

## Chapter 29: Zoning

Through the comprehensive planning process a community decides where it wants to permit high-density housing, shopping centers, office space, and other land uses. Zoning is the principle means of implementing this aspect of the plan.

A local jurisdiction will adopt an ordinance establishing a number of zoning districts. These may include a half-dozen residential districts where the dominant use in each will range from single-family detached homes to townhouses or apartments. Other districts would include those geared towards agriculture along with commercial, industrial, and mixed-use development.

Each parcel of land within the jurisdiction is then assigned to a zoning district. The zoning ordinance will set forth the process by which the local decision-making body adopts the set of zoning maps which assign each parcel to a particular District. There will also be provisions for amending the maps. Both processes (adoption and amendment) usually require a public hearing before the local planning commission and the legislative decision-making body.

Some jurisdictions also employ overlay and floating zones. An overlay zone modifies the development permitted in underlying zones. For example, in my home state the Chesapeake Bay Critical Area has three overlay zones applied to all lands within 1,000-feet of tidal waters. Lands within the overlay zones must meet more stringent environmental protection requirements. A floating zone also modifies the uses allowed in the underlying district but are applied through a process beginning with a land owner request.

The zoning ordinance will set forth the following specific requirements for each district:

1. **By Right Uses:** These are land uses and other activities permitted within the District *by right*. For example, in most residential districts single-family detached homes are permitted *by right* as opposed to uses requiring a special exception or conditional use permit.
2. **Accessory Uses:** These are uses normally associated with those permitted by right, such as storage sheds or parking recreational vehicles on a lot zoned for single-family detached homes. But the zoning ordinance may contain restrictions intended to prevent an accessory use from causing an undue impact to adjoining property owners, such as limiting the number of RVs that can be kept on the lot.
3. **Special Exception, Conditional Use Permit, or Special Use Permit:** An activity requiring a special exception, conditional use permit, or special use permit is one which is normally compatible with other uses allowed in a Zoning District, but in some cases conflicts may arise. Usually, a formal evaluation is made to determine if there is anything about the proposed use which would cause excessive impacts on the particular tract of land. For instance, a golf course might be permitted by special exception or conditional use permit in a number of residential

districts. In most cases a golf course would be a use compatible with homes. But if the homes are served by wells which are likely to become contaminated by golf course fertilizers and pesticides then a special exception/conditional use permit might be denied. Or the permit might contain conditions that resolve the potential impact, such as prohibiting the application of chemicals in areas where they will likely cause well contamination.

4. **Bulk Requirements:** The zoning ordinance will contain limits on how parcels within each district can be developed. Common limits include:
  - a. Minimum and maximum lot size;
  - b. Minimum lot width and length;
  - c. Number of dwelling units allowed per acre;
  - d. Height restrictions;
  - e. Setbacks from lot lines, streets, wetlands and streams; and
  - f. In commercial districts limits on Floor to Area Ratio (FAR) such as 0.4 which means the floor area cannot be more than 40% of the lot area.

The zoning ordinance may also contain requirements for signs, parking, roads, historic preservation, environmental protection, adequacy of public facilities, and a number of other development considerations. The ordinance may also specify the composition, powers, and duties of the legislative decision-making body, the Planning Commission, the Board of Appeals, hearing officers, the planning director, and other officials. Finally, provisions will be included to amend the text of the ordinance - a zoning text amendment - to create a new zoning district or to modify the uses permitted within an existing district. A zoning text amendment is also known as a *curative* amendment in some areas.