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LEGAL LESSONS

Curbing CO2 via Parking Regs

By Sam Rockwell

According to the United Nations Intergovernmental Panel on Climate Change, humans can emit about 350 more gigatons of carbon dioxide to maintain a reasonable chance of staying below a dangerous 1.5 degree Celsius global temperature rise. We currently emit about 40 gigatons of CO₂ each year, which means we'll cross the threshold in nine years unless reductions are made.

In the U.S., transportation is the leading emissions source, and therefore the most important candidate for cuts. However, technological advancement is predicted to be too slow to meet the nine-year timeline. According to BloombergNEF, it will take 20 years for electric vehicles to capture even half of all vehicle sales. That means if the U.S. wants to hit emissions targets, reducing vehicle miles traveled — in some places by up to 35 percent or more — will be the way to go.

To help reach that goal, planners can turn to a variety of tools to help influence residents' driving habits and travel patterns through parking regulations.

Planners can turn to a variety of regulatory tools to influence transportation patterns and reduce carbon emissions.

Climate and the police powers

Municipalities regulate parking every day, but few consider the climate impacts of parking infrastructure when reviewing proposals despite the fact that it is within their legal jurisdiction. Municipal authority over local land-use law flows from police powers, which, according to the U.S. Supreme Court in *Berman v. Parker*, exist to protect public welfare, health, and safety and should be considered "broad and inclusive." Given the fact that unchecked climate change will eventually harm the human health, safety, and general welfare of all communities on earth, cities have the ability to consider it across a range of land-use decisions.

For example, conditional use permits generally require a planning commission or city council to find that granting a conditional use permit will not infringe on police power considerations. In many jurisdictions, approval of accessory or structured parking facilities requires a CUP (that's the case in Madison, Wisconsin; Minneapolis; and Reno, Nevada).

Because CUPs require that local governments find no adverse impacts to health, safety, and welfare, jurisdictions that require CUPs for parking facilities can, as part of their legal findings, determine whether a particular new parking facility can be built in a climate-sustainable manner or whether climate considerations preclude construction of that facility.



Ultimately, cities should codify climate-friendly parking practices rather than employ them on a case-by-case basis to ensure predictable, durable, and widespread adoption of these practices.

Climate-friendly parking regulation

Municipalities can pursue climate-friendly parking practices by creating broad regulatory frameworks and by regulating existing and proposed parking facilities.

One strategy is to limit total parking capacity to encourage a shift to nonautomobile transportation modes. Municipalities can begin by eliminating parking minimums, as Minneapolis did in its new 2040 comprehensive plan. Many cities still require a certain number of parking stalls in new developments, which can produce excess automobile capacity — thus encouraging driving — and result in underused or inactive parking adjacent to the public realm, ultimately undermining community walkability. While eliminating parking minimums allows the market to set new development parking ratios, municipalities can further guide local markets by creating maximum parking limits.

Another strategy municipalities can use is to lead a shift away from internal combustion engine vehicle infrastructure (or ICEV) toward electric infrastructure. For example, zoning and building codes can require that newly constructed parking be ready for electric vehicles. In addition, municipalities with property tax control can create a lower tax rate for EV facilities than for ICEV facilities and increase ICEV facility rates over time — and if the increasing rates are well publicized, they can help influence consumer vehicle purchase patterns.

A third strategy is using parking regulations or travel demand management guidelines to influence a shift away from automobile travel. Replacing monthly parking contracts with daily parking fees lowered driving rates at the Bill and Melinda Gates Foundation in Seattle and the MIT campus in Cambridge, Massachusetts. Similarly, requiring market-rate parking prices in municipal facilities, as discussed in Donald Shoup's book *The High Cost of Free Parking*, can reduce parking's influence as an incentive to drive and provide important revenue for pedestrian realm improvements or transit investments.

Supporting other modes

Effective climate change mitigation will clearly require a reduction in vehicle miles traveled, but even as communities seek to dissuade driving, they must also actively work to ensure citizens have access to alternate, sustainable transportation modes. That means planning walkable communities and investing in pedestrian, transit, and bicycle networks. Fortunately, communities have the tools and authority to responsibly regulate parking and support alternate transportation modes. Now we just need to deploy these tools at the speed climate change demands.

Sam Rockwell holds a JD from Vermont Law School and is licensed to practice in New York and Minnesota. He is president of the Minneapolis Planning Commission and works in mission-driven real estate development in Minneapolis.

Legal Lessons is edited by Lindsay R. Nieman, an associate editor of Planning. Please send information to lnieman@planning.org (<mailto:lnieman@planning.org>).



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Chicago

American Planning Association
205 N. Michigan Ave., Suite 1200
Chicago, IL 60601-5927

Phone: 312-431-9100
Fax: 312-786-6700

Washington, D.C.

American Planning Association
1030 15th St., NW Suite 750 West
Washington, DC 20005-1503

Phone: 202-349-1016