



ZONING HISTORY

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ZONING ENFORCEMENT OFFICIALS CERTIFICATION PROGRAM

I. SEPARATION OF USES

A. Nuisance Doctrine

1. Since mid thirteenth century
2. Use of property so as not to injure another's property

B. Medieval Times

1. Prohibited certain uses within Town walls

C. Napoleon Bonaparte - 1810

1. issued decrees regarding location of industries

D. Reinhard Baumeister and Franz Adickes

1. Germans who developed modern zoning principles
2. 1875 – setbacks, separation of uses, building height
3. Industrial Revolution – more noxious uses
4. Urban Centers – greater concentration of people

II. BUILDING CONSTRUCTION AND OTHER REGULATIONS (NOT ZONING)

A. New York Tenement Act - 1867

1. First Housing Control Ordinance
2. Minimum Standards
3. One bathroom per building

B. Expanded 'Tenement Act' - 1879

1. Health related standards required access to air and windows to center shafts
2. Dumbbell Plan for new tenements
3. Window opening of at least one square meter in each room
4. Required two toilets per floor accessible from common hall
5. 17 cubic meters of air per occupant (610 cubic feet)
6. 65% maximum land coverage
7. 20 foot wide lots were standard

C. Building Construction Legislation - 1901

1. New York City Codes and Requirements
2. Required permits for construction, alterations, and conversion

3. Inspection upon completion (not during construction)
4. Penalties for non-compliance
5. Established permanent tenement housing department to administer and enforce law
6. Required construction on two lots (40' minimum width)
7. Required wide light and air courts between structures
8. Required toilet and running water in each apartment

D. Welch vs. Swasey - 1909

1. U.S. Supreme Court Decision
2. Massachusetts Legislature authorized Boston to regulate private development in 1891
3. Limit on building height
4. Limit types of uses
5. Vary height requirements by district

NONE OF THESE WERE 'ZONING' REGULATIONS

III. EARLY ZONING REGULATIONS

A. Los Angeles - 1909

1. First use of zoning to control future urban development
2. Series of ordinances adopted 1909-1915
3. Established residential and industrial zones
4. Originally used to protect existing development patterns
5. Laundries and similar uses excluded from residential areas
6. Brick factories excluded from some industrial zones

B. NYC Zoning - 1916

1. First comprehensive zoning code adopted as unit
2. New York State Legislature granted authorization 1914
3. Building zone resolution of 1916 established three zones - residential, business, and unrestricted zone
4. Primarily protected existing land use patterns and residential neighborhoods
5. Supported by previous court cases

C. Standard State Zoning Enabling Act - 1922

1. Result of Hoover Commission
2. From U.S. Department of Commerce
3. Established legislative adoption process
4. Establish Zoning Commission, Zoning Board of Appeals, Notice requirements, change procedures, and appeal procedures
5. Prior to adoption, only 20 states and 50 municipalities had zoning.
6. Used by almost all states since with many changes and adaptations
7. By 1926, 48 states adopted enabling acts.

8. Similar Planning Act adopted in 1927
9. Zoning not necessarily related to a plan

D. Euclid v. Ambler Realty - 1926

1. Establishment of "Euclidean" Zoning
2. Ohio, 68 acres in six use zones, 3 height zones, 4 area zones,
3. U.S. Supreme Court upheld constitutionality of comprehensive zoning and establishment of zoning districts
4. Protection of public health, safety, welfare and morals
5. valid use of police power to restrict owner's use of property without compensation because it was not (a complete) condemnation

IV. ZONING IN THE 50's, 60's, and 70's

A. Performance Zoning - 1950's

1. Test each proposal of land use for its direct and indirect effect on:
 - a. Adjacent land uses
 - b. Government Services
 - c. Community growth
2. Could locate any use on any site in any zone as long as use met adequate performance standards.
3. Standards sometimes vague, illusive criteria

B. NYC Code - 1961

1. Had previously established more flexible controls such as floor area ratio and lot coverage
2. Replaced New York Zoning Code of 1916
3. Established room density device (site area/room)
4. Incentive bonus for providing plazas, arcades, and pedestrian walkways
5. Flexible building setback
6. Development control by open space ratio

C. Planned Unit Developments (PUD)

1. Late 1960's
2. Allowed waiver of normal development controls when there is special approval of project, (usually by legislative body) as well as Zoning Commission
3. politicized the zoning process
4. Allowed mixed use developments
5. Greater up front costs for developer (land acquisition, engineering, permits, etc.)
6. Use performance standards to evaluate proposal such as land use intensity scale (devised by Federal Housing Administration):
 - a. Number of units
 - b. Total floor area
 - c. Amount of recreation area
 - d. Number of parking spaces
 - derived from land quantity and useability

D. Performance Standards - 1970's

1. More precise standards
2. Used to evaluate special uses and projects

E. Growth Controls

1. 1974 Golden vs. Planning Board of Ramapo, New York
Issuances of Development Permit based on meeting
preset standards on a point system:
 - a. Utilities
 - b. Drainage
 - c. Parks
 - d. Road Access
 - e. Fire Houses
2. 1975 Petuluma, California
Maximum number of permits per year allocated to sectors of the city
and issued on a rating system based on:
 - a. Availability of public services
 - b. Quality of design and construction
3. Legal if there are specific reasons
4. Must be related to a reasonably implementable plan

V. PURPOSES, CONCEPTS AND CONTROL ELEMENTS

A. Purposes and Concepts

- Authorizes Zoning*
1. 8-2 of the Connecticut General Statutes, protect public health, safety, convenience and property values
 2. Lessen congestion in streets
 3. Secure safety from fire, panic, flood, etc.
 4. Promote health and general welfare
 5. Provide adequate light and air
 6. Prevent over crowding of land
 7. Avoid undue concentration of population
 8. Facilitate adequate provision for transportation, water, sewage, streets, parks, and other public requirements
 9. Protect historic factors
 10. Protect existing and potential surface and ground drinking water
 11. Provide for sediment and erosion control
Public Act 83-388 requires sed/erosion plan since July 1, 1985
 12. Encourage energy efficient development
 13. Encourage use of solar and other renewable forms of energy
 14. Encourage energy conservation
 15. Encourage affordable housing
 16. Allows and encourages water dependent uses where appropriate

B. Control Elements

1. Connecticut General Statutes Section 8-2
2. Height of buildings and other structures
3. Number of stories of buildings and other structures
4. Size of buildings and other structures
5. Size of yards, courts, and other open spaces
6. Percentage of the area of the lot that may be occupied
7. Density of population (in areas of city not individual lots)

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8. Location and use of buildings, structures, and land for:
 - a. Industry
 - b. Residence
 - c. Other purposes
 9. Height, size, and location of advertising signs and billboards (not content)
 10. Divide the municipality in to districts:
 - a. Regulate erection, construction, reconstruction, alteration or use of buildings or structures
 - b. Regulate use of land
 - c. Uniform for each class or kind of building or structure in each district
 - d. Uniform for each use of land in each district
 11. Allow certain uses by special exception or permit:
 1. Subject to standards and regulations
 2. Subject to conditions necessary to protect Public health, safety, convenience, and property values
 12. In accordance with comprehensive plan (Official Map, Master Plan, Plan of Development, Subdivision Regulations, Tax Incentives, Zoning Regulations)
 - 13 Allow for clustering and transferring of development rights
- ALL MUST BE REASONABLY AND DIRECTLY RELATED TO PUBLIC HEALTH, SAFETY AND WELFARE TO BE VALID

VI. INNOVATIVE TECHNIQUES

A. Exclusionary Zoning

1. Suspect class or category of persons
2. Used to "protect" neighborhoods
3. Unconstitutional

B. Inclusionary Zoning

1. Encourages developers to provide affordable housing in larger residential developments
2. Reliance on flexible, voluntary measures
3. Provides affordable housing without public cost
4. Allows balanced distribution of housing types
5. Traditional Inclusionary Zoning: variances; Special Permit; Site specific Zoning

C. Conditional Zoning

1. Amend Regulations or Map *NOT Allowed in CT* conditioned on a landowner performing a certain act prior to, simultaneous with, or after passage of the amendment
2. In Connecticut only by special exception (not rezoning)

D. Contract Zoning

1. Owner provides consideration to local government in form of an enforceable promise to develop property in a certain manner in return for a zoning amendment *NOT Allowed in CT*
2. Unilateral act of government in return for a promise
3. Enactment of amendment in return for some physical development on property
4. A requirement of dedication of land as condition precedent to favorable consideration of requested amendment
5. Requires owners to execute and record restrictive covenant prior to, or simultaneous with, enactment of amendment
6. Not authorized in Connecticut except possibly for affordable housing

E. Floating Zones

1. Flexible technique featuring a district not specifically located on the Zoning Map, but described in text of ordinance
2. Approved and useable in Connecticut
3. Not spot zoning because local approval of floating zone based on certain standards provided in zoning ordinance
4. Floating Zone and Special Permit process used for Inclusionary Zoning

F. P.U.D. (Planned Unit Development)

1. Chapter 125 or Section 8-13 b through 1 of the Connecticut General Statutes was repealed
2. Adopted by local legislative body and Zoning Commission
3. Flexible technique permitting development as comprehensive unit
4. Greater flexibility in siting of buildings, mixing of housing types and other uses, arrangement of open space, preservation of natural features
5. Disadvantages - higher front end cost for land assembly, design, longer processing time, allows more negotiation of expensive concessions

G. Incentive Zoning

1. Form of performance zoning
2. Government offers economic incentive and relaxes Zoning restriction - PA 88-338 - density bonus

H. Affordable Housing per Section 8 – 30g of CGS

Can
exempt
certain
Industrial
Areas

1. To promote and encourage private construction of affordable housing
2. 30% of units deed restricted for 40 years, (15% at 60% of median income)
3. after decision can submit modification / amendment
4. on appeal to court, burden of proof shifted to Commission
5. evidence in record, necessary to protect public health, safety or other matters
which the Commission may legally consider
6. public interests clearly outweigh need for affordable housing
7. affordability plan – responsible person, affirmative marketing, sample calculations, sequence of const., offering, occupancy of affordable units,
draft deed restrictions
8. does not supersede inland wetlands, flood damage regs, health code, traffic safety ordinances, etc.

I. Solar Energy Considerations

1. Connecticut General Statutes Sections 8-2 and 8-25:
 - a. Active Solar System - energy accumulated in collection unit, transferred by air, water or other fluid to point of use or storage
 - b. Passive Solar System - energy system with collector and thermal storage components, integrated into building design and requiring no transport medium and usually being an essential architectural component of building
 - c. Solar Access - unobstructed sunlight required by solar collector for efficient operation, solar skyspace or solar window- sun path – Dec 21 and Jun 21, 9-3
 - d. Barriers to use of solar energy (legal):
 1. Lot Size - too small to allow proper orientation
 2. Maximum Ground Coverage if collectors are ground mounted
 3. Setback Requirements
 4. Maximum Coverage of rear yard by accessory structure
 5. Projections into required setbacks
 6. Building height
 7. Non-conforming buildings and lots
 8. Accessory use structures and height limitations
 9. Performance standards for lighting and glare
 10. Fence height
 11. Excessive minimum floor area requirements
 12. Earth Sheltered Housing - use of basement as liveable floor area
 13. Greenhouses and enclosed porches not counted as habitable floor area
 14. Steep sloped development regulations
 - e. Barriers to use of solar energy (institutional):
 1. Planning Commission - building orientation, lot orientation, street orientation, open space dedication, design of terrain and trees, density considerations, street grade requirements, pitch of roof, standards for solar access in site plan, use or solar hot water system

2. Zoning Commission Special Permit process for residential development
3. Historic Commission - general opposition as not "appropriate"
4. Inland Wetlands Commission - protection of water bodies from thermal or toxic pollution, protect wetland trees from being cut
5. Town Sanitarian - Septic Tank Regulations, collecting water from panels, water well regulations, distance spacing between facilities
6. Building Official - State Code requiring full backup system, complexity of code leads to much local interpretation

J. Cluster/Conservation Zoning

1. Subdivision Developments
2. Density remains constant
3. Smaller individual lots within development
4. Extra land is left as open space
5. Lower road/utility/maintenance costs

K. Transfer of Development Rights

1. Now specifically authorized by legislature okay in Connecticut
2. Preservation of farm land/open space
3. Concentrate development where desired
4. Complexity is a common deterrent

L. Special Districts

1. For hospitals, universities, flood plains, etc.
2. Overlay District
3. Village district, Section 8-2j of CGS
To be established by Zoning Commission as part of Zoning Regs.
Design and placement of buildings, paving materials, roadways, plantings, signs, street hardware and other objects in public view from public roadways
Must establish criteria, standards to preserve and/or enhance historic or distinctive character of the district
4. Adult Entertainment Zone

