

CHAPTER 10: THE ZONING ORDINANCE

The most common tool used by municipalities to implement the recommendations included within a comprehensive plan is a zoning ordinance. Unlike subdivision and land development ordinances that regulate the creation of property lines and development on properties, zoning regulates the use of land and structures. Zoning is typically the most specific land use ordinance that a municipality will adopt and will prescribe the permitted uses of properties by dividing a municipality into districts.

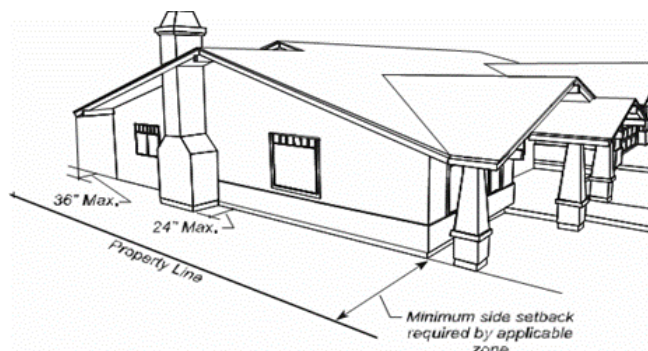
Zoning is a modern regulatory tool. The first zoning ordinances, which were adopted over 100 years ago, focused on avoiding nuisances between adjacent properties. Regulating what could be done on property would ensure that a property owner would be prohibited from using their land in a way that would be a nuisance to his or her neighbor. Over time, zoning evolved into a tool that doesn't just seek to avoid issues but also to create positive outcomes by defining the type and density of development planned for a given area.

There is no definition of zoning within the MPC. Zoning is, however, specifically permitted by the MPC so that municipalities can "protect and promote the public health, safety, morals and general welfare of its citizens." This section of this handbook provides background on modern zoning, its purposes, and its administration by municipal planning commissions.

The Purposes of Zoning

While urban and community planning has roots in ancient human history, zoning is a modern invention. While its first purposes were to avoid nuisances between adjacent property owners, zoning eventually expanded to incorporate more proactive contents that sought to not only limit the use of land and structure but also to promote a particular character in its districts.

In 1916, New York City passed the nation's first comprehensive zoning Ordinance. Ten years later, in 1926, the Pennsylvania Supreme Court upheld the constitutionality of zoning through the landmark *City of Euclid, Ohio v. Ambler Realty Company*. The court found that zoning ordinances, regulations, and laws are a legitimate use of a community's police powers so long as the regulations provide a benefit to public welfare. Following the *Euclid v. Ambler Case*, thousands of communities throughout the United States have enacted zoning ordinances in an effort to ensure orderly, compatible development that improves quality of life.



Zoning ordinances provide standards for development on individual properties. Standards typically include minimum lot sizes, setbacks, impervious coverage limitations, and maximum building height.

The MPC defines the purposes of zoning as follows:

1. To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
4. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

In addition to the purposes outlined by the MPC, zoning also helps to protect and maintain property values. Zoning can protect the value of property by assuring that incompatible uses are kept apart.

Implementing the Comprehensive Plan through Zoning

One of the primary tools used to implement the comprehensive plan are zoning ordinances. Zoning ordinances typically consist of two key parts: a zoning map and standards. Zoning works to implement the comprehensive plan by guiding development and providing standards for development.

To guide growth and development, a municipality is divided into zones, each of which will have its own purpose and intent. The locations of these zones are identified on a municipal zoning map. If a municipality chooses to use zoning to regulate development, all lands within its jurisdiction must be taken up within a zoning district. Zoning districts are commonly labeled with the type of development that is encouraged within them. For example, agricultural zoning districts typically promote and encourage the development of agricultural uses and prohibit uses that would interfere with agricultural operations.

In addition to identifying the uses permitted within each district, regulations also identify the density at which the uses can be established. Zoning districts will typically establish setback regulations, open space requirements, maximum lot coverage, and maximum building height. In addition to regulations for each zoning district, municipal zoning ordinance will also contain regulations that apply to all land uses and districts.

Since a comprehensive plan seeks to identify a future vision for the community, zoning ordinances are the regulatory means of ensuring that future growth and development are consistent with that vision. Whenever a change is proposed to a municipal zoning ordinance, whether an entirely new district is proposed or an existing ordinance is being amended, the Planning Commission should determine whether or not the proposal is consistent with the comprehensive plan. State law requires that zoning ordinances are generally consistent with not only the municipal/multi-municipal comprehensive plan, but also with the county comprehensive plan. While the plan may not specifically identify the change that is proposed, ensuring that it is consistent with and not contradictory with the contents of the plan is crucial. If it is determined that a zoning proposal is inconsistent with a comprehensive plan, the regulations should be modified to be made consistent or a plan amendment should be sought.

