Zoning Ordinance

Description

A Zoning Ordinance is one of the oldest and most commonly used form of implementing land use guidelines in the United States. The first zoning ordinances were created to reduce fire vulnerability in larger cities like New York by regulating building heights and distance between structures. Today, zoning ordinances typically regulate land-use types, intensity of uses, building densities, parking, and other land development related issues. In Indiana, according to IC 37-7-4-600 series, the ordinance is required to have text of the policy and a zoning map.

In the past, zoning ordinances were created to define separation of land uses. However, this led to more monotonous and inconvenient environments. Zoning ordinances that have a more pyramidal organization, offered more flexibility and openness to development. Although this pyramidal, or cumulative, type of zoning ordinance is better than separation of uses zoning, planners have begun to develop new and innovative approaches to zoning that accommodate changes in business practices and society in general.

Purpose of Zoning

Zoning is a key tool to implement comprehensive and development plans in all communities. In Indiana, it is not uncommon for both a comprehensive plan and the zoning ordinance to be fused together as one. However, it is very important to note the important distinction between a comprehensive plan and a zoning ordinance. Comprehensive plans are merely guiding plans for future development that establish a community's vision, goals, and objectives. The zoning ordinance is the legally binding regulatory tool that helps to make the comprehensive plan a reality.

Within the Indiana Code, zoning ordinances have the following purposes:

- Securing adequate light, air, convenience of access and safety from fire, flood and other danger;
- Lessening or avoiding congestion in public ways;
- Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- Otherwise accomplishing the purpose of this chapter (Chapter 4 of the Indiana Code, Local Planning and Zoning).

Typical zoning ordinances are related to concepts of promoting public health and safety through zoning regulations such as limitations on building in flood plains, setbacks, or driveway access. However, most parameters fall under the less defined category of promoting general welfare. The most important and primary purposes of zoning ordinances are to protect property values, decrease public costs, and enhance the overall quality of life for residents.

Zoning ordinances are also often used to regulate the appearance and aesthetic objectives of the community. The U.S. Supreme Court has upheld the rights of communities to use zoning for aesthetic purposes. Most zoning ordinances already contain regulations that influence the appearance such as height limitations and building setback regulations, but other development components such as landscape requirements and signage regulations may be controlled too.

With zoning ordinances regulating and influencing development and growth, it is important to remember that zoning ordinances are not unalterable nor are they the final word. Through processes such as variances, parcels of land may be rezoned or allowed to be developed not according to the zoning ordinance. Whenever these situations may arise, it is still important to reference the community's comprehensive plan to ensure that the development is occurring in the right quality, quantity, and location.

What is in a Zoning Ordinance?

Zoning Ordinances contain two parts: text and a zoning map. Both parts have important roles and careful attention should be paid to the development of each.

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The *Zoning Map* is important because it establishes the zoning classification for each property. Maps should be made so that they are easily understood and useable both for board members and the public. Oftentimes, base maps are used that consist of the auditor's plat maps so that each parcel is identified within the zoning map. Zoning classifications should also be easily distinguishable through colors or hatching patterns that are generally accepted by planners. (i.e. yellow=residential, commercial=red, industrial=purple, etc.) Different shades of each color can identify the levels of intensity and regulations within each use.

The *Zoning Text* is what frequently causes many complaints and objections mainly because of its complexity. Land use is an intricate issue, therefore, the ordinances that regulate it are also complex. Communities can create a more user-friendly ordinance that will help overcome the preconceived notion of zoning. Text should be written clearly. The same rules of good writing for a newspaper or a book apply to writing a good ordinance whereas they should utilize simple terms and simple sentence structure. Also, wherever possible, illustrations should be used to describe the more complex concepts that the average citizen may not be familiar with. Another tool to help citizens understand their zoning ordinance is preparing an annotated copy with explanatory material on how to read it and use the information.

The text encompasses the "meat" of the zoning ordinance and sets forth the regulations and requirements for each zoning classification and other policies. The ordinance will define each zoning classification (i.e. R-!, R-2, C-1, C-2, I-1, I2, CBD, PUD, etc.). Additional and more in-depth descriptions of all zoning classifications can be found in Chapter 8 of the Indiana Citizen Planner's Guide **[http://www.indianaplanning.org/Citizen/8_ZoningOrdinance_2005.pdf]**. In addition to the zoning classifications, zoning ordinances also include basic provisions such as a purpose statement, proper procedures, definitions, development standards, and severability clause. Other land development issues can be regulated in the zoning ordinance which can vary in complexity and level of ruling. Some of the subjects that are most frequently addressed are parking, signs, landscaping, and non-conforming uses.

How to Prepare and Adopt a Zoning Ordinance:

Prepare

Preparing a zoning ordinance is one of the most difficult but essential duties a community will ever undertake. Although the public may not pay much attention to the development of the zoning ordinance, it will soon become the focus of a great deal of passion and concern. Writing a zoning ordinance is also a very time-consuming task which can sometimes be simply overwhelming to any community. Many communities choose only to adopt a comprehensive plan, but never a zoning ordinance because of the time involved and the ensuing controversy. When this is the case, an outside consultant may need to be hired in order to complete this integral part of the planning process.

Whether the municipality is completing the zoning ordinance by itself, or whether a consultant is preparing it, the most important thing is to maintain its relationship to the comprehensive plan. Each regulation should be an implementation of some policy from the comprehensive plan. Although there should be some citizen involvement, it is often viewed that the public's input during the comprehensive plan is sufficient to guide a zoning ordinance as long as the ordinance mirrors the plan's visions and policies. Too much community involvement in preparing a zoning ordinance can sometimes slow down the process because of the complexities and large number of details.

Zoning ordinances should be tailored to the individual community's needs and vision. However, it is not uncommon to borrow other ideas from other communities. In many instances, the same regulations from one zoning ordinance can be adapted to fit another community. Some sections can even be worded the same such as penalty provisions or severability clauses. There is no reason to go through the time and frustration of reinventing the wheel by rewriting some sections if they satisfy the municipality's needs.

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Adopt

By Indiana State Law, there are defined steps of action to adopt a Zoning Ordinance.

1. The Plan Commission must advertise the adoption hearing at least 10 days prior to the hearing and post a summary of the ordinance along with penalty provisions.
2. The Plan Commission holds the public hearing and entertains comments from interested or concerned constituents.
3. The Plan Commission endorses the ordinance and offers it to the legislative body for approval (city council, county commissioners).
4. The legislative body adopts, rejects, or amends the ordinance. If rejection or amendments occur, it must return to the Plan Commission with reasons and the Plan Commission either agrees or disagrees with the body's decision. This process continues until the ordinance is passed.
5. Once the ordinance is passed, the Plan Commission must post the full ordinance and penalty provisions. The ordinance becomes effective 14 days after adoption and posting.

Relevant Statutes

- IC-36-7-4-600 series

Capacity Recommendations

A plan commission must be formed and should have the guidance of some professional planning service.

Guidelines / Considerations for Implementation

- A Comprehensive Plan should be adopted prior to a Zoning Ordinance.
- Be prepared for a very time consuming and sometimes controversial process.

Example Ordinances

- **Howard County, Indiana Zoning Ordinance** – [http://www.co.howard.in.us/zoning/index.htm]
- **City of Shelbyville, Indiana Zoning Ordinance and Comprehensive Plan** – [http://www.cityofshelbyvillein.com/display.asp?RecId=45&level=sublink&menuname=Ordinances_and Comprehensive Plan]
- **City of Plymouth, Indiana Zoning Ordinance** – [http://www.plymouthin.com/pg/ordinances/ordinance1396/ordinance1396toc.html]

Example Studies

No example studies are available for this tool.

Helpful References and Links

- **Indiana Citizen Planner's Guide – Part 8: Zoning Ordinance:** This important resource published by the Indiana Planning Association describes what a Zoning Ordinance is with detailed descriptions of ordinance contents and steps to prepare, adopt, and amend an ordinance. [http://www.indianaplanning.org/Citizen/8_ZoningOrdinance_2005.pdf]
- **Purdue University Cooperative Extension Service – Communities on Course: Land Use**- This article details the laws that govern land use planning in Indiana and describes the powers that communities have when preparing a Zoning Ordinance or a Comprehensive Plan. [http://www.ces.purdue.edu/extmedia/ID/ID-268.pdf]

- **Purdue University Cooperative Extension Service – Zoning—What does it mean to your community?:** This reference describes what zoning is and especially what zoning CAN and CANNOT do for a community. [http://www.ces.purdue.edu/extmedia/ID/ID-233/ID-233.html]
- **Center for Urban Policy Report – Central Indiana Counties Rely on Conventional Development Controls:** This article discusses the trends of land development controls such as zoning ordinances and subdivision controls throughout central Indiana. It also discusses issues within counties where development control is not used effectively or with the right purpose. [http://www.urbancenter.iupui.edu/PubResources/pdf/80_01-C27_Dev_Control.pdf.pdf]

Helpful Contacts

- **Center for Urban Policy and the Environment** – As part of the School of Public and Environmental Affairs at IUPUI, this organization can assist in a variety of planning related matters.

  334 N. Senate Avenue,
  Suite 300
  Indianapolis, IN 46204
  Tel: 317-261-3000
  Fax: 317-261-3050
  urbanctr@iupui.edu
  http://www.urbancenter.iupui.edu/AboutTheCenter/

- **American Planning Association Planning Advisory Service:** This service, provided by the American Planning Association, is intended to help communities obtain information about different planning topics and to answer planning questions. Communities may subscribe to the service or seek assistance on an as-needed basis. The service utilizes a vast amount of resources to answer any question and provide information such as sample ordinances, reports, etc.

  Contact:
  American Planning Association
  Planning Advisory Service
  122 S. Michigan Ave., Suite 1600
  Chicago, IL 60603
  Phone: 312-431-9100
  Fax: 312-431-9985
  pas@planning.org

- **Purdue Cooperative Extension Service: Community Development Division**

  Sam Cordes
  Purdue University
  1201 West State Street
  West Lafayette, IN 47907-2057

  Phone: 765-494-7273
  Toll Free: 877-882-PCRD (7273)
  Fax: 765-494-9870
  smcordes@purdue.edu

- **Indiana Planning Association List of Consultants** – This resource lists numerous private consulting firms that offer planning services. Some of the most common tasks performed by consultants are the formation of comprehensive plans, corridor studies, zoning ordinances, and other development plans and regulations. However, the resource is only available to Indiana Planning Association members.

  Indiana Planning Association
  PO Box 44804
  Indianapolis, IN 46244
  (317) 767-7780
  http://www.indianaplanning.com

Other Possible Funding Sources

No other funding sources have been identified for this tool.

Program Objectives and Issues Addressed

- General planning
- Growth management
- Planning capacity
- Vision of development and future growth
- Undesired land uses
- Land use changes
- Code/ policy enforcement
- Visual aesthetics
- Non-residential development

See Also

- Board of Zoning Appeals
- Common Rules of Procedure
- “Simple Zoning”
- Comprehensive Plan
- Land Use Plan