

Make Zoning Make Sense: Three Tools for Clarity & Prosperity



SUMMARY

Utah residents are presented with a daunting task when attempting to understand which zoning regulations apply to their properties. Questions like, “What can I build and do on my property?” become difficult to answer as they require navigating complex codes with dozens of zones, subzones, and overlays.

Local officials and staff charged with updating ordinances and conducting public meetings likewise suffer from zoning regulations with low intelligibility and an excess of districts.

It doesn’t have to be this way. By considering and acting on the ideas presented in this toolkit, local officials can deliver much needed clarity for residents, expand property rights, and empower residents to preserve their neighborhoods.

For example, this toolkit explores different approaches to zoning changes, the benefits of reducing the number of zoning districts, and the clarity achieved by creating user-friendly zoning documents.

Simpler, user-friendly zoning regulations can reduce uncertainty, giving residents more clarity and the ability to better participate in local land-use decisions

The first encounter with a zoning ordinance can be an eye-opening experience. Going beyond describing that factories or large commercial businesses are not allowed in the middle of neighborhoods, zoning codes contain a striking level of regulatory detail that goes on for hundreds of pages.

Resembling a legalistic HOA contract, many zoning codes outline in granular detail requirements for home size, front yard size, landscaping, and much more. When there are dozens of zones, each with their own lengthy regulations, the sheer amount of information and complexity skyrockets.

For example, it would take hours to figure out that zone “A” lets someone build a small backyard cottage for their granny to live in, zone “B” requires cottages be attached to a house, and that zone “C” bans such cottages altogether.

Further complicating zoning codes are the extensive use of abbreviations and jargon. Phrases like “conditional use” and “overlay zone” might mean something after a short lesson, but good luck trying to have a constructive conversation about a zoning decision when there are twenty plus zones with their own abbreviations.

Together, these factors make the zoning code almost invisible to most residents, resulting in a regulatory fog that makes it difficult for residents, officials, and staff to understand and use.

How Did We Get Here?

Having roots in California and New York City in the 1910s, the concept of zoning came to Utah and spread across America in the 1920s as states passed laws that gave cities and counties the authority to zone.

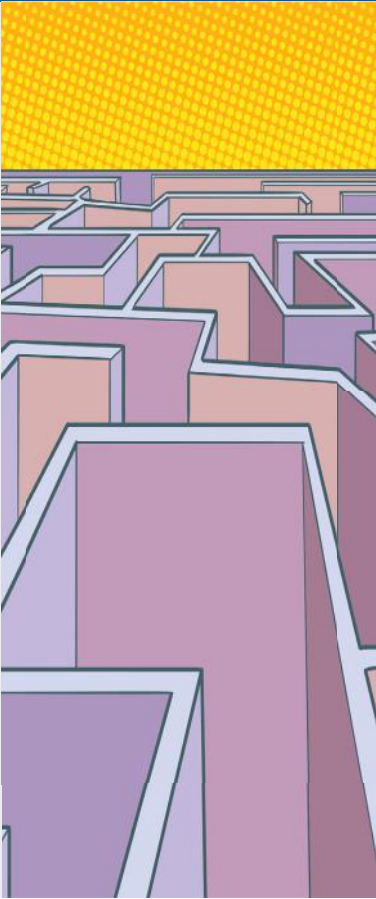
The adoption of zoning was fairly rapid, but many cities and counties resisted zoning for many decades. The reason? Mostly out of a desire to let residents decide for themselves what they could build and do on their property.

In fact, some jurisdictions continue to reject zoning to this day, mostly in smaller counties and towns scattered across the United States, but also in Houston, Texas — America’s fourth largest city.

Today, many zoning codes commonly feature an accumulation of regulation spanning decades or were otherwise not built with simplicity or user-friendliness as a goal.



Zoning can be complex, but it does not have to be as complex as it is.



The Case for Simpler Zoning

Public participation works best when everyone understands the basic laws, policies, and jargon they will hear at a public meeting.

Better For Residents, Better For Officials

- Residents can shop for property and easily understand what zoning district the property is in and what ramifications that has.
- Those charged with administering and changing our laws need a system they understand.
- A simpler, streamlined zoning code can help residents understand some of the core ideas behind the complexities of zoning.

Opinions will differ about what a property owner has the right to build, but few will disagree we could use zoning regulations we can all more readily understand.

Houston, We Have a Problem

The city of Houston, Texas — with its lack of zoning — is an interesting case study for the concept of simpler zoning. While Houston does have basic land use restrictions, zoning doesn't get much simpler than having zero districts.

In the absence of zoning districts, Houston's development has been driven by market forces and property owners' choices. As a result, city officials and staff can focus their time and energy elsewhere. Houston also features homes the middle class can afford, despite its high growth and strong economy.

Houston also does something else unique and worth considering. It empowers its residents to sidestep potential changes to their neighborhood through two mechanisms:

1. When residents come together and create private agreements to limit some kinds of construction, the city will enforce certain restrictions.
2. The city created and maintains a program that allows neighborhoods to opt out of changes to land use restrictions.

What we see in the Houston example is a system that simultaneously expands property rights and empowers residents to preserve their neighborhoods.

As you will see in the following pages, it's possible to accomplish some of the benefits of the Houston model without the need to eliminate the concepts of zoning districts altogether.

A Toolkit to Solve Local Issues

The following pages introduce three different toolkit items, each designed to address issues with zoning regulations. Rather than being a prescriptive set of policies, the toolkit is designed to enable residents, and their representatives on city councils, to consider the benefits of fewer zoning districts and a user-friendly set of zoning documents.

By streamlining zoning, residents and city councils can address important issues such as ways to attract higher paying jobs to their city and the best approach to address the housing shortage. Furthermore, there may be new and innovative business types that are prohibited in the city, simply because the business type didn't exist the last time the zoning code was updated.

Tool #1 : Streamlined Zoning Districts

This image shows how a big city could streamline its zoning to provide residents clarity, expand property rights, and empower residents to preserve their neighborhood. Streamlined Zoning suggests four to seven zoning districts, each with suggested uses, but its true value lies in its serving as a guiding framework with inherent adaptability.



Supplemental Zones

OPT-IN PRIVATE ZONING

- Private, micro-neighborhood agreements between property owners
- Standardized agreement provided by city
- Two-thirds supermajority required to implement
- Allows opting out of new zoning standards for 10, 20, or 30 years
- Available provisions may include exclusively single-family homes on large lots, no ADUs, and restrictions on land subdivision

AGRICULTURAL ZONE

- Maximum freedom would encourage and allow agriculture in all zones. However, some jurisdictions may have reasons to provide agriculture its own, separate zone

SPECIAL PURPOSE ZONE

- Parks, hillsides, floodplains or similar areas
- Can be accommodated by a single zone designation with flexibility surrounding specific application

Dos and Don'ts of Zoning Changes

DOs



PROVIDE FLEXIBILITY TO CURRENT & ASPIRING HOMEOWNERS

Zoning is not just complicated. It also strictly defines property owner's freedoms. Our recommendation is to examine current zoning regulations and consider expanding the rights of property owners by adjusting details like minimum lot sizes and backyard cottage restrictions. These sorts of adjustments provide more individual freedom and can help keep skyrocketing housing prices under control.



ALLOW NEIGHBORHOODS TO OPT-OUT OF ZONING CHANGES

Residents adamant about preserving the status quo of their neighborhoods and anxious about change need a more powerful tool than traditional zoning and the ability to opt out entirely. This is why we suggest an innovation we call "Opt-in Private Zoning." Using a standardized agreement provided by the city, property owners can create micro-zones with provisions the neighborhood chooses, such as customized minimum lot sizes, exclusion of some ADUs, and restrictions on land subdivision.



PROVIDE CLARITY & TRANSPARENCY BY STREAMLINING REGULATIONS

Residents deserve to understand what they can and can't do on their property and those charged with administering and changing land use policy need a system they can understand. By reducing the number of zoning districts, cleaning up definitions, and creating more user-friendly zoning documents, everyone can better understand local land use regulations. In turn, public participation can improve because more can understand the basic laws, policies, and jargon they will hear at a public hearing.

DON'Ts



DON'T RELY ON FORM-BASED CODES & INCENTIVE ZONING

Implementing form-based codes and/or incentive zoning may not be the most ideal approach due to their inherent complexities and high risk of simply adding more diagrams and provisions to an already convoluted code. Experience has shown efforts to implement form-based and/or incentive zoning rarely achieve outcomes beyond helping new, taller mixed-use apartments look a specific way and feature additional units.



DON'T IGNORE LEGITIMATE PARKING CONCERNS

Developers should be required to build enough parking to prevent any tenants from permanently monopolizing the street parking of adjacent properties. Accordingly, we suggest an innovation we call a "Parking Reduction Agreement." Using an agreement provided by the city, developers can choose between standard parking requirements or a customized option that assures tenants don't monopolize the street parking of nearby areas.



DON'T RELY ON PIECEMEAL REZONES

When every tiny project is subjected to a lengthy rezone or Planned Unit Development process, the cost of the homes built increase as a result. Residents, self-builders, and developers alike will appreciate the time and stress reductions provided by a proper zoning designation and predictable administrative approval process.

Tool #2 : A Roadmap For Zoning Changes

Whether it's reducing the number of zoning districts or creating new user-friendly zoning documents for existing zones, a thoughtful process of input and review is required. The following is a broad overview of suggested steps.

1

CONSIDER & COMPARE

Compare ideas provided by staff and members of the public; decide which are best.
Lead: City Council.

Key Stakeholders: Local elected officials, senior planning and zoning staff, groups such as the chamber of commerce, community groups, and builders.

2

SUMMARIZE

Using the Neighborhood Zone Summary Sheet as a template, create a summary sheet for each district.

Lead: Planning and zoning staff.

Key stakeholders: City Council, planning/zoning staff leadership.

3

CREATE DESCRIPTIONS

Using the Small Lot and Cottage Court Land Use Description sheets as a template, create Land Use Description Sheets for the most common uses.

Lead: Planning and zoning staff.

Key stakeholders: City Council, planning/zoning staff leadership.



With roots in California
City in the 1910s, zoning
and spread across A

4

ASSIGN LAND USES

Preliminarily assign each land use to each district.

Lead: Planning and zoning staff.

Key stakeholders: City Council, planning/zoning staff leadership

5

GATHER FEEDBACK

Take preliminary zoning changes to the public for their feedback.

Lead: Planning and public-information staff, ideally featuring members of the City Council.

Key stakeholders: City Council, planning/zoning staff leadership.

6

CREATE CLEAR, UNAMBIGUOUS DEFINITIONS

Create clear definitions for all words on each sheet.

Lead: Planning and zoning staff.

Key stakeholders: City Council, planning/zoning staff leadership.

7

HARMONIZE WITH OTHER CITY ORDINANCES

Harmonize these definitions with other city ordinances.

Lead: City management in conjunction with planning/zoning staff.

Key stakeholders: City Council, city management.



California and New York
zoning came to Utah
America in the 1920s.

Tool #3 : User-Friendly Documents

Creating a set of simpler, user-friendly zoning documents is one of the most powerful ways to make zoning make sense. By utilizing our sample Description Sheets provided below and on the following pages, staff and the public will have greater clarity and fewer gray areas to interpret.



NEIGHBORHOOD ZONING DISTRICT ZONING DESCRIPTION SHEET

According to Section _____ of the Zoning Ordinance, the purpose and intent of the Neighborhood Zoning District is as follows:

“The Neighborhood Zoning District is intended to provide for areas of dwellings, structures, and uses compatible with an area consisting primarily of detached homes on individual lots with private yards.”

Permitted Uses - Authorized After Submitting Land Use Application and Compliance Review by Staff

Residential

Detached Homes on Large, Medium, and Small Lots
Detached Homes on Clustered, “Cottage Court” Lots
Accessory Dwelling Units, Internal & Detached

Agricultural

Agricultural, Cropping
Artificial Lake

Business

Home-based Business (see section _____)
Day Care Facility, Non Home-based
Bed & Breakfast
Country Club or Golf Course
Lodge or Private Club

Public and Quasi-Public

Elementary, Junior High, or High School
Park
Church, Temple, or Mosque
Library, Museum, or Gallery

**New and/or innovative uses not listed here or in section _____ and not expressly forbidden in the zone may submit an Application for New Land Use. Approval is based primarily upon meeting nuisance and vehicle traffic thresholds outlined in section _____.*

Something as simple as presenting complex zoning codes in a user-friendly way ...

... can unlock more dynamic and economically vibrant neighborhoods and communities

TOOL #3: USER-FRIENDLY DOCUMENTS

Sample Land Use Description Sheet

YOUR
SEAL/LOGO
HERE

DETACHED HOMES ON SMALL LOTS LAND USE DESCRIPTION SHEET

According to Section _____ of the Zoning Ordinance, the purpose and intent of the following land use in the Neighborhood Zoning District as a permitted use is as follows:

"The *Detached Homes on Small Lots* land use is intended to provide for residents to own and live in homes on lots of 1/8 acre or greater."

Site Development Standards

Minimum Lot (Parcel) Size
1/8 Acre (0.125) | 5,445 sq. ft.

Minimum Lot Width
30'

Dwelling Units per Acre
8

Minimum Setbacks (Dwellings)
Front & Street Side Yard = 10 ft.
Interior Side Yard = 3 ft.
Rear Yard = 3 ft.

Maximum Lot Coverage

The total area (footprint) of all structures on a lot.

60%

Minimum Street Frontage

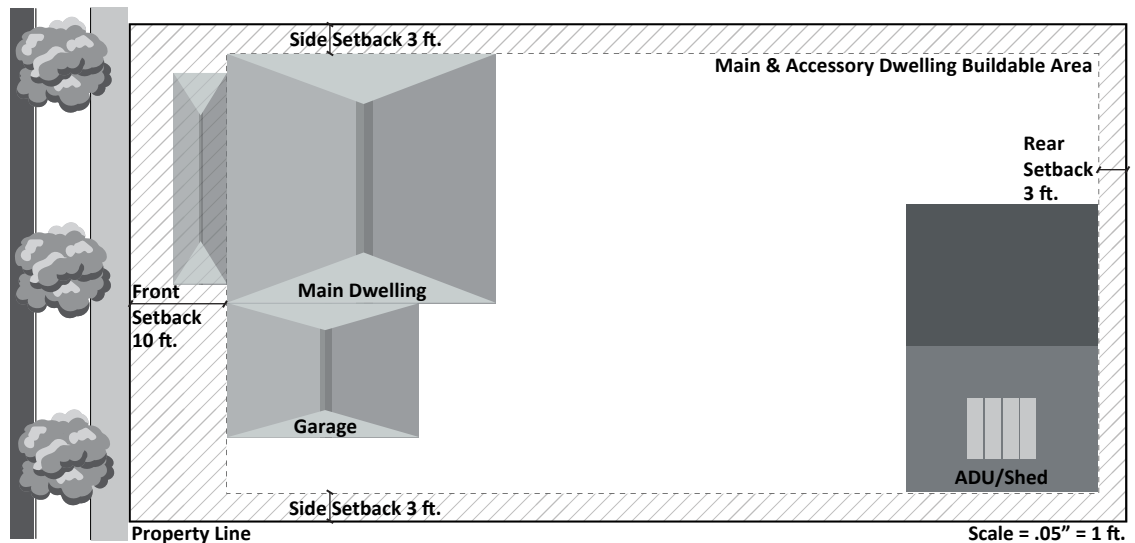
10 ft. (with exceptions)²

Maximum Height

35 ft.

Distance Between Buildings

5 ft.



To see complete site development and other requirements, see section _____ of the zoning code.

Parking Requirements

Without a parking reduction agreement¹, a minimum of two (2) off-street parking spaces for the Main Dwelling Unit and one (1) for any Accessory Dwelling Units must exist for the property. Sufficient parking must also be provided for any vehicle used by those dwelling at the property. Sufficient parking may include on-street parking that immediately abuts the lot, but must not include any on-street parking spaces of neighboring lots.

Footnote¹ – See Section _____ for more information about parking reduction agreements.

Footnote² – See Section _____ for more information about potential exceptions to frontage requirements.

TOOL #3: USER-FRIENDLY DOCUMENTS

Sample Land Use Description Sheet

YOUR SEAL/LOGO HERE

DETACHED HOMES ON CLUSTERED, "COTTAGE COURT" LOTS

According to Section _____ of the Zoning Ordinance, the purpose and intent of including the following land use in the Neighborhood Zoning District as a permitted use is as follows:

"The Detached Homes on Clustered, Cottage Court Lots land use is intended to provide for residents to own and live in homes arranged around a shared courtyard, clubhouse, garden, or other amenity on lots of 1/25 acre or greater."

Site Development Standards

| <u>Minimum Lot (Parcel) Size</u> | <u>Minimum Lot Width</u> | <u>Dwelling Units per Acre</u> | <u>Minimum Setbacks (Dwellings)</u> |
|------------------------------------|--------------------------|--------------------------------|--|
| 1/25 Acre (0.04) 1,742.4 sq. ft. | 30' | 16 | Street Side Yard = 10 ft. Interior Side Yard = 3 ft. Rear Yard = 3 ft. |

Maximum Lot Coverage

The total area (footprint) of all structures on a lot.

75%

Minimum Street Frontage

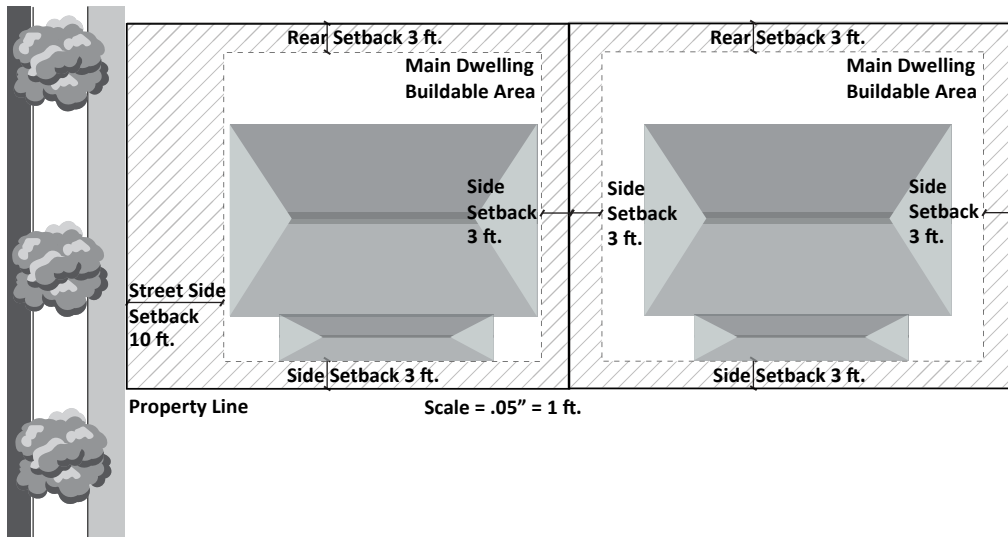
None

Maximum Height

35 ft.

Distance Between Buildings

5 ft.



To see complete site development and other requirements, see section _____ of the zoning code.

Parking Requirements

Without a parking reduction agreement,¹ a minimum of two (2) off-street parking spaces for the Main Dwelling Unit must exist. Sufficient parking must also be provided for any vehicle used by those dwelling at the property. Sufficient parking may include on-street parking that immediately abuts the lots within the same cottage court, but must not include any on-street parking spaces of lots outside of the cottage court.

Footnote¹ – See Section _____ for more information about parking reduction agreements.

Benefits of Zoning that Makes Sense

Residents, businesses and even the city itself benefit from implementing any of the items in this toolkit — each designed to make zoning make more sense.

- **Residents** get a clear picture of not only their own property rights, but what's allowed — and possible in the future — within their neighborhoods. Simple changes to a property and natural transitions from one compatible use to another become trivial.
- **Both current and future business owners** have a much more transparent environment for making business and site decisions. Simple “yes” and “no” clarity replaces months (and often tens of thousands of dollars) in “We’ll see.”
- **City staff and elected officials** can expect a lower workload on zoning-related planning and permitting issues, freeing up resources to focus on longer-term planning and community development issues.



PUBLIC POLICY BRIEF

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FREQUENT
RECURRENCE
===== TO =====
FUNDAMENTAL
PRINCIPLES IS
ESSENTIAL
===== TO =====
THE SECURITY
===== OF =====
INDIVIDUAL
RIGHTS

UTAH CONSTITUTION
ARTICLE I, SEC 27