



Zoning 101

Frequently Asked Questions



Zoning protects public health and welfare and promotes community character by organizing land into clearly defined districts based on the type and intensity of use. While land use planning uses broad categories, such as residential, commercial, and industrial, to separate different uses within a community, zoning further divides these categories into districts based on intensity. This separation of uses allows communities and individual neighborhoods to regulate growth and development and preserve community character. In addition to uses, zoning codes also regulate site layout and design details, including lot size; density; building placement, height, and bulk; setbacks; provision of adequate light and air; parking; landscaping; and signage.

What is the history of zoning?

At the turn of the 20th Century, cities across the United States were concerned about threats to public health and safety as heavy industrial sites encroached on residential neighborhoods and business districts. On the west coast, Los Angeles and San Francisco experimented with separating industry and other nuisance uses from residential neighborhoods in the late 1800s and early 1900s. New York City passed the country's first comprehensive zoning law in 1916 in response to rising building heights that were blocking light and air from reaching the sidewalk. In the 1920s, the United States Commerce Department drafted model zoning legislation for both cities and states.

What basic zoning concepts should I understand?

A **zoning text** is the ordinance or code that lays out the exact regulations that the zoning is created to implement. It is adopted as law by a local governing body, such as a city council or county commissioners. Zoning codes typically establish several applicable zone districts in the community, the uses allowable in each zone (e.g. residential, commercial, industrial), requirements for setbacks, parking, and other site layout elements. Zoning codes also include information on procedures for zoning applications, appeals, and variances.

Zoning promotes public health and safety, manages density, encourages a variety of housing, and attracts businesses and industries.

Land use planning ensures a community's economic, social, and environmental strength.

A **zoning map** is a color-coded map that shows the locations of zone districts throughout a community.

A **comprehensive plan** is a long-term plan that guides all aspects of a community's development over the next 20 or 30 years. A comprehensive plan serves as the basis for zoning regulations, and describes existing conditions and goals for housing, economic development, transportation, land use, public facilities, and the natural environment.

Changes to a **zoning text** affect an entire district, while changes to a **zoning map** affect a particular site.

A **permitted use** in a zoning district is allowable by right; in other words, a property owner does not have to ask permission to have a permitted use, such as a restaurant in a commercial district.

A **nonconforming use** is a property use that existed prior to current zoning regulations and is allowed to continue under a grandfather clause; for example, a restaurant in a single-family residential neighborhood that existed prior to that neighborhood's zoning designation. Nonconforming uses are sometimes allowed indefinitely, sometimes for a set period of time. Subsequent uses on the same lot are required to conform with zoning codes.

A **variance** is a change in the terms of a zoning regulation due to economic or physical hardship. A property owner must meet certain requirements to obtain a variance, including: physical or economic hardship; the variance will not result in a reduction in property values; the property owner did not cause the need for the variance; and the variance is not contrary to the spirit of the zoning ordinance.

While traditional zoning emphasizes the separation of land uses, **mixed-use development** takes a different approach, encouraging a blend of uses in the same district or property. Residential and commercial activities that are within the same site or even the same building are an example of mixed-use development. This type of development usually occurs in high-density, urban areas where space is more valuable.

Subdivisions refer to the division of land into two or more parcels, sites, or lots. Subdivision regulations ensure adequate provision of streets, sewers, and other amenities.

Do communities have different types of zoning?

Yes! Zoning has evolved continuously since its appearance in the United States in the early 20th Century. Zoning that emphasizes separation is known as Single Use or **Euclidean Zoning**, named after Euclid, Ohio, where zoning was first challenged and upheld by the US Supreme Court. Euclidean Zoning traditionally places the most restrictions on residential districts, fewer restrictions on commercial districts, and no restrictions on industrial districts. In the most restrictive zoning category, single-family residential, no other type of use is allowed.

Euclidean Zoning is the predominant type of zoning in the United States.

Cumulative zoning is less protective than Euclidean Zoning. Single-family residential is still the most restrictive district; however, each successive zoning district allows all the uses from the previous zone: Single-Family District allows single-family homes, Multi-Family District allows apartments and all uses allowed in the Single-Family District, Commercial District allows retail and commercial uses and all uses allowed in the Multi-family District, and Industrial District allows industrial uses and all uses allowed in the Commercial District.



Ground-level retail with residential above is a common mixed-use development configuration. (Grandview Heights, OH)



In recent decades, innovative zoning concepts, such as **form based code** and **performance zoning**, have reshaped the ways communities regulate growth.

Where do communities derive their zoning authority?

Ohio is a home rule state, which means that cities and villages have the power of local self-government. These municipalities derive their power to enact zoning and land use regulations directly from the [Ohio Constitution](#). Specifically, zoning regulations are an exercise of the police power that the state constitution grants local governments. Cities and villages need not have a comprehensive plan to enact zoning ordinances.

By contrast, [counties](#) and [townships](#) in Ohio are not granted home rule. Their zoning authority is more restricted than municipalities and cannot deviate from state statute. In these communities, zoning must be enacted in accordance with a comprehensive plan.¹

Whether state law requires it or not, most communities use zoning to codify and enforce the land use concepts, circulation patterns, and infrastructure goals in their comprehensive plans.

How can zoning be used to promote public health?

By using zoning to promote public health, communities can also protect traits that are special and important to them. Many rural communities are concerned that low-density, auto-oriented sprawl development, such as big box retail, is a threat to rural character. This type of development also reduces opportunities for physical activity and related health benefits. In addition, landfills, factory farms, and other locally undesirable land uses (LULUs) tend to locate in rural areas, where land is affordable. LULUs can pollute air and water, which threatens a community's environmental health. Urban areas also face land use-related health challenges. Both urban and rural communities can use several zoning tools to maintain community character while improving public health.

1. The Ohio Supreme Court has held that a comprehensive plan may be included within a township zoning resolution and does not need to be a separate document (*Apple Group, Ltd. v. Granger Township Bd. of Zoning Appeals*, Ohio Supreme Court, Slip Opinion 2015-Ohio-2343.).



Conservation zoning can be used to protect agricultural land from encroaching development. (Miami Valley, OH)

Conservation zoning protects open, undeveloped land while allowing for concentrated development in certain areas. A conservation easement is an agreement between a property owner and a land trust or other organization in which the property owner agrees to place restrictions on the use of the property to protect natural resources.

Transfer of development rights (TDR) allows landowners in low-density areas to voluntarily cap development on their land by selling their right to develop the land. A developer buys those rights and uses them to increase the density of development in an area planned for growth, such as a town



Transfer of development rights preserves rural character.



center. For example, a company building a mixed-use development in a suburb of Cleveland can buy development rights from farmers in Medina County to increase building heights in their project, allowing for more dwelling units to be built. TDR is a common mechanism for protecting farmland and natural resource areas.

Planned Unit Developments (PUD) are an alternative to strict zoning regulations. They can be used to concentrate high-density development in growth areas, preserving adjacent open space. Density and open space encourage physical activity, which is critical to preventing chronic diseases.

In urban areas, growth and redevelopment can often result in displacement and marginalization of people of color, low-income people, and other underserved groups. Maintaining community character in these circumstances requires a different approach, but zoning can still play a role.

Inclusionary Zoning (IZ) can offset the potential displacement that redevelopment brings. Local governments require developers to dedicate a certain percentage of new housing units for low-income occupants. These units are listed at below market rate prices. IZ can encourage race and class mixing and allow long-time residents to remain in place as a neighborhood is redeveloped. It also preserves their access to convenient healthcare and supports active living.

Promoting diverse communities in compact, walkable environments can reduce the risk of chronic disease, social isolation, and other causes of physical and mental health issues.

What if my community doesn't have zoning?

The Ohio Revised Code empowers local governing bodies to enact zoning regulations; however, not all communities choose to use zoning. More than half of Ohio's approximately 1,300 townships use zoning to control growth and discourage LULUs. For the remaining rural communities that do not have zoning in place but wish to have more control over their development, several regulatory tools can be used as an alternative to conventional zoning.

A **comprehensive plan** is the first step on the journey toward a full-fledged zoning ordinance. Comprehensive plans establish a vision and goals for long-term development, which helps guide the writing and adoption of a zoning code.

Deed restrictions are private agreements between developers and buyers that limit the use of a property to maintain community character and prohibit nuisances. They can also restrict how close certain uses can be to residential neighborhoods. Deed restrictions can be enforced by a local governing body to give them added power. This type of regulation provides more flexibility than conventional zoning and more autonomy to property owners.

Historic preservation districts are used to protect the aesthetic of a neighborhood without necessarily dictating what uses are allowed. Developers must submit designs to an architectural review board or historical commission, which can flag aesthetic issues on building exteriors that may degrade

Resources:

- » Evans-Cowley, J., & Zimmerman Gough, M. (2006). Land Use Planning and Zoning in Ohio Townships. *Journal of Extension*, 44: 4.
- » Hunt, T., Hopkins, K., & Hartt, D. (2015). Zoning in Accordance with a Comprehensive Plan: (Apple Group v. Granger Township). Presented at the 27th Annual APA Cleveland Planning & Zoning Workshop. Retrieved from: ohioplanning.org/aws/APAOH/asset_manager/get_file/116003?ver=45
- » Kiger, P. (2015). The City with (Almost) No Limits. *Urban Land Magazine*.
- » **Ohio Department of Health, Creating Healthy Communities Program. (2019). Land Use and Health Best Practices Report.**
- » **Ohio Department of Health, Creating Healthy Communities Program. (2019). Land Use Implementation Guide.**

