ZONING

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Purpose

This paper has been prepared for county agents, extension specialists, and others interested in the development of rural communities. Its purpose is to: (1) help them enlarge their knowledge and understanding of zoning, and (2) provide them with some guides that might be of use in formulating and conducting an educational program in this area.

The Rural Scene Is Changing

In many places, the rural scene is changing. Farmers are getting new neighbors—neighbors who work in the city or in local business or industrial establishments. Some of these new neighbors may do a little farming, but in the main they have moved to the country because they believe it is a cheaper and nicer place to live.

Factories, taverns, hot-dog stands, gas stations, junk yards, motels, restaurants, shopping centers, and other kinds of establishments are also spreading over the countryside.

In some places, "lotting out" or selling a piece off the farm is becoming more remunerative than farming.

All of this has been brought about by the increase in population, improved highways, rural electrification, shorter working hours, expansion and decentralization of industry, congestion in the city, increased desire to live in the country, and the like.

The end of this movement to the country is not in sight. The suburbs and rural areas will need to absorb the full impact of our rapid population and industrial growth. There is no other place to go.

These Changing Conditions Give Rise to Problems of Public Concern

As these rural residents and industrial and business establishments move to the country, new problems develop.

Farmers object to the tax assessments based on speculative land values; they complain about being taxed to death to pay for new school

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houses, school buses, and additional teachers to accommodate the children of the nonfarm population. Individuals who own land not suited to lotting out complain because the developments taking place cause their property to deteriorate in value. Traffic hazards develop. Sewage and garbage disposal become matters of growing concern. Home owners object to the opening of junk yards across the highways. A mother does not want a tavern built near her home.

In this kind of situation, an individual who operates alone is practically helpless. If he does not want to live across the road from the proposed junk yard, he can either "outbid" the other fellow for the land (which he does not want) or sell out (often at a loss) and move. Neither of these is a satisfactory alternative.

Consequently, if problems of this kind are to be solved, they must be solved through public rather than private action. Furthermore, because these problems are primarily of local concern, they must be solved by the local public itself.

What Is Zoning?

Zoning is an alternative method a community can use to exercise control over the use of land and property to promote the general welfare.

Land uses and activities that conflict are kept apart by the enactment of local laws called zoning ordinances which:

1. Divide the community into suitable districts or zones for agriculture, residences, business, forestry, recreation, etc.

2. Apply appropriate use, building-height, and building-tract or lot regulations within each district.

Other methods (which are not discussed further in this paper) that can be used to exercise control over the use of land and property to promote the general welfare are subdivision control ordinances, sanitary ordinances, and building codes. These are not complete alternatives to zoning. Each complements or supplements the others, including zoning.

What Kinds of Restrictions or Regulations Can be Imposed?

The kinds of regulations and restrictions that can be imposed have definite limitations. As these regulations and restrictions are self-imposed, we perhaps do not need to state that above all else they must meet public acceptance in order to be adopted. Furthermore, to stand up in the courts these restrictions and regulations must be:

1. In the interests of the health, morals, safety, convenience, and the well-being of people.
2. Within the limits of authority delegated to the local governmental unit by the state.
3. "Reasonable."
4. Adopted in a manner prescribed by law, which usually insures that the action taken is not hasty but is careful and considered.

Is Zoning a New Idea?

Zoning is not a new idea. Cities and towns have long used zoning to guide industrial, residential, and business development within and adjacent to their borders. But the use of zoning in rural areas is of comparatively recent origin, and is not yet as widespread. Police power restrictions similar to zoning regulations have been imposed in this country and in Europe for a number of years.

Zoning had its beginning in this country in the small colonial settlements along the Atlantic Coast long before the Declaration of Independence was signed. In those early days, land-use regulations were employed to restrict the location of powder mills and storehouses to the outer edges of settlements. These public safety measures were adopted because of the hazards of frequent explosions and fires at the powder mills.

Comprehensive zoning, as we think of it today, had its beginning with New York City's enactment of a zoning ordinance in 1916. By 1950, nearly 13,000 cities and towns had adopted zoning ordinances. By 1953, about 60 percent of the cities of the United States with a population of 10,000 or more had been zoned.

Wisconsin was one of the early leaders in rural zoning. In 1929, the Wisconsin County Zoning Enabling Act was amended to permit counties to determine and regulate the areas within which agriculture, forestry, and recreation could be conducted. Today, zoning ordinances are in effect in 41 Wisconsin counties.

Between the 1930's and 1940's, states began to extend the power to zone to townships and counties. This power has now been so extended in all except a handful of states. In a few instances, this power is limited to special areas, i.e., lands close to military establishments and industrial areas.

Are Planning and Zoning Synonymous?

Because planning and zoning are so closely interrelated, the terms are often used interchangeably, but a clear distinction needs to be made between them.

Zoning is one of the tools a community may use to implement its land-use and development plan. Hence, some degree of planning must precede zoning. Planning involves: (1) a careful "stock-taking" of a community's human and physical resources, (2) analyzing its present and potential possibilities for development, and (3) establishing goals to be attained at some future date.

Stated in another way, planning creates the blueprint for the future development of the community. Zoning puts the plan into effect and gives it force and meaning. Zoning puts the power of local—town, city, township, county—government behind the plan.

Where Does Zoning Fit?

Zoning is not a panacea for all the ills of a community. Because zoning looks to the future, it cannot be used to correct past mistakes. It is a means of promoting sound development of all resources for their highest use. Zoning may be used to further the public interest only. It can never be used to confer special advantages or gain on favored individuals. Such use of zoning would be voided by the courts.

Who Does It?

Zoning ordinances are local laws that are adopted by the local people themselves, either directly at special zoning elections, or indirectly by the legislative body of the community. The enacting procedure to be followed is set forth in the same state enabling act that granted zoning powers.

Most of our states have placed the formal power to pass local zoning regulations with the elected agents of the people, the legislative bodies of local units of government. In cities, towns, and villages this body is usually the council; in counties it is the county board, whatever its more formal name may be; in towns, it is more often the town board. But in a few states, town zoning ordinances must be approved by the citizens assembled in town meetings. In several other states, proposed county or township zoning ordinances must be referred to the people for a vote. Rural zoning must be both understood and wanted by the people of the community if it is to succeed.

What Have Planning and Zoning Accomplished?

Zoning has provided many communities a firm foundation for effective development of all resources. Depending upon the kinds of problems faced by communities some of the benefits realized from zoning have been expressed in various ways:

1. Promoted economy in local governmental expenditures.

2. Reduced the cost of providing essential public services, including school bus transportation, rural mail delivery, roads, telephone and power lines, water supply, sewage disposal, and other community services.

3. Provided assurance that investments in farms, homes, and businesses will not be jeopardized by the intermingling of conflicting land uses and activities.

4. Prevented individuals from wasting time, money, and energy in trying to make a living farming on land unsuited to agriculture.

5. Helped keep productive farming areas in agriculture until needed for other uses.

6. Reserved the more fertile land areas for farming purposes.

7. Prevented the development of residences in areas unsuited to residential development.

8. Prevented haphazard suburban growth.

9. Facilitated an attractive and harmonious arrangement of homes, buildings, factories, parks, community facilities, and the like.

10. Helped to make communities better places in which to live, work, and play.

11. Provided convenient and suitable sites for industries that serve agriculture and protected the economic base of the urban economy founded on agriculture.

12. Made communities more attractive to industry looking for places to expand.

13. Preserved and protected areas of natural and scenic beauty.

14. Prevented agricultural areas from becoming dumping grounds for land uses not wanted elsewhere.

15. Promoted safety in several ways.

16. Lessened traffic congestion.

17. Stabilized property values and the tax base.

18. Prevented an unfair shifting of construction and service costs to farmer taxpayers where new residential subdivisions were being created.

When Ought a Community Zone?

This is a matter of judgment. Perhaps it should never zone. It all depends upon past and probable future development and upon the values of the people.

Traditionally, farm people place a high value on individual freedom. Zoning restricts individual freedom and sometimes inflicts substantial losses, on a few individuals. Usually, people are reluctant to exercise social control over the use of private property until: (1) they have had a number of unpleasant or costly local experiences and (2) prospects for the future indicate a repetition of the same or similar experiences.

Concern begins to develop when a number of people become aroused to a point where such expressions as the following are frequently heard:

"There ought to be a law to prevent those junk yards from setting up business anywhere they please."

"There ought to be some way to control the number of house trailers parked in our school district from which we get no taxes."

"It would be cheaper to buy out those isolated families than it is to fix up the bridges, maintain the roads, and haul their children to school."

"There ought to be some way to prevent people from emptying septic tank effluent into roadside ditches."

"Something ought to be done to keep those 'subdividers' from taking the community for a ride."

When things reach this stage, the county agent will no doubt have heard all about it, and the local leaders will have gone to him for help.

What Role Ought the County Agent Play?

The county agent has several choices. Among them, he can:

1. Pass, by refusing to become involved because zoning is controversial.
2. Refer the questions to professional planners.
3. Espouse a cause by taking a position either for or against and use his influence toward that end.
4. Do what he can (with the help of extension specialists and other resources) to help enlarge the knowledge and understanding of the people in his county with respect to what zoning

involves and how it can be brought about so that the public will have a broader base for decision making.

Should the county agent elect alternative 4, he has an opportunity to organize the kind of teaching situation that he believes is likely to be most effective. In so doing, he should recognize among other things that the public is not likely to adopt or support the administration and enforcement of a zoning ordinance until they: (1) know and understand what zoning is all about and realize that it is a means of putting a plan into effect, that it has legal authority; (2) decide that zoning provides a better means of helping attain the goals desired than do other alternative means; (3) feel that the particular ordinance under consideration (with its use districts and regulations) is sound; and (4) see that the cost of administration of such an ordinance is well within their means.

Furthermore, the larger the number of individuals actively involved in the development of the land-use plan and the zoning regulations, the greater will be the understanding and the degree of acceptability.

Once a Zoning Ordinance Is Adopted, How Often Should It be Revised?

Zoning is dynamic, not static. For this reason, zoning ordinances need to be re-examined and revised periodically. Often, compromises must be made to get an ordinance enacted. Subsequent experience often demonstrates the need for change. The zoning plan needs to be flexible. Amendments can be made as new enabling legislation changes the methods, procedure, and scope, as new facts become available, and as new growth and development demand.

Amendments may be needed in the number and types of zoning districts, in the district boundaries, and in the regulations within districts. The steps to be followed in amending an ordinance will be found in the zoning enabling act.

Zoning looks to the future. No one knows exactly what the future will bring. But we know some of the basic requirements of agriculture, forestry, recreation, industry, and business. Although the farm population is declining, we know that in many places the rural nonfarm population is increasing rapidly. These rural nonfarm people live on the urban fringe, in unincorporated villages and scattered over the open country among farms. These are the people who live in places with the fastest growth and, unfortunately, with the smallest amount of community planning and zoning guidance. The strictly agricultural areas removed from industrial areas with declining population may need zoning guidance as much as the areas that are rapidly growing in population.

Planning Needs to be Related to Area Possibilities

Not only do counties, townships, and cities have development plans, but the State Highway Department, State Water Resources Commission, State Conservation Departments, and other state agencies have long-range development plans which involve extensive land development throughout the state.

Each county or township planning and zoning committee should have the responsibility of attempting to determine in advance the plans of state agencies for development work that involve its locality. Likewise, committees of neighboring counties and townships should meet together to coordinate planning activities.

What Is an Enabling Act?

Local governmental units are creatures of the state. They have only those powers that are granted to them by the state legislature. These powers can be expanded or withdrawn at the will of the legislature. Certain duties and functions of local government are mandated, others are permissive. The power to zone is permissive. These powers vary widely throughout the nation. Zoning ordinances find their justification in some aspects of the police power asserted for the public welfare.

The use of police power, of which rural zoning is an aspect, should be distinguished from the right of eminent domain. In the exercise of the right of eminent domain, private property is taken for public use and an owner is entitled to compensation therefor. Police power, however, is usually exerted merely to regulate the use and enjoyment of property by the owner, who is not entitled to compensation for any injury he may sustain in consequence thereof.

The distinction between the power to zone and the power to suppress nuisances should be kept in mind also.

Where Can You Get Zoning Help?

Additional information on planning and zoning may be obtained from a number of sources. Nearest home are the planning and zoning agencies in most cities and in many towns, villages, counties, and townships. Some states have planning boards, development organizations, and similar agencies that may be helpful. Colleges and universities in some states may be sources of information and aid. A professional organization in the planning and zoning field is the American Society of Planning Officials, 1313 East 60th Street, Chicago 37, Illinois.

Publications That May be Helpful

"County Zoning in Illinois," Publication 109, Illinois Legislative Council, Springfield, Illinois, April 1952.

"Farm Land Disappears," September 1953, and "Agricultural Zoning Makes Sense," September 1954, Agricultural Extension Service, University of California, Berkeley, California.

"Giving Direction to Community Developments," Research Cir. 62, Ohio Agricultural Experiment Station, Wooster, Ohio, January 1959.

"How to Make Rural Zoning Ordinances More Effective," Cir. 546, Agricultural Extension Service, University of Wisconsin, Madison, Wisconsin, April 1957.

"The Ins and Outs of Planning," State Planning Section, New Jersey Department of Conservation and Economic Development, 520 East State Street, Trenton, New Jersey, 1952.

"Principles of Industrial Zoning," National Industrial Zoning Committee, 820 Huntington Bank Building, Columbus 15, Ohio, August 1951.

"Rural Zoning in the United States," Agr. Information Bul. 59, U. S. Department of Agriculture, Washington, D.C., January 1952.

"The Why and How of Rural Zoning," Agr. Information Bul. 196, U. S. Dept. of Agriculture, Washington, D. C., December 1958.

"Your Community and Township Zoning," Cir. Bul. 184, Michigan Agricultural Experiment Station, East Lansing, Michigan, February 1945.

"Zoning and Civic Development," Chamber of Commerce of the United States, Washington 6, D. C., January 1950.

"Zoning in New York State," A Guide to the Preparation of Zoning Ordinances, Department of Commerce, State of New York, 112 State Street, Albany 7, New York, 1958.

Reprints from 1958 U. S. Department of Agriculture Yearbook:

1. "Urban Expansion—Will It Ever Stop?" pp. 503-22.
2. "Planning and Zoning for the Future," pp. 524-31.
3. "Safe, Efficient, and Attractive Highways," pp. 537-41.
4. "Planning for the New Land Frontier," pp. 568-83.

A maximum of 20 copies of these four articles can be obtained by writing to: Correspondence and Publication Distribution, Agricultural Research Service, U. S. Department of Agriculture, Washington 25, D. C.