



How Zoning Promotes Inequality in Education: The Case of the Buffalo Area (Appendix 2)

SEPTEMBER 20, 2023

Appendix 2: Comparing the Land Use Systems of the City of Buffalo and the Village of East Aurora

The City of Buffalo is the second largest city in New York, and the seventh-eighth largest city in the United States, with an estimated population of 276,486 in 2022 (which was about 6 percent higher than in 2010).¹ The population is about 45 percent white non-Hispanic, 33 percent African American, 12 percent Hispanic or Latino, 7 percent Asian, and more than 10 percent foreign born.² Buffalo has a poverty rate of almost 28 percent, and a median household income of just \$42,186 (in 2021 dollars). About 57 percent of its homes and apartments are rented, and the median value of owner-occupied homes is just \$112,900.³ Buffalo's industrial base has changed dramatically over the centuries—it was the world's largest grain port in the early 1900s, then became a major site of steel manufacturing, and in 1950 was the fifteenth-largest city in the nation by population, with 80 percent of its jobs in manufacturing.⁴ Deindustrialization destroyed that economic base in the 1970s and 1980s, and today, Buffalo's economy is largely service based, with New York State the area's largest employer. In recent years, however, advanced manufacturing has increased, with a Tesla plant opening in 2017.

The city's current zoning ordinance, the "Buffalo greencode" adopted in 2017, is a form-based code. The product of decades of community engagement across mayoral administrations, the code won a national award from the Congress for New Urbanism.⁵ It replaced a traditional Euclidean zoning ordinance adopted in 1953 with "standards that address the orderly and compatible use of land, the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and type of blocks, thoroughfares, and open spaces."⁶

We focused on two neighborhoods within Buffalo: Martin Luther King Park and Elmwood–Bidwell. The MLK Park neighborhood is located in the northern and eastern part of the city, around the fifty acre park that Frederick Law Olmsted Sr. and Calvert Vaux designed in

¹ U.S. Census, Quick Facts, <https://www.census.gov/quickfacts/fact/table/buffalocitynewyork/POP010220>.

² Ibid.

³ Ibid. All housing and economic data is the average of the 2017–2021 American Community Survey estimates.

⁴ "Buffalo, New York," Wikipedia, https://en.wikipedia.org/wiki/Buffalo,_New_York (citing Jaison R. Abel, "The Buffalo Economy Since the Great Recession," Federal Reserve Bank of New York, September 26, 2019, https://www.newyorkfed.org/medialibrary/media/research/regional_economy/presentations/Abel_Buffalo-Since-the-Great-Recession_09-26-2019); Mark Goldman, *High Hopes: The Rise and Decline of Buffalo, New York* (Albany: State University of New York Press, 1983); Kristen Ksiazek, Rusty Weaver, and Sam Magavern, "Distinguishing The Social Sector: A Buffalo-Niagara Labor Market Study," Partnership for the Public Good, September 19, 2019, https://ppgbuffalo.org/files/documents/economic_development/distinguishing_the_social_sector.pdf; and "Buffalo Metro Economic Indicators," Federal Reserve Bank of New York, 2020, https://www.newyorkfed.org/medialibrary/media/research/regional_economy/charts/Regional_Buffalo.

⁵ "Buffalo, New York," Wikipedia, https://en.wikipedia.org/wiki/Buffalo,_New_York (citing Rachel Teaman, "Buffalo Green Code, with a national award, builds on 20 years of planning for place-based urban regeneration," University at Buffalo School of Architecture and Planning., July 9, 2019, http://ap.buffalo.edu/news/2019/greencode_driehaus.html).

⁶ Buffalo Greencode, Section 1.1.2 (2017), <https://bufgreencode.com/introductory-provisions/title-purpose-and-applicability>.

the 1860s in what was then the center of the city's German immigrant population. The neighborhood is bounded on the west by New York Highway 33/Humboldt Parkway, on the east by Moselle Street, to the south by Walden Avenue and Genesee Street, and to the north by East Ferry and Glenwood Streets. It is a mix of modest single-family detached homes and more industrial uses, with many vacant properties. The current greencode places much of the area in an "Urban Neighborhood" (N-3R) district, which allows detached and attached dwellings as well as three-story multifamily apartment buildings. Other parts of the area include some "Mixed Use Center" and "Mixed Use Edge" districts along Filmore Avenue and Genessee Street, and "Flex-commercial" and "Light Industrial," along with "Urban Core Secondary Employment Center" districts to the east. The zoning regulation that guided the area's development, but was replaced in 2017, classified the area as residential, light industrial, and neighborhood business.⁷

The Elmwood–Bidwell neighborhood is a denser neighborhood to the west and north of MLK Park. It is bounded on the west by Parkdale Avenue and Rees Street, to the north by Iroquois Drive, to the east by Main Street, and to the south by West Ferry Street. It is characterized by single family homes on small lots on tree-lined streets, many small two-, three-, and four-unit apartment buildings, some larger six- to ten-story apartment buildings, and significant retail on Elmwood Avenue. The neighborhood includes the Buffalo State University campus, the historic Richardson Olmsted campus, and parts of Delaware Park, and has a number of buildings recognized for their historic importance. It borders the Buffalo History Museum, the Buffalo AKG Art Museum, and the Buffalo Zoo. Known for its walkability, it has a mix of older homes with more modern apartment buildings and a vibrant, downtown feel. Indeed, the American Planning Association named surrounding Elmwood Village one of the "Top 10 Great Places in America" in 2007.⁸

Elmwood–Bidwell is currently zoned under the greencode as primarily N-2R, "Urban Core Residential," with some "Urban Edge Single Family," and "Mixed Use Edge" and "Mixed Use Center" districts.⁹ Those districts allow housing types from single family detached and attached homes to three story apartment buildings and "shopfront homes." The basic categorization of the land is very similar to that contained in the prior zoning.¹⁰

The Village of East Aurora was founded in 1804, and was the home of President Millard Fillmore, among other notable individuals. It gave rise to the Roycroft Arts and Crafts movement, and to the Fisher-Price Toy company (which continues to have its international headquarters in the village).¹¹ The village's website notes that "East Aurora is a community that

⁷ See, e.g., the City of Buffalo Zoning Map, 2005, www.dec.ny.gov/data/DecDocs/C915270/Application.BCP.C915270.2012-11-27.Attachment_14_City_of_Buffalo_Zoning_Map.pdf. See also the comparison of the prior zoning with the Greencode, "Land Use Plan," City of Buffalo, September 2016, 80–81, <http://www.buffalony.gov/DocumentCenter/View/3276/Land-Use-Plan>.

⁸ "Elmwood Village—Buffalo, New York," American Planning Association, 2007, <http://www.planning.org/greatplaces/neighborhoods/2007/elmwoodvillage.htm>.

⁹ Buffalo Greencode map, https://www.buffalony.gov/DocumentCenter/View/6105/Citywide_Zoning_Map_January2017?bidId=

¹⁰ "Land Use Plan," City of Buffalo, September 2016, 64–65.

¹¹ "History," Village of East Aurora, <https://www.east-aurora.ny.us/about/history>.

is firmly rooted in its past and keenly aware of the qualities that make the Village a great place to shop, work and live.” It describes the “walk down East Aurora's bustling Main Street” as “a step back in time, with a variety of specialty shops, restaurants, churches, municipal buildings and carefully preserved homes,” including Vidler's, an old-fashioned five-and-dime store—the largest in the world.¹² East Aurora was rated the third-best town to raise a family in New York State by Niche in 2015, and was first in National Council of Home Safety and Security’s ratings of the safest places to live in New York State in 2018.¹³

The Village of East Aurora enacted its current zoning ordinance in 2019, replacing regulations adopted in 1961.¹⁴ The effect of the new ordinance was primarily “to make it easier to read the zoning code and determine what is and is not allowed in some zoning areas” and does not seem to have involved major substantive changes.¹⁵ The village last prepared a comprehensive plan in 1970, which it never adopted, but is currently part of a regional planning consortium.¹⁶ Most of the village is zoned single-family residential, with a few areas behind the businesses fronting on Main Street designated as low density residential, some areas near the edge of the single-family residential areas zoned for “General Residential” and several areas near commercial or manufacturing areas zoned “Limited Commercial Residential.”¹⁷ The single-family residential areas allow only detached homes on lots of at least 10,500 square feet, with a maximum height of thirty-five feet. The “low density residential” district allows one or two family homes or townhomes, and may allow the conversion of a building to a multifamily residence by special permit. The minimum lot size for single family dwellings in the low density district is 9,000 square feet, and for a two-family is 10,500 square feet. Buildings converted to multifamily use must have at least 5,000 square feet of lot area per dwelling unit.¹⁸

The General Residential and Limited Commercial Residential districts both allow single-family homes, detached two-family houses, attached townhouses, and nursing homes and assisted living facilities. The Limited Commercial Residential district also allows residential units above the first floor by right. Both allow conversion of existing buildings to multifamily, and new construction of multifamily only by special permit. Multifamily apartment buildings are limited in height to 100 feet, and must be on lots of 5,000 or 4,500 square feet for each apartment in the building for General Residential and Limited Commercial Residential districts respectively.

¹² Ibid.

¹³ “East Aurora, New York,” Wikipedia, https://en.wikipedia.org/wiki/East_Aurora,_New_York.

¹⁴ East Aurora’s current zoning regulations can be found at <https://ecode360.com/36033258>.

¹⁵ Adam Zaremski, “EA Village Zoning Code Update Part of Public Hearing,” *East Aurora Advertiser*, August 7, 2019, <https://www.eastaurorany.com/articles/ea-village-zoning-code-update-part-of-public-hearing/>.

¹⁶ “Draft Regional Comprehensive Plan and Draft Generic Environmental Impact Statement,” Village of East Aurora, https://assets.website-files.com/5fd99fb9e572422316311a73/60edeac3b991adb254a562d7_RCP.PDF.

¹⁷ The zoning map for the village can be found at www.townofaurora.com/files/8716/2800/3314/Village_of_East_Aurora_Zoning_Map.pdf.

¹⁸ East Aurora Zoning Code, Tables 20.3 and 20.4, <https://ecode360.com/36033258>.