

## INNOVATIONS IN LOCAL ZONING REGULATIONS

Over the years, planners have become aware of the deficiencies of regulating development through traditional (“Euclidean”) zoning, particularly of the single-use district variety, and stand-alone subdivision regulations. Particular shortcomings include their inflexibility, their failure to allow for mixed-use and mixed-housing development, their disconnect from growth management issues, their exclusionary nature, and their inability to address design issues. Described here are some of the more common variations from traditional zoning, including flexible zoning approaches, unified development codes, and inclusionary zoning. Also discussed here are regulations developed to support new urbanism development approaches.

### FLEXIBLE ZONING

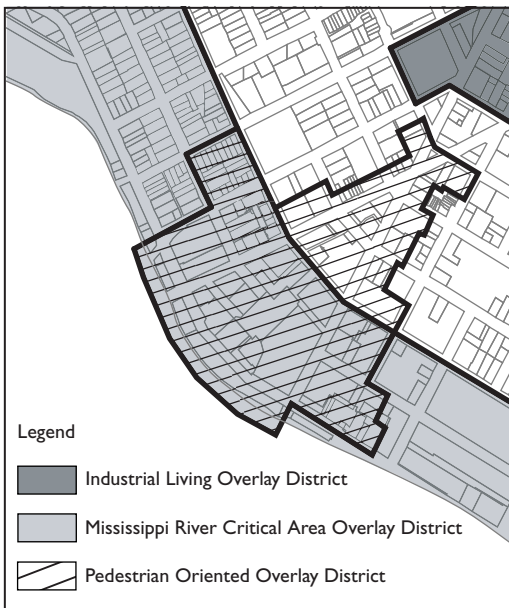
Beginning as early as the 1950s, planners began modifying conventional zoning regulations to provide relief from their rigid predetermination of which land uses and development standards were appropriate to zoned land. Known as “flexible zoning,” some of these techniques seek to tie approval of unconventional uses to review of specific development plans:

#### Conditional-Use or Special-Use Permits

These permits provide a way to allow a land use that would not normally be allowed in a particular zoning district, but might be compatible with the district’s character if controlled through additional standards and discretionary review that ensure the appropriateness of a particular development proposal at a particular location in the district.

#### Overlay Zoning Districts

These districts are superimposed on top of portions of one or more underlying general use-based zoning districts that allow application of additional standards



### OVERLAY ZONE

Source: URS Corporation.

addressing a special purpose (such as historic preservation or floodplain protection).

#### Floating Zones

These are unmapped zoning districts whose standards are described in the text of the zoning ordinance but are applied to land only through a rezoning approval of a proposed development meeting the district’s standards.

#### Planned Unit Development

A planned unit development (PUD) is generally a large area of land under unified control that is planned and developed as a whole through a single development operation or programmed series of development phases, in accord with a master plan. PUDs are discussed in more detail elsewhere in this section of the book.

Other alternative regulatory techniques seek to simply add flexibility to development standards or emphasize a development’s environmental impacts rather than its compliance with predetermined, or “prescriptive,” use and development standards.

#### Cluster Development or Conservation Design

Most commonly shown in the form of cluster subdivisions, these development approaches apply density limitations (as set directly, or indirectly through lot size standards) to the development site as a whole and provide flexibility in the lot size, setback, and other standards that apply to individual house lots. They provide considerable flexibility in locating building sites and associated roads and utilities, allowing them to be concentrated in parts of the site, with the remaining land used for agriculture, recreation, preservation of sensitive areas, or other open-space purposes. (See *Conservation Development* in Part 4 of this book for more information.)

#### Performance Standards

These standards, which were initially used to control industrial uses, try to control the external effects of development through standards directly related to its operational characteristics. General categories of industrial use are allowed subject to performance standards that set limits on externalities such as noise, odor, smoke, dust, noxious gases, vibration, heat, and glare. Performance standards may be used instead of use restrictions to control physical, traffic, and fiscal impacts of all types of development.

#### Performance Zoning

Performance zoning defines the character of a zoning district according to the allowable intensity of development rather than use, relying on measures such as floor area ratio and impervious surface coverage.

#### Point Rating Systems

These systems evaluate and rate proposed development by whether it meets prescribed criteria and standards, requiring minimum point thresholds (and sometimes additional thresholds for higher development intensities) before the development is allowed. The criteria and standards are generally performance-based, but are often expanded to address broad compatibility issues.

#### Incentive Zoning

With incentive zoning, developers are awarded additional development capacity in exchange for a public benefit, such as provision for low- or moderate-income housing, or amenity, such as additional open space.

Of the above techniques, PUDs probably have had the greatest impact on more recent regulatory innovations. In requiring the integration of zoning and subdivision regulations, they pointed the way toward the increased development of unified development codes. And in allowing mixed-use development and flexible design standards, PUDs accommodated early experimentation with traditional neighborhood development and other new urbanist forms of development that have emerged in recent years as an increasingly popular alternative to conventional zoning.

### UNIFIED DEVELOPMENT CODES

As the purposes behind regulating development have become more complex and comprehensive, it has become more and more difficult to rely on separate zoning and subdivision regulations. They often end up with duplicative or conflicting standards and review procedures that are administered by different personnel and boards. A unified development code (UDC) consolidates development-related regulations into a single unified development code that represents a more consistent, logical, integrated, and efficient means of controlling development. The UDC can provide greater predictability for all involved in the development process, because it is organized to track that process.

UDC development standards may include the following:

- *Circulation standards* that address how vehicles and pedestrians will move onto and through the site so as to limit conflicts between them and ensure safe ingress/egress, efficient traffic flow, adequate service access (e.g., garbage pickup), and adequate emergency access to buildings (by fire trucks).
- *Utility standards* that identify the water distribution and sewage collection facilities that are required, prescribe their size and location, and provide for utility easements necessary to ensure their future maintenance.
- *Stormwater management standards* that typically call for on-site retention or detention of peak stormwater runoff from a storm of a certain frequency and duration, and provide for drainage easements to ensure maintenance of natural drainageways and stormwater pipes.

### INCLUSIONARY ZONING

Communities have used incentive zoning and mandatory set-aside provisions to address shortages in the availability of housing affordable to low- and moderate-income families. These approaches either encourage or require developers to make a portion (e.g., 15 to 20 percent) of the housing units in a new development available and affordable to low- and

moderate-income households. Where used, mandatory set-aside programs have been successful. Their use is likely to grow as housing affordability problems become more acute.

**TRADITIONAL NEIGHBORHOOD DEVELOPMENT AND NEW URBANISM-SUPPORTIVE REGULATIONS**

New urbanism is defined as the process of reintegrating the components of modern life—housing, workplace, shopping, and recreation—into compact, pedestrian-friendly, mixed-use neighborhoods and set in a larger metropolitan framework providing open space and transit. Several forms of new urbanist development have been enabled or required through development regulations.

**Traditional Neighborhood Development (TND)**

Also referred to as “neotraditional” development, TND is a style of development that works to emulate many of the features of urban neighborhoods of 50 to 100 years ago. It stresses a walkable scale, an integration of different housing types and commercial uses, and the building of true neighborhood centers with civic uses. TNDs were the first new urbanist forms to be recognized by development regulations, most commonly through enactment of a TND ordinance, a floating zone, or a special zoning district with mixed-use standards, extensive street and building design standards intended to establish pedestrian-friendly streetscapes, and its own plan review process.

**Transit-Oriented Development (TOD)**

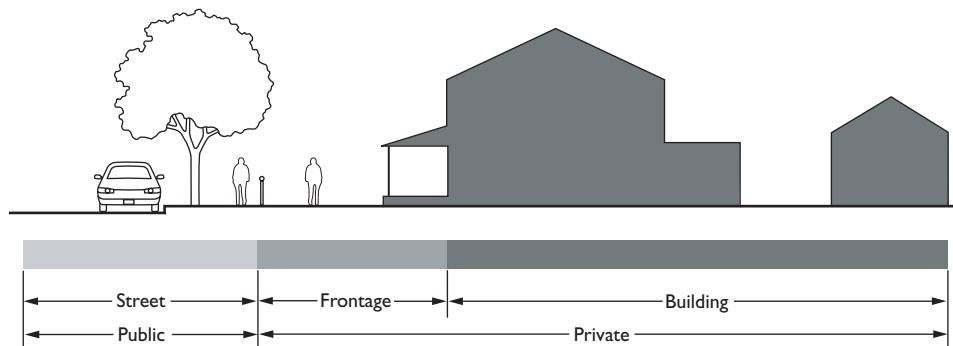
TOD is essentially a compact development built around transit stops, especially rail transit. The same attributes that define a TND—higher density, walkable scale, and mix of uses—are good generators of transit usage. The concept includes neighborhood and community levels of TODs to accommodate different land-use mixes and development intensities in conjunction with different transit types. TOD regulations are generally enacted as overlay or special zoning districts with mixed-use standards and pedestrian-oriented street and building design standards that focus on a central transit stop. (See *Transit-Oriented Development* in in Part IV of this book for more information.)

**Form-Based Zoning**

This approach seeks to regulate building form rather than, or in addition to, land use. It establishes zones of building type based on pedestrian accessibility and the scale and character of surrounding development, but largely allows building owners to determine how the buildings will be used. Form-based codes typically contain a regulating plan that identifies which building envelope standards apply to which block frontages; building envelope standards that set basic parameters for building height, setbacks, roof design, and fenestration; and architectural and streetscape standards.

**Transect-Based Code**

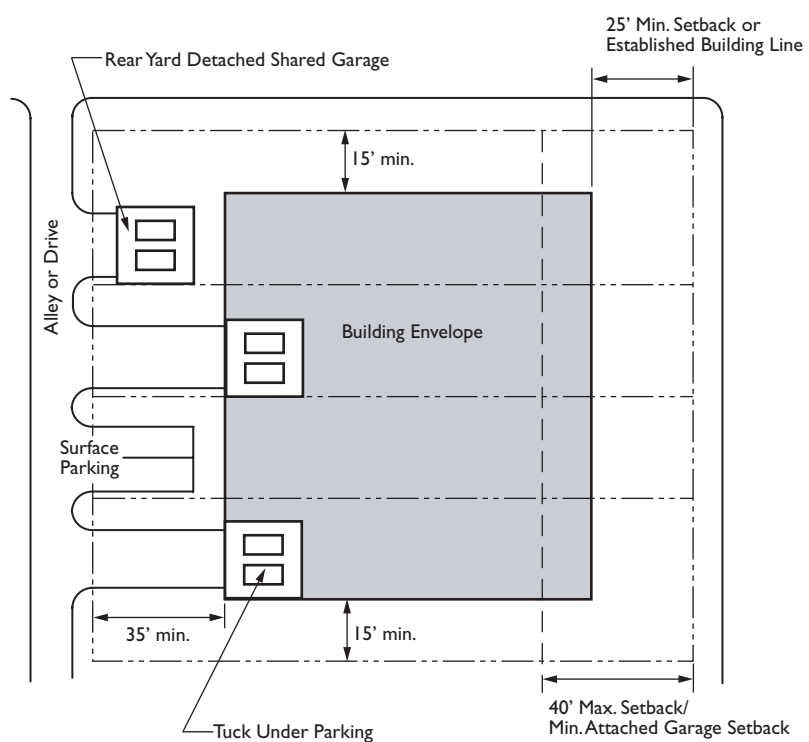
This approach is based on a series of habitats, or “ecozones,” on a continuum from wilderness to



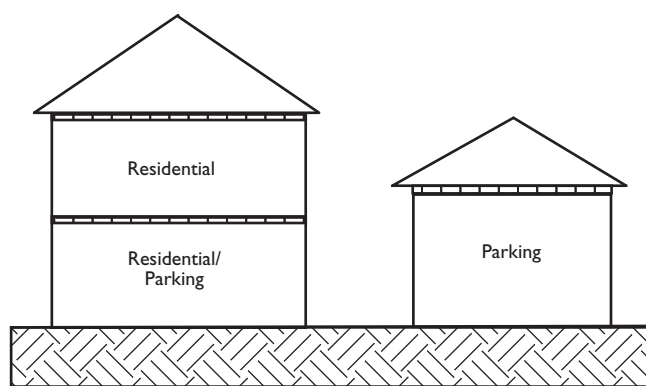
Three urban typologies comprise the public to private transition found in traditional neighborhoods: the street, the frontage, and the building. The frontage is the semi-public private area between the public street and the private building.

**FRONTAGE-BASED CODE EXAMPLE**

Source: Peter J. Musty, *CharretteCenter Town Design, Minneapolis*.



**Building Placement**

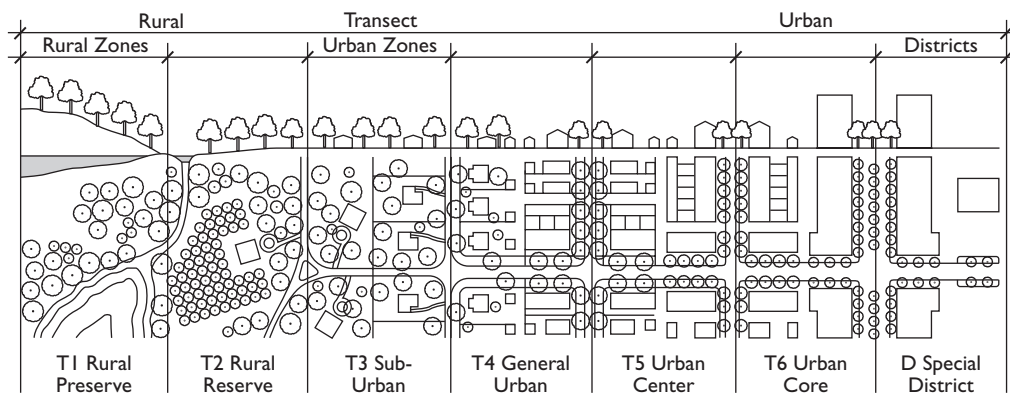


**Building Use and Height**

**EXAMPLE OF FORM-BASED CODE, SINGLE-FAMILY ATTACHED**

Source: URS Corporation.

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**DIAGRAM OF THE TRANSECT SYSTEM**

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**MAIN CHARACTERISTICS OF TRANSECT ZONES**

TRANSECT ZONE	MAIN CHARACTERISTICS
T1: Rural Preserve	Open space legally protected from development in perpetuity. Includes surface water bodies, protected wetlands, public open space, and conservation easements.
T2: Rural Reserve	Open space not yet protected from development but should be. Includes open space identified by public acquisition and areas identified as transfer of development rights (TDR) sending areas. May include floodplains, steep slopes, and aquifer recharge areas.
T3: Sub-Urban	The most naturalistic, least dense, most residential habitat of a community. Buildings consist of single-family, detached houses. Office and retail buildings are permitted on a restricted basis. Buildings are a maximum of two stories. Open space is rural in character. Highways and rural roads are prohibited.
T4: General Urban	The generalized, but primarily residential, habitat of a community. Buildings consist of single-family, detached houses and rowhouses on small and medium-sized lots. Limited office buildings and lodging are permitted. Retail is confined to designated lots, typically at corners. Buildings are a maximum of three stories. Open space consists of greens and squares.
T5: Urban Center	The denser, fully mixed-use habitat of a community. Buildings consist of rowhouses, flex houses, apartment houses, and offices above shops. Office and retail buildings and lodging are permitted. Buildings are a maximum of five stories. Open space consists of squares and plazas.
T6: Urban Core	The densest residential, business, cultural, and entertainment concentration of a region. Buildings consist of rowhouses, apartment houses, office buildings, and department stores. Buildings are disposed on a wide range of lot sizes. Surface parking lots are not permitted on frontages. Open space consists of squares and plazas.

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urban core. The ecozones are distinguished by varying density and character of the built environment. Development in each is regulated by design standards for building setbacks, height, and façade treatment, as well as for parking location, street design, and creation of a public realm. Regulation of uses is limited, principally to encourage mixed-use development.

**SUMMARY**

American communities are in the middle of an extraordinary era of regulatory reform, unmatched since the advent of zoning in the 1920s. Innovations in local development regulations will continue to evolve, and new innovations are sure to arise. What makes the newest innovations special is the context in which they are being developed—not just as variations of conventional development controls, but reflective of new and increasingly accepted concepts about how neighborhoods and communities should be shaped and function.

**REFERENCES**

Duany, Andrés, and Emily Talen. 2002. "Transect Planning." *JAPA* 68(3): 245–266. Chicago: American Planning Association.

**See also:**

*Conservation Development*  
*Planned Unit Development*  
*Transit-Oriented Development*