crimes (see note at end of this article for a discussion of these crimes); safety; frequent police and other emergency calls, diverting limited emergency response resources from the balance of the community; poorly maintained properties; negative perception of certain neighborhoods; loss of neighborhood desirability based on perception; potential decrease in property values; disincentive to business investment; deterrent to owner occupancy (flight); regional magnet effect for “outsiders” and the homeless.

Of this list, the loss of property value due to the concentration of social service agencies was of primary concern. However, few studies substantiate this claim. Many studies show that affordable housing and group homes do not have a negative effect on property values. Some studies even show that property values increase.

In conjunction with the work of the SSC, staff of the Department of City Planning and Buildings used other strategies in an attempt to determine “controversial” uses and to document their impacts. Surveys were sent to real estate appraisers to determine if any inferences could be made about the effect of social service facilities on property values. Site assessments of social service facilities were carried out to identify observable impacts on neighborhoods. Finally, crime data from the Cincinnati Police Department was obtained on the calls for service (CFS) and arrests in each of the five police districts.

Ten staff members from various city departments and the Police Department completed a total of 403 site assessments on 74 social service facilities. “Unsafe neighborhood,” “loitering,” “intimidating suspects,” “maintenance,” and “areas of concealment” were identified most often. However, two shelters had reports of violence, public urination, littering, suspicious behavior, and drug sales or use, drug paraphernalia on-site, prostitution, open containers, and public intoxication.

Local police also provided crime statistics on the 74 facilities and on CFS for three years for each city block that contained one of these facilities. In addition, the police supplied information on arrests for Part 1 and Part 2 crimes in each of the police service districts.

The site assessments along with the Police Department data revealed that one large

homeless shelter generated more calls for police service and the highest number of arrests for Part 2 crimes than any other social service facility in the city. Furthermore, police statistics for the period from January 1, 2008, to August 12, 2008, indicated there were more than 2,000 total arrests of individuals who gave an OTR neighborhood address as their place of residence. More than 1,200 of those arrests were of individuals who listed the homeless shelter as their place of residence. Approximately two-thirds of these 1,200 arrests occurred within a half-mile radius of the shelter.

IDENTIFYING A CONCENTRATION OF SOCIAL SERVICE FACILITIES

The concentration of services and facilities for the chronically homeless and the synergy of problem behaviors can overwhelm the carrying capacity of a neighborhood. The term *concentration* implies that at some point the number of facilities will overwhelm the permanent population. When that carrying capacity is reached, the economic demographics begin to deteriorate and, ultimately, a struggling community emerges.

In a 2002 report prepared for the National Association of Realtors, George C. Galster, a professor of Urban Affairs at Wayne State University, stated that, “assisted housing of various types had positive or insignificant effects on residential property values nearby in higher valued, less vulnerable neighborhoods, unless it exceeded thresholds of spatial concentration or facility scale [and] evinced more modest prospects for positive property value impacts in lower value, more vulnerable neighborhoods, and strength of frequently negative impacts was directly related to the concentration of sites and scale of the facilities.”

Accordingly, the over-concentration of social services may lead to fewer positive impacts for both residents and those seeking social service programs, which is the opposite of the positive impacts expected from efficiencies of scale when like services are provided in close proximity. Studies also indicate that if the facilities are not properly managed and clients engage in illegal or offensive behaviors, there will be negative impacts on the neighborhood.

The degree of concentration is an important factor to be weighed against considerations of need, cost, and service efficiency. The Department of Justice (DOJ), the Department of Housing and Urban Development (HUD), and most courts that have addressed the issue of distance separation agree that density restrictions are generally inconsistent

CITY	DISTANCE SEPARATION	POPULATION RATIOS	SIZE LIMITATIONS	LICENSING	GOOD NEIGHBOR PLANS	ADDITIONAL REGULATIONS
Anchorage, Alaska	X		X			
Atlanta, Georgia	X					
Boston, Massachusetts	X					
Broward County, Florida	X					
Cleveland, Ohio	X	X	X			X
Columbus, Ohio	X		X			
Covington, Kentucky	X	X		X	X	
Dallas, Texas	X		X			
Denver, Colorado			X			
Des Moines, Iowa			X		X	X
Detroit, Michigan	X			X		
Elko, Nevada	X					
Fairfield, California						X
Gainesville, Florida	X		X			
Green Bay, Wisconsin	X	X				
Hamilton, Canada	X					
Henderson, Nevada	X					
Knoxville, Tennessee	X		X			
Lacey, Washington	X		X			X
Little Rock, Arkansas	X					
Los Angeles, California			X			
Marshall Township, Pennsylvania	X			X		
Mesa, Arizona			X		X	
Miami, Florida	X	X				
Minneapolis, Minnesota					X	
Miramar, Florida	X					
Oklahoma City, Oklahoma	X				X	
Hamilton, Ontario, Canada	X		X			
Ottawa, Canada	X		X			
Palmdale, California	X					
Pasadena, California			X			
Phillipsburg, New Jersey			X	X		
Portland, Oregon	X				X	
Prescott, Arizona	X			X		
Red Bluff, California			X		X	X
Rochester, Minnesota	X	X				
Rochester, New York	X				X	
Roseville, California	X		X		X	X
Sacramento, California	X		X			
San Diego, California	X				X	X
Shelby, North Carolina	X		X			
Spokane County, Washington	X		X	X	X	
Toronto, Canada	X					
Wilmington, Delaware						X
Wichita, Kansas			X			

with the FHA. However, they also believe that “. . . if a neighborhood came to be largely composed of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community . . . a consideration of over-concentration could be considered in this context” (U.S. Department of Justice, 1999). Many courts, as well as DOJ and HUD, which funds many of the homeless programs, have acknowledged that concentrated social service facilities isolate disadvantaged people both physically and socially from mainstream society. The difficulty, however, comes in defining a “quantitative threshold of over concentration and in providing an objective

information base to assess the reality of community claims of saturation” (Weisberg 1993).

LOCAL REGULATORY PRACTICES

Concerns over property values and secondary impacts due to the location of social service facilities have led many communities across the United States and Canada to implement various controls on what they consider to be “controversial social service facilities.” The most commonly used regulations include distance separations between like facilities, limitations on the size of facilities, good neighbor-management plans, and population ratios. A limited number of jurisdictions have implemented council use permits and mandatory licensing requirements.

REFERENCES

- American Planning Association. 2003. *Policy Guide on Homelessness*. Chicago: American Planning Association. Available at www.planning.org/policy/guides/adopted/homelessness.htm.
- Downing, Sherri, et al. 2009. *Foreclosure to Homelessness 2009: The Forgotten Victims of the Subprime Crisis*. Washington, D.C.: National Coalition for the Homeless. Available at www.nationalhomeless.org/advocacy/Foreclosure-toHomelessness0609.pdf.
- Galster, George. 2002. *A Review of Existing Research on the Effects of Federally Assisted Housing Programs on Neighboring Residential Property Values*. Washington, D.C.: National Association of Realtors. Available at www.cacities.org/resource_files/24071.galsterreport2.pdf.
- Lamb, Richard H. and Leona L. Bachrach. 2001. "Some Perspectives on Deinstitutionalization." *Psychiatric Services*, 52(8). Available at www.psychservices.psychiatryonline.org/cgi/content/full/52/8/1039.
- Mesa (Arizona), City of. 1995. *Social Service Facility Guidelines*. Available at www.mesaaz.gov/Planning/pdf/FAQ/Social_Services_Facilities_Guidelines.pdf.
- Schwab, Jim, AICP. 2000. "Give a Shelter a Home." *Zoning News*, May.
- U.S. Department of Justice Civil Rights Division. 1999. "Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and The Fair Housing Act." Updated July 25, 2007. Available at www.usdoj.gov/crt/housing/final8_1.php.
- Weinstein, Alan C. 2008. "How to Avoid a 'Holy War'—Dealing with Potential RLUIPA Claims." *Planning & Environmental Law*, March.
- Weisberg, Barbara. 1993. "One City's Approach to NIMBY: How New York City Developed a Fair Share Siting Process." *Journal of the American Planning Association*, 59(1): 93–97.
- Williams, Joseph P. and Amy E. Souchuns. 2003. "Religious Land Use and Institutionalized Persons Act of 2000." Hartford, Connecticut: Shipman & Goodwin, LLP. Available at www.shipmangoodwin.com/publications/Detail.aspx?pub=41.
- Worcester [Massachusetts] Regional Research Bureau. 2005. "Siting Residential Social Programs: The Process and the Options." Report No. 05-04. Available at www.wrrb.org/documents/report05-04.pdf.
- Distance separations* refer to zoning regulations that impose a separation between like uses such as homeless shelters or halfway houses. The purpose of distance separations is to control the density or concentration of uses that may have negative impacts on neighborhoods.
- Green Bay, Wisconsin**, uses separation requirements for community-based residential facilities. No community-based residential facility may be established in Green Bay within 2,500 feet of any other such facility except with a conditional use permit (§13-1603.b).
- Rochester, New York**, requires that homeless shelters obtain a special permit from the planning commission. A requirement of the application submittal is the documentation of other facilities within a quarter mile of the proposed shelter (§120-141.D). The city has had this requirement in their code since the 1970s.
- Oklahoma City** requires that its planning department staff identify similar uses within one mile of a proposed emergency shelter or feeding site facility. Similar uses in this category include domestic violence shelters, other emergency shelters and feeding sites, forced detention or correction facilities, residential facilities for dependent and neglected children, residential facilities for drug or alcohol treatment centers, and transitional mental health residential facilities (§59-9350.27.B).
- Detroit** requires that no shelter be located closer than 3,000 radial feet from another shelter or closer than 500 feet from an adult foster care facility, pre-release adjustment center, or substance abuse service facility (§61-12-89).
- Regulations that limit the number of beds in a group living facility, the total square footage of a facility, or the amount of square footage required per person living in a facility are size limitations. Building codes usually require a minimum square footage per individual residing in a residential structure. Some zoning codes require a much higher square footage per person than the building codes, thereby limiting the number of persons that can be housed on a site. A review of online zoning codes revealed that several cities limit the size of certain types of social service facilities.
- A *good neighbor plan* refers to additional regulations that are required to ensure that the management of certain types of uses consider the potential negative impacts on surrounding neighborhoods and develop strategies for mitigating those impacts. Imposing reasonable requirements for adequate supervision for children in group-living facilities does not violate FHA. It would seem reasonable then, that requiring adequate supervision for any individuals that may not be able to respond to an emergency due to disability would also not violate FHA.
- Oklahoma City** requires that applications for emergency shelters and feeding sites include a description of the type of program proposed, the number of participants that would be in the program at one time, the number of staff that would be associated with the program and their general duties, the type of supervision that would be provided for the participants in the program, and the means to mitigate any impact on surrounding land uses from the operation of the program or the behavior of the participants in the program (§59-9350.27.A).
- Portland, Oregon**, encourages providers to locate in existing structures and work with the neighborhood. They require a written security plan that inhibits loitering, public drunkenness, drug trafficking, and criminal activity. The provider is to keep the area within 200 feet of the shelter free from litter and graffiti (§33.285).
- Some communities have enacted licensing regulations to ensure safe and healthy facilities, compatibility with surrounding neighborhoods, and to discourage the inordinate concentration of facilities in neighborhoods.
- Detroit** adopted the Homeless Shelter Licensing ordinance in 1995 to ensure that whenever children, women, and men become homeless they will have decent, safe, and healthy refuge. The standards put into place include 24-hour access for shelter residents for restrooms and medications, adequate staff-to-resident ratios, sheets changed on a weekly basis, assurance of school attendance for minors, fire safety regulations, and nutritious meals (Ordinance No. 7-95).
- Phillipsburg, New Jersey**, requires that homeless shelters obtain a \$700 license annually. Standards for denial of a license include the nature and development of the surrounding property; proximity of churches, schools, and public buildings; the effect on traffic; the number of other similar entities; and suitability of the applicant to establish, maintain, and operate a homeless shelter (§347-5).
- A few local governments have enacted regulations that tie the number of permitted

facilities to the population of neighborhoods, census tracts, political districts, or the jurisdiction as a whole. Cities that had or currently have population ratio limitations include:

Covington, Kentucky, which permits one youth shelter per 25,000 persons in the city and no more than one addiction treatment facility per 25,000 persons residing in the city (§6.13).

Miami, which requires a special exception and does not allow community-based residential facilities in any census tract where residents of existing community residential homes or community based residential facilities comprise two percent or more of that census tract's current total population (§934.2.2.).

Many jurisdictions include additional development regulations in their zoning codes that address performance standards and compatibility issues.

Mesa, Arizona, has enacted comprehensive performance standards for social services facilities. In addition to obtaining a council use permit, social service facilities must comply with size limitations, hours of operation, and design requirements for basic amenities such as restrooms, drinking water, and seating areas (§11-20-27).

Council use permits are individually and explicitly approved only by a city council for specific uses. Mesa was the only city identified that requires social service providers to apply for a council use permit before locating in the appropriate zoning district. Guidelines are provided for use in evaluating a proposed facility.

While research shows that jurisdictions are concerned with the potential negative impacts of certain social service uses, no studies could be found that documented the specific negative impacts caused by such uses. Cincinnati's planning staff contacted many of the cities that have implemented regulations on social service facilities to answer the following questions:

- Why had the municipality adopted regulation for these particular uses?
- What impacts did these uses have on neighborhoods that justified regulations?
- How did the municipality document the impacts of these uses (i.e., was a report prepared, or a survey or site assessments conducted)?

All of the responding jurisdictions stated that they had not completed specific studies. They did identify many of the same impacts voiced by Cincinnati residents. The concentration of facilities was also a concern to several jurisdictions. In general, communities regulating such facilities felt that only a

limited number of facilities could be absorbed before neighborhoods would experience significant deterioration in quality of life.

DOCUMENTATION: A SOUND APPROACH

Many cities are attempting to limit the negative impacts of controversial social service facilities through various zoning techniques, licensing requirements, and good-neighbor plans despite the absence of specific documentation that there is a direct correlation between these uses and the negative impacts identified by neighborhood residents. Anecdotal complaints by host neighborhoods and testimony given at public meetings have prompted leaders in many municipalities to implement regulations that would reduce the impacts on neighborhoods.

Several conclusions can be drawn from the Cincinnati experience. Not all social service facilities that provide programs for the needy have negative impacts on neighborhoods. The negative behaviors and impacts repeatedly identified by residents and municipalities are more related to drug abuse and mental illness. The social service facilities providing services to chronically homeless individuals are more likely to have negative behaviors or activities occurring in close proximity. The types of uses that largely provide programs for chronically homeless individuals include addiction treatment facilities, halfway houses, homeless shelters, supportive housing, offender transitional housing, and food and meal distribution.

Identification of the uses to be regulated, precise definition of these uses, and documentation of their impacts are necessary elements in substantiating the regulations. Jurisdictions considering new regulations should undertake the following steps prior to developing and implementing the regulations:

1. Document the location, type, and operation of existing facilities.
2. Document the property values before and after new facilities are opened.
3. Document the behaviors, impacts, and condition of properties through site assessments.
4. Document crime data on police calls and arrests at operating facilities.
5. Work with real estate appraisers to obtain information on impacts and property values.

CONCLUSIONS

Certain social service facilities must be regulated to protect the rights of property owners and the economic well-being of a municipality. If corporations or industries were negatively impacting low-income, high-poverty neighbor-

hoods, this would be an environmental justice issue. The controversial nature of the issues surrounding poverty, homelessness, mental illness, and addictions makes the regulation of social service facilities exceptionally difficult. However, like every other land use, social service providers should strive to be a good neighbor. Their missions must include provisions for community improvement in addition to improvement to lives of those in need.

Zoning cannot regulate people's behaviors or activities that occur on the streets or sidewalks, but it can regulate land uses where these behaviors occur and control their proximity to sensitive uses such as schools, parks, and residences. Only limited change will be brought about by a zoning strategy alone. It will take a comprehensive strategy and many tools to address issues as complex as poverty and homelessness. However, zoning can be one of the tools used to sustain the quality of our neighborhoods and protect them from deteriorating influences.

* Part 1 crimes include homicide, rape, robbery, aggravated assault, burglary, theft, theft from autos, and auto theft. Part 2 crimes include assault/menacing, arson, counterfeits, fraud, embezzlement, receiving, vandalism, weapon offenses, vice, sex offenses, drug offenses, gambling offenses, offenses against the family, DUIs, liquor establishment offenses, drunkenness, disorderly conduct, vagrancy, suspicion, traffic offenses, and parking offenses.

Photo by David Morley; design concept by Lisa Barton.

VOL. 27, NO. 1

Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$85 (U.S.) and \$110 (foreign). W. Paul Farmer, FAICP, Executive Director; William R. Klein, AICP, Director of Research

Zoning Practice (ISSN 1548-0135) is produced at APA. Jim Schwab, AICP, and David Morley, AICP, Editors; Julie Von Bergen, Assistant Editor; Lisa Barton, Design and Production.

Copyright ©2010 by American Planning Association, 122 S. Michigan Ave., Suite 1600, Chicago, IL 60603. The American Planning Association also has offices at 1776 Massachusetts Ave., N.W., Washington, D.C. 20036; www.planning.org.

All rights reserved. No part of this publication may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the American Planning Association.

Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

ZONING PRACTICE
AMERICAN PLANNING ASSOCIATION

122 S. Michigan Ave.
Suite 1600
Chicago, IL 60603

1776 Massachusetts Ave., N.W.
Washington, D.C. 20036



HOW DOES YOUR COMMUNITY
ACCOMMODATE THOSE
IN NEED?

1