

## ZONING: QUICK ANSWERS TO GOOD QUESTIONS

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### **What is zoning?**

Zoning regulates the use of land and buildings through dividing the community into zones or districts. Use can further be regulated in terms of its intensity or density, along with the bulk of buildings on the land. The zoning ordinance itself consists of both a text element which contains the rules and the map which shows the zones.

How many different zones there are depends on the community. Most small Pennsylvania townships have a half dozen or less distinctive zones. For example, neighboring Penn Township has six zones, West Pennsboro has ten, and Southampton Township five. Large cities may have dozens of different zones. Standard types of use zones include agricultural, residential, commercial, industrial, and open space.

The intensity and / or density of uses is often regulated in terms measures such as units per acre. For example, one residential district may have a maximum density of one dwelling unit (house) per two acres and another residential district may allow four houses per acre.

In speaking to the bulk of buildings and other structures on the land, this is usually in terms of minimum setbacks (for example, a minimum building set back of 40 feet from the front property line) and height limitations.

### **What if my property doesn't comply?**

Properties that don't comply with a new zoning ordinance are typically "grandfathered" in and can continue in those uses, perhaps in perpetuity, provided they do not expand or dramatically alter operations. The same standard applies for non-conforming structures. Also, if a use that does not conform to the zoning discontinues for some length of time, such as six months, then it may not be allowed to restart again.

New uses of land and buildings must comply with the zoning.

### **Who is in charge of zoning?**

Ultimately, the township is in charge. The township supervisors are the individuals who are accountable in most zoning issues and decisions. However, the local planning commission, the zoning hearing board, and township staff also play important roles.

### **Where does the legal authority to zone come from?**

In the United States, the legal authority over land use and property generally is, for the most part, in the hands of the states. In turn, all states to some degree have given most of this power over to local municipal and county governments. In Pennsylvania, it is the municipalities that have the most authority.

How a community goes about zoning, subdivision regulation, and the comprehensive planning process is laid out in the Municipalities Planning Code (MPC). The MPC is "the law" governing all planning related activities in the state. Enacted by the legislature in 1968, it has undergone minor modifications over time.

### **Can the zoning change?**

Yes. One may apply for a change in zoning. Such changes are reviewed by the planning commission (which makes a recommendation) and considered by the township supervisors. Changes in the zoning should be in concert with the community's comprehensive plan. The changes may apply to the ordinance map, to the ordinance text, or both.

### **What are conditional uses?**

Sometimes uses are appropriate to a zone, but need additional review as their impacts may be substantial. For example, a recreation center may be especially appropriate to a residential zone, but should have a conditional review of other potentially large impacts it may have (on traffic volume for example).

### Are there exceptions to the rules?

Yes, most of these exceptions from the law are called variances. Sometimes properties exist that cannot reasonably be used or developed because of some quirk in the zoning or oddity of the property itself. For example, a pre-existing parcel in a residential zone may be just a tiny bit smaller than the minimum lot size. Building a home on this parcel would make good sense, but might not be allowable under the legal particulars of the ordinance. In such a case, a variance may reasonably be applied for and granted.

### How will zoning affect my property assessment?

Newly enacted zoning typically plays a negligible or only a small role in altering property values. However, subsequent zoning can impact property values when it enables greater speculative development. For example, lands once zoned agricultural that are rezoned to highway commercial may see increased values as they are now more fully developable lands.

### How does zoning relate to my constitutional rights?

Zoning must respect your constitutional rights. In our court systems, conflicts with land use regulation typically occur with respect to the First, Fifth, and Fourteenth Amendments. Conflicts between regulation and these rights are too complex to explain here, so please consult some other sources if you would like further information. Most ordinances are written with a thorough knowledge of what is legally acceptable.

### What are the benefits of zoning? What are the drawbacks of zoning?

Zoning is often termed the "wonder drug" of planning, as it may be used to regulate unwanted land uses, minimize land use conflicts, protect community character including historic areas, provide a consistent regulatory environment for builders and developers, and protect property values. Like any regulatory tool, it must be well written, implemented consistently, enforced evenly, and have strong political support from both supervisors, planning commissioners, and the residents themselves.

### How might zoning help in protecting an agricultural landscape and farm livelihoods?

Zoning can be helpful in protecting agricultural landscapes. To do this, areas zoned agriculture must be as restrictive as possible with respect to allowed uses and specify densities that are truly agricultural. For example, zoning will be less effective if an agricultural zone allows a minimum lot size of one acre because this permits piecemeal development residential development of the countryside. Cluster zoning options would be especially appropriate. It is important to note that zoning can rarely save farms by itself – it has to be used in conjunction with other tools such as "clean and green" open space taxation, an agricultural easement program, and transfer of development rights programs.

### Who else uses zoning?

The overwhelming majority of Americans live in communities with zoning and it has been around for nearly a century. Over 60% of all municipalities in Pennsylvania have enacted zoning. Zoning as we know it was first used in New York City in 1916 and the Supreme Court validated zoning as regulatory tool in 1926. In other words, zoning is not something new and is widely accepted.

### Where can I find out more information?

If you have an Internet connection handy, there is a wealth of information available about zoning you can find via any focused search on a search engine (such as Google). Other great resources include:

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| <b>Cumberland County Planning Dept.</b><br>18 N. Hanover St.<br>Third Floor<br>Carlisle, PA 17013<br>Ph: 717.240.5362<br><a href="http://www.ccpa.net/index.asp?NID=120">http://www.ccpa.net/index.asp?NID=120</a><br><br><i>The county planning staff is knowledgeable, friendly, and extremely capable.</i> | <b>Governor's Center for Local Government Services</b><br>4th Floor, Commonwealth<br>Keystone Building<br>400 North Street<br>Harrisburg, PA 17120-0225<br>888-2-CENTER (888-223-6837)<br><i>Useful and basic planning booklets are online at:</i><br><a href="http://www.newpa.com/default.aspx?id=132">http://www.newpa.com/default.aspx?id=132</a> | <b>Tri-County Regional Planning Commission</b><br>Dauphin County Veterans<br>Memorial Building<br>112 Market Street, 2nd Floor<br>Harrisburg, PA 17101<br>Phone: (717) 234-2639<br>Fax: (717) 234-4058<br>E-mail: <a href="mailto:planning@tcrpc-pa.org">planning@tcrpc-pa.org</a><br><i>Great local resource!</i> | <b>George Pomeroy</b><br>Center for Land Use<br>at Shippensburg<br>University<br>1871 Old Main<br>Drive<br>Shippensburg PA<br>17257<br>Ph. 717.477-1776<br><a href="mailto:gmpome@ship.edu">gmpome@ship.edu</a> |
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