

## 47 No. 10 Zoning and Planning Law Reports NL 1

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# Environmental Justice and Cumulative Impacts: A How-To Guide and Explanation for Interested Municipalities Part 2

## I. Introduction

Environmental Justice (“EJ”) and Cumulative Impacts (“CI”) come together to address the disproportionate environmental impacts that certain communities feel, that affects their quality of life. Municipalities across the country have already implemented legislation to address the cumulative impacts certain communities are disproportionately affected by. There are six different types of policies that municipalities have implemented to address EJ and CI. The first are bans, which directly prevents actions that are harmful to public health and the environment. An example of this Baltimore, MD which bans new or expanded Crude Oil terminals.<sup>1</sup> The second are general environmental justice policies and programs, which focuses more on EJ issues. New York City, NY has implemented a comprehensive EJ policy which has created an EJ Report and Mapping Tool for citizens to be a part of the planning process and creation of new programs.<sup>2</sup> The third type of policy is reviews, which implements a review process for applicants through existing zoning boards. Camden City, NJ implemented a review ordinance requires applicants, for new development or for modifications to an existing development, to submit an Environmental Impact and Benefits Assessment (“EIBA”) with their applications.<sup>3</sup> The fourth type of policy is proactive planning, which incorporates EJ and CI into a municipality’s comprehensive plan or creates a new plan specifically for EJ and CI. Cincinnati, OH created an entire comprehensive plan directed towards its EJ and CI goals.<sup>4</sup> The fifth type of policy is targeting existing land uses, which mitigates the effects of existing harmful land uses. An example of this from Part 1 is Minneapolis, MN, which created ‘green zones’ across the city to address EJ communities’ needs.<sup>5</sup> The sixth type of policy is public health codes that enforce nuisance protections like air pollutants that can aggravate health issues. Denver, CO created a policy that addresses nuisance odors, and requires control plans to be created and implemented to mitigate harms.

In Part 1, I discussed the different types of EJ and CI policies and went through examples of municipalities that implemented multiple types of policies. In Part 2, I go through examples of what other municipalities have been able to accomplish by implementing one EJ and CI policy. I also discuss the interactions between municipality and state law, and municipality law and communities in creating, implementing and enforcing EJ and CI policies. Lastly, I will create a checklist for municipalities interested in creating EJ and CI policies based on the municipality examples highlighted in Parts 1 and 2.

## II. Case Studies

### A. New York, New York (General EJ Policy)

In recent years, New York City (“NYC”) has committed itself to environmental justice. In 2022, the Mayor created the Office of Climate and Environmental Justice. The office has dedicated itself to creating a “clean, resilient, and affordable energy system,”<sup>6</sup> with a goal of zero-emission resources by 2040.<sup>7</sup> The office created a EJNYC mapping tool, which is publicly

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available for all New Yorkers to see and make informed EJ decisions.<sup>8</sup> The office has also developed an EJ report which goes through NYC's history with EJ, and identifies policy opportunities that office and the City hopes to develop in the future. The office has developed three phases in working towards their EJ goals. The first phase is prioritizing environmental justice.<sup>9</sup> In 2017, Local Laws 60 and 64 were passed which required an Interagency Working Group and EJ advisory board to conduct a study on EJ in NYC. In creating this study and eventual report, a public scoping process was developed as well. The second phase is studying environmental justice. This is where the EJNYC report<sup>10</sup> and Mapping Tool<sup>11</sup> were developed. Both were created through research & discovery, literature reviews, interviews with citizens, focus group of EJ communities, surveys about environmental decision making, and input from the Interagency Working Group and the Environmental Justice Advisory Board. The third phase is acting on environmental justice. In this stage, NYC plans to use its findings from the EJNYC Report and Mapping tool to engage with the public throughout this process and develop a EJNYC Plan. The goal of the plan is to identify strategies to address EJ disparities in NYC.

Local Law No. 64<sup>12</sup> was established in 2017 in conjunction with Local Law No. 60. Local Law No. 64 defines environmental justice, and acknowledges NYC currently has no law regarding environmental justice. The law requires the Mayor to establish an Interagency Working Group consisting of representatives of NYC agencies<sup>13</sup>. The Working Group is to be chaired by a coordinator, appointed by the Mayor. The Interagency Working Group is in charge of creating an EJ comprehensive plan<sup>14</sup>. This plan is to include a guidance for incorporating EJ into city decision-making, city wide initiatives, and make recommendations to applicable city agencies to bring their programs in alignment with EJ goals. The plan is to be updated every 5 years. Local Law No. 64 also created an EJ Advisory Board. Composed of Mayoral and Speaker appointees, everyone will have experience with EJ prior to appointment. The EJ Advisory Board will give recommendations to the Interagency Working Group and work with them in promoting EJ. The EJ Advisory Board will also conduct public hearings in working towards developing the EJNYC Plan.

Local Law No. 60<sup>15</sup> was also established in 2017. This law works with Local Law No. 64 and required the EJ Interagency Group to conduct an EJ study that identifies the locations and boundaries of EJ communities in the city for the EJNYC Mapping tool. The study also must look at environmental concerns affecting these areas and identify resources for communities. Local Law 60 also requires the Interagency Working Group to issue recommendations for legislation, policy, budget initiatives, and other resources to address EJ goals. All of the information the Interagency Group collects is to be made publicly available online in an interactive map to show the EJ boundaries.<sup>16</sup> The Mayor's administration is also required to create an EJ Portal on the city's website that provides these resources.<sup>17</sup>

New York's Green Amendment defines environmental rights in Article 1 section 19.<sup>18</sup> This impacts a lot of New York City's decisions concerning environmental justice. New York City addresses EJ in furtherance of an individual's right to a healthy environment under the Green Amendment.

### **B. Baltimore, Maryland (Bans)**

In addressing EJ and CI, Baltimore, Maryland has created the Crude Oil Termination Prohibition Ordinance No. 18-110. This ordinance prohibits new or expanded crude oil terminals throughout Baltimore.<sup>19</sup> The ordinance prohibits certain uses in all districts: crude oil terminals, incinerators, junk or scrap storage yards, nuclear power plants, solid waste sanitary landfills, storage on a barge and conveyer belt systems used for the transfer of materials, and vehicle dismantling facilities.<sup>20</sup> § 1-218(a) of the ordinance states that uses are "not exhaustive and are not construed to imply that any use not listed is permitted or conditional."<sup>21</sup> The definitions in § 1-304 clarify this, like defining crude oil terminal to be "a facility that receives, stores, transfers, ships, or processes crude oil."<sup>22</sup> This very broad definition of crude oil terminal falls within § 1-218, and leaves it so any uses not listed are not implied to be permitted or conditional.

### **C. Oakland, California (Bans)**

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In 2016, Oakland, California agreed to adopt an ordinance that would amend the Oakland Municipal Code to include a ban on storage and handling coal and coke products.<sup>23</sup> In 2017, the amendments were added to the municipal code. Chapter 8.60 of the Oakland Municipal Code is entitled the Prohibition on the Storage and Handling of Coal and Coke.<sup>24</sup> The code bans the storage, loading, unloading, stockpiling, transloading, and handling of all coal and coke products based on health and safety concerns associated with coal.<sup>25</sup> In directly addressing the EJ aspect, § 8.60.020(A) states that the code “serves the public interest and is necessary to protect and promote the health, safety and/or welfare”<sup>26</sup> of Oakland residents. The findings also address cumulative impacts, and states there are many disproportionate health aspects to the handling of coal and coke.<sup>27</sup> The terms of the chapter apply to “any owner or operator of a coal or coke bulk material facility,” and to anyone who “stores or handles coal and coke.”<sup>28</sup> The following acts are prohibited for anyone that falls in the above categories:

1. allow or maintain any pile of coal or coke;
2. operate any telescoping loading chute;
3. operate any conveyor shuttle or traveler or tripper ... or in any manner which creates a transfer point on site;
4. load, unload, transload, or transfer any coal or coke between any mode of transportation;
5. otherwise store or handle any coal or coke.<sup>29</sup>

The code is very broad about what falls under the ban. Certain exceptions and exemptions may apply if proper permits are received, or other applicable law supersedes this code.<sup>30</sup> An example of applicable law superseding this chapter would be if an individual would constitute an “uncompensated taking of property in violation of the Fifth and Fourteenth Amendments of the Constitution.”<sup>31</sup> Both the exemptions and exceptions are for specific situations and are described at length. This ensures not anyone can state they are exempt, and that the exceptions are for the individuals who follow proper procedure.

### D. Portland, Oregon (Bans)

Portland, Oregon has is working on the development of an ordinance targeting fossil fuels. The Fossil Fuel Terminal Zoning Amendments Project is working to change the zoning code and be harsher with the policies relating to fossil fuel distribution and storage facilities.<sup>32</sup> One of the amendments the project was able to successfully get passed was Ordinance No. 188142. This ordinance prohibits new bulk fossil fuel terminals in all base zones within Portland.<sup>33</sup> In regard to existing uses, they are deemed limited uses and can continue to operate.<sup>34</sup> The ordinance recognizes EJ and CI impacts that are prevalent because of fossil fuel terminals and the risks they pose to human health and wellness.<sup>35</sup> The ordinance also identifies some of the statewide planning goals and analyzes Portland’s own efforts in addressing those goals. The goals the ordinance explicitly mentions are citizen involvement, land use planning, natural hazards, economic development, transportation, and the Willamette River Greenway.<sup>36</sup> Portland has laws that address each of these goals, and the ordinance lists the development of the laws in getting passed.<sup>37</sup>

Oregon passed H.B. 2842 in 2021, establishing the Healthy Homes Program within the state housing authority to provide grants to provide financial assistance to low-income households.<sup>38</sup> The Bill established a Healthy Homes Repair Fund in the state treasury to fund grants to eligible entities.<sup>39</sup> The bill also created an interagency Task Force on Healthy Homes to develop tools to collect data on its services and programs, to share said data to further develop housing programs, and to use data and tools collected to improve human health.<sup>40</sup> The Task Force must create a report to include demographic information, identify the program issues, and to make recommendations to expand the program and expand the benefits.<sup>41</sup>

### E. Whatcom County, Washington (Bans)

County wide policies can also be influential in pursuing EJ and CI legislation. In Whatcom County, Washington, a ban was passed in 2016 entitled the Interim Ordinance Imposing a Moratorium on unrefined Fossil Fuel.<sup>42</sup> A moratorium is the temporary prohibition of an activity while other plans are in development. In this ordinance, the moratorium prohibits the

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filing, acceptance, and processing of new applications and permits for new or expanded fossil fuel facilities.<sup>43</sup> The ordinance focuses on Cherry Point, which is defined as an urban growth area. Cherry Point is an BP-owned oil refinery outside of Seattle. The ordinance limits only new or expanded uses. More specifically, the ordinance prohibits the shipment of unrefined fossil fuels that are not processed at Cherry Point.<sup>44</sup> The ordinance recognizes the harms to human health and the environment, but also recognizes that the fossil fuel facility provides a lot of jobs, so flat out shutting it down would harm the economy. The ordinance utilizes the interim moratorium to limit uses without fully shutting them down until a better solution can be found. The ordinance prohibits the processing of new applications for conversion of land or water, new building permits, or any other permits and authorizations.<sup>45</sup>

#### **F. Camden City, New Jersey (Reviews)**

Another municipality in New Jersey that has an EJ and CI policy is Camden City. Camden City passed a Sustainability Ordinance in 2015. This ordinance requires applicants, for new development or for modifications to an existing development, to submit an Environmental Impact and Benefits Assessment (“EIBA”) with their applications.<sup>46</sup> An EIBA is to address many aspects of the proposed development including opportunities to minimize impacts of the proposed development by implementing environmentally mitigative initiatives.<sup>47</sup> In minimizing the environmental impacts of the proposed development, applicants should implement the best management practices for their particular application and/or industry. The city is to review the EIBA, and should set the funding, provide assistance and partnership to development an Environmental Resource Inventory.<sup>48</sup> Camden also is to work with environmental partners to get resources to assist applicants with the guidelines they implement from their EIBA.

#### **G. Cincinnati, Ohio (Proactive Planning)**

Cincinnati, Ohio has an entire comprehensive plan on environmental sustainability, equity, and resilience. The plan has a tagline of “building a sustainable and equitable city.”<sup>49</sup> Cincinnati already has a goal of 100% renewable energy and developed this plan to help the city reach this goal.<sup>50</sup> To accomplish this, the city sets forth eight sustainability initiatives, each with three quantitative goals underneath, and numerous recommendations to meet these goals.

The first is the built environment, which under which are three goals: to decrease the household energy burden by 10%, to increase the percentage of city streets meeting complete requirements, and to be carbon neutral by 2035.<sup>51</sup> As for recommendations, ideas proposed are improving city facilities by investing in energy efficiency, targeting multi-family homes for energy efficiency, developing a plan for vacant buildings, and planning to phase HVAC systems.<sup>52</sup>

The second sustainability initiative is education and outreach. The goals under this initiative are to register 100 business in a green business certification program, establish a green Cincinnati fund with \$1 million to advance sustainability initiatives, and increase the number of city residents by 10% that can name at least three sustainable activities they take part in.<sup>53</sup> Recommendations for the implementation of this initiative include installing solar panels on public school facilities, creating a “green Cincinnati fund” to fund sustainability efforts, developing a green business certification, identifying partners to lobby state government on sustainability issues, and targeting multi-family buildings to educate residents on sustainability and program benefits.<sup>54</sup>

The third initiative is energy, which has goals of 100% renewable energy by 2035, triple renewable energy generation for residents and businesses, and to reduce the total energy consumption by 2% annually.<sup>55</sup> Recommendations for implementation of this initiative include expanding programs to increase energy efficiency and solar energy generation for the private market, increasing the city’s usage of renewable energy, improving access to financing for renewable energy, implementing a mandatory energy benchmarking ordinance, and implementing 100% LED Streetlights.<sup>56</sup>

Food is the fourth sustainability initiative. Under this, goals include reducing waste by 20% by 2025, triple acreage of urban food production, and doubling the number of residents consuming local foods and plant-based diets.<sup>57</sup> The plan recommends in

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order to achieve this goal that they encourage individuals to prevent, recover and recycle wasted food, promote the impact and benefits of a plant based diet, create policies that encourage urban agriculture, expand programs that make healthy foods more affordable for vulnerable populations, and encourage the development of a local food system and the distribution of locally produced foods.<sup>58</sup>

The fifth sustainable initiative is natural systems. Goals targeted in this initiative are to increase tree canopy coverage across the city by 40% and in residential areas by 30%, to have a park or similar outdoor recreational site within a 10-minute walk from every resident, and to attain 100% of the U.S. EPA National Ambient Air Quality Standards.<sup>59</sup> To achieve these goals, the plan puts forth recommendations like implementing a water loss control program to reduce water loss due to leakage, increasing tree canopies, creating and expanding wetlands, developing a carbon offset program to fund tree planting efforts, increasing the amount of storm water holding capacity, and developing an air quality action plan.<sup>60</sup>

Resilience is the sixth sustainability initiative with goals of decreasing childhood asthma-related hospital visits by 50%, to reduce the disparity between neighborhoods relating to childhood asthma, and to have no increase in storm damage remediation costs.<sup>61</sup> Resilience policy recommendations include launching a campaign to reduce childhood asthma, developing a multilingual communication network for disseminating risks and recommendations in emergency situations, conducting a neighborhood vulnerability assessment, leveraging climate resilience to attract new businesses, and conducting an urban heat island assessment.<sup>62</sup>

The seventh sustainability initiative is transportation. Goals under this include decreasing the consumption of fossil fuels by 20%, increasing the number of passengers using public transit by 25% by 2035, and adding double lane miles for bike trails.<sup>63</sup> Transportation recommendations include encouraging the use of electric vehicles through programs that incentive electric vehicle ownership and infrastructure, pursuing a car sharing service, improving the fuel efficiency of the city's fleet, encouraging corporate sponsorship of transit passes and infrastructure, and improving neighborhood walkability.<sup>64</sup>

The last sustainability initiative targets waste and waste management. This initiative has goals of zero waste by 2035, decreasing the landfill tonnage by 20%, and increasing the participation in city-wide recycling programs.<sup>65</sup> Waste recommendations include incentivizing recycling and increasing the cost of trash generation, attracting credible manufacturers that make products from recycled materials, advertising to improve recycling rates, creating recycling and reuse outlets to recycle items not accepted by curbside recycling, requiring recycling at any events that require a city permit, and installing public recycling receptacles in business districts.<sup>66</sup>

For all of the recommendations above, the comprehensive plan also gives statistics, information, and cost of implementation. Sustainability undercuts all of the initiatives, goals, and policy recommendations. A lot of the recommendations even mention how they are interconnected to one another. In addressing sustainability and environmental justice, it is important to recognize how everything relates to one another, and how in pursuing one goal, we can inadvertently pursue others.

### **H. Austin, Texas (Proactive Planning)**

Under the proactive planning policy, Austin, Texas developed the East Austin Overlay District. An overlay district creates a special zoning "layer" over the base of the primary zoning district.<sup>67</sup> Austin's targets environmentally sensitive areas, which were determined from a land use study conducted.<sup>68</sup> The East Austin Overlay District allows for future land use development to be more consistent with the district's existing uses.<sup>69</sup> The goal of the district is to minimize incompatible uses and provide a notification process for residents whenever there is a proposed new use.<sup>70</sup>

### **I. Eugene, Oregon (Proactive Planning)**

Oregon state legislation had a big impact on the creation of Eugene's Comprehensive Plan. As a result of prior land use planning, Eugene and neighboring town Springfield created a joint comprehensive plan. This plan, titled the Eugene-Springfield

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Metropolitan Area General Plan (“Metro Plan”), discussed land uses for the region.<sup>71</sup> At the time the Metro Plan was written, Eugene and Springfield shared a regional urban growth boundary. [Oregon Revised Statute 197.304](#) changed this, and requires Eugene and Springfield split their urban growth boundary into two.<sup>72</sup> Eugene’s Comprehensive Plan is a result of this law.

Eugene, Oregon addresses EJ and CI in its Comprehensive Plan from 2017, updated through 2023. The plan as a whole puts an emphasis on public involvement and the community’s vision for what their future is.<sup>73</sup> In emphasizing the community’s vision, the plan seeks to address what their needs and desires are. The plan focuses on certain industries like economic development, housing, community health, natural resources, public facilities and services, and transportation.<sup>74</sup> Throughout all of the industries that are mentioned, the general focus is on the community’s well-being and making Eugene a more livable town for everyone.

### J. Commerce, California (Proactive Planning)

Commerce, California has a Green Zones Policy set in place.<sup>75</sup> Much like other cities, these green zones identify EJ communities and the specific areas where environmental hazards are disproportionate, and areas that need more attention. The goals of the green zones policy are to reduce environmental hazards, prevent pollution, revitalize neighborhoods, and reinvest to bolster local businesses.<sup>76</sup> A Green Zones Working Group is established to identify the green zones of the city. The Working Group is also working to add a title into municipal code that limits and prohibits certain industrial uses in proximity to residential and other sensitive uses.

### K. Richmond, California (Health Codes)

Across California, there are many examples of EJ and CI legislation. In Richmond, California, they have a public health code, entitled Requiring Enclosure of Coal and Petroleum Coke Storage and Transfer Facilities Ordinance.<sup>77</sup> This ordinance states EJ concerns like how certain communities bear the burden, and certain communities are disproportionately impacted by environmental hazards. It also states that exposures (even those downwind) are bad for human health, and that all activities associated with are harmful for humans and negatively impact the environment. The ordinance prohibits the storage and handling of coal and petroleum coke and phases out existing allowed land uses involving the storage and handling of coke. But it lists exemptions to this as well. Such exemptions include non-conforming uses which are discontinued after a certain date, have no increase in the handling, follow the notice of the zoning administrator, or those that have applied for an extension. Failure to comply with this ordinance amounts to an unlawful nuisance.

California law helped this ordinance come to fruition. [Article XI § 5 of the California Constitution](#) provides that the city has the power to make and enforce all ordinances and regulations with respect to municipal affairs.<sup>78</sup> [Article XI § 7](#) empowers the city to enact measures that protect and promote the health, safety and/or welfare of its citizens.<sup>79</sup>

### L. Detroit, Michigan (Health Codes)

Many states have addressed public health through amendments to existing codes, especially as they relate to bulk materials and air quality standards. Detroit, Michigan does this in its Amendment to Chapter 22 City Code, Regulating Bulk Materials.<sup>80</sup> This amendment requires bulk material facilities to install the necessary dust control measures to prevent the release of fugitive dust, and prohibits excess fugitive dust from bulk solid material. It also imposes civil fines for bulk solid material violations and establishes criteria for assessing these fines. Along with this, enforcement mechanisms and penalties are also created. The ordinance states that ‘illegal dumping; is the handling, transporting, or storing of bulk materials in violation of the provisions of this ordinance. In addition to this, it establishes regulations for storing and transporting, including loading, and unloading of bulk solid materials. The ordinance also provides guidelines to businesses who produce and/or store petroleum coke and other bulk solid materials.

### M. Denver, Colorado (Health Codes)

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Denver, Colorado has published a public health code that seeks to mitigate and control nuisance odors within the city. The code is entitled the Rules and Regulations Governing Nuisance Odors. The code does this by requiring an Odor Control Plan, establishing the components to be included, and detailing the approval process.<sup>81</sup> The facilities required to submit an Odor Control Plan are: facilities that are detected to emit one volume of odorous air that have been diluted with seven or more volumes of odor-free air; facilities that get five or more complaints against them within a 30-day period; and facilities that are within a regulated industry<sup>82</sup>. The code has a responsibility requirement, mandating that the owners and operators of the facilities take responsibility for the development, implementation, and maintenance of the Odor Control Plan. Modifications to the Odor Control Plan are required when necessary. If a facility is seeking a variance petition, notice is required before submitting.<sup>83</sup> A timeline of implementation of the odor control plan is to be submitted as well.<sup>84</sup> Good records must be kept as well as to the Odor Control Plan, and they are to be provided to the department on request.<sup>85</sup> Inspections are also needed to ensure compliance with the Odor Control Plan and with this code.

A few years after the Rules and Regulations Governing Nuisance Odors was published, Colorado published House Bill 21-1266, Environmental Justice Disproportionately Impacted Community.<sup>86</sup> Section three of the bill notable defines “disproportionately impacted community” in accordance with environmental justice and the Air Quality Control Commission to engage with said disproportionately impacted communities across the state, use multiple languages and formats, and share information about the adverse effects from proposed actions.<sup>87</sup> Section four of the bill creates an EJ task force in the Department of Public Health and Environment.<sup>88</sup> The department is to propose recommendations to the general assembly on how to address EJ inequities, especially in disproportionately impacted communities. The task force will also hold meetings for public comment regarding the state’s EJ strategy, propose recommendations for the revision of definitions<sup>89</sup>, and file a final report regarding said recommendations. Section seven requires the Air Quality Control Commission to include greenhouse gases on its list of air pollutants.<sup>90</sup> Section eight requires the Air Quality Control Commission to adopt rules that require permits for sources of pollutants that significantly impact human and environmental health in disproportionately impacted communities.<sup>91</sup> Section twelve creates an EJ ombudsperson in the Department of Public Health and Environment and directs that person to promote EJ statewide.<sup>92</sup>

After the publication of House Bill 21-1266, the EJ task force was to create a final report on its recommendations. In those recommendations, the EJ task force recommended the development of environmental justice and cumulative impacts legislation in Colorado. The Proposed Bill on Cumulative Impacts and Environmental Justice, addresses that piece.<sup>93</sup> Section two of the bill creates an Office of Environmental Justice within the Department of Public Health and the Environment. Section one states the office is to oversee the development of an environmental equity and cumulative impact analysis. Once this is created, state agencies can rely on them in addressing cumulative impacts in the future. Section three revises the statute of limitations for civil penalties, stating that anything after 18 months to the date upon the division discovers<sup>94</sup> the alleged violation is barred. Section four states that local governing bodies can request the commission impose limits that affect individuals. To request this, they need to demonstrate: 1) a review process; 2) a showing of cumulative impacts; 3) other governing bodies with jurisdiction over the area also agree to the limits; 4) the approval can be rescinded if the review isn’t complied with; 5) approval expires after 5 years; and 6) no regulating the UTE Mountain Tribe, nothing shall affect the authority of the UTE Mountain Tribe, nothing shall affect the authority of the Southern UTE Tribe on water quality regulations. Section five adds a Petroleum Refinery regulation, including definitions, assessment, monitoring, and rules. Furthermore, it sets guidelines for evaluations and investigations, and for finding best practices and actions going forward. A rapid response inspection team is also established to respond quickly to air quality complaints. The bill is still currently under consideration.

### III. Interaction of State and Municipality Law

State law plays an important role and can help municipalities in their EJ governance. As discussed throughout section III from Part 1 and section II from Part 2, many states have implemented state laws that govern EJ and CI on the state level. Said laws also push municipalities forward into creating EJ and CI legislation, either by giving municipalities the power to do so or explicitly requiring them to do so. Some examples of notable state laws mentioned above are California SB-1000 requires cities and counties to adopt EJ Policies in their general plan and to involve communities in the creation of EJ policies, New York

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Green Amendment which designates a right to clean air and water, and a healthy environment, New Jersey S.323 which requires the Department of Environmental Protection to evaluate environmental and public health stressors on EJ communities when reviewing permit applications, and [Article XI § 7 of the California Constitution](#) which empowers the City to enact measures that protect and promote the health and safety and/or welfare of its citizens. State law can be a powerful tool for municipalities to utilize in protecting its communities and residents.

### IV. Interaction of Municipality Laws and Community Organizations

As seen in the Newark case study from Part 1, local community organizations can play a huge role in creating legislation and in helping with the enforcement of municipality laws. Community engagement is a clear line throughout many of the above laws and policies. Even in the definition of environmental justice, community involvement and informing communities are important topics. Many municipalities like San Francisco, Newark, and Chicago San Fran, developed their EJ and CI legislation with community leaders, residents, and workers in EJ communities. While we can study environmental hazards from a scientific aspect, we cannot know how those hazards affect people without talking to them. The residents of the community have first-hand knowledge about environmental issues and are in the best place to help come up with solutions. A policy or solution may work on paper, but it may not work in actuality. By working with communities in the decision-making process, we ensure that the policies created will actually work for the communities we're implementing them in.

### V. Environmental Justice and Cumulative Impacts Checklist

In developing more comprehensive EJ and CI legislation, municipalities should develop a general EJ policy. The first step when developing any general EJ policy is to figure out how to best address EJ and CI in the individual municipality. The general EJ policy should create an EJ Task force, an Interagency Working Group. The general EJ policy should also task the EJ groups created with developing a publicly available research report and an EJ Map like San Francisco<sup>95</sup> and New York<sup>96</sup>. Most importantly, the municipality should work with EJ communities on the task force and the development of the EJ report and map. A review policy could be created out of a general EJ policy and use the EJ report and map developed to create an Environmental Review Process for expanded or new developments like Newark.<sup>97</sup> In developing a proactive planning, municipalities should focus on developing “green zones” or “environmental justice zones” like Commerce, CA,<sup>98</sup> Los Angeles County, CA<sup>99</sup>, and Minnesota, MN.<sup>100</sup> Developing a “green zone” would help municipalities to be able to target the specific areas that need more assistance and targeted policies. In turn, “EJ zones” could be developed to targeted land use policies, like Minnesota’s Amendment to Pollution Control to Annual Registration, Chapter 47.40.<sup>101</sup> Related to that, Denver can ban certain uses in “EJ areas,” like Oakland in Chapter 8.60 of the Oakland Municipal Code is entitled the Prohibition on the Storage and Handling of Coal and Coke.<sup>102</sup> If a municipality wanted to develop a public health code, they should follow San Francisco’s Health Code Article 38 to Install Enhanced Ventilation for Buildings near Roadways,<sup>103</sup> which focuses on public health issues like asthma, and requires more ventilation on buildings near roadways.

In no particular order, the below list addresses the most important pieces to address when creating EJ and CI legislation. The policy ideas and strategies below are taken from all of the municipality case studies above and those from Part 1.

1. Create one law from each of the categories listed above (ban, general policy, review, proactive planning, targeting existing land use policies, public health codes).
2. Target existing land uses that are harmful to human health and the environment like the production and use of fossil fuels.
3. Develop renewable energy alternatives for the city and offer tax breaks or benefits to using renewable energy.
4. Address Environmental Justice and Cumulative Impacts in the municipality’s next comprehensive plan.
5. Require an Environmental Impacts Statement for new or expanded developments and create an Environmental Review Process to follow.
6. Require a Cumulative Impact Analysis to be done when applying for permits or for new/expanded developments. Require an Environmental Review Process to follow the analysis.

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7. Require continuous facilities that are harmful uses to mitigate the environmental hazards.
8. Ban developments of particularly harmful industries (like fossil fuels or community-identified harmful industries).
  - a. Put a temporary moratorium on certain uses if said uses are so harmful to communities that something is done until a better policy can be developed.
9. Require increased ventilation systems in housing units in identified EJ communities.
10. Commit the municipality to 100% renewable energy and 0 greenhouse gas emissions by a feasible year.
11. Commit municipality agencies, departments, and officials to Environmental Justice.
  - a. Create an environmental justice framework for municipality officials to follow.
12. Create an Interagency Working Group to work on EJ goals in municipality departments.
13. Create an EJ Advisory Council/Board and an EJ Commissioner to work with the Interagency Working Group to make recommendations to municipality departments on EJ policies they should implement.
  - a. Require the EJ Advisory Council/Board and Interagency Working Group to create a report on its findings, create a plan with recommendations, and update plans every 5 years.
  - b. Make all reports and materials publicly available in an EJ portal.
14. Identify EJ communities on a publicly accessible map.
15. Create 'green zones' out of the identified EJ communities. From this, rezone the municipality to follow uses compatible with said EJ communities. Alternatively, create an overlay district out of the 'green zones' and have uses be in compliance with said overlay district.
16. Once EJ communities are identified, reach out to communities for involvement in the policy creation progress.
17. Hold public meetings, take surveys, town hall meetings, public forums, open laws up for public comment to further promote community engagement.
18. Empower businesses and communities in environmental participation. For example, create a fund or grant for businesses that participate in environmental programs or divert their energy usage to renewable energy alternatives.
19. Create more green job and career opportunities for members of EJ communities
20. Create EJ education and awareness programs in schools and community centers. <sup>104</sup>

## **VI. Conclusion**

The most important part of developing any environmental justice and cumulative impacts legislation is targeting the policies to the issues and communities that you hope to affect with said laws. Across the country, more and more municipalities are realizing the importance of addressing these issues. As we see across municipalities, the issues being addressed and the municipality departments that are being targeted are very broad. Issues addressed include climate change, dredging, air pollution, highway noise pollution, renewable energy, fossil fuels, and more. Departments addressed include Department of Transportation, Environmental Protection, Public Health, Natural Resources, Energy, Planning, etc. Environmental Justice and Cumulative Impacts covers the intersection of all of these issues and departments. They are all encompassing terms that help us address the culmination of environmental hazards and human health issues. Environmental justice and cumulative impacts helps us address the issues in the macro and create directed policies in the micro. Meaning, we have to be broad with the way we address the topic but be specific about the policies we are creating and the uses they are limiting. For example, in the macro we see many 'general' EJ policies that address environmental justice rights and goals. In the micro, we see many targeted land uses and bans that specifically address a certain land use or type of factory affecting public health and the environment. We cannot compartmentalize these issues to address them anymore. For us to recognize any real change, municipalities have to enact policies and laws addressing environmental justice and cumulative impacts.

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### Footnotes

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