

Chapter 1 : Land Use Regulations

Land-Use Control. Activities such as Zoning, the regulation of the development of real estate, and city planning.. Land-use controls have been a part of Western civilization since the Roman Empire in b.c. promulgated regulations concerning setback lines of buildings from boundaries and for distances between trees and boundaries.

The city planning department creates and maintains a zoning map, a diagram of the existing zoning classifications: The zones are most commonly designated by letters, such as A for agricultural, R for residential, and C for commercial. In addition, certain planned unit developments PUD may be zoned for mixed-use, comprising both residential and commercial sections. Zoned classifications may have further subdivisions. For instance, land zoned for residential may be subdivided further into single-family homes, semi-detached residences consisting of no more than 4 dwelling units, high-rise apartments, and so on. So C-1 may designate businesses such as service stations and convenience stores; R-2, single-family housing; R-4, high density residential, as in apartments, and so on. There may also be buffer zones, consisting of playgrounds or parks that separate residential zones from other zones. Other types of zoning may designate special qualities, such as box zoning that specifies building heights, setbacks, and percentage of open area to avoid overcrowding and aesthetics zoning that may specify buildings of a certain architectural style. Incentive zoning guides current development for certain desirable characteristics, such as requiring a high-rise office building to house retail establishments on the street-level floor. Spot zoning classifies a parcel of land differently from surrounding property if the zone is not within the comprehensive zoning plan nor can be justified because of health, safety, or the general welfare. Compliance with zoning ordinances is monitored through the issuance of zoning permits, where the property owner or developer cannot substantially alter the use the property without getting a zoning permit, which will not be issued unless the proposed development conforms to the zoning ordinance. Zoning permits are usually required before building permits can be issued. Some properties that were developed before the enactment of zoning ordinances may not conform to the new regulations or the zoning requirements may cause an undue hardship on some property owners because of the nature or the topography of the land. In such cases, exceptions are made to the zoning ordinance to allow such nonconforming uses. A nonconforming use may continue until the current use is abandoned or the property is destroyed. The nonconforming use may continue indefinitely if it has been grandfathered into the zoning ordinance. Subdivisions Subdivision regulations are part of comprehensive plans that apply to large subdivisions of land set aside for residences, specifying such things as the proportion of open space, the pattern of access roads, and what will remain the property of the county or other municipality. Special density zoning standards for some subdivisions regulate the gross density for a particular area. The gross density is equal to the average number of residential units in an area. A subdivider buys undeveloped land and divides it into smaller units to sell to developers or individuals. A developer builds structures on the land, such as homes or businesses. The developer may also be the subdivider. Different subdivisions may have different street patterns. For instance, the gridiron pattern has rectangular blocks with public streets running on all sides and smaller alleys in between. However, the streets can also have a curvilinear or clustering pattern where the homes are clustered in cul-de-sacs and limited use streets with more open spaces. Additionally, procedures for submitting and processing subdivision plats are also stipulated. Subdivisions are divided into plats, which are further subdivided into blocks, consisting of several lots , which are sold individually. A plat is a section of a subdivision that shows geographic boundaries of individual lots, blocks, sections, streets, public easements , monuments, engineering data, and restrictive covenants. A plan for the plat must be approved by the municipality before it can be recorded. The subdivider may also need to file an environmental impact report that also must be approved. The subdivider determines the location and size of the individual lots, taking advantage of natural drainage and land contours, and providing for utility easements, and water and sewer easements. Building Codes and Certificates of Occupancy Building codes specify construction standards for repairing or constructing buildings, such as the materials used, electrical wiring, fire prevention, sanitary equipment, and so on. The property owner must request a building permit to alter, repair, or construct a

structure. A municipal inspector must approve of the construction plans and will periodically inspect the construction. After the construction is completed to the satisfaction of the municipal inspector, then a certificate of occupancy aka occupancy permit will be issued to the developer or owner, certifying that the completed construction complies with public health and building codes, thus allowing the structure to be occupied by people. Note that a building permit does not take into consideration any deed restrictions on the property, only with the construction of the addition or alteration. Some communities, such as historical districts, may also have aesthetic ordinances to maintain the appearance or character of a neighborhood. Aesthetic building permits are issued by a special board in charge of supervising the ascetic ordinances. For instance, businesses often go bankrupt or the land needs for a particular industry declines, due to changes in technology or competition. Consequently, many business structures become empty. So, many cities change the zoning for the structure so that they can be converted into residential units. Additionally, developers must develop structures according to what is permitted by zoning. If another type of structure is desired for many properties, then the land must be rezoned. Generally, rezoning is usually permitted by a planning commission or zoning board after a public hearing. A zoning board aka zoning board of appeal considers any applications for changing zoning, such as petitions for conditional use, variances or exceptions. A conditional-use permit aka special-use permit allows a conditional use of property within a particular zone, such as a church in a residential district. Conditional-use permits must comply with certain standards set by the municipality. A variance is granted by the zoning authority to a property owner to allow for a specific violation of the zoning ordinance, usually because the zoning ordinance imposes a burden on the property owner because of the nature of the parcel of land. For instance, a variance may be granted to a property owner with a small lot, where it may not be possible to satisfy setback and open area to residential area requirements. While a conditional use permit allows related land uses, variances permit prohibited land uses because the ordinance would have a burdensome effect on the property. For instance, a variance may be issued if the topography of the land makes it difficult to conform to the zoning ordinance. However, to be granted a variance, the landowner must demonstrate the need for the variance, specifying how that property is harmed or burdened by the regulations. Requirements for a zoning variance generally include the following characteristics: This is the most important criterion. Note that if zoning places an undue burden on a parcel of land, then there must be something particularly different about that parcel from the surrounding parcels; otherwise, the area itself would receive a different zone classification. Obtaining a variance or change in zoning costs time and money, but success is more likely if the property is located near a zone for which the conversion would be classified as. So a residential rezoning of commercial property will more likely be approved if the land is located near residentially zoned property. Conditional use permits and variances are issued by zoning boards only after public hearings that are locally advertised, allowing neighbors to contest the request. A property owner may also seek an amendment to the zoning ordinance, where a modification of the zoning ordinance will apply to a particular parcel of land. Like conditional-use permits and variances, an amendment is only issued by the zoning board after a hearing. Although decisions by zoning boards can be appealed to the courts, the courts generally defer to the zoning boards unless they abuse their power. Private Land-Use Controls Besides government restrictions on land-use, there may also be private restrictions that are enacted by the property owners or the property developers, especially over time. However, a private land-use control cannot violate any government law regulating land-use. Such restrictions are either written in the deeds to the property or into the bylaws for the subdivision, which the deeds will reference. Restrictive covenants set standards for the construction of units within a subdivision, such as type of structures, height, size, land-use, architectural style, setbacks, square footage, and construction methods. A deed restriction is one that stipulates the land-use control on the deed or it refers to another document specifying the limitations in the use of the property. Sometimes, deed restrictions are limited in duration, such as 20 years. Afterwards, they cease to exist unless extended by agreement. Restrictive covenants cannot be illegal, such as barring a specific race. A restrictive covenant must exist to promote the appearance or safety of the property; otherwise, it may be construed as interfering with the free transfer of property. If legally acceptable, private land-use controls are generally more restrictive than public controls, but the more restrictive covenant or ordinance has priority. Private land-use

controls are enforced by adjacent property owners who can bring any violators to court to seek an injunction against the prohibited activity. If the court rules in their favor, then the property owner must obey the covenant. However, if adjacent property owners do not bring an injunction or there is a significant time delay in bringing an injunction, then the court may decide that the restrictive covenant no longer applies and that it has become inoperative through lack of enforcement, what the law sometimes refers to as laches. Comply with the laws and regulations; otherwise, it may cost you. How can the authorities find out:

Chapter 2 : Chapter 15 - Government Land Use Controls

Zoning is the term used for designating permitted uses of certain parcels of land by local governments. The word is largely self-explanatory: the local government will designate various zones for different uses of land, such as industrial, agricultural, commercial, and residential.

History[edit] Land-use planning often leads to land-use regulation, which typically encompasses zoning. Zoning regulates the types of activities that can be accommodated on a given piece of land, as well as the amount of space devoted to those activities, and the ways that buildings may be situated and shaped. Zoning in the US came about in the late 19th and early 20th centuries to protect the interests of property owners. The practice was found to be constitutionally sound by the Supreme Court decision of *Village of Euclid v. Ambler Realty Co.* Even so, the practice remains controversial today. The case of *Dolan v. City of Tigard* demonstrated the criteria that determine the threshold of what is considered taking. A deep-rooted anti-zoning sentiment exists in America, that no one has the right to tell another what he can or cannot do with his land. Ironically, although people are often averse to being told how to develop their own land, they tend to expect the government to intervene when a proposed land use is undesirable. Conventional zoning has not typically regarded the manner in which buildings relate to one another or the public spaces around them, but rather has provided a pragmatic system for mapping jurisdictions according to permitted land use. This system, combined with the interstate highway system, widespread availability of mortgage loans, growth in the automobile industry, and the over-all post-World War II economic expansion, destroyed most of the character that gave distinctiveness to American cities. The urban sprawl that most US cities began to experience in the mid-twentieth century was, in part, created by a flat approach to land-use regulations. Zoning without planning created unnecessarily exclusive zones. Thoughtless mapping of these zones over large areas was a big part of the recipe for suburban sprawl. Suburban development near Colorado Springs, Colorado, United States As America grew and sprawl was rampant, the much-loved America of the older towns, cities, or streetcar suburbs essentially became illegal through zoning. They strained commercial corridors and affected housing prices, causing citizens to fear a decline in the social, economic and environmental attributes that defined their quality of life. Land use planning practices evolved as an attempt to overcome these challenges. It engages citizens and policy-makers to plan for development with more intention, foresight, and community focus than had been previously used. Types of planning[edit] Various types of planning have emerged over the course of the 20th century. Below are the six main typologies of planning, as defined by David Walters in his book, *Designing Communities*

Traditional or comprehensive planning: Common in the US after World War II, characterized by politically neutral experts with a rational view of the new urban development. Focused on producing clear statements about the form and content of new development. More analytical view of the planning area as a set of complex processes, less interested in a physical plan. Result of societal loosening of class and race barriers. Gave more citizens a voice in planning for future of community. Advocacy and equity planning: Strands of democratic planning that sought specifically to address social issues of inequality and injustice in community planning. Recognizes small-scale objectives and pragmatic real-world constraints. Developed as many of the ecological and social implications of global development were first widely understood. It recognizes that land use planning should be collaborative but with the purpose of tenure security improvement. This is a hybrid approach whereby traditional, advocacy, democratic and bottom-up efforts are merged in such a way that they focus towards tenure security outcomes. It is becoming more widely understood that any sector of land has a certain capacity for supporting human, animal, and vegetative life in harmony, and that upsetting this balance has dire consequences on the environment. Planners and citizens often take on an advocacy role during the planning process in an attempt to influence public policy. For example, whilst most of the urban planners suggest the distance from the landfill that a housing estate should be built, they must also take wind direction into consideration [9] Aerial view of Rosslyn-Ballston corridor in Arlington, Virginia. Smart growth supports the integration of mixed land uses into communities as a critical component of achieving better places to live. Putting uses in close proximity to one another has benefits for transportation alternatives to driving, security,

community cohesiveness, local economies, and general quality of life issues. Smart growth strives to provide a means for communities to alter the planning context which currently renders mixed land uses illegal in most of the country. This process typically involves gathering public input to develop the vision and goals for the community. A charrette is a facilitated planning workshop often used by professional planners to gather information from their clients and the public about the project at hand. Charettes involve a diverse set of stakeholders in the planning process, to ensure that the final plan comprehensively addresses the study area. It uses aerial photography to show land parcels, topography, street names, and other pertinent information. GIS systems contain layers of graphic information and their relational databases that may be projected into maps that allow the user to view a composite of a specific area, adding an array of graphically oriented decision making tools to the planning process. As a planning methodology, the transect is used as a tool for managing growth and sustainability by planning land use around the physical character of the land. This allows a community to plan for growth while preserving the natural and historical nature of their environment. Basis of land-use planning authority in the United States[edit] Police power is the basis for land use planning authority in the United States. This authority is usually delegated by state governments to local governments, including counties and cities. It is these local governments that most frequently exercise police power in land use planning matters. The regulation of land use based on police power is distinct from the taking of private property by the government through the power of eminent domain. The court decision in the case Commonwealth v. Alger was related to land use planning and dealt with the construction of a wharf on privately owned tidelands around Boston Harbor.

Chapter 3 : Vernon Township: Government: Land Use Regulations

Choose your answers to the questions and click 'Next' to see the next set of questions. You can skip questions if you would like and come back to them later with the yellow "Go To First Skipped."

Scott Alagood Private land use restrictions are frequently found in planned community developments. Such restrictions may regulate the land use, as well as the size, location, quality, cost, and composition of the improvements constructed on the land. They may exist on both residential and commercial real property. So long as the restrictions are not against public policy and are imposed in an otherwise legal manner, an owner may restrict its property as it desires. However, restrictions may not limit the use or prevent the assignability of the property to any person on the basis of race, color, religion, or national origin. Additionally, state and federal law prohibits the use of restrictions to discriminate against persons with handicaps or disabilities. Any restriction which prohibits the use of the land is not enforceable. Restrictions may not require the use of wood shingles on residential properties. Restrictions are typically imposed on land by the owner through the use of signed and filed documents which may be referred to as deed restrictions; restrictive covenants, conditions and restrictions; easements; and servitudes. Instruments creating restrictions typically are for a limited duration and may provide for a mechanism to renew or extend them beyond the initial period. A restriction must contain an exact description of the land upon which the restriction is being imposed. Restrictions may terminate automatically or through a process set forth in the instrument. Courts have refused to enforce restrictions where substantial violations exist and such amount to an abandonment or waiver of the right to enforce them. However, the violations must be so great as to place the average person on notice of such abandonment or waiver. The number, nature, and severity of the violation, prior acts of enforcement, and whether it is still reasonably possible to utilize the benefits intended by the restriction are factors which will be considered. Courts may not enforce restrictions where there has been a substantial change in the restricted property or the area surrounding the property such that enforcement of the restriction is no longer possible. Such change must be so drastic that the purpose of the restriction may no longer be achieved. Typically, this situation occurs when a long time residential neighborhood or area over the years becomes commercial in nature. However, the single factor that a lot may be more valuable as commercial does not necessarily entitle the owner to avoid residential use restrictions placed on the property. Additionally, an action for breach of a restrictive covenant may be barred by the four-year statute of limitations. The statute begins to run on the breach of the covenant. However, if the initial breach is so insubstantial or inconsequential that the purpose of the covenant may still be realized, the statute does not begin to run until the violation becomes significant. Government and other entities with the power of eminent domain may acquire property free of restrictive covenants through the eminent domain process. In utilizing such rights, the condemning authority may be required to pay compensation to other affected land owners for the removal of the restrictions. Sale of property for delinquent ad valorem taxes does not invalidate any restrictions on the land sold. Municipalities may enact zoning ordinances for the general welfare of the community. Such ordinances may not destroy or impair otherwise valid restrictive covenants. Where the restrictive covenant is less restrictive than the zoning ordinance, the zoning ordinance will govern the particular land use. Where the restrictive is more stringent than the zoning ordinance, the use must comply with restrictive covenant. For example, where an otherwise valid private restriction limits the use of property for residential purposes, but the property is thereafter zoned commercial, the restriction will be enforced limiting the use of the property for residential purposes. Zoning ordinances may not enlarge private restrictions. In the situations, care should be taken that the appropriate statutes are reviewed. Chapter of the Texas Property Code governs the construction and enforcement of restrictive covenants.

Chapter 4 : Land Use and Local Government Law: Pavese Law Firm

Land-use controls consists of government ordinances, codes, and permit requirements that restrict the private use of

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land and natural resources, to conform to public policies. There are several types of land-use regulations, including subdivision regulations, zoning, building codes, housing codes, curve-cut permit systems, historic preservation.

Chapter 5 : Land use | Wex Legal Dictionary / Encyclopedia | LII / Legal Information Institute

Land use and zoning involves the regulation of the use and development of real estate. The most common form of land-use regulation is zoning. Zoning regulations and restrictions are used by municipalities to control and direct the development of property within their borders.

Chapter 6 : What is land use regulation? definition and meaning - theinnatdunvilla.com

Land Use: Restrictions, Regulations & Government Control - Chapter Summary. In this chapter, our instructors recap material about the restrictions and regulations on land use.

Chapter 7 : Private Land Use Restrictions by R. Scott Alagood

A person that implements corrective action activities that relies on land use restrictions shall provide notice of the land use restrictions that are part of the corrective action plan to the local unit of government in which the site is located within 30 days of filing of the land use restrictions with the county register of deeds.

Chapter 8 : Local Government Land Use Regulation - Province of British Columbia

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Chapter 9 : Land-Use Controls: Comprehensive Plans, Zoning, and Property Restrictions

Land use restrictions may be private, such as deed restrictions, or public, such as zoning. When more than one restriction applies, the most restrictive prevails. Violation of either can make the title unmarketable.