Sightline INSTITUTE

Making Sustainability Legal

Outdated Rules that Stop Affordable, Green Solutions

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Cleaning Out the Fridge

Eric de Place and Alan Durning

Some of the smartest, most innovative solutions for building thriving and sustainable communities in the Northwest are, at present, simply illegal.

Even the best-intended rules to protect people and shared assets can become outdated. From business offerings (think buggy whips and typewriter ribbons) to the stuff forgotten in the back of your fridge, almost everything has an expiration date. Luckily, weeding out rules that are now counterproductive and irrelevant can have a big impact—making it easier and cheaper to do the right thing.

In June 2011, Sightline launched the Making Sustainability Legal project. We argue that although Cascadia could benefit from a top-to-bottom remodel of its public-policy house, deep political divides and starvation budgets make big reforms unlikely soon. In the meantime, maybe we can clean out the fridge.

Making Sustainability Legal is about pulling moldy regulations out of the back of our law books and composting them. Whatever virtue they may have had in their prime, dozens of regulations now do little but block northwesterners from adopting affordable, common-sense, green solutions.

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We've since completed case studies on 16 rules that are long past their sell-by dates—rules that keep white page phone directories piling up on doorsteps; inject toxic chemicals into couches and crib mattresses (and children and pets); hobble pay-as-you-drive auto insurance; make parking spaces absurdly abundant at drinking establishments while keeping taxis scarce and expensive; hamstring car sharing, bike sharing, food carts, and natural hair care; slow the local food economy and retard the adoption of rain barrels and graywater recycling; prevent cities from calming traffic on neighborhood streets and from investing in rain gardens and other green infrastructure; keep poor teens from experiencing wild lands; make life miserable for parents of small children riding transit; threaten the nascent industry of for-profit couchsurfing; and ban the simplest renewable energy system around, the clothesline.

Other examples of sustainable practices hindered by outdated laws and codes abound. Look at current neighborhood design. Most zoning codes reflect an idealized 1950s in which nuclear families supposedly cloistered behind picket fences. But major shifts in demographics demand housing that fits a new set of needs. Compact neighborhood designs work better for singles delaying marriage and child-rearing; women having fewer children; aging baby boomers; and extended, close-knit immigrant families. Yet in most cities it's not even legal to build new living units in backyard cottages or converted basements—the very kind of housing that supports non-traditional configurations, like families living with elderly grandparents or renters helping cash-strapped homeowners.

In the Making Sustainability Legal project, Sightline is checking the expiration dates on a slew of existing regulations. We are helping legislators and advocates eliminate rules rendered irrelevant by time and pursue smarter solutions that fit today's reality. If the Northwest can clear away this sort of debris, the region will grow more affordable, fair, and sustainable.

1. Democratizing Trailheads

Forest Service rules should stop excluding low-income teens.

Alan Durning

In the summer of 2010, I took a four-day hike through the high backcountry of the Alpine Lakes Wilderness in the Washington Cascades. I'm accustomed to rugged terrain and steep slopes, so I was impressed when after miles of off-trail travel I heard the voices of young teenage boys wafting toward me near the remote Tank Lakes.

I met the intrepid boys, expecting them to be a group from the high-priced and famously hardcore National Outdoor Leadership School. Instead, I found a dozen teens, many of whom had never previously camped.

They were part of the BOLD Mountain School—a nonprofit program of Seattle's Metrocenter YMCA. BOLD immerses urban kids, especially disadvantaged ones, in the challenges and splendor of wilderness. This program is not just summer fun. It's a transformative endeavor, instilling confidence and hope in young people who suffer deficits of both.

Experiences like this are blessings widely shared among young northwesterners from well-off families. In fact, such experiences are so reliably life-changing that those who attend the region's exclusive private schools and colleges go on wilderness trips almost as part of the curriculum. For the poor and working-class, though, being a BOLD Mountaineer is a rare and exceptional gift.

BOLD, furthermore, is just one of dozens of nonprofits that expose the less-fortunate to their natural birthright. As BOLD does for Puget Sound-area young people, for example, so Peak 7 Adventures does for Spokane's. A host of others across the Northwest provide this niche service at no cost to public treasuries, relying instead on charitable contributions and modest participant fees to deliver young men and women to wild places.

I thought little more about my chance encounter with BOLD until the following spring, when I learned that the BOLD Mountain School had been banned from the Tank Lakes and the rest of the Northwest's National Forest wilderness areas. NOLS, private schools, and college outing programs remained welcome. But poor and working class kids who luck into BOLD? They were forbidden entry.

The reason? The YMCA does not have a guide/outfitter permit to lead such trips. Schools don't need them. Volunteer-led groups don't either. And NOLS got its permit years ago. But BOLD does not have one, and it cannot get one. The Mt. Baker-Snoqualmie National Forest is only issuing a small number of temporary, short-term permits. The same goes for the 30-odd other Northwest national forests, from the Siskiyou in southern Oregon to Idaho's Nez Perce. Other youth-service nonprofits are in the same Catch 22: lacking permits, unable to apply for permits.

It would be easy at this point to rail against the USDA Forest Service, but doing so would miss the point. The Forest Service, starved for funding to support its diminished staff, is following its Byzantine rules and regulations as best it can. Rangers' hands are tied.

Under Forest Service rules such as the 2008 Guide and Outfitter Regulations, the YMCA or any other group that pays its trip leaders from fees collected in part from participants needs to be licensed as a commercial guiding service. To issue a guiding license, Forest Service specialists would have to run a gauntlet of procedural steps including environmental and socio-economic assessments—steps for which the Forest Service has no funding. So the rangers are not issuing new permits. As it stands, BOLD and its peers are left to drive their teens to national parks. Unlike national forest rules, national park rules are welcoming to BOLD and its peers.

To untie this absurd regulatory tangle, the Forest Service could amend its Guide and Outfitter Regulations to exempt nonprofit youth-service organizations. Or it could photocopy the National Park Service's rules.

Some argue that wilderness areas are growing crowded and that restricting access is a necessity. That may or may not be true, but even if true, it's no justification for discriminating against working-class kids. Excluding youth-service groups is the opposite of the fundamentally democratic ideal of public lands. If anyone deserves a trip to the glorious high country of the Northwest, it's the likes of BOLD Mountaineers.

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The original, unabridged version of this chapter is here.

2. Unleashing Personal Car Sharing

Renting out your car's idle hours shouldn't jeopardize your insurance.

Alan Durning

What if a stupendously enormous business opportunity were hiding in plain sight? What if this same business opportunity would bring gigantic environmental and social dividends? And what if all that was required to unleash these benefits was a simple legal reform?

Personal car sharing is such a business opportunity: a chance to trim emissions, crashes, and fuel costs, all while generating a profit for car owners and giving everyone a new way to save money. Only one legal barrier—an obscure change to insurance regulations—stands in the way, and since Sightline launched the Making Sustainability Legal project it's been falling quickly in Cascadia.

The Pacific Northwest's rolling stock of cars and trucks constitutes a mind-boggling amount of underutilized capital. The region has substantially more motor vehicles than licensed drivers. Everyone in the region could climb into a vehicle and no one would

have to sit in the back seat. What's more, the typical car is parked 23 hours a day. Most of us have more money tied up in our cars than in any other physical assets aside from our homes, and all that wealth is just sitting there in the driveway depreciating.

But circumstances are ripening to turn this colossal overstock into an equally massive economic and environmental opportunity.

Hard economic times, especially for the young; rising environmental concern and collaborative, nonconsumerist lifestyles; high energy prices; and the galloping spread of smart phones and social networking have given birth to a handful of start-up companies such as Relay Rides and Getaround. They create an online marketplace for private cars' idle hours and give us a market-driven way to downsize our auto fleet.

The profit potential is enticing. Imagine leaving town for a month and coming back to learn that your vehicle had earned you $600 on the rental market. Or imagine that your car-sharing membership gave you access, on a moment's notice, to thousands of private cars and trucks sprinkled around your city. Why endure the expense and hassle of car ownership when you can drive any make or model you choose and only pay for what you use?

The appeal of these economics explain the rapid growth of personal car sharing. As of May 2012, after just one year of operation, for example, car-sharing pioneer Getaround had more than 10,000 car owners registered as potential participants, according to a Getaround executive. That's more cars than are in Zipcar's fleet after 12 years in business.

Its growth may be powered by pocketbook considerations, but personal car-sharing has equally impressive non-monetary benefits. Specifically, car-sharing shrinks our footprint. When people pay for their transportation by the trip, rather than by the vehicle, they drive less—44 percent less, on average, among car sharers studied by UC Berkeley's Susan Shaheen. They use alternatives more.

Car ownership is like an all-you-can-eat restaurant. Once you've paid the entrance fee, you might as well gorge. But car sharing gives us new chances to save money for each trip we don't drive. What's more, as car sharing grows, it becomes an ever-more-attractive option: the more vehicles enrolled, the better car sharing works.

Why has such a huge opportunity remained unredeemed? Insurance.

Turning your driveway into a part-time car-rental lot leaves you vulnerable: your auto insurer might cancel your coverage. Even if your car-sharing company brings its own insurance (they all do), the blurry line between the owner's liability and the renter's has hobbled the nascent industry.

Fortunately, California passed a law in 2010 creating a clear division of responsibility for insurance: when any car is hired through a car-sharing company, it's on the car-sharing insurance plan, not the owner's. This law passed unanimously through the California legislature, which is why California is now the hotbed of personal car sharing, with dueling start-ups.

In June 2011, Oregon enacted a similar law, making the Beaver State an attractive new territory for car-sharing entrepreneurs. Getaround launched in Portland in February 2012, thanks to the new law and a federal research grant. A coalition in Washington State replicated this win in early 2012 with a bill sponsored by Rep. Zack

Hudgins (D–Tukwila). Many insurers, the insurance commissioner, and a crew of others coordinated by the Transportation Choices Coalition (TCC) supported the bill, which passed by overwhelming margins in each house of the legislature. Idaho and British Columbia can welcome the car-sharing wave by quickly amending their own insurance regulations.

Washington would also do well to exempt car sharing from the state's retrograde 5.9 percent car rental tax (7.7 percent in King County, on top of sales tax). In British Columbia, the Insurance Corporation of British Columbia and its regulators at the BC Utilities Commission can follow Oregon's and Washington's lead, combing BC's insurance rules to allow personal car sharing. BC car-sharing pioneer, the co-op Modo, is eager to launch personal car sharing itself. It is closely watching developments in the western states and Quebec, where Communauto has launched Canada's first personal car-sharing program, according to marketing director Bernice Paul.

An hourly market for off-duty cars will make a big contribution to creating healthy, lasting prosperity. It will give more people ready access to a car without having to buy one (or a second one). It will shrink the over-capacity in the vehicle fleet and drive steep reductions in how much driving we do—in ways that generate profits (or savings) for both car owners and nonowners. Along the way, it will help stabilize the climate by preventing greenhouse gas emissions, help reduce traffic congestion by tamping down discretionary trips, help liberate parking spaces for other uses, help create jobs by keeping dollars circulating locally (rather than leaving the region to buy vehicles and fuel), help save lives (by reducing car crashes and, perhaps, obviating oil wars), and help make us all fitter and trimmer (by spurring us to walk more).

All that's required is that the rest of Cascadia follow the lead of California, Oregon, and Washington by fixing the insurance rules.

The original, unabridged version of this chapter is here.

3. Delivering Ourselves from Unwanted White Pages

It shouldn't be illegal to NOT get the phone book.

Eric de Place

What could be more annoying than the dull thud of another unwanted phone book on your doorstep? Printed phone directories are as outdated as, well, rotary phones—and these days they amount to little more than waste for the majority of phone customers. That's why the cities of Seattle and San Francisco have passed legislation letting residents opt in or opt out of automatic Yellow Pages deliveries. (The Seattle law has also overcome a legal challenge mounted by the Yellow-Page lobby. As of early 2012, it was on appeal.) Yet neither city's ordinance affects the delivery of the White Pages.

The White Pages are different. They land at your door not because the phone

companies want to annoy you; rather, delivery is required by state law. Until we make a minor modification to existing rules, the White Pages will keep coming.

Perhaps surprisingly, the directory companies themselves would like to stop automatic delivery. While the Yellow Pages generate advertising revenues, the White Pages represent only costs for the firms required to publish and deliver them, eroding the bottom line in an industry that's already struggling. WhitePages.com is actively lobbying to end mandatory delivery laws.

The US industry claims that 5 million trees a year go into making White Pages directories and that only 22 percent of the books are recycled. Based on published numbers for other states, reforming Northwest states' White Pages laws would likely save about 690 tons of paper in Oregon—and more than 1,200 tons in Washington—each year. That's nearly the weight of three loaded 747 jumbo jets.

According to a Harris Interactive poll conducted in December of 2010, fully 87 percent of adults support "opt-in" programs for White Pages, in which phone customers would only receive directories if they requested them. Opt-in programs would mean immediate relief for millions of annoyed consumers but still provide free delivery of directories to people who want them.

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There's an important point about social equity here. For people on the non-digital side of the digital divide, including some seniors and low-income families who may have land lines but no cell phones and limited access to computers and the Internet, printed directories may still be important. Fortunately, this is a small number of people, especially in the Northwest states, which have the highest rates of Internet usage in the country.

An "opt-in" program can ensure that those who want them still get print directories. It could be as simple as a postcard inserted with your phone bill, which you can mail in to request a directory. Or, simpler, big block letters on your bill could say, "If you need a White Pages directory, just dial '0' and let us know. We'll drop one off the next time we're in your neighborhood." In addition, libraries and community centers could distribute them, as they already do tax forms.

For the vast majority of us, however, the White Pages are wasteful, costly, and unpopular—but required by law.

Fortunately, the legal dam is beginning to crumble. *USA Today* reports that Verizon has already received approval to stop automatically delivering the White Pages in 11 of the dozen states where it provides landline service. (Newspaper coverage of the Verizon rulings is available for Pennsylvania, Maryland, and Virginia and California.) And AT&T is following suit, aiming to stop unwanted deliveries in an additional 14 states. The phenomenon isn't just confined to the United States. In the Australian cities of Sydney and Melbourne, for example, residential White Pages directories are no longer required by law but are available on an opt-in basis. In Canada, most major cities including Vancouver, BC already have opt-in White Pages delivery and opt-out Yellow Pages delivery.

As of this writing, White Pages deliveries are still the law in the Northwest states. Fortunately, fixing the problem is relatively straightforward.

In Washington, mandatory White Pages deliveries are stipulated by Washington Administrative Code 480-120-251. Administrative code is a bit different from the laws we normally think of, which are typically introduced as bills, voted on by the legislature, and signed by the governor. Administrative code is law that results from what's known as "rule making." It's regulation that does not appear in the original legislation, but that arises from a more general legislative directive for an agency to regulate a certain area.

White Pages deliveries are still the law in the Northwest states. Fortunately, fixing the problem is relatively straightforward.

The authorizing legislation that covers White Pages deliveries, RCW 80.01.040, is exceptionally general and nonspecific. In essence, the law simply grants broad regulatory authority to the Washington Utilities and Transportation Commission (UTC), the body that regulates railroads, electrical utilities, and telecommunications companies, among others. The UTC, in turn, developed—and now enforces—the administrative code requiring White Pages deliveries.

Don't hate the UTC though. Mandatory White Pages deliveries were the rule in almost every state, and the provisions were originally viewed as important elements of consumer protection and public benefit. Of course, that was before electronic communication and widespread Internet access rendered printed directories obsolete for most phone users. Nowadays, the vast majority of phone books get pitched directly into the recycling bin or into the landfill.

To end mandatory delivery in Washington two approaches are possible. One is to petition the UTC to open a new rulemaking on the subject, a lengthy process that normally involves drafting alternatives, lengthy public involvement, and time-consuming administrative tasks. The procedures for petitioning the UTC are set forth in RCW 34.05.330 and WAC 82-05. A group of Washington legislators led by Rep. Joe Fitzgibbon (D-Seattle) has written to the UTC asking it to start this process.

The other way is for the legislature to intervene directly, passing a new law that amends the existing administrative code. In Washington, replacing one sentence of the administrative code (WAC 480-120-251) concerning "local exchange carriers" (LEC) or local phone companies would do the job: "A LEC must provide each customer with a postcard notice that automatic delivery will be terminated, along with instructions to opt in to ongoing free delivery of a copy of the directory for the customer's local exchange area."

In 2011, a handful of Washington legislators introduced HB 1751, which would have allowed recipients to opt out of White Pages deliveries by making individual requests. The bill didn't go anywhere. That's arguably a good thing because the "opt-out" mechanism is less effective at fixing the problem than an "opt-in" program.

On this score, Oregon has been on the right track. There, Senate Bill 525 would have created an "opt-in" program, automatically ending White Pages deliveries except for those customers who say they want to receive the directories. The bill gained some

traction, but stalled in 2011 and didn't revive in 2012. (The Product Stewardship Institute has a good compendium of related legislation in other US cities and states.)

It's just one sentence. It's easy. And how else can legislatures do so much good with a one-sentence amendment? It cuts costs for companies, reduces waste and pollution, and alleviates a headache for millions of consumers.

The original, unabridged version of this chapter is here.

Thanks to Jeanette Henderson and Rashad Morris for help with this research.

4. Decriminalizing Green, Affordable Car Insurance

Insurers should be able to sell coverage by the mile.

Alan Durning

Imagine if state law made it difficult for pizza joints to sell by the slice. You'd have to buy and eat a lot of pizza when you got a hankering. Either that, or you'd have to give up pizza entirely. By-the-slice pizza lets light eaters save money.

The car insurance market today is like an alternate reality where no pizza joints sell by the slice. You have to buy a lot of insurance, even if you only drive a little, or you have to give up driving. If you're poor, you may drive illegally without insurance.

The car insurance market today is like an alternate reality where no pizza joints sell by the slice. You have to buy a lot of insurance, even if you only drive a little, or you have to give up driving.

The equivalent of by-the-slice pizza is by-the-mile auto insurance. It gives car owners a new way to save money by driving less. It also lets low-income drivers buy just a little insurance. It gives consumers more choices. And it creates a gentle, money-saving incentive to find alternatives to driving alone. This incentive yields fewer car crashes, less consumption of imported gasoline, less congestion, and less air pollution.

Extensive actuarial research now demonstrates that the number of miles driven is a strong predictor of crash risk. Actuarial accuracy—that is, aligning risk profiles with premiums—is the Holy Grail of insurance regulation and of insurance profitability. For this reason alone, highly placed insurance executives have confided that they believe by-the-mile insurance will eventually sweep the market. One executive said, "Once some company figures this out and starts doing it, we'll all have to do it."

For the Northwest, hastening the arrival of this development is an enormous opportunity because of the many shared benefits of by-the-mile insurance. Like person-to-person car sharing, it's a market-driven innovation that prevents crashes, congestion, and pollution; conserves energy; helps the poor; and gives families a new way to save money.

The main barrier to by-the-mile insurance is the business challenge. Cost-effectively tracking and charging for auto insurance on the basis of miles actually driven is hard,

and insurers are competing furiously to rise to this challenge. About a dozen insurers around the world have now introduced mileage-based insurance plans, either in pilot form or as regular products. None of them have ignored traditional rating factors, such as age and driving record. They just track mileage much more assiduously than is the norm today.

Another barrier is legal and regulatory. Because insurance laws and rules were written on the then-reasonable assumption that all insurance would be sold by the year, rather than by the mile, existing regulations make by-the-mile insurance cumbersome to win approval for. In the bygone days when odometers were mechanical and easy to tamper with, and when drivers could not snap a photo of their odometer with their cell phone and send it in a text message to their insurance company, by-the-mile insurance was not a live possibility. Nowadays, it is.

A bill that Rep. Cindy Ryu (D-Shoreline) introduced in the Washington legislature in 2011 and again, in revised form, in 2012 would have re-edited relevant statutes to explicitly permit selling coverage by the mile. The same bill also attempted to remove two other impediments to this innovative and money-saving insurance approach.

The first obstacle is an obscure consumer protection provision in state insurance law, which requires that insurers provide written notice of a policy's imminent cancellation 20 days before its expiration. That's a reasonable rule, but it's unworkable for some approaches to by-the-mile insurance. If an insurer's mileage-based product sells coverage in blocks of 1,000 miles (much as a cell-phone company might sell blocks of minutes), the insurer would not know when its customers are 20 days from running out of miles. Making sustainability legal requires greater flexibility.

The second obstacle is Washington's high bar for public disclosure. The state requires insurers to file as public record with the Office of the Insurance Commissioner (OIC) detailed data on the structure of their pricing and its empirical justification. Developing a new insurance product, such as a by-the-mile auto insurance policy, can require an investment measured in the hundreds of thousands or millions of dollars. Yet much of this information must be made public before the product can even be marketed. And who are the most-frequent visitors to the OIC's shelves of public filings? Other insurers. Competitors. What if pizza joints had to publish each of their pie recipes before they could turn on their ovens? That's essentially the position insurers are in.

The bill died in committee both years.

In times past, consumers had few tools for interpreting the arcana of insurance policies, so careful public review by state regulators was essential. Nowadays, instant online access to the expertise and ratings of citizens far and wide give consumers more market power than before. We can afford a less-onerous public disclosure rule if it will speed innovation. For example, Olympia could require filing new products and their empirical justification with the insurance commissioner but not require sharing them publicly for two years.

Oregon and Idaho's insurance regulations are less laden with outdated rules than Washington's, and British Columbia has near-perfect conditions for introducing

by-the-mile insurance. The Insurance Corporation of British Columbia writes 90 percent of the province's auto insurance policies, and faces few of the competitive pressures of US insurers.

Removing the barriers to by-the-mile insurance would speed the rise of this money-saving innovation. The sustainability benefits would be huge. Widespread adoption in British Columbia would likely trim more than 11 percent of personal driving in the province, according to Todd Litman of the Victoria Transport Policy Institute, one of the world's leading thinkers on by-the-mile auto insurance.

Besides, allowing the sale of insurance by the mile is common sense: It's just like allowing the sale of pizza by the slice.

The original, unabridged version of this chapter is here.

5. Unfettering Food Carts

Outdated rules stunt street food in Seattle and Vancouver, BC.

Eric Hess

Whatever you're craving, you can probably find it on sale at a parking lot in Portland. Barbecue jackfruit fried pie? Try Whiffies on Hawthorne. Foie gras over potato chips? Eurotrash on Belmont. Kimchi quesadilla? Koi Fusion on Mississippi. It's no wonder Portland has been heralded as a world-class purveyor of street food.

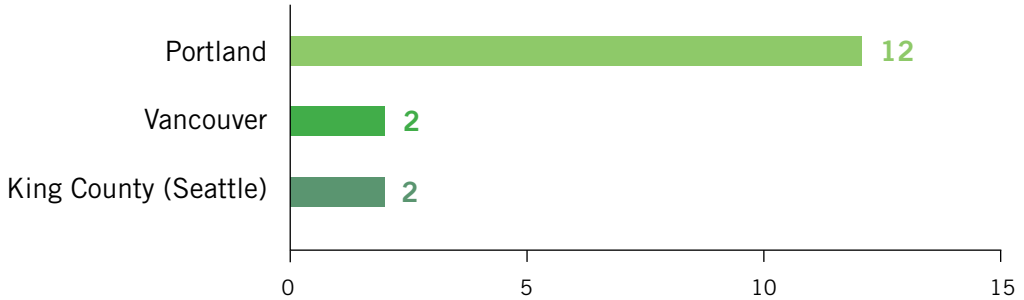
But North American attention to the Rose City's food cart scene has cities to the north green with envy. For decades, Seattle and Vancouver, BC, had draconian laws limiting food cart cuisine. In the last few years, however, both have tossed old rules in the dumpster, hoping to unleash legions of carts.

Street food is smart for sustainability: it makes urban living more desirable to many, improves neighborhood walkability, provides affordable dining options, and opens doors for diverse entrepreneurs.

So far, though, neither Seattle nor Vancouver, BC, has cleared the way for street food to the same extent as Portland.

Portland: Food Cart Champion

Food carts per 10,000 residents



Portland: Ground Zero

Street food in the Rose City traces its roots back to the 1970s, but it really started heating up a few years ago when the economic downturn dovetailed with the city's reputation as a foodie mecca. Today, Portland boasts nearly 700 food carts, thanks to the city's laissez-faire approach.

Operating in semi-permanent "pods" on private parking lots, food carts have become go-to destinations for workers looking for cheap lunches, tourists wanting to sample street-side dining, and after-bar crowds with cases of the munchies. Elsewhere in Cascadia, only street festivals and fairs attract similar clusters. A profusion of carts, loads of hungry supporters, and the city's long track record of encouraging these local businesses all help explain why Portland's policies have become so welcoming to merchants selling dishes like Potato Champion's poutine—cheese curds and gravy over French fries available at 12th and Hawthorne.

Because pods operate on private property, vendors avoid a thicket of regulation covering street usage. The city often turns a blind eye when lines spill onto the sidewalk, responding to complaints but not otherwise policing violators. And Portland doesn't make trouble for vendors who leave their carts in the same spots for months at a time.

Still, Portland continues to push the limits. As more carts settle in for long stays, they're building adjoining structures, like decks, which raise safety concerns for the city, and the city has been accommodating in its rules. The State of Oregon has, too. It's on the brink of granting its first liquor license to a food cart.

When problems arise in Portland's cart pods, the city's policy goal has been to resolve the problems without unnecessarily constraining the industry. Vendors are even starting to gain political clout, like other booming industries: they recently teamed up to form a new advocacy group.

Vancouver: Early Growth

Vancouver, BC, has had street food since the early 1970s, but it wasn't much. City rules limited vendors to packaged consumables and hot dogs. In 2009, the city caught a case of Portland-envy and cut the red tape, allowing mobile vendors to sell what they wanted, as long as they were in compliance with the provincial health authority.

Afraid of opening the floodgates too wide, though, the city has moved only slowly. In 2010, a city-appointed panel picked 17 vendors as part of a pilot program downtown, adding to the 55 hotdog vendors already operating in the city. Panelists selected the carts to ensure a variety of cuisine and prevent head-to-head competition.

Approved carts vend at designated sidewalk sites picked by the city or choose their own street parking location, as long as they meet guidelines such as sidewalk accessibility. In both cases, vendors have to list their locations on permits and cannot venture elsewhere.

Outside of downtown, carts must be on the move daily, and vendors face even

stricter regulations beyond city boundaries. Similarly, Vancouver vendors cannot sell food to the public from private property, as Portland's do, and they are required to use a licensed kitchen, or commissary, for food storage and prep. The Oregon Department of Health, in stark contrast, treats mobile kitchens as sufficient, dispensing with the commissary requirement.

The preliminary results have been positive; food trucks in downtown are popular with the lunchtime crowd. The city ended the pilot in 2011, and the city council just gave the nod to expand the city's street food program by allowing a dozen new carts to set up shop this year—bringing the grand total to 103 carts operating in the city. (Interestingly, Vancouver awarded new permits partly based on the carts' use of organic, local, and nutritious ingredients.) City officials plan to add 60 more by 2014, bringing the total to 130.

Vancouver vendors cannot sell food to the public from private property, as Portland's do, and they are required to use a licensed kitchen, or commissary, for food storage and prep.

But the program has been mostly limited to downtown, preventing carts from entering surrounding neighborhoods where the lucrative nightlife market awaits. (The city has agreed to launch a pilot program that would allow carts into public parks. Three sites were chosen, including one at Stanley Park that goes for a jaw-dropping $15,000. By comparison, regular street cart vendors only pay $1,000 per year.)

And despite all-around success for the last two years, the city is still capping the number of food carts well below the potential number of vendors. Over the next two years, only 30 more carts will be ushered in. City leaders claim they're limiting new carts because they're worried that they'll start cannibalizing other carts' business. But seriously, let the market figure that out.

Officials credit early success in Vancouver to the minimization of red tape. And it's true that Vancouver's regulations are less restrictive than before: the city's efforts to both designate sidewalk stalls and allow vendors to find their own locations make it easy for carts to launch quickly, while not overly limiting locations. Crucially, city officials have expressed interest in lifting restrictions outside downtown—perhaps even lifting the ban on vending from private property.

But unless the city changes its official plans, in five years the city will have introduced only 100 carts, fewer than Portland added in 2010 alone. Why limit the number of vendors at all? This year, over 50 applicants sought just a dozen permits. Vancouver can close the cart gap with Portland by lifting the cap and letting vendors hit the streets.

Seattle: Still Lukewarm

Like Vancouver, Seattle stifled street food for decades with laws that basically limited carts to hot dogs, popcorn, and coffee at the city's professional sports stadiums. Several years ago, vendors started to sidestep the laws by setting up shop on private property; street food started to grow.

Then, in July 2011, came a big move: the city council passed new regulations meant to encourage street food. The city council lifted restrictions on what carts can sell and

created new guidelines on where carts can park. Unlike Vancouver, Seattle placed the onus on vendors to find locations that meet the guidelines (such as leaving adequate throughways for pedestrians).

In order to protect established businesses—and appease local restaurateurs—the city gave restaurants and bars a veto over mobile vendors operating within 50 feet of their front doors. At the same time, the city tripled fees for food-cart permits to nearly $1,000 dollars (about the same as in Portland).

Have the rule changes panned out? Not yet. Since July, the city issued seven new permits for food trucks—defined in Seattle as self-powered vehicles with kitchens onboard—to vend from public streets, and six permits for food carts—think hot dog vendors or push carts—to vend from sidewalk spaces. The numbers don't signal an explosion of street food. In fact, the number of food cart permits actually dropped a bit since the new regulations took effect.

Seattle has pockets of success, such as South Lake Union, a quickly developing neighborhood just north of downtown. This area is where most of the street permits were issued, but most of the time food trucks ignore the city and frequent large, suburban businesses. Outside of South Lake Union, food carts rarely venture into Seattle, except for farmers markets and special events.

Barriers to food carts on public streets and sidewalks aren't a deal breaker. Portland's carts operate almost solely on private property. Likewise, carts in Seattle often stick to parking lots where rules are less strict. More restrictive are the city's requirements that carts return to a commissary kitchen every day, prohibit them from remaining overnight, and prevent them from being near other food businesses. Portland's rules say nothing on any of these subjects.

Of course, as of May 2012, Seattle's food-cart policy changes are still relatively new. It takes about two months to get permitting for a cart and its site, and most of the eight months between the city's policy change and the time of this writing have been cold and wet—street foods' off season.

To entice carts downtown, Seattle could ditch the setback rule—it may be illegal anyway—and follow Vancouver's example by identifying a few dozen locations with adequate foot traffic. The city could also allow lines of patrons at downtown lots to spill over onto sidewalks, as long as other pedestrians can still get by.

It doesn't look like either Seattle or Vancouver, BC, will rival Portland for the title of "Food Cart Champion" any time soon. But both cities at least recognize the benefit of street food and are taking moderate steps. Despite the remaining hurdles, Seattle and Vancouver could have tasty futures ahead of them.

The original, unabridged version of this chapter and updates are here, here, *and* here.

Chart note: *Permits are issued by King County's Department of Health, and because vendors are mobile, the county can't say how many operate within Seattle. Portland's numbers come from www.foodcartsportland.com, and Vancouver's come from the city.*

6. Exempting Bars from Parking Requirements

Why Cascadia should act like Boise, not Vancouver.

Eric de Place

There's no better measure of our perverse relationship with cars than the fact that nearly every city and town in North America has laws requiring drinking establishments to provide parking, and yet roadside memorials to victims of drunk driving are mostly illegal. A single year of alcohol-impaired driving kills more Americans than has the last decade of war, but our land-use codes practically encourage driving home from taverns. Bar owners can be held legally liable for their patrons who imbibe too much, but our laws force owners to offer parking for their customers.

There's no better measure of our perverse relationship with cars than the fact that nearly every city and town in North America has laws requiring drinking establishments to provide parking, and yet roadside memorials to victims of drunk driving are mostly illegal.

Can we stop the madness?

How do Northwest municipalities deal with parking at drinking establishments? Who gets it wrong, and who gets it right? The answers may surprise you.

Let's start with the laggards.

Despite its vaunted reputation for sustainable urbanism, Vancouver, BC, may have among the worst parking mandates in the region (code, p. 9). The baseline requirement for businesses that sell liquor for on-site consumption, which is based on the amount of floor space open to the public, is one parking space per 60 square feet (5.6 square metres).

Given that a typical parking space is somewhere in the range of 170 square feet, and that the smallest parking space Vancouver allows is 148 square feet, it means that in many cases Vancouver bars must provide nearly three times more space for cars than for drinkers. Factor in the non-stall parts of a parking lot and the multiple is higher yet.

Vancouver's "cabarets" that sell liquor must provide one parking space for each 100 square feet (9.3 square metres). The city's "neighbourhood grocery stores" need not provide any parking at all, but "neighbourhood pubs" must, by law, provide one per 200 square feet (18.6 square metres). Even designated "detoxification centres" are required to house one parking space per 300 square feet.

Vancouver's parking laws seem almost directly at odds with British Columbia's toughest-in-the-region alcohol-impaired driving enforcement. As of late 2010, police can impound vehicles and fine drivers who register a 0.05 blood alcohol level or higher, as compared to the usual criminal level of 0.08. Much to its credit, BC's new enforcement provisions seem to be substantially reducing alcohol-related fatalities. Yet even so, drinking and driving is still killing more than four residents of BC each month, on average.

In fairness, it's important to note that Vancouver requires substantially less parking in many of the city's core urban neighborhoods. Still, where they do apply,

the stipulated minimums are substantially higher than most other Northwest municipalities.

Vancouver is in the same league as some of the Northwest's other worst offenders like Hillsboro, Oregon, which requires one spot per 65 square feet (code, section 84), and Medford, Oregon, which requires one spot per 55 square feet (code 10.743). Tacoma sets up a parking minimum that works out to an average of one stall per 100 square feet (though there are more lenient regulations for certain zoning districts) (code 13.06.510, p. 157). Moses Lake, Washington also uses the 1-to-100 ratio (code 18.54.020, p.2). Beaverton does the same thing (code 60.30): its pubs must set aside about twice as much space for cars as for the actual patrons. My favorite brewery's hometown, Bend, doubles that, mandating one parking space per 200 square feet of floor area (code, see Table 3.3.300), which is still a lot of parking.

Not that Vancouver's big-city peers deserve much praise. Neither bastion of beer and bicycling, Portland (code 33.266.110, p. 5) and Seattle (code 23.54.015, Table A), address bar parking very well either. Both set a baseline parking requirement for drinking establishments at one per 250 square feet of floor area.

Both Portland and Seattle have parking rules so labyrinthine that I won't even try to explain them fully. For example, Seattle's baseline of 1-to-250 does not apply in pedestrian or rail station "overlay" areas, nor does it apply downtown. And, like Portland, it can be reduced or waived in some circumstances, such as by providing bicycle parking or with proximity to transit. Yet the underlying assumption is still on the books: bars in Portland and Seattle are legally obligated to provide almost as much on-site parking as they set aside for customers.

That 1-to-250 ratio turns out to be a pretty standard formulation. Among the places that we examined for this blog post, it is shared by Vancouver, Washington (code 20.945.070), Pendleton, Oregon (ordinance 3250, section 119, p. 41), Salem (code 133.100, p. 9), and Spokane (code).

Setting parking requirements based on floor area is a bit odd because the formulas can inflate the amount of parking required by counting areas that aren't for customer use. (Think about places with large kitchens or areas for brewing equipment.) One of the things Vancouver, BC, does right is to set its standards based on the floor area designated for public use. Yet a more sensible approach might be pegging the number of stalls to the number of occupants. Victoria (code, p. 6) mandates one parking space for every three seats at "neighbourhood pubs," and one space per five seats at "eating and drinking establishments." (Why Victoria requires more parking for pubs than eateries is a mystery.) In Eugene, Oregon (code 9.6410, p. 347), the parking code uses a more nuanced calculation toward the same end: one per 66 square feet of seating floor area plus one for each 440 square feet of non-seating floor area.

The best city we studied for sane bar parking? Arguably, it's Boise (code, p. 2). Idaho's capitol city has a 4-tiered treatment of parking requirements, yet even Boise's most onerous "general" version—one per 300 square feet of floor area—mandates less parking than the commonplace 1-per-250 standard used by Portland, Seattle and so many other places. That's what makes it the winner. And it only gets better from

there. Depending on its location, a pub in Boise may be required to provide only 0.66 spaces per 300 square feet, or just 0.45, or even none at all.

As I've pointed out, Boise isn't alone in removing parking minimums in certain designated zones. Vancouver does it for neighborhood grocery stores; Seattle does it for community gardens. The key, though, is to seize on that basic concept—freeing private property owners from the legal burden to use their land for parking instead of profits—and expand it to drinking establishments everywhere.

It's really not hard. You just need the number zero. That's how you make sustainability legal when it comes to bar parking. You find that section in your city's land use code where it regulates parking minimums. You take a black magic marker, cross out what's there, and then write in the word "none." It's that easy.

And it could be even easier. In the US, at least, the problem might be solved efficiently at the state level. Because local jurisdictions have government authority only as a condition of state approval, it should be possible for the legislature to make it illegal for municipalities to force parking minimums on bar owners. (Note: I am not saying that parking at bars should be illegal; I'm saying that it should be illegal for cities to force bars to provide it.)

Mandatory parking at drinking establishments is surely one of the most obvious ways that well-meaning regulations can run at cross purposes to our values. Bar parking mandates are not a reflection of our insincerity about reducing drunk driving, but rather a revealing example of our outdated zoning practices that encourage driving by forcing private property owners to devote portions of their land to car storage. These zoning codes are, for the most part, still on the books around the Northwest, and they prevent the region from growing into a place that's safer, fairer, and more affordable.

The original, unabridged version of this chapter is here.

Thanks to Pam MacRae for help with this research.

7. Repealing Bans on Clotheslines

Banning clotheslines is wrongheaded and possibly illegal.

Jon Howland, Jake Kennon, and Alan Durning

Elizabeth Morris and her family bought their house in the High Point neighborhood for a reason. It's been touted internationally as Seattle's premier "green community" and for mixing Seattle Housing Authority [SHA] rental properties and private home ownership. It's a compact, walkable, mixed-income, energy-efficient, green-built neighborhood peppered with bicycle commuters and rain barrels. So Morris was shocked to find that at High Point, clotheslines are banned.

"Homeowners have even been warned that it is illegal," Morris said. "Not only are owners not allowed to save energy by hanging out laundry but those who rent from SHA (read: low income) aren't allowed to save on their energy bills either."

Like over 60 million other Americans and Canadians, Morris lives in a neighborhood governed by a homeowners association (HOA). These quasi-private governments, along with some apartment blocks and condominiums, generally feel free to set rules as they see fit. Penalties for violations range from fines to forced expulsion. Imagine being banished by your neighbors for drying your clothes!

Clothesline bans are wrongheaded for a number of reasons. To start, clothes that are hung out to dry last longer. All that lint in the dryer filter has to come from somewhere! Moreover, the Northwest Power and Conservation Council estimates that households in the Northwest states use 4.3 percent of their annual electricity consumption to dry laundry. To put that into perspective, even our refrigerators only gobble up 3.5 percent. As the *New York Times* highlighted in an article last year, the typical US household could prevent 1,500 pounds of carbon dioxide from entering the atmosphere each year simply by turning off its dryer and hanging out the wash. Oh, and clotheslines never burn down your house; in the US alone, dryers cause more than 12,000 residential fires annually.

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Still, for many northwesterners, overbearing homeowner, condo or apartment building rules deny them the choice. The Willow Brook Home Owners Association (HOA) in Bonney Lake, Washington, lumps clotheslines with such outdoor undesirables as "litter, trash, junk… broken or damaged furniture… [and] trash barrels." In the neighborhood of Awbrey Butte in Bend, Oregon, Susan Taylor, a clothesline-toting mother and nurse, garnered national attention a few years ago, including a spot on the *Colbert Report*, for standing up to her homeowners association when it fined her nearly $1,000 for sun-drying her laundry without approval. Bans do not have to be explicit to be a significant barrier, either: the neighborhood of Forest Heights in Portland, Oregon, allows clotheslines, but only if they are "completely screened" and "are not visible from any street or adjoining property."

In an age of climate change, high energy prices, a down economy, and tight budgets, leaders have few clearer opportunities to help citizens save money while trimming emissions than to legalize clotheslines. Fortunately, there's good news on that front. Six states—Colorado, Florida, Hawaii, Maine, Maryland, and Vermont—have passed laws that explicitly prohibit the banning of clotheslines. In 2008, Ontario became the first Canadian province to pass so-called Right to Dry legislation (though it exempted condos and apartments).

Here in Cascadia, the Oregon legislature has considered, but failed to pass, House Bill 3059, which would amend the rules that govern what can be legally included in property agreements. Bend resident Taylor, who has been fighting with her homeowner association over its clothesline ban and whose own drying cord has been cut by laundry haters, recently discovered something interesting. An obscure 1979 Oregon law may already shield the legality of sunning her wardrobe.

This law appears to have legalized clotheslines on most Oregon properties 33 years ago. The law says that no property contract such as an HOA covenant can restrict a buyers'

use of solar energy systems. Is Taylor's clothesline a solar energy system? Physics says "yes," although no appellate court in Oregon has ever ruled on this point. Clotheslines appear to fit under the umbrella of Oregon's, and other states', solar rights because systems for hang-drying rely on the sun's radiation to evaporate water in wet laundry.

In addition to Oregon, the solar access laws in Arizona, California, Illinois, Indiana, Louisiana, Massachusetts, Nevada, New Mexico, North Carolina, Texas, Virginia, and Wisconsin all delineate a homeowner's right to install a "solar energy system," "solar energy device," "solar collector," "system for obtaining solar energy" or "solar energy collection device." The legal terminology varies, but the letter and spirit of these laws has one overarching message: homeowners may utilize the power of the sun.

In these states, and the six that have explicitly legalized clotheslines, illegal bans persist in community rulebooks such as HOA Covenants, Conditions, and Restrictions (CC&Rs).

In an age of climate change, high energy prices, a down economy, and tight budgets, leaders have few clearer opportunities to help citizens save money while trimming emissions than to legalize clotheslines.

Sightline has compiled this map of clothesline bans from the input of readers and other sources. The explicit right-to-dry states are those with blue pushpins marking clothesline bans. As of February 2012, of the 220 bans marked on the map, 26 were in states that specifically mention clothesline bans as void. The solar-access-law states are those with yellow pushpins marking bans. Some 103 bans are in these states. The two green pins show bans in Utah, where individual land use authorities may protect the right to dry.

While laws in Delaware and New Jersey allow for roof-mounted solar systems and Washington law overrides bans on solar panels, these states and 27 others have no legal protections for solar energy generally or clotheslines specifically. In these states, marked in red, the right to dry is not yet protected.

Nationwide in the United States, more than a quarter million homeowner associations govern upwards of 60 million people. Alexander Lee, a champion of the right-to-dry movement, estimates that "more than half of them (HOAs) restrict or ban the clothesline." Therefore, tens of millions of Americans are subject to either full or partial clothesline bans. Some 19 states, including some of the most populous states like California, Florida, and Texas, have right-to-dry laws. These facts combined suggest that millions of Americans live under illegal clothesline bans.

If you live in any of the right-to-dry or right-to-solar-energy states and HOA rules have hampered your drying, take heart. The law may have been on your side all along. Grab your clothespins and laundry basket, string up a line and hang out the wash. If anyone hassles you, point to the relevant statute—and dry on!

This chapter was combined from articles by Sightline intern Jake Kennon and Sightline volunteer Jon Howland (here and here). All were edited by Alan Durning.

8. Letting Cities Slow Traffic

It shouldn't take an engineering study for city hall to lower speed limits.

Alan Durning

On July 28, 2011, a Thursday afternoon, I got a pit in my stomach when I found strings of yellow police tape blocking the bike commute on Seattle's Dexter Avenue. I learned over the hours that followed that an SUV had struck and fatally injured Mike Wang, a photographer of my age, in his forties. Mr. Wang had been riding in the Dexter bike lane at Thomas Street when the SUV sped across traffic, slammed into him, and fled the scene.

Such calamities are far too common. In 2009, traffic collisions killed 1,095 people—including 106 pedestrians and cyclists—in the Northwest states of Idaho, Oregon, and Washington. Car crashes are the number one cause of death among American children and young adults, and the group of pedestrians most in jeopardy is seniors. The pedestrian traffic death rate is more than twice as high among seniors as among others in Oregon and Washington. It's three times as high in Idaho.

In almost all of these deaths, traffic speed is a critical variable. Some 91 percent of 2009 Northwest traffic deaths occurred on streets with speed limits, like Dexter's, of 30 mph or higher. That's a big number. Let's make it more real: A new mapping tool allows you to pinpoint the exact locations, with street-view photos, of every scene where a motor vehicle killed an American pedestrian in the last decade.

The map is harrowing. In a few short minutes of clicking and zooming, for example, I saw the death scenes of an 89-year-old man, a 73-year-old man, a 16-year-old boy, and a 1-year-old boy in Spokane; a 75-year-old woman and a 37-year-old man in Federal Way, Washington; and a 13-year-old girl in Sumner, Washington. Every one of these deaths was on a local street, the speed limit of which is dictated by state law at either 25 or 30 mph.

For all that cities do to try to improve street safety, with crosswalks, signals, and traffic circles, state law binds them in red tape if they want to lower these speed limits. Localities cannot lower speeds on their streets without first doing extensive and expensive speed and engineering studies. That's right: costly studies are required just to make commonsense safety improvements.

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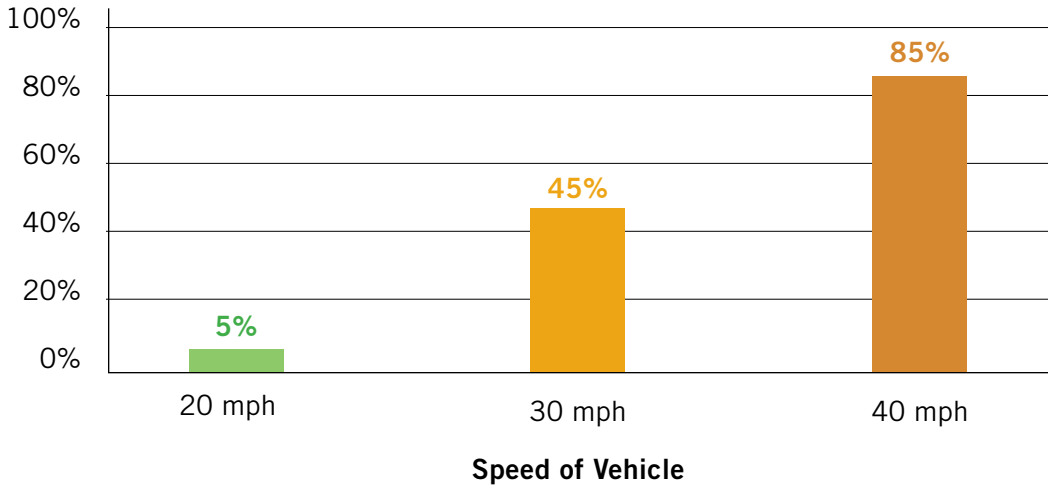
The national nonprofit Transportation for America has found that only 1 percent of pedestrian deaths during the 2000s occurred on streets with posted speeds of 20 mph or lower. Granted, these figures may primarily reflect the fact that most driving happens on roads with higher speed limits. Still, the laws of physics themselves dictate speed's danger. Newton showed that doubling speed requires quadrupling kinetic energy. It also quadruples stopping distance, and it radically increases the crushing force of impact. As shown in the figure above, a 1994 study from the United Kingdom estimated that

Odds of Pedestrian Death if Hit by a Car

Driving 30 mph rather than 20 mph multiplies risk to pedestrians ninefold



if a vehicle is traveling at 20 mph when it hits a pedestrian, the chance of death for the pedestrian is 5 percent. At the Dexter Avenue speed limit of 30 mph, the chance of death multiplies nine-fold, to 45 percent. At 40 mph, the chance of death rises to 85 percent. Roads with fast motorized traffic also intimidate walkers and cyclists, pushing more people into cars, while calming traffic induces more people to walk or bike. Slower auto speeds save lives.

The rest of the Northwest has trusted its localities more than Washington. In June 2011, Oregon passed HB 3150, giving more discretion to localities to reduce speed limits on low-traffic residential roadways. From the current standard of 25 mph, they will be allowed to drop the limit to 20 mph. The City of Portland hopes to use this authority to strengthen its network of Neighborhood Greenways.

Washington's legislature took up a similar bill in 2011, the "local speed limit bill." It garnered bipartisan support and passed the house unanimously, but state senator Mary Margaret Haugen (D-Camano Island) blocked its passage out of the transportation committee. In 2012, Washington Rep. Cindy Ryu (D-Shoreline), introduced the "Neighborhood Safe Speeds Bill" (Bill 1217), which passed the House unanimously, passed through Sen. Haugen's committee in the senate and then died tragically on the Senate floor. No one organized or lobbied against the bill, and a diverse statewide coalition supported it. Unfortunately, other matters before the Senate, including a partisan fight over the state budget, swamped lesser bills like neighborhood speed limits.

Washington and Oregon's bills are mild, too. Fuller measures would have taken Idaho's approach, letting cities adjust speed limits however they see fit. Or British Columbia's approach, which welcomes cities to push maximum speeds as low as 20 kilometers per hour (12 mph). Still, it's a credit to Oregon that it has trimmed back state speed-limit laws that were just getting in the way. For Washington, it's better luck next time.

The original, unabridged version of this chapter is here.

Note: *The database at the National Highway Traffic Safety Administration provided the figures on fatalities in the Northwest and deaths on streets with different speed limits. The figures cover Idaho, Oregon, and Washington for 2009 and exclude about 8 percent of fatalities, for which no speed limit data were available or (in rare cases) where no legal limit existed.*

9. Allowing Communities to Innovate for Clean Water

"One overflow per pipe" is a dumb way to allocate public dollars.

Lisa Stiffler

A rainstorm—a real gully washer—hits the Northwest. In numerous cities with antiquated public plumbing, the rain seeps into cracked sewage lines and flows into stormwater drains that link to the sewer system. From Port Angeles to Seattle to Spokane, treatment plants are overwhelmed by the deluge, causing raw sewage to spill into Port Angeles Harbor, Puget Sound, and the Spokane River. The sewage carries bacteria, viruses, and other pollutants that pose risks to swimmers and clam diggers.

Spewing sewage into waterways is potentially dangerous to people. So Seattle and King County alone are preparing to spend $1.3 billion on projects to fix the problem. In 2011, the Navy town of Bremerton on Puget Sound's west shore finished a project costing more than $50 million to staunch the annual flow of hundreds of millions of gallons of sewage-tainted waste. Vancouver, BC, is working to separate its sewage system, and Portland has completed its $1.4 billion Big Pipe project to control sewage spills.

But the regulations driving these costly fixes are based on an arbitrary benchmark, and different investments would yield better results for Cascadia's waters. In July 2011, Lynda Mapes of the *Seattle Times* and I both called into question the sewage rule and the priority it places on shrinking the number of combined-sewer overflows (CSOs) at a time when the region faces arguably more urgent water-quality challenges.

Washington's leaders would do well to reconsider a rule that limits the number of sewage overflows to an average of one per outfall. Instead, they could craft rules grounded in the harm caused by particular spills. By focusing the regulation on the environmental and human health effects, cities, counties, and utility rate payers will be able to direct their time and money to projects that will have the greatest benefits to the region. Reshaping the CSO rules could save money by shifting restoration dollars to projects that pay the largest dividends.

As Mapes explains: "Surface runoff, not CSO discharge, is the single largest source of pollution to Puget Sound, according to the Puget Sound Partnership, the state agency charged with cleaning up and restoring Puget Sound, and the state Department of Ecology. Carrying contaminants such as copper, zinc, oil, lawn fertilizers and animal waste, surface runoff barrels untreated from storm drains . . . into Puget Sound, not

just in heavy storms but nearly every time it rains. …Today, in the partnership's Action Agenda for Puget Sound, CSOs don't rank in the top 10 or even the top 20 things to do to reduce water pollution in Puget Sound."

Seattle and King County already have made costly investments that dramatically reduced the amount of sewage released by CSOs. To reach state standards, they would need to do much more. Washington rules require localities to keep the average to one or fewer overflows per year per outfall. Ecology, which regulates these outfalls, can choose to average the number of spills over 10 or even 20 years, making it easier to clear the legal bar. The rules, which date to 1987, predate US regulations for CSOs, which came out in 1994. As Larry Altose, Ecology spokesman, defended the policy: "(Washington's) system is actually quite flexible and protective of human health and the environment."

Dennis McLerran, the head of the EPA for region 10, which includes Washington, Oregon, Idaho, and Alaska, defended local CSO efforts in response to the *Seattle Times* story. In a written statement he explained:

> "Combined systems—and climates like Seattle's—often conspire to produce huge sewage and storm water overflows during the wet winter months. It's our view that there are few better investments than protecting our citizens and waterways, especially Puget Sound, from millions of gallons of raw sewage."

Fixing combined systems may be a great way to keeping sewage out of waterways, but what about other pollutants, particularly the toxic mix that's carried by stormwater runoff? Is sewage worthy of the attention it's getting?

Some observers, including Chris Wilke, executive director of the Puget Soundkeeper Alliance, say yes. Wilke's organization sued Bremerton in the early 1990s for egregious releases of sewage waste. Now he points to the reopening of shellfish beds near Bremerton to commercial and recreational harvest by the Suquamish Tribe as evidence that CSO improvements are a smart investment. He cites a study by the National Resources Defense Council that ranked Washington 14th in beach water quality as proof that more work is needed. The number one cause of beach closures: sewage spills and overflows.

Fixing combined systems may be a great way to keeping sewage out of waterways, but what about other pollutants, particularly the toxic mix that's carried by stormwater runoff? Is sewage worthy of the attention it's getting?

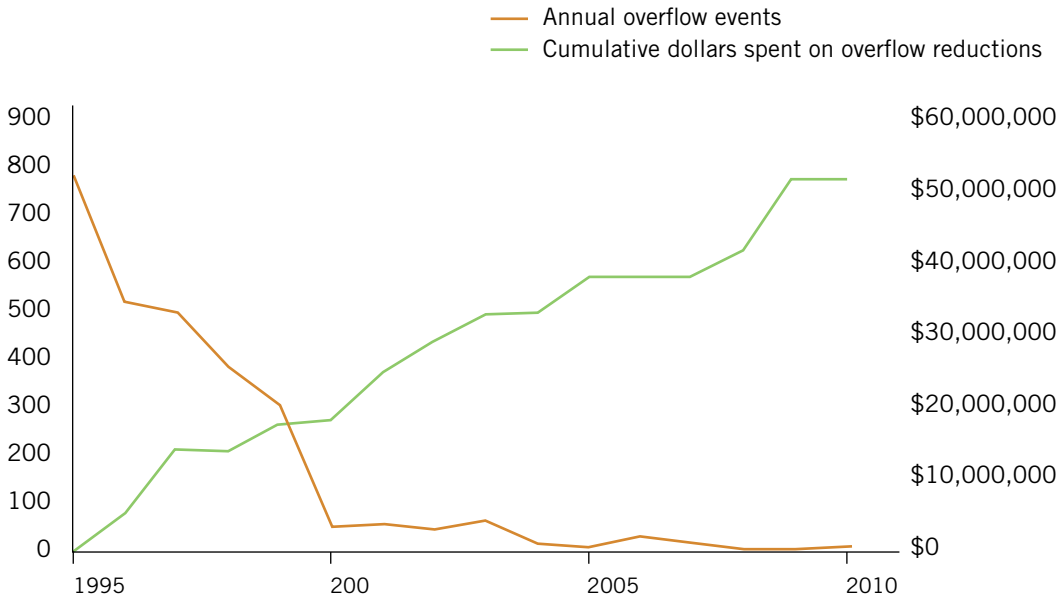
Getting raw sewage out of the water and making clams safe to eat are terrific accomplishments. But as Bremerton found, local shellfish beds were safe years before the city reached the one spill goal. As the chart below shows, in the first nine years of the city of Bremerton's program to reduce sewage and stormwater overflow events, the city spent nearly $33 million and slashed the number of annual overflows by more than 90 percent. This impressive clean-up allowed reopening of shellfish beds in 2003. Then, to reach the state standard of one overflow event per year on average, the city spent nearly $20 million more.

Bremerton's post-2003 disconnect between cost and benefit has helped inspire a chorus of voices questioning the region's focus on CSOs.

Mapes quoted a string of water-quality heavy hitters: Pam Bissonnette, former director of Natural Resources and Parks for King County; Kevin Clark, former manager of what later became Seattle Public Utilities; Bill Ruckelshaus, former EPA administrator and former chair of the leadership council of the Puget Sound Partnership; David Dicks, member of the leadership council and former executive director of the Partnership; and Don Theiler, head of King County's waste water division. All cast doubt on the wisdom of investing so heavily in CSO prevention, when other priorities now offer bigger water-quality rewards.

Diminishing Returns on Sewage Investments

In the first nine years of the city of Bremerton's program to reduce sewage and stormwater overflow events, the city spent nearly $33 million and slashed the number of annual overflows by more than 90 percent. To reach the state standard of one overflow event per year on average, the city spent 20 million more.



Source: City of Bremerton Public Works & Utilities

So what's the answer? Two steps recommend themselves. First, Puget Sound leaders can have a frank discussion to evaluate the real threat posed by CSOs, but it's unclear if that's likely to happen, or happen before the federal government and local officials sign consent decrees committing them to costly projects to address the CSOs. As Mapes reported in a January 2012 follow-up story on the issue, the EPA's McLerran said "he is open to a discussion of setting priorities as his agency works through consent decrees with Seattle and King County on CSO control plans."

Second, Washington can revise the rule of one overflow per outfall. This requirement is oddly arbitrary. It's not linked to how much damage the spill is causing or how concentrated or vast the volume of pollution is. And why one spill? Why not zero? or 10? Washington's Department of Ecology manages more than a thousand National Pollution Discharge Elimination System (NPDES) water quality permits, most based on

the amount of pollution released. Why can't CSO permits work the same way?

Admittedly these changes bring risk and reopen old questions. Does the Department of Ecology have legal authority to make this change? Would a rewrite of the rules weaken them too, further harming Northwest waters? Would defunding some CSO projects lead to funding for programs to stem polluted stormwater runoff and other menaces to swimming and clamming waters?

In good times and bad, and especially in hard times, making the most cost-effective investments—the best buys—first is a root principle of managing resources. So let's change the existing rule to allow our limited funds to go where they're most needed. For Puget Sound, that would likely mean investments to control polluted stormwater runoff. Besides, because too much stormwater is the underlying problem with CSOs, projects to reduce toxic runoff, particularly green stormwater solutions, could help control sewage spills as well.

In good times and bad, and especially in hard times, making the most cost-effective investments—the best buys—first is a root principle of managing resources.

The original, unabridged version of this chapter is here.

10. Freeing Taxis

Unleashing cabs to boost affordable, green transport.

Vince Houmes

What if the Northwest's cities legally capped the number of pizza delivery cars? What if, despite growing urban population and disposable incomes, our Pizza Delivery Oversight Boards had scarcely issued new delivery licenses since 1975? Pizza delivery would be expensive and slow; citizens would rise up in revolt.

Substitute "taxicab" for "pizza delivery" and you have a reasonable facsimile of the taxi industry in Portland, Seattle, and Vancouver, BC: tightly restricted taxi numbers, high fares, and low availability.

Plentiful, affordable taxis facilitate greener urban travel. They help families shed second cars, ride transit more often, and walk to work on could-be-rainy days. They fill gaps in transit systems and provide a fallback in case of unexpected events.

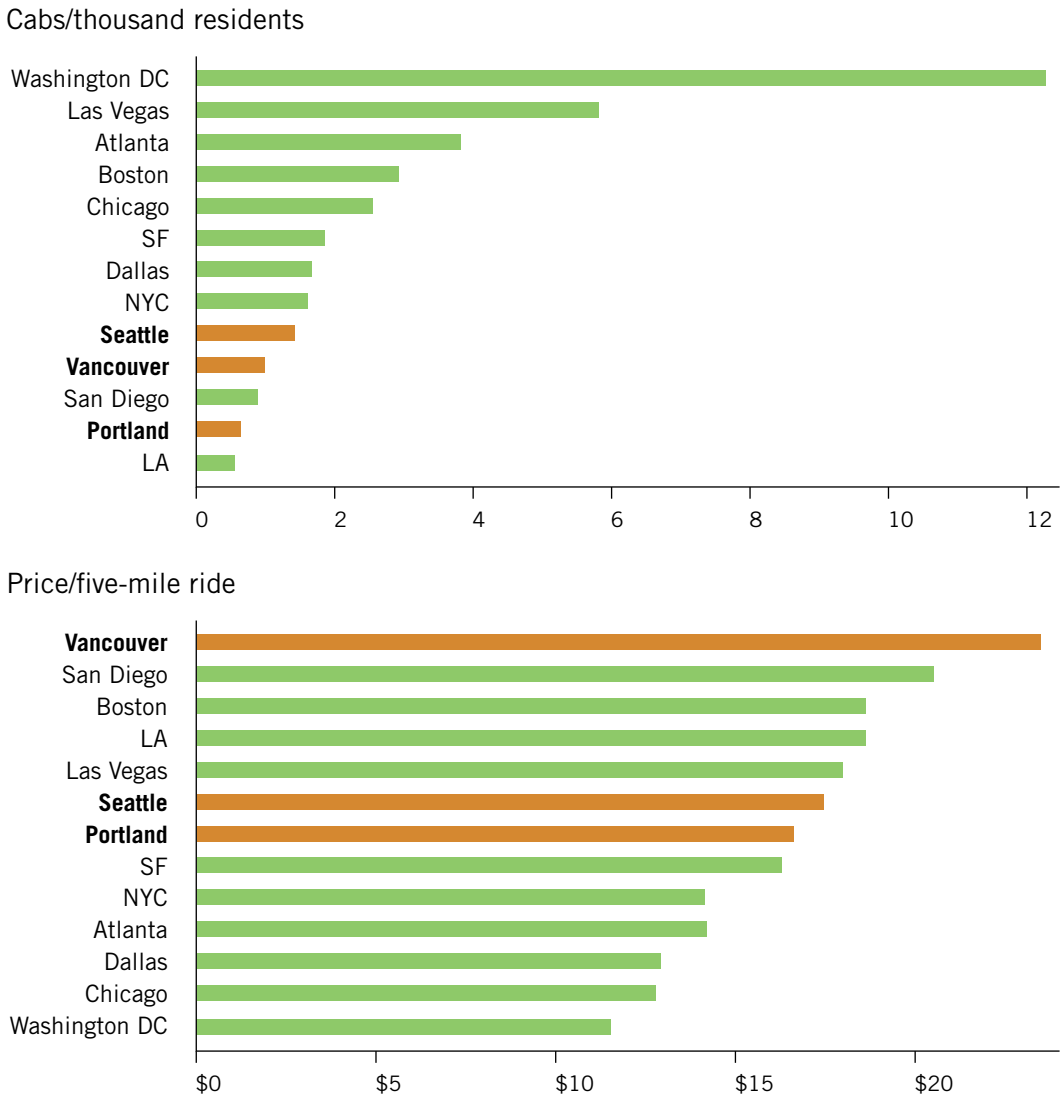
In the Northwest's largest cities, however, local ordinances enforced by taxi boards suppress the entry of new cabs onto the streets. They impose arcane and ultimately farcical management principles reminiscent of Soviet planning. Imagine teams of pizza regulators pawing through discarded receipts and pizza boxes to determine whether demand for pizza delivery markets are "oversaturated," and you won't be far from the truth. Restricting taxicab licenses undermines passengers' mobility, local economies, and—by encouraging driving—our natural heritage; uncapping cabs would allow market competition to bolster all three.

As shown in the figure below, at present, the Northwest's largest cities have fewer

cabs per capita, and higher fares, than many US cities. Seattle's 1.4 cabs per 1,000 residents is twice Portland's 0.7, and well above Vancouver's 1 cab per 1,000. But all our cities lag. Washington, DC, has more than 12 cabs per 1,000 residents; Las Vegas has almost 6; and San Francisco has 2. Meanwhile, the cost of a typical, five-mile trip is $16.50 in Portland, $17.25 in Seattle, and $23.39 in Vancouver. Washington, DC's typical fare is just $11.50.

Consider the efforts of Portland's Transportation Board of Review, which has the power to issue new taxi licenses but is also charged by city law with monitoring "market saturation factors." It is supposed to avoid market oversaturation, something

We Have Fewer Cabs...and We Pay More



every other market—from pizza delivery to home remodeling—manages to do just fine on its own, without benefit of a board. In Portland, the rules actually require applicants to prove that a new taxi license is needed. Imagine if Pizza Hut had to demonstrate to the Pizza Delivery Board that it needs another driver for the Super Bowl.

In Vancouver, the Passenger Transportation Board's rules are slightly more flexible than Portland's. They have allowed a trickle of new cab licenses over the years, but they have screened out many applicants, too. A Vancouver cab company seeking a new license is supposed to prove the taxi market isn't already too full, and that can be a complex question to answer. In other markets, entrepreneurs figure out the answer to their own satisfaction, then see if they're right by risking their own time and money. New pizza parlors do not have to show city regulators that their delivery service is needed.

Worse, in Vancouver, cab companies may petition against a competitor's new license. When Pizza Hut applies for an extra delivery license for the Super Bowl, in other words, Domino's has a right to challenge the application. In 2010, the board rejected some 43 percent of requests for new permits, despite the city's high taxi fares and paltry cab numbers.

Seattle's Department of Executive Administration, like taxi boards to the north and south, tries to divine the number of taxicabs Seattle can support without oversupplying the market (whatever that means). Its method is to comb through an enormous database of "weighted average taxi response times" to look for signs that wait times are getting worse. Making the heroic assumption that Seattle's status quo of long waits and fruitless cab hunting are acceptable, it looks for signs of further deterioration before considering new licenses.

A better test would be whether anyone is willing to pay for a taxi license. Guess what? Seattle medallions currently trade for $100,000, when they're for sale at all. When the city offered 15 new licenses for wheelchair accessible taxis in 2009, 723 drivers applied. Vancouver taxi licenses have sold for up to CDN$500,000. (In New York, taxi medallions were selling for close to $1 million in June 2011.) The explanation of these bubble-like prices is economics: restricting taxi supply increases the profitability of each cab. Holders of taxi licenses can fill their cabs more of the time and keep the meter running.

In the Northwest as across the continent, taxi regulation is dominated by license caps and fixed rates, but that isn't the only way. Washington, DC, has no limit on the number of cabs. It has plenty of taxis and low prices. The capital city does regulate taxis, insisting, for example, that drivers and vehicles meet safety criteria, that fares be clearly posted, and that meters be accurate. It even regulates prices. But DC law imposes no lid on taxi licenses. That's good sense. When we import that approach to Portland, Seattle, and Vancouver, we'll have more-robust urban taxi fleets and we'll be able to leave our own cars home more of the time.

Vince Houmes of Seattle is a civic volunteer and longtime student of sustainability issues. The original, unabridged articles from which this chapter was drawn are here

and here. Alan Durning edited Mr. Houmes' work.

Chart note: *Data from charts come from the Chicago Dispatcher, with updated city populations (from Wikipedia) and updated numbers of Seattle and Vancouver taxis. An "average trip" is 5 miles long, with 5 minutes of waiting. Per-capita numbers are for city, not metro, population.*

11. Unchaining Bike Sharing

Are helmet laws blocking a transport revolution?

Jake Kennon

Imagine for a moment that cities around the world are rolling out fleets of magic carpets and that those carpets are having truly wizardly effects: improved public health and safety, reduced traffic congestion and carbon emissions, and reduced dependence on foreign oil. City dwellers can check them out or drop them off at stations everywhere, and they are free to use for up to 30 minutes. After that, they cost something, but not much. Picture literally millions of citizens using these carpets for short, speedy trips all over town. Now imagine being in the Northwest and watching this opportunity fly by because fanatical carpet helmet laws discourage would-be riders.

This is exactly what's happening. The magic's not in carpets, though: it's in the humble bicycle.

Public bike-share programs, whether run by municipal governments, private entities, or both, are built on a simple idea: blanket urban areas with hundreds, even thousands, of identical, sturdy two wheelers and give people a huge network of convenient stations to park them at. Make the system accessible and reliable, so that city dwellers can get to nearby destinations, on time and without a hassle. Don't worry about theft and payment systems, either: bike sharing has come a long way since Amsterdam's unsuccessful attempt in the 1960s. The latest systems tie checkouts to credit and debit cards, significantly deterring theft, and fees are kept quite reasonable through subsidies from advertising on stations and the bikes themselves. In Dublin, a three day pass is only $3, while a year's subscription to the network costs just $15!

Cities everywhere are climbing aboard, as illustrated by videos from London, Washington, DC, and especially Hangzhou, China. Hangzhou's enormous bike sharing program of 50,000 bikes and 2,050 stations has already become an integral component of the city's transit network. The program is so popular the city plans to expand its fleet to 175,000 bikes by 2020.

Public bikes in places like Hangzhou are a normal part of the urban scene, and people don't think twice about swiping a card or inserting a membership key to get a quick ride any time of the day. Dozens, even hundreds, of bike share programs have popped up across the world, as the Institute for Transportation & Development Policy has documented and as the Bike-sharing World Map shows. Almost every one of them has launched in the last decade.

If bike-sharing has been successful in so many places, why isn't the Pacific Northwest already in on this? Why are there only two operational bike-sharing programs in all of Cascadia: a tiny one in Pullman, Washington, on the campus of Washington State University, and a minuscule one in Golden, British Columbia? Golden has 15 bikes, which mostly go back and forth between the town center and a nearby campground.

It turns out there's something the Northwest has that other places do not, and it makes all the difference: mandatory helmet laws. British Columbia's helmet law is province-wide. Numerous cities and counties in Washington, including King County and Spokane, have helmet laws. In Oregon, riders under 16 are required to wear helmets, and Portland has approved funding for launching a bike-share program, the first large one in the Northwest.

There is nothing more contentious in the cycling community than the debate over helmets, and though the safety research is mixed, the political lines are sharply drawn (video). When it comes to bike sharing, however, the evidence is clear on a few things:

1. **Bike-sharing attracts first-time cyclists…** As the links above show, the typical users of public bikes are not regular cyclists. They're newbies who see a convenient way to get from one place to another and hop on.
2. **who make things safer…** Just as drivers are more careful at crosswalks in pedestrian-packed downtowns, they are more aware and cautious of cyclists when the streets are full of them. Adding new cyclists to streets makes the environment dramatically safer for everyone.
3. **… but only if helmets are optional.** The only failed program in the world is Melbourne's. It's also the only one put in place under a helmet law. As this short video documents, Dublin has launched a program of similar scope (450 bikes versus Melbourne's 600), but its fleet clocks 5,000 trips per day while Melbourne's barely manages 70. It's already racked up a million trips without a single fatality and a stunning 40 percent of users are first-time cyclists.

If bike-sharing has been successful in so many places, why isn't the Pacific Northwest already in on this?

Forcing casual riders to don helmets is a high barrier to bike sharing. It depresses ridership, getting in the way of the overwhelming health and safety benefits of having more bikes on the roads. Providing headwear at kiosks or local businesses raises concerns about sanitation (lice!) and safety (cracked helmets). Casual, would-be riders weigh those concerns and decide to keep walking.

Besides, no bike-sharing program tells people not to wear helmets. They just leave wearing one as a personal choice.

The crux of the matter is this: the Pacific Northwest can reap the huge benefits of bike sharing without compromising safety. It just needs to tweak its helmet laws in one of two ways:

- Make riding helmetless a secondary offense. Adjusting the law so cyclists cannot be cited unless they do something else illegal would allow people to take safety decisions into their own hands. Helmets are often compared to seatbelts. Why not give them the same legal status?
- Make an exemption for bike-share users. Pedicabs (three-wheeled rickshaws for hire) are excluded from helmet laws, both for drivers and passengers, and their safety records are stellar. Vancouver's bike-share feasibility study (page 56) found that in the twelve years since the pedicab helmet exemption took effect there has not been one reported head injury. There are also exemptions for people with religious objections (it's hard to put a helmet over a turban), children on tricycles, and even people with big heads. Why not public bikes?

Though our helmet rules are the greatest legal obstacle to a bike share roll out, other barriers are worth mentioning. A recent University of Washington study examined the feasibility of bike sharing in Seattle and discovered a slew of hurdles over curb space usage and the city's sign rules. Bike-share programs sell advertising space on their bike stations to help cover their costs, so the design of the bike stations must reflect the needs of advertisers. At a minimum, having consistent and easily understood sign rules is a must. In Seattle, though, almost every district from Pioneer Square to Ballard has its own sign guidelines. This patchwork of regulations makes it hard to design a single, modular bike-share station that will be legal citywide. And custom bike stations would be prohibitively expensive.

Fortunately, Seattle's municipal code allows the Director of the Department of Planning and Development to issue signage exemptions in downtown areas. No doubt other Northwest cities have their own particular hoops to jump through, but once the helmet barrier is addressed nothing should truly stand in the way of a concerted push to bring this transportation revolution to Cascadia.

Bike sharing is too good an opportunity to let pass. It's sustainable, healthy, and doesn't require extra parking garages or oil imports. Fortunately, Vancouver has solicited contractor bids to design a system in spite of BC's helmet law, Portland aims to have a program operating before the end of 2012 and has appropriated public funds to get it started. Seattle is exploring the idea. Let's treat bike-share riders like pedicab passengers, exempt them from helmet rules, and join the global wave of magic carpet rides.

Jake Kennon was a 2011 Sightline intern. Alan Durning edited this chapter, which can be found here in its original, unabridged form.

12. Replacing an Unsafe Fire-safety Test for Couches

Kids, couches, Big Chem, and the 12-second rule.

Valerie Pacino and Alan Durning

The test is simple: 12 seconds exposed to a small flame like a cigarette lighter. If the furniture foam doesn't burn, it passes the test and can be sold. If it burns, it fails and cannot. That's been California's trial by fire for furnishings—its "flammability standard"—since 1975.

Unfortunately, this obscure rule turns out to cause an inordinate amount of toxic harm. Worse, it does this harm without providing any benefits. The rule may have made sense in 1975, when fire-safety science was young, but it's long past its sell-by date. Simply deleting it from the law books in Sacramento would send benefits up the coast to the Northwest and beyond. Replacing the rule with a new flammability standard developed by the US Consumer Products Safety Commission and called a "smolder test" would do even more good.

The 12-second rule applies to the foam in couch cushions—not the fabric, just the foam. It also governs the foam in other furnishings such as chairs. And it covers foam-padded child-rearing equipment such as crib mattresses, nursing pillows, and strollers.

Because California is the biggest US market, manufacturers tend to treat the 12-second rule as a North American standard. They don't want different foam formulas for different states and provinces, so most of them make everything to pass the 12-second rule. Consequently, wherever you sit in Cascadia, you're probably on foam manufactured to pass the 12-second rule.

Foam that passes the test is usually about 5 percent flame retardants. Chemicals made with either bromine or chlorine, flame retardants are designed to delay the combustion of polyurethane so you can escape from a fire. In the seventies, when the 12-second rule was born, a lot of people were dying in fires started by cigarettes. In the intervening years, per-capita cigarette consumption has fallen by more than 40 percent. What's more, residential smoke detectors, sprinkler systems in big buildings, and, most recently, fire-safe cigarettes (which burn themselves out quickly if not tended) are required across the Northwest and beyond. Consequently, fire safety has improved remarkably; the US fire death rate fell by two-thirds from 1979 to 2007, according to the Fire Administration of the US Department of Homeland Security. Canadian fire safety has improved even more rapidly.

> ***California children carry 2 to 10 times more toxic flame retardants in their bodies than do US adults.***

The 12-second rule, however, has not changed, despite the accumulation of science on a bewildering array of dangers posed by chlorine- and bromine-based flame retardants. These substances crumble and filter out of furnishings, gradually spreading through your living quarters as house dust. There, they become a long-lasting hazard. They harm children especially. Children roll on the floor and put their hands in their mouths more than adults. California children carry 2 to 10 times more toxic

flame retardants (p. 270) in their bodies than do US adults. Their bodies hold 10 to 100 times more than do children in Europe or Mexico.

Flame retardants also endanger pets. Dogs and cats live closer to the floor and its dust, and cats lick it off themselves. US cats carry flame retardants at 20 to 100 times the concentrations of adult Americans, according to this study by federal health scientists.

Later, from our buildings, flame-retardant dust travels outward, touching house cleaners and employees at sewage treatment plants and dumps. The particles wash into water and float on the breeze. They reach people everywhere. Flame retardants are so commonplace in North America that they are among the main compounds scientists find when they scan our bodies for synthetic and toxic chemicals. Ultimately, they reach a broad swath of living creatures on Earth, from Columbia Basin ospreys to peregrine falcons to migrating salmon to harbor seals.

The list of flame retardant chemicals is long, and the list of health effects is longer, documented in hundreds of peer-reviewed scientific articles. (Many are summarized in this comprehensive review.) In short form, though, these compounds spell trouble. To varying degrees, they can make you, your pets, and other living things infertile, impotent, stunted, fat, diabetic, stupid, malformed, sickly, mutated, cancerous, or dead. The causal relationships are complicated, of course, and the nuances and uncertainties would matter a tremendous amount if flame retardants in furniture foam had compensating virtues. We might forgive them their sins, for example, if they kept us from perishing in house fires. In that case, we would need to think hard about tradeoffs. How much toxicity should we accept to avoid death by smoke inhalation?

But the fact is that the 12-second rule is perfectly useless. It fails as a predictor of actual, real-world fire safety. It is scientifically discredited. If fire-safe furniture is what we want, the 12-second rule is simply irrelevant. Actually, it's worse than irrelevant. Real-world tests of fire safety suggest that upholstering our living spaces with flame retardants does nothing to slow fires but does make fires more lethal to us. It makes a fire's smoke more poisonous. It also endangers the firefighters who we expect to rescue us.

To varying degrees, flame retardants can make you, your pets, and other living things infertile, impotent, stunted, fat, diabetic, stupid, malformed, sickly, mutated, cancerous, or dead.

One of North America's leading researchers on fire safety is Vytenis Babrauskas, PhD, of Fire Science and Technology, Inc., in Issaquah, Washington. He and three coauthors recently reviewed the scientific literature on the 12-second rule's fire safety benefits. Do foams that pass the 12-second test—foams with 5 percent chlorine- or bromine-based flame retardants—reduce the severity of fire or slow it? The answer, they write after looking at every relevant paper published, is "clearly No." Do foams that pass the 12-second test succeed in resisting ignition, in real-world circumstances? Again, they answer "No."

Part of the reason is that the 12-second test applies a small flame, like a cigarette lighter, directly to foam, but in real life, flame catches on furniture fabric first and spreads quickly. In these circumstances, making the foam with

5-percent flame retardants doesn't help.

In tests of real-world circumstances, furniture with 5 percent flame retardants burns up just as surely as furniture without retardants. The retardants do not slow down fires, nor keep them from burning as hot, nor prevent ignition, nor do anything else to improve fire safety. In fact, what they do (p. 284) is fill the smoke of furniture fires—the thing that is most likely to kill fire victims—with more soot (because the combustion is less complete) and more toxic substances (such as carbon monoxide, the flame retardants themselves, and the hyper-toxic dioxin-like compounds they can form when burning). Babrauskas and his coauthors underline their conclusion emphatically:

> It is important to emphasize that the above findings have not been disputed. There are no published research studies where the answer to either of the two questions [about reducing fire severity or preventing ignition] is 'Yes.' Thus, the evaluation of the fire safety benefits of [12-second-rule] foams is simple—there are no benefits.

Repeat: There are no benefits. If California were to abandon the 12-second rule, in other words, fire safety would not suffer. It would improve. What's more, furniture makers would save money, consumers would save money, and thousands of pounds of mutagens, carcinogens, and endocrine disrupters would stop moving into North American homes and offices and, later, into global food webs: into kittens and kestrels and harbor seals and human breast milk and young bottle-nosed dolphins. (Yes, all of these hold flame retardants.)

The retardants do not slow down fires, nor keep them from burning as hot, nor prevent ignition, nor do anything else to improve fire safety.

So what's the hold up? If the 12-second rule doesn't help, why hasn't California changed it?

The answer: Profits.

Four chemical companies dominate the flame retardant market for furniture foam sold in North America. Their profits depend on California keeping the 12-second rule, and their profits are colossal. Albemarle, Israel Chemicals, Chemtura, and Tosoh saw record earnings in 2011. Albemarle grew revenue by 21% over 2010 to $2.9 billion. Through the third quarter last year, Israel Chemicals delivered $1.1 billion net profit to shareholders. In 2011, Chemtura boasted it continued "the trend of strong year-over-year improvement." Tosoh announced its consolidated net sales from the 2011 fiscal year were up 8.9% to $8.2 billion. Those earnings are not just from flame retardants, of course. The companies don't report profits by product line. Still, Ceresana Research published a market research study in July 2011 on projected demand for flame retardants. Things look rosy for the $4.6 billion industry; global revenues are expected to reach $5.8 billion by 2018. Between the companies, they are probably making hundreds of millions of dollars a year from selling toxic flame retardants. Voiding the 12-second rule would decimate those windfalls.

An impressive coalition of firefighters, nurses, public health officials, environmentalists, and toxicologists have been making the case for reform in Sacramento. In response, the companies have been spending heavily on campaign

contributions, lobbying, PR programs, and a fake grassroots front group. According to an investigative report by Environmental Health News, the chemical industry spent nearly $5 million a year over the past five years in California defending flame retardants and the 12-second rule. That's a lot of money for one industry and one state. On the other hand, it's a pittance, considering the payback: by defending an obscure and ineffective fire-safety regulation, the industry extends its North American stronghold in a market worth billions of dollar of sales each year. That's one of the best returns-on-investment imaginable.

Unfortunately, Big Chem has repeatedly defeated attempts in the California legislature to curtail toxic flame retardants in furniture. A bill introduced in 2007 banned a particularly dangerous flame retardant, but it failed. In 2008, a bill outlawed a host of dangerous flame retardants. It failed. In 2009, a bill sought exemption for children's products. It failed. A bill in 2010 placed flame retardants under regulatory control of California's Green Chemistry Initiative. It failed. Last year, Sen. Mark Leno (D-San Francisco) introduced a mild bill. A key state senate committee voted eight-to-one against rewriting the 12-second rule.

In 2012, Rep. Holly Mitchell (D-Los Angeles) introduced AB 2197, a bill that will bring California's flammability standard into line with modern fire safety science. It's backed by a coalition of firefighters, scientists, businesses, consumers, and public health advocates, and is simple, effective, and constructive.

The bill replaces the 12-second rule with a modernized standard based on smolder ignition that reflects real-world conditions. In the test, a lit cigarette is placed on a model piece of furniture called a "mock-up" for 45 minutes. If the smoldering cigarette turns into flames at any point, the mock-up fails the test. After 45 minutes, the fabric cannot continue to smolder and the foam underneath cannot have lost more than 10 percent of its mass.

The US Consumer Product Safety Commission devised the smolder ignition standard. Whereas the 12-second rule is 0 percent effective, the modernized standard would likely be 60 percent effective at reducing deaths, injuries, and damages from furniture fires. And it does not have the side effect of promoting use of toxic chemicals.

Furniture manufacturers can use either of two strategies to comply with the CPSC's smolder ignition standard. They can use smolder-resistant cover materials such as wool, which is naturally fire-resistant, or they can use natural barriers between the cover fabric and the interior foam.

Natural fabrics, natural barriers, no toxic chemicals! Too good to be true? CPSC implemented a similar flammability standard for mattresses in 2007, and it is commonly met using inexpensive barrier technology rather than by blending increasingly expensive flame retardants into foam. One model estimates the new flammability standard has resulted in at least 1,200 fewer deaths and 5,750 fewer injuries from mattress fires.

This year, champions for change to California's 12-second rule are demanding a similarly tough flammability standard that actually protects people from fire—and from chemicals. It's not just Californians seeking protection. As the Natural Resources

Defense Council's Sarah Janssen points out, "The entire world is watching California to see if we will act to prevent continuing global contamination from chemicals used to meet [the 12-second rule]."

This article was combined from posts by Alan Durning and Valerie Pacino, a Sightline research intern and Master of Public Health student at the University of Washington. Their original, unabridged research can be found here, here, here, here *and* here.

13. Getting Out of Work's Way

We should not require state permission to, for example, braid hair.

Alan Durning

I got my Oregon Food Handler's Badge. It took 52 minutes online and cost $10. Now I can work legally in Oregon restaurants!

If, however, I wanted to work braiding hair African-style in Oregon, or kickboxing for prize money in Washington, or selling timeshares in Montana, or promoting concerts in Alaska, or as an athletic trainer in Idaho or as scores of other things across the Northwest, I'd have to endure a more onerous licensing process.

Much more onerous.

Consider African-style hair braiding. To braid hair for money in Oregon legally, I would need (in addition to actual braiding skills—no small thing), a hairstylist or barber license. Earning a cosmetology badge requires 1,700 hours of training and classes. That's often two years of coursework, and it costs thousands of dollars. Worse, the schooling is largely irrelevant to African-style hair braiding.

Amber Starks, an African-American model and hair braider in Portland, is a proud champion for black girls, wearing her hair in its natural state–unstraightened and uncolored—in ads and media appearances. In 2011, she decided to open a small business to braid black girls' hair; she wanted especially to serve children in foster and adoptive placements, where parents may be unfamiliar with natural hair care for African-type hair. Then (after reading Sightline's original post on this theme), she was shocked to learn Oregon requires her to earn a beautician's license. That's right: state law in Oregon says that even a model whose mother taught her how to do her own hair in childhood cannot braid foster children's hair without a license.

Sadly, hair braiding is not the only case where outmoded rules make it unnecessarily hard for northwesterners to pursue a livelihood. Now, during the worst recession in living memory, is an ideal time to clear away these barriers to work. And licenses to braid are a great place to start the reforms. For one thing, requiring hairstyling licenses for braiders isn't just Oregon's practice, it's the norm across North America. It's the norm in Cascadia, too: Alaska mandates 1,650 hours of cosmetology training for

braiders; Idaho and Montana, 2,000 hours.

For another thing, restricting braiding isn't just onerous and preposterous. It may be racist. Hair braiders—most of whom are African immigrants or native-born African Americans serving African-American clients—do not cut, straighten, curl, or color hair, the skills taught in beauty schools. What hair braiders do is braid hair. They weave in extensions and decorations, in keeping with traditions that originated in Africa. Licensing keeps skilled hair braiders from legally earning a living.

Amber Starks is not taking these setbacks sitting down. She is attacking Oregon's hair-braiding rules. With Sightline's help, she has recruited Rep. Alissa Keny-Guyer and Sen. Jackie Dingfelder (both D-Portland) to attempt reform in the 2013 legislature in Salem. Meanwhile, as of early 2012, Ms. Starks was considering a campaign to win a seat on Oregon's State Board of Cosmetology, which rejected her request for a waiver allowing her to braid hair without a license.

Recently, she has been cleared to braid hair in Washington State, thanks to a legal effort. In 2005, after getting served with a public-interest lawsuit from the libertarian Institute for Justice, Washington's Department of Licensing issued a statement "clarifying" its regulations in a way that suggested it was exempting hair braiding from licensing. In late 2011, Ms. Starks inquired with the Department about the details of hair braiding rules, hoping she could open her business in Vancouver, Washington. The agent she spoke with said she was allowed to braid hair without a license, but only if she never uses a comb, brush, barrette, or rubber band. In April 2012, following another inquiry from the Institute for Justice, the Department of Licensing sent a letter stating that information was incorrect. The agency "re-clarified" its position that natural hair braiders do not need a license to practice in Washington.

For another thing, restricting braiding isn't just onerous and preposterous. It may be racist.

British Columbia is another Cascadian jurisdiction that's cleared the path for braiders. In 2004, legislators in Victoria—failing to see any compelling reason to continue licensing beauty workers at all—simply ended regulation of barbers, hair stylists, manicurists, and skin-care estheticians.

De-licensing did not mean the end of training and standards. The BC Beauty Council, a trade association, immediately began offering voluntary certification to salon workers, and most of them continued to seek it. The difference is that customers can decide for themselves if they care about the Beauty Council seal of approval. In the age of Yelp and other social media ratings, state licensing of hair cutters no longer makes sense, if it ever did.

The legitimate purpose of occupational licensing is to protect the interests of the community from ill-trained, inexperienced workers behaving badly. We want to make sure, for example, that midwives, bridge engineers, and pesticide applicators know what they're doing. Any of them can cause lasting, far-reaching harm. Just so, we want to know that food handlers understand how to keep the food supply free of salmonella and other food-borne illnesses, which kill thousands of people in North America each year. (I, for one, think getting a Food Handler's Badge should take much more than 52

minutes!)

Reasonable people can disagree about exactly where to draw the line between state licensing and occupations regulating themselves. Construction laborers don't currently need to secure licenses, nor do mechanics, janitors, couriers, carpenters, event planners, receptionists, painters, waiters, stone masons, or cooks. Some of these occupations have associations and training regimes that offer certification and credentials on a voluntary basis, but they are not legally required. Accountants, medical doctors, and attorneys, on the other hand, have official sanction to back up their own professional self-regulation. State bar associations, not states, administer bar exams, yet states enforce the standards.

Over the years, the line has tended to migrate toward more state licensing, such that perhaps 10 percent of all jobs in the United States are governed by occupational licensing, according to the Institute for Justice. What share of those occupational licensing requirements are unneeded isn't clear, but at a minimum, braiding hair should not require a license. The same goes for athletic training, kick boxing, and selling time shares. Likewise, is there any legitimate public purpose served by Washington licensing auctioneers? Telephone solicitors? (You can find more examples of Cascadian licensed occupations here: Alaska, British Columbia, Idaho, Montana, Oregon, and Washington.)

The reason for the growth of licensing is not simply protecting the public interest but, rather, protecting the private interests of those workers who already have their licenses. Seattle attorney Jeanette Petersen describes the pattern:

> Typically, licensing boards are comprised of members of the regulated profession, with the coercive power of government at their disposal. As a result, licensing requirements often exceed valid public health and safety objectives, and instead are used to reduce competition threatened by newcomers. As economist Walter Williams observes, these laws and regulations "discriminate against certain people," particularly "outsiders, latecomers and the resourceless," among whom members of minority groups disproportionately are represented.

Nobel Prize winning economist George Stigler would recognize this pattern as an instance of regulatory capture. Washington's statutes give authority over beauty occupations to a Cosmetology, Barbering, Esthetics, and Manicuring Advisory Board. By law, the board must include nine members: one unaffiliated consumer and eight representatives of segments of the trade. The foxes, in other words, are guaranteed the right to guard the hen house.

These cartel-like politics are what lies behind outrageously divergent licensing rules: 1,600 hours of instruction to get a hair-cutting license in Washington, for example, but only 130 hours to become an Emergency Medical Technician. In fact, you can earn certification as a firefighter in Washington after just 385 hours of coursework—one-fourth the time it takes to become a stylist. And, as I said, it takes 1,700 times as long to win legal permission to braid hair in Oregon as it does to get a Food Handler's Badge.

To our credit, Cascadia does already have a reform leader in its ranks. British

Columbia stands out among Canadian provinces in de-licensing. It has shifted not just beauty workers but many other trades from official licensing to voluntary certification. That kind of streamlining is exactly what other Northwest jurisdictions can do to clear barriers to gainful employment.

Sadly, legalizing African-style hair braiding, deregulating kickboxing, and otherwise pruning the excesses of occupational licensing in Cascadia is not going to be enough itself to wipe out double-digit unemployment or revive family income growth. A thorough pruning might, however, help thousands of Northwest workers each year, and, in times like these, that's an opportunity too big to ignore.

The original, unabridged version of this chapter is here.

These cartel-like politics are what lies behind outrageously divergent licensing rules: 1,600 hours of instruction to get a hair-cutting license in Washington, for example, but only 130 hours to become an Emergency Medical Technician.

14. Welcoming Strollers on Transit

Allowing strollers on transit—a mom's report.

Alyse Nelson

I recall vividly how embarrassed I felt the first time I waited for the bus with my baby boy—he bundled up in his stroller and me expecting the bus driver to welcome me aboard, lowering the wheelchair lift so we could roll on in style. In the stores and sidewalks of my neighborhood, people smiled as we ran errands. They made way for us—slowing so we could pass on a congested sidewalk or holding doors open while we rolled into a shop. Then the bus arrived. Instead of lowering the lift, the driver told me to fold Orion's stroller. My cheeks burned red as I hastily unpacked—diaper bag, toys, blanket, and groceries—while holding onto my squirming bundle of joy. Then, with one hand, I attempted to fold the stroller and carry the load aboard, knowing that everyone was watching me, passengers cursing under their breaths and the driver reviewing his timetable.

For most parents, an experience like that would have eliminated any thoughts of ever again taking their wheels on the bus. But I had no choice.

My husband and I had committed to staying in our apartment overlooking The Ave, the main street running through Seattle's University District. Some parents trade up to a minivan or SUV, but we had sold our two-door Civic. We gained a child and shed a car.

And, in most ways, I loved our car-free life. We explored our neighborhood together. People stopped to greet Orion on the sidewalk. I could point out interesting buildings or window displays. We soaked in the diversity of the city: new smells, sounds, and people. When we went somewhere in a car, Orion and I were both miserable. Seated in

the backseat in his rear-facing car seat, he would often wail.

But King County Metro was the sore spot of my car-free life. Agency rules required me to fold Orion's stroller. Holding all of the stroller's contents and Orion, I then had to find a seat before the bus lurched forward. The challenge didn't end once on board. I had to squish into a seat with all of our stuff and attempt to keep Orion from grabbing the stroller's dirty wheels for the duration of the ride. At our stop, I had to reverse the whole ordeal.

My bus-riding fiascos led to an obsession with strollers: I was known to buy and sell them on Craigslist several times a month. My goal was to find that perfect stroller that I could really fold with one hand. I had a closet full of strollers, some undergoing testing and others, having failed, pending Craigslist pickup. It took seven strollers, but I found one that worked—the Britax Preview.

It wasn't until my young family spent six months in Copenhagen, however, that I thought much about King County Metro's stroller-folding rules.

Copenhageners cart babies in enormous strollers, rolling cribs that dwarf our umbrella stroller and do not fold at all. And guess what? They are welcome aboard Copenhagen's public transit, unfolded and unemptied.

Caregivers with strollers use priority seating at the front of the bus. Denmark's rapid transit system, Metro, has open areas on each train that hold caregivers with strollers, riders in wheelchairs, and bicyclists.

Car-free parenting in Copenhagen was a breeze: no more frantic stroller folding for me, and Orion loved staying in his stroller. Arriving back in Cascadia, I decided to see how other transit systems compared.

Portland's TriMet buses are not much further along than Seattle's King County Metro. Open strollers can be brought on board but then must be immediately folded. The only advantage to this policy is that it's hard to forget the diaper bag at the bus stop.

Light rail in both Portland and Seattle-Tacoma allow open strollers aboard low-floor cars. Sound Transit, the agency that operates Seattle and Tacoma's light rail, also runs express buses and, on most of them, open strollers are welcome. Ironically, Sound Transit contracts with King County Metro to operate many of its bus routes. Thus, Metro drivers who enforce Metro's no-stroller policy on Metro's regular routes enforce a strollers-welcome policy when driving Sound Transit routes.

King County Metro was the sore spot of my car-free life. Agency rules required me to fold Orion's stroller. Holding all of the stroller's contents and Orion, I then had to find a seat before the bus lurched forward.

Like Copenhagen, Vancouver's TransLink allows open strollers in the priority seating area at the front of the bus. If the area is already full or a rider with a mobility impairment boards, caregivers must fold their strollers and move back. TransLink has also committed to improving accessibility by purchasing low-floor buses since 1996. Low-floor buses and trains make it easier for all riders to board, no ramp necessary. A redesign of SkyTrain cars also increased capacity by a third and provided more space for riders with wheels.

An open-stroller policy is a step that can make an immediate difference for moms, dads, and others across the Northwest who care for young children.

Allowing strollers on buses may seem trivial. Only 6 percent of northwesterners are under five, the main stroller years. But all families need affordable alternatives to driving, our economy needs weaning from fossil fuels, and our whole society needs to move beyond carbon quickly. With more strollers on the bus, fewer cars would clog the roads. Transit ridership would grow as caregivers transport tots to the doctor, play dates, and the grocery store. Parents could bring kids to daycare as they head to the office, building more family time into busy days. Welcoming stroller wheels onto buses and trains has long-lasting benefits—kids will grow up seeing public transit as a normal part of the daily routine.

An open-stroller policy is a step that can make an immediate difference for moms, dads, and others across the Northwest who care for young children.

The alternative is that we'll raise another generation that sees driving as the norm. If we accommodate the youngest urban dwellers on transit, they will develop the skills to keep using transit as they grow. By age three, Orion could explain the differences between streetcars, light rail, and trains. When we were running errands, he would exclaim with pride, "Bus stop!" Then, he'd plant himself on the seat and ask when the bus would arrive. Now six, Orion is the member of the family responsible for pulling the cord when we near our stop. Bringing my wheels on the bus was often a challenge, but at least I know I've helped develop a transit habit in my son.

Alyse Nelson is a Sightline Writing Fellow and an urban planner for a small city in Kitsap County, Washington. Alan Durning edited this chapter, which can be found in its original, unabridged form here.

15. Liberating Couchsurfing

Renting out rooms shouldn't be like harboring fugitives.

Chris LaRoche

Tight budgets and the Internet have given rise to the hottest new thing in travel accommodations. Web-based company Airbnb has received a lot of press for its for-profit service that matches travelers with spare bedrooms. It's already growing like moss in the Northwest winter, but the potential is much bigger than most have considered. Airbnb and other companies that create a market for guest rooms could fundamentally change the hotel industry, boost income for thousands of householders, and slash the ecological footprint of travel.

That is, unless an existing thicket of rules and regulations on the operation of hotels strangles the emerging eBay of empty bedrooms.

Cascadian jurisdictions have yet to crack down on informal hoteling, but authorities elsewhere have. Case in point: New York City enacted a law in May 2011 "banning renting out Class A residential spaces—apartments intended only as permanent, rather than transient, residences—for less than 30 days," according to the real-estate magazine Real Deal. "The move was prompted, in large part, by complaints from those living next to apartments rented on the website, as well as from the Hotel Association of New York City, a trade group that was concerned about short-term rentals eating into the city's hospitality business." The effect of the law is to cast a legal shadow, if not a legal net, over peer-to-peer sharing of accommodations. So far, though, Airbnb is still going strong in New York City, with growth clocking in at 35 percent per month since September 2010.

In April 2012, San Francisco's treasurer ruled that Airbnb and other home-sharing entities are responsible for paying the city's roughly 15 percent hotel tax, though that determination could be revisited by a task force looking at laws that hamper job creation in the tech industry. The situation is eerily similar to what happened to Zipcar in the state of Washington in 2007. Zipcar was then the rising star of web-based collaborative consumption enterprises. Out of the blue, the Washington Department of Revenue ruled that Zipcar had to pay the state's rental car tax—which added a 10 percent tax on top of the existing state sales tax. The department did this because the rental car companies had been quietly threatening to make a giant stink about unequal treatment. Zipcar and car-sharing advocates did not hear of the tax hike until it was too late to stop it. They were caught flat footed. Since then, Washingtonian car-sharers have been unable to roll back the tax, despite considerable effort.

Airbnb and other companies that create a market for guest rooms could fundamentally change the hotel industry, boost income for thousands of householders, and slash the ecological footprint of travel.

Proponents of the fledgling industry of in-home hoteling would do well to anticipate the attacks that the hotel industry will undoubtedly unleash, and may be plotting already. Otherwise, they'll end up blindsided.

After all, informal hoteling is still in its infancy. In greater Seattle, for example, about 700 different lodgings are now available on a typical night. That's 2 percent of the 34,459 hotel rooms in the greater Seattle/King County area, and it counts both Airbnb and CouchSurfing.org, the older, free counterpart used by backpack travelers worldwide. If Airbnb is the eBay of guest rooms, CouchSurfing is the Craigslist. Greater Vancouver, BC, where housing is so expensive that householders may be especially keen to supplement their incomes, has more informal hoteling than Seattle, with about 800 Airbnb and 700 CouchSurfing listings on average nights. Even those numbers do not threaten the formal hotel sector, though. The city has 12,900 hotel rooms in the downtown area alone.

Still, the rapid growth of in-home accommodations could dent future growth in hotels. That's especially true when you consider that much of the Northwest's existing housing stock was designed for larger families than are common today. One study by Urban Futures in Vancouver, BC, estimated that 29 percent of all homes had more

bedrooms than people in them. That's more than 220,000 empty bedrooms—a massive untapped reservoir of accommodations, already built, painted, furnished, heated, and provided with bathroom and kitchen access. Channeling travel growth into existing homes rather than new hotels would bring big environmental benefits, as Finnish think tank low2no.org argued in an analysis of the carbon footprint of hotels.

Airbnb and CouchSurfing are promising new ventures, yet they are also a return to an older pattern of travel. They have used new technology to resurrect the age-old practice of taking in lodgers and boarders. They are also a simple extension of the still-pervasive pattern of staying with distant relatives, friends, or friends of friends. Just as eBay and Craigslist have given new technological potency to yard sales and flea markets, person-to-person accommodation networks have facilitated the emergence of a larger and more reliable marketplace for informal hoteling.

Yet this green, affordable, and sociable form of housing for travelers is as vulnerable to ill-considered regulation as are car-sharing, hair braiding, and solar clothes drying. Conventional hotels are regulated in special ways under land-use laws (their locations and sizes), building codes (fire safety, structural integrity, handicap access), health codes (especially if they have restaurants), and tax laws (most Cascadian jurisdictions have special taxes on hotel stays, for example). The spare-bedroom market, however, flies under the radar of most such laws at present. Exempting it from hotel-specific regulations makes good sense. Social evaluation tools on collaborative consumption sites such as Airbnb allow a degree of transparency unheard of in prior times, and that transparency obviates the need for as much regulation and public enforcement.

Besides, in a tough economy, with energy expensive, and considering the imperative of moving beyond carbon, we would do well to encourage, not constrain, fuller sharing of existing assets, whether cars or bedrooms. Especially when it lets householders earn a little extra money.

Chris LaRoche is a Sightline intern and recent Master of Public Affairs graduate from the University of Washington. Alan Durning edited this chapter, which can be found in its original, unabridged form here.

16. Legalizing Used Pickle Jars

Is a dishwasher in Missoula the solution to the Great Pacific Garbage Patch?

Chris LaRoche

You've heard about the Great Pacific Garbage Patch and seen Chris Jordan's shocking photos. Maybe you have even heard that the plastic in the oceans outweighs plankton six to one (at least, the nonwater-parts of the plankton and in some parts of the oceans). But have you heard about the elegantly simple solution lived out daily at Missoula, Montana's Good Food Store? It's called a sanitizer: think of it as a dishwasher that uses heat instead of soap. The Good Food Store employs one to sterilize used yogurt tubs, pickle jars, and other containers, then it puts them out for customers to refill.

Yes, a store in Montana, aka, eastern Cascadia, is leading the way with its understated solution to a Cascadian and global problem.

According to a 2010 report by the US Environmental Protection Agency, containers and packaging constitute the largest product category of municipal solid waste generated in the country. They account for 30 percent of all solid waste, nearly 76 million tons. That's a lot of yogurt tubs.

Salt on wounds: only 48 percent of those materials are recycled! Any third grader can tell you that "recycle" is a mere runner up to "reduce" and "reuse" in the hierarchy of virtues. According to the EPA, manufacturing new plastic from recycled plastic requires
two-thirds of the energy used in virgin plastic manufacturing. A nice graphic illustrating the benefits of reusing over recycling, with computers as an example, is here.

How can we whittle away at the enormous mountains of packaging waste? By improving the policies around reusing refillable containers.

Layne Rolston, communications director for the Good Food Store says he believes his store is a rarity in the United States in allowing sterilization, sharing, and refilling of customer containers. The store has been doing it for years and has effectively been grandfathered in. "If we tried starting it from scratch now," Rolston says, "we probably couldn't do it. But the [Missoula City/County] Department of Health has been very supportive. They realize it's one step in reducing environmental impact, and they want us to continue the practice."

> ***Containers and packaging constitute the largest product category of municipal solid waste generated in the country.***

I've heard reports of five other stores in Cascadia that offer on-site washing and reuse of containers: First Alternative Coop in Corvallis, the Food Front in Portland, Olympia Food Co-op, People's Food Co-op in Portland, and Sno-Isle Food Co-op in Everett. That's not a lot in a region of many millions of food shoppers.

The reason Good Food's sterilizing dishwasher is so lonely? Phil Wyman, code enforcer for Seattle-King County Public Health, points to a cluster of nearly nationwide regulations about food containers that prevent in-store reuse. (The State of Washington is currently reviewing amendments to Chapter 3-304.17C, which requires that when seeking a refill of your coffee in your paper cup, vendors are REQUIRED to throw that cup away and give you a new one. The proposed change will allow them to reuse that cup.)

The real culprit is "Chapter 4-603.17: Returnables, Cleaning for Refilling. . . . returned empty containers intended for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT." It prohibits grocery stores, coops, and other food institutions from doing what the Good Food Store does: sterilize reusable containers for their customers to actually reuse.

What does it take to change this? Well, any jurisdiction can adopt its own rules, but as Wyman explains, the normal US process is for changes to flow from the federal government: the US Food and Drug Administration releases its "Model Food Code" every four years. That recommended food code then works its way out through policymaking bodies across the United States. State food-code boards review the model, add their own amendments, and then pass the code down to local jurisdictions to do the same. The whole process takes about four years. So, for example, Seattle/King County Public Health adopts its 2009 food code just in time for the FDA to adopt its brand new 2013 model code.

Though it may sound bureaucratically comical, the process does have its merits, and it's punctuated every two years with the Conference for Food Protection, which "brings together representatives from the food industry, government, academia, and consumer organizations to identify and address emerging problems of food safety and to formulate recommendations."

And who decides what an "emerging problem" is? Anyone! Anyone can submit proposals to the conference. The bad news: the submission period for the 2012 conference has passed. For the current conference, the Pennsylvania Department of Agriculture's Bureau of Food Safety submitted an issue addressing some of the environmental absurdities of 4-603.17 ("Reuse-Refill of Multi-use Tableware (To go containers)"), but not the whole "sterilizing must take place in a food processing plant" part. That will have to wait until the 2014 conference. Alas, it won't be until December of 2013 before the submission period opens. Fortunately, the group's executive director thinks that allowing commercial facilities, not just food processing centers, to sterilize reusable containers has merit and would be something the conference would consider. Even then, there's no guarantee that the reusing-pickle-jars proposal will win the conference's support, nor that it will become part of the FDA's 2015 model food code, nor that Cascadian jurisdictions will adopt that section of the 2015 model code.

So, in the meantime, any jurisdiction can follow Missoula's lead and adjust its rules to allow sterilization of consumer containers on-site. The FDA's model food code is just federal advice. Localities set their own rules. You can help by sending a letter—or a

yogurt tub—to the FDA or your local health department.

While the policy fight unfolds, if you want to see the simplest solution to the Great Pacific Garbage Patch, you can stockpile your containers and take a trip to Missoula, Montana's Good Food Store. If you call ahead, they may even show you their fancy dishwasher.

Chris LaRoche is a Sightline intern and recent Master of Public Affairs graduate from the University of Washington. Alan Durning edited this chapter, which can be found in its original, unabridged form here.

Making Sustainability Legal: Success Stories

The previous examples illustrate how unexamined laws that have been on the books for far too long can outlast their usefulness, and how updating them can remove roadblocks to sustainability. Still, they beg a few questions: Why in some cases is it so hard to do the right thing? What does it take to get things done? How can we tweak laws to support and encourage the kinds of things we do want to see?

To start, once a rule gets on the books, it takes some work to remove it. Even if there are clear benefits, and no one objects to the change, common sense alone will not prevail. Just as cleaning out the back of your fridge at home requires some dedication and effort, so does excising laws that get in the way of people's desires to live more sustainably. But as the following success stories show, it's by no means impossible.

Success Story #1: Legalizing Rain Barrels

Jennifer Langston

Just a few years ago, a Washington state homeowner who set out a rain barrel to collect water for gardening or washing a car was arguably breaking the law.

Capturing rain in urban areas has clear benefits, like holding back water that overwhelms sewer systems during storms. And flushing toilets or watering a lawn with collected rain conserves drinking water. But until recently, according to the letter of Washington's law, anyone collecting rain needed a water right from the state, and would have to get in line behind thousands of others.

In reality, no one was going to get in trouble for watering their peonies from a rain barrel. But the legal uncertainties were more problematic for green builders who wanted to collect rainwater to wash clothes or flush toilets in a new condo building, health food store, or city hall.

People who tried to legalize rainwater collection in Olympia saw bill after bill die in the buzz saw of state water politics. Nobody objected to making back yard rain barrels legal, but serious disagreement erupted over rain-harvesting cisterns on the scale that might feed industrial systems or water a golf course. Large water users—from Eastern Washington farmers to industries that needed water to wash gravel

or sand—wanted to be able to collect rainwater, on a scale that made some people nervous.

In the end, it took a state hydrologist and a creative state attorney to find their way through a thicket of competing interests, from agricultural users to gravel miners to builders to environmental groups to tribes. In October 2009—after years of argument—the state of Washington officially declared that people can collect and store rainwater collected from a rooftop or other "guzzler" system without a water right.

Kurt Unger, a state Department of Ecology hydrologist and policy analyst, essentially turned the debate on its head: Instead of banning rainwater collection everywhere because it might pose a problem somewhere, why not just allow people to do it until there's evidence of a problem?

After all, there are some common sense exemptions to state water law. We don't require people to get a water right if their house is on fire and they need to suck water from a nearby pond to put it out. So Unger teamed up with an assistant attorney general to forgo enforcement of rainwater collection under those exceptions, while still reserving the right to regulate it in the future if there's evidence of harm.

To get buy-in, state officials had to persuade the environmental community and tribes that there simply wasn't enough rain or rooftops in dry areas to accommodate large collection systems that could damage other users or flowing rivers that provide fish habitat. Finally, in October of 2009, Ecology was able to officially state that it had no intention of requiring rain collectors to get a water right.

And with that simple yet hard-won administrative fix, everyone who had been using rain to water lawns, stock bird baths, fill baby pools and wash their decks were no longer scofflaws.

The original, unabridged version of this chapter is here.

Success Story #2: Decriminalizing Graywater

Eric de Place and John Abbotts

The region has made good progress legalizing rain barrels and other technologies that capture rainwater. But what about reusing "graywater"—the water left over from showers, baths, sinks, and laundries?

Recycling graywater—typically by using it for non-drinking water purposes such as laundry or gardening—can cut water consumption by up to 50 percent in residential and commercial buildings. This extends water supplies and saves homeowners and tenants money. Until recently, however, graywater reuse has either been flatly illegal or required expensive and complicated permits.

In recent years, each state and province in Cascadia has taken initial steps to legalize graywater reuse, although each jurisdiction has taken a different approach. In fact, the Northwest is something of a laboratory—a natural experiment that can help us understand what works and what doesn't.

Oregon: In 2008, the Oregon Building Codes Division ruled that graywater captured from bathtubs, showers, bathroom sinks and washing machines could be reused for flushing toilets. But using graywater outdoors required a water quality permit, and high permit fees discouraged outdoor graywater reuse.

Then, in June 2009, Governor Kulongoski signed legislation allowing the use of graywater for "beneficial purposes," which under the Clean Water Act means uses necessary for the survival or well-being of humans, plants, and wildlife. With graywater use legal and accessible (with some exceptions that it not be used on steep slopes or to water root crops) approximately half of Oregon's domestic water could be used for irrigation, potentially saving tens of millions of gallons annually.

Washington: Washington also has new graywater rules, which took effect July 31, 2011, the end result of the state legislature in 2006 directing the Department of Health (DOH), in consultation with the Department of Ecology, to develop graywater rules.

Washington's new graywater rules mark an important step toward allowing water reuse, but they also contain a number of restrictions similar to Oregon's. Plus, all buildings in the state must be connected to an approved public sewer or on-site sewage system, such as a septic system, and no graywater system can be approved for more than 3,500 gallons per day.

Idaho: The Gem State has allowed graywater reuse on a case by case basis since at least 2004, and unlike Oregon and Washington there's no major initiative afoot to expand graywater applications.

British Columbia: Using reclaimed water, including graywater, in British Columbia requires overcoming a number of hurdles. As a result, officials have approved a few pilot or demonstration graywater reuse projects, but wider use remains limited.

In 2009, Meaghan Hennessy, a student at Simon Fraser University, completed her master's thesis by evaluating barriers to residential use of graywater in the Vancouver area. While her conclusions are limited to the stakeholders she interviewed, she did find common themes and shared opinions. The stakeholders most often identified vagueness and lack of guidance as regulatory barriers, although regulators tended to view the current rules as necessary to protect public health.

Reusing graywater holds enormous potential, but it's only the beginning of what the Northwest may ultimately be able to accomplish for water conservation under more permissive rules. Some advocates argue that composting toilets, onsite sewage treatment, or large-scale rainwater capture and reuse hold even greater promise.

We don't yet know if the region is striking the right balance with water recycling, or if states and provinces should go further. At the moment, then, the Northwest's greatest

opportunity is probably learning. Carefully evaluating the experiments now underway should reveal the safest, cheapest, and smartest ways to conserve water. Time will tell whether graywater reuse will remain on the fringe, or become as commonplace and cost-effective as low-flow toilets and faucet aerators.

John Abbotts is a former Sightline research consultant. Eric de Place edited this chapter, which can be found in its original, unabridged form here.

Success Story #3: Seattle Starts Making Sustainability Legal

Eric de Place

In July 2011, Seattle mayor Mike McGinn and council president Richard Conlin held a press conference responding to an unlikely-seeming coalition of workers, developers, greens, and others. The coalition—of which Sightline is a part—called for targeted "regulatory reform." The idea is to eliminate outdated red tape in order to revive the local economy—kick-starting building projects, creating jobs, and boosting sustainability in the city's neighborhoods.

It's the sort of initiative that can demonstrate the very tangible economic opportunities that come from making sustainability legal. Easy, low-cost tweaks to existing rules can make life easier for cash-strapped homeowners, for entrepreneurs trying to get a business off the ground, and for hard-hit workers in the building trades. Plus, the same fixes can help create more affordable, vibrant, and walkable neighborhoods.

Interestingly, many of them are actually "back to the future" type proposals. For example:

- Coffee shop-size neighborhood commerce—the old corner stores—will once again be allowed in places zoned for low-rise density.
- Outside of designated pedestrian zones, the city will relax the stringent requirements for ground-floor commercial space that no one wants to lease.
- In places with good transit service, the law will return to the way it was when the city was first built: the land-use code will no longer force private property owners to supply a minimum number of parking spaces.
- It will be easier for people to operate businesses out of their homes, as long as they don't affect neighbors.
- In some cases, homeowners will have more flexibility to create Accessory Dwelling Units that provide affordable rental housing or accommodate extended families.

- The Seattle City Council began considering the targeted regulatory reform package in March 2012, with a vote anticipated later in 2012.

The original, unabridged versions of this chapter and updates can be found here *and* here.

Conclusion

Across the Northwest, citizens are stepping up and taking responsibility for fridge cleaning. The idea of tossing out moldy old laws is catching on, and the longer we look in the fridge, the more outdated rules we find. So what can these and other success stories show us about how to clean our fridge more efficiently?

1. Be persistent: Even no-brainer solutions require a dedicated individual or group to champion and shepherd them. Sometimes, all it takes to break a bureaucratic logjam is one person with passion and creativity.
2. Quantify the benefits: People can be reluctant to re-open laws for fear of the unknown, or for making problems worse. Try to minimize unintended consequences, but focus on the real and demonstrable harm that outdated laws are causing now.
3. Don't be afraid to be first: Knocking down barriers to sustainability can become trendy. Once the state of California figured out how to rewrite insurance regulations to allow personal car sharing, for instance, other states quickly jumped on board.
4. Make the business case: In many cases, innovative solutions that encourage conservation and entrepreneurship are good for the bottom line
5. Ask "why not?": Instead of relying on blanket regulations to block things that we don't want (like using scarce water irresponsibly), why not encourage people to do the things we want (reusing rainwater responsibly) while maintaining common-sense protections (regulating if there's a problem)?

With these guidelines in mind, Cascadia can make sustainability legal by clearing moldy old regulations from the fridge of our law books. We can keep unwanted phone books off our porches and toxic chemicals out of our couches. We can welcome families with small children onto our buses and disadvantaged teens into our high country. We can let our cities slow traffic and make smart clean-water investments. We can unbind entrepreneurs who do mundane, unrisky things like braiding hair and running auctions, even while we no longer order saloon keepers to devote more space to cars than to customers. We can unleash private initiative with public benefits: food carts; clotheslines; pay-by-the-mile auto insurance; taxis; and the sharing of bikes, cars, extra

bedrooms, and even pickle jars. All of these things—and more—we can do without spending a dime from public coffers; in many cases, we can do these things and save public resources. And we can do all of them soon.

Converting the Northwest to a sustainable economy will ultimately require bigger, harder public policy reforms than the steps outlined in this volume. But in a time of tight budgets and deep partisan division, our democracy is unlikely to move decisively toward, for example, putting a price on carbon or reversing sprawl. What it might do, with enough pressure from enough of us, is get out of the way—out of the way of the millions of northwesterners who are already pursuing common-sense, affordable, green solutions. Before we can, through our law books, speed Cascadia toward a sustainable future, we might at least stop making that future illegal.

Sightline Institute

Sightline Institute is a not-for-profit research and communication center—a think tank—based in Seattle. Sightline's mission is to make the Northwest a global model of sustainability—strong communities, a green economy, and a healthy environment. Sign up for email news and updates at http://www.sightline.org.

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