



# Zoning

©2009 eNotes.com, Inc. or its Licensors. Please see [copyright information](#) at the end of this document.

- [Background](#)
- [Types of Zoning](#)
- [Zoning Changes](#)
- [Additional Resources](#)
- [Organizations](#)

## Background

**ZONING** is the way the local governments control the physical development of land and the kinds of uses for different parcels of property. State and local governments have the power to enact statutes and ordinances, known as zoning regulations, in order to control the use of land for the protection of the public health, safety, and welfare. Zoning laws place significant limitations on the uses of the property within the defined areas or "zones" established in the particular zoning [ORDINANCE](#). Zoning laws typically specify the areas in which residential, industrial, recreational or commercial activities may take place. These could be residential, rural, commercial, industrial or a combination. Zoning laws often use numerical or alphabetical designations, such as CR-1; however the designation are not standard and differ from one community to another.

In addition to limiting land uses, zoning laws can also regulate the dimensional requirements for lots and for buildings on property located within the community, the density of development, and what livestock can inhabit the parcel of land. Zoning ordinances may designate certain spaces for hospitals, parks, schools, and buildings with historical significance. Zoning can also provide for restrictions on parts of certain parcels of land, such as those parcels which lie within protected peaks and ridges.

Zoning ordinances and maps are public records. The zoning information is listed on the tax records in most localities. These records can be located at the local tax assessor's office and are often online.

## Types of Zoning

Zoning categories and symbols vary among communities. A C-1 zone in one city is not necessarily the same as a C-1 in another. Typically, jurisdictions use letters of the alphabet as code abbreviations to identify the use allowed in a physical geographic area, such as R for residential, C for commercial, and I for industrial. These symbols are usually paired with some number. The number can specify the level of use, or it may indicate a certain amount of acreage or square footage for that particular property.

### ***Residential Zoning***

Residential zoning can include Single Family Residences (SFR), Suburban **HOMESTEAD** (SH), or any number of other designation which cover homes, apartments, duplexes, trailer parks, co-ops, and condominiums. Residential zoning can cover the issues as to whether mobile homes can be placed on the property and the number of such structures.

## Encyclopedia of Everyday Law: Zoning

Zoning laws typically limit the type of animals allowed at a residence. While domestic pets, such as dogs, birds, and cats, are generally not regulated, chickens, sheep, horses, llamas, pigs, and cows are subject to certain requirements. Many ordinances prohibit keeping these farm animals in residential neighborhoods. Others limit the number of animals based on the size of the property.

Zoning laws on home-based businesses can depend on the nature of the business, whether there are employees or business invitees, the hours of operation, signage, parking and delivery concerns, and noise issues. Some zoning ordinances prohibit all in-home businesses in residential areas. Others restrict the type of business, the hours, and may require separate parking and entrance facilities. Rules regarding home-based businesses for condominiums are typically even more restrictive than private residences.

### ***Commercial Zoning***

Commercial zoning usually has several categories and is dependant upon the business use of the property and often the number of patrons. Office buildings, shopping centers, nightclubs, hotels, certain warehouses, some apartment complexes, as well as vacant land that has the potential for development into these types of buildings can all be zoned commercial. Almost any kind of real estate except single-family home and single-family lots can be regarded as commercial real estate.

The availability of parking may affect the type of commercial zoning that is permitted. Additionally, there can be rules regarding the proximity of certain types of businesses to others. Many zoning laws prohibit or restrict adult entertainment establishments to a certain geographical area. Others bar such establishments within a certain distance of existing schools or churches.

### ***Industrial Zoning***

Like commercial zoning, industrial zoning can be specific to the type of business. Environmental factors including noise concerns usually are issues in determining into which industrial level a business falls. Manufacturing plants and many storage facilities have industrial zoning. Certain business, such as airports, may [WARRANT](#) their own designation.

Industrial Zoning is often dependent upon the amount of lot coverage, which is the land area covered by all buildings on a lot, and building height. Additionally, set-back requirements are higher for industrial zoned properties.

### ***Agricultural Zoning***

Agricultural zoning is generally used by communities that are concerned about maintaining the economic viability of their agricultural industry. Agricultural zoning typically limits the density of development and restricts non-farm uses of the land. In many agricultural zoning ordinances, the density is controlled by setting a large minimum lot size for a residential structure. Densities may vary depending upon the type of agricultural operation. Agricultural zoning can protect farming communities from becoming fragmented by residential development. In many states, agricultural zoning is necessary for federal voluntary incentive programs, subsidy programs and programs that provide for additional tax abatements.

### ***Rural Zoning***

This designation is often used for farms or ranches. In certain parts of the country, this designation will include residences zoned to allow horses or cattle.

### ***Combination Zoning***

Any of the designations can be combined to form some sort of combination zone, many of which are unique to the community adopting the particular designation.

### ***Historic Zoning***

Homes and buildings over fifty years old are often included in historic zones. These zones have regulations, which prevent the alteration of the structures from the original conditions, although there are allowances for repair and restoration in keeping with the historic plan. Frequently, buildings in these areas can qualify for governmental tax incentives.

The National Register of Historic Places is the U. S. official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect historic and archeological resources. Properties listed in the Register include districts, sites, buildings, structures, and objects that are significant in U. S. history, architecture, archeology, engineering, and culture. The National Register is administered by the National Park Service, which is part of the U. S. Department of the Interior. The National Register accepts applications for buildings, which meet certain specific historic requirements.

Owners of properties listed in the National Register may be eligible for a 20% investment tax credit for the certified rehabilitation of income-producing certified historic structures such as commercial, industrial, or rental residential buildings. This credit can be combined with a straight-line [DEPRECIATION](#) period of 27.5 years for residential property and 31.5 years for nonresidential property for the depreciable basis of the rehabilitated building reduced by the amount of the tax credit claimed. Federal tax deductions are also available for charitable contributions for conservation purposes of partial interests in historically important land areas or structures.

### ***Esthetic Zoning***

Increasingly popular in upscale communities, this sort of zoning covers color schemes, landscaping, mailboxes, fences, solar panels, decks, satellite dishes, and types of materials. Esthetic zoning ordinance may require that building plans be submitted and approved by an architectural review committee. Wireless communication receiving devices can often be impacted by these types of zoning rules.

### ***Permitted and Accessory Uses***

Permitted and ACCESSORY uses are built-in exceptions within a certain zoning category. For example, a property which is not zoned for a bar may have a bar which is connected to the hotel as accessory or permitted use.

## **Zoning Changes**

### ***Change of Zoning***

If the zoning on a parcel of land is inconsistent with the use the land owner desires, the owner may apply to the local [JURISDICTION](#) for a change of zoning. Each jurisdiction has its own rules and regulations. However, there is typically an application and a fee, followed by some type of [HEARING](#) at which the owner presents the request and the reasons for the requested change. Surveys, drawings, photographs, and even

## Encyclopedia of Everyday Law: Zoning

models can be used to convey the proposed plan. Many owners hire engineers or lawyers to assist with the rezoning process.

If the owner is unsuccessful in obtaining the change, there may be a possibility to appeal the action either within the administrative structure of the governmental body or in a court of law.

### ***Variances***

A variance is a request to deviate from current zoning requirements. If granted, it permits the owner to use the land in a manner not otherwise permitted by the zoning ordinance. It is not a change in the zoning law. Instead, it is a specific [WAIVER](#) of requirements of the zoning ordinance.

Typically, variances are granted when the property owner can demonstrate that existing zoning regulations present a practical difficulty in making use of the property. Each jurisdiction municipality has rules for variance requests. Usually, the land owner seeking the variances files a request or written application for a variance and pays a fee. Normally, the requests go first to a zoning board. The zoning board notifies nearby and adjacent property owners. The zoning [EXAMINER](#) may then hold a hearing to determine if the variance should be granted. The applicant may then be required to appear before the governing body of the municipality, such as a city council, for the final determination.

### ***Non-Conforming Uses***

A nonconforming use is a permitted use of property which would otherwise be in violation of the current zoning ordinance. The use is permitted because the land owner was using the land or building for that use before the zoning ordinance became effective. Nonconforming uses are often referred to as being "grandfathered in" to a zoning code. In order to qualify for nonconforming use, the property almost always needs to have had the use continuously. Thus, if the businesses closes and the use lapses for any time, the permission for the nonconforming use could vanish.

### ***Conditional Use Permits***

Similar to variances, conditional use permits allow an otherwise non-permitted use of the property that the zoning code does not include. Conditional use permits are usually granted at a public hearing before a political body, usually with the conclusion that the new use of the property will be in the [PUBLIC INTEREST](#).

### ***Eminent Domain***

Eminent domain is the power of government to take private property and use it for public purposes. The power of eminent domain is recognized in the United States Constitution, which prohibits the taking of private property "without just compensation." The federal constitutional provision recognizing the power of eminent domain implies the requirement that property be taken for a "public use." Public use includes the traditional government activities of building roads, government and public facilities such as government buildings and parks, as well as more generally beneficial activities assured through protection of scenic areas, wetlands, and historic landmarks.

If the government zones a piece of property such that the property owner can no longer effectively use the parcel of land, this provision may be applicable. The property owner may be able to sue for compensation because the land has been "taken" by the government. This is commonly referred to as "a taking." Just compensation is difficult to determine. By definition, it is the [FAIR MARKET VALUE](#) that a property owner would receive if the property were being sold without the zoning restrictions in place. If the government and the property owner are unable to agree on the fair [MARKET VALUE](#), the property owner can file suit and

hire a certified [APPRAISER](#) to give [TESTIMONY](#) concerning the value.

## Additional Resources

Daniels, Thomas L. and Keller, John W., Lapping, Mark B. *The Small Town Planning Handbook*. American Planning Association, 1995.

Davidson, Michael *A Glossary of Zoning, Development and Planning Terms*. American Planning Association, 1997.

Fischel, William A. *The Economics of Zoning Laws: A Property Rights Approach to American Land Use Controls*. Johns Hopkins University Press, 1987.

Harr, Charles Monroe and Kayden, Jerold S. *Zoning and the American Dream: Promises Still to Keep*. American Planning Association, 1989.

Siegan, Bernard H. *Property and Freedom: The Constitution, the Courts, and Land-Use Regulation*. Bowling Green State University, 1997.

## Organizations

### ***American Association of Home Based Businesses (Residential Zoning)***

PO Box 10023

Rockville, MD 20849 USA

URL: <http://www.aahbb.org>

Primary Contact: Beverley Williams, President

### ***National Register of Historic Places***

1849 C Street, NW NC400

Washington, DC 20240 USA

Phone: (202) 343-9536

URL: <http://www.cr.nps.gov/nr>

### ***National Trust for Historic Preservation.(Historic Zoning)***

1785 Massachusetts Ave, NW

Washington, DC 20036 USA

Phone: (202) 588-6000

Fax: (202) 588-6038

URL: <http://www.nationaltrust.org>

### ***Urban Planning Institute***

2100 M Street, NW

Washington, DC 20037 USA

Phone: (202) 833-7200

URL: <http://www.urban.org>

**Copyright Notice**

©2009 eNotes.com, Inc.

ALL RIGHTS RESERVED.

No part of this work covered by the copyright hereon may be reproduced or used in any form or by any means graphic, electronic, or mechanical, including photocopying, recording, taping, Web distribution or information storage retrieval systems without the written permission of the publisher.

For complete copyright information, please see the online version of this work:  
<http://www.enotes.com/everyday-law-encyclopedia>