

Making Zoning Revision Work for Your Community

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As communities wrestle with land use problems in order to create a better future, their attention inevitably turns to revising land use regulations, particularly zoning. Indeed, the best comprehensive plans in the world will not produce results if zoning laws do not successfully implement them. Too often, zoning revision is done as a piecemeal, ad hoc process that adds layers of complexity and confusion to codes that are already nearly indecipherable. This article offers suggestions as to how to go about changing zoning to make it work better for your community.

The main reason that most zoning ordinances are so convoluted is that they have been revised bit by bit over many years to deal with individual problems. Each intervention may be well-intentioned, but the cumulative effect of this accretion of provisions makes the document more and more complex and difficult to navigate.

The usual amendment procedure is to identify a specific problem and then look for examples from other ordinances that address the same problem. One example is copied, or maybe a few are patched together, and the resulting language is grafted into the existing zoning law. This approach (which used to be called “white-out” zoning and in the age of computers is “search and replace” zoning) typically does not recognize that each community and each zoning ordinance is unique. Since every line of a zoning law is connected to every other line in subtle ways, unintended consequences will result unless the drafter carefully tailors the amendment to fit into the ordinance.

Similar problems result from the insertion of “model” provisions, which have the additional disadvantage that they have usually not been tested in the real world of practice. Using such models without carefully considering how they relate to all of the existing sections of a zoning ordinance can result in the inadvertent introduction of contradictions and confusion.

Zoning revision does not have to occur in this way. The alternative is a more holistic and comprehensive approach that looks at the whole ordinance, restructures it as necessary, deletes outdated material, and adds the minimum new language necessary to solve the community’s specific problems. Ideally, it is done at the final stages of a comprehensive planning process that expresses the community’s goals and translates them into workable regulations. Sometimes this requires the wholesale replacement of an old ordinance with a new one. More often, however, zoning revision occurs in more digestible phases, all within a comprehensive framework that considers the entire ordinance.

In recent years, the emphasis of much zoning revision has been on introducing “smart growth” principles. The substance of this approach involves mixing instead of separating uses, and making pedestrian-friendly streetscapes with dimensional regulations that shape

the street as a hospitable outdoor room, rather than making public spaces amorphous voids through which cars are pass at maximum speed. But the introduction of smart growth concepts only works if the drafting precepts in this article are followed. One cannot simply “drop in” a model smart growth code.

It also helps to illustrate the actual result of a zoning provision. People rarely see zoning *drawn* and are usually surprised at how awful the results are. These results are directly attributable to well-intentioned but poorly executed zoning amendments.

Here, in a nutshell, are some suggestions for making zoning revisions more effective. Each of these could be the subject of its own article.

1. Be clear about your objectives in changing zoning. In order to do this, it is a good idea to do a diagnosis of the problems being addressed to understand how the existing zoning contributes to them. (See my article, *Diagnosing Your Community Before You Plan*)
2. Make sure your zoning revisions are consistent with your comprehensive plan; if they are not, either the zoning revisions or the plan should be changed so that they are consistent.
3. Look at the entire zoning ordinance before revising it, because everything is connected to everything else. Deletions may be as important as additions
4. Use models and examples for ideas, but be careful about copying language. Consider the context into which any new language will be inserted (e.g. check related provisions of the ordinance and make sure definitions in your ordinance are consistent with usage in the new provisions). Consider how successful your example/model has been in producing actual results on the ground in other places. If the example is from another state (or from your state but adopted several years ago) make sure your version complies with current state law.
5. Write zoning in clear and simple English, using carefully annotated diagrams and illustrations where a concept can be conveyed most effectively with graphics. Zoning *does not* have to be written in legalese, but the words should be carefully crafted and their legal consequences should be clearly understood.
6. Where appropriate, DRAW or diagram what would actually happen if the proposed zoning were followed (e.g. an illustrative site plan or flow chart for procedural changes). It is easier to know what you intend to happen than what will actually result. Most “suburban sprawl” codes were intended to improve the quality of development, but most have not produced the desired results.
7. Use consultants, but be clear about your objectives for them. Pick consultants that will help you fulfill your objectives and implement items 1 - 6 above, not just insert language off the shelf from somewhere else. If you have a limited budget, it is more important to have technical expertise for zoning than for your comprehensive plan.
8. Ideally, you need a combination of the skills of a lawyer, planner, architect, landscape architect, urban designer, ecologist, engineer, and market analysis expert. Most small communities cannot afford all of these experts, so you may

need to find an individual or a team that has a combination of these skills and can retain the others as needed. Obtain references on what it is like to work with them. It is more efficient and productive to use an informal Request for Qualifications followed by a negotiated procurement than a formal Request for Proposals, which results in huge amounts of paperwork and delay with ultimately unreliable results.

Amending zoning is probably most important thing local government does to affect the built environment and quality of life, with the possible exception of infrastructure decisions on roads, schools, water and sewer lines, and public facilities such as town halls and parks. If there is one thing you should always remember in revising zoning, it is that every line and every word is hooked to every other line and word. An ordinance or local law is like an ecosystem – if you change one line without considering the whole, you can introduce unintended consequences that disrupt everything. In almost every community, zoning needs to be streamlined, simplified, and brought in tune with smart growth principles. That is the challenge of the next generation of land use regulations.