

Land Development Regulation Script
Land Development Regulation Presentation

Making Land Use Regulations Work for Smart Growth

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(Slide No. 1 – Making Land Use Regulations Work for Smart Growth)

Thank you for taking the time to attend today's presentation on land development regulations (LDRs).

The purpose of this presentation is to discuss the kinds of land development regulations found in many communities, show how they may be inhibiting smart growth, and how they can be revised to promote it instead.

Note: Speaker may want to acknowledge that the presentation was prepared by the SGN Land Development Regulations Subcommittee.

(Representatives - - American Planning Association, Fannie Mae, International City/County Management Association, Local Initiatives Support Corporation, Local Government Commission, National Oceanic and Atmospheric Administration, Smart Growth America, U.S. Environmental Protection Agency)

(Slide No. 2 – Land Development Regulations can help you Achieve Smart Growth)

I'm going to start with the end in mind because this represents the thesis of our presentation. When LDRs facilitate smart growth, they enable the provision of policies and practices that expand economic development opportunities, foster community livability, and preserve and enhance the natural environment.

Many state and local governments have taken progressive steps to amend their LDRs. The impact of these changes have been remarkable.

(Slide No. 3 – Communities Develop in Different Ways)

Communities are not static places. They are constantly changing and growing. Economic drivers, demographic shifts, and the need for services stimulate the change.

Because the factors that stimulate growth (geography, natural resources, human and intellectual capital, etc.) differ from place to place, communities develop in different ways.

The pace of development and where it occurs affects citizens choices for housing, transportation options, lifestyle options, as well as the location of goods and services.

To ensure that the built environment is ordered, consistent, and sensible, land development regulations are created. These regulations affect the layout of communities, they contribute to good urban and rural form, and they determine how well communities function to meet the needs of residents.

(Slide No. 4 – What do Land Development Regulations Control?)

It's easy to overlook the individual features that constitute a community (land, buildings, transportation, infrastructure). For each of these features, land development regulations are prepared.

If you imagine a vacant plot of land that has been designated for development, regulations will determine the type and mix of uses that are appropriate as well as the size of the lots.

The buildings to be placed on the site will adhere to regulations that determine building type, it's dimensions, as well as setback requirements.

Regulations will shape the traffic patterns around the buildings that are built by defining the street width, number of lanes, provision of sidewalks, etc.

Finally, the future of the site (it's capacity and density) will be affected by regulations for infrastructure - - provision of water, sewerage, parking.

(Slide No. 5 – Examples of Land Development Regulations)

Regardless of what LDRs are called they set parameters for what development can look like, and how physical structures and/or space can be used. When using the term LDRs, I'm primarily referring to statutes, ordinances, and codes.

It's necessary to acknowledge that land use planning is a state level responsibility, and state level governments grant authority to local governments for planning.

Having said this, statutes represent federal or state laws formally enacted by Congress or a state legislature.

Ordinances represent land use laws formally enacted by a local legislative body, such as a city council or county board. Examples include zoning or subdivision ordinances.

Finally, codes represent a collection of land use laws classified according to a particular subject area. For example, many municipalities organize ordinances that affect land use into a zoning code which often is a chapter within the city or county municipal code.

Other relevant codes include tax codes as well as delinquent and vacant property codes. However, these will not be covered in the presentation.

(Slide No. 6 – Rethinking the Impact of Existing Land Development Regulations)

A critical challenge presented by LDRs is many are outdated for the times in which we live. Most planning statutes in the U.S. descend from two model acts drafted by the U.S. Department of Commerce in the 1920s. We need better statutory models that meet contemporary needs.

In the 1920s, government was simpler and planning was a local activity. Now the intergovernmental dimension is more complex. For example, some states now take an active role to ensure uniformity, fairness, and the advancement of state interests.

Not to mention that in the 1920s, no one had a crystal ball to foresee the passage of the 1956 Interstate Highway Act. Nor did anyone anticipate prolonged trends of disinvestment in older communities or abandoning existing infrastructure only to rebuild it further out.

Also, citizens have a different view of land. Since the first Earth Day in 1970, the nation's environmental movement represents one of the most prominent reform movements in recent history. Today, citizens understand that pollution represents a by-product of social demands -- of the way we live and particularly how we use the land.

More communities want change:

- 553 state and local ballot measures in 2000 related to growth -- 72% passed
- 24 Governors engaged in smart growth activities in 2001 "State of the State" analysis

(Slide No. 7 – Development Paradigms)

Smart growth differs from current development patterns at both the broad level of where development is placed and at the more micro level of how it relates to the street. This slide is an overview to illustrate some important differences between smart growth and the majority of development at the more broad level.

Subsequent slides will examine differences at the street level.

The top half of this site illustrates some characteristics of conventional development.

- It consists of isolated pods of single uses.
- Community space is absent.
- Housing is segregated by income level and type.
- The uses are separated from one another. Each type of development -- homes, shops, restaurants, schools, offices and civic centers is in its own pod.
- Even though some of the different uses are not too far apart, to go from one to another requires a trip in the automobile.
- There is a lack of connectivity among the streets and uses. People are forced to travel quite far to get to a destination which might not be far away as the crow flies. Walking is discouraged.

Contrast those characteristics with the lower half of the drawing:

- In smart growth neighborhoods, homes, shops, community services, public transit shops, are within walking or biking distance of one another.
- Note the connectivity of streets -- whether walking, biking, or driving, the distance is reduced -- running errands of all types is more convenient.
- The possibility of walking or biking to school exists.
- The placement of shopping centers and the school provide community spaces for the neighborhood.

(Slide No. 8 – Outdated Land Development Regulations Have Unintended Consequences)

Many studies, polls, even voting results for ballot measures indicate that citizens have a preference for development that embodies smart growth.

While Arlington, VA, Seaside, FL, and Charleston, SC are desirable by the public, as places to live, the style of development and amenities that make these places unique are not common throughout the nation. Outdated LDRs preclude them from being built.

Outdated LDRs can lead to unintended consequences. They may preclude:

- provision of bike lanes along street arterials;
- medians for light rail in downtown areas;
- creation of Transit Oriented Development (TOD) districts;
- wide sidewalks and street level retail that are characteristic of pedestrian friendly areas;
- mixed-uses that are complementary;
- higher density development;

- aesthetic improvements like placing utilities below ground or aligning a corridor with trees.

(Slide No. 9 – Ultimate Consequence, Smart Growth is Prohibited)

In this instance, LDRs inhibit smart growth from occurring. The law makes it illegal.

(Slide No. 10 – Communities Maintain Existing Conditions)

As a result, citizens forego their opportunity to create a new community reality. Instead, they must settle for existing conditions. Unfortunately, this image represents the norm and not the exception for most community strips in this nation.

While this strip is unattractive during the day, image how inhospitable it may be at night.

(Slide No. 11 – Unintended Consequences: Single Family Residential)

The following pictures are offered to depict how land development regulations affect single family residential development.

On the left:

- developers are limited by policies that require cookie-cutter housing design and lot sizes.
- zoning outlaws apartments and houses in the same development.
- affordable housing options are severely limited, if non-existent, since exclusionary land use practices like large lots make housing unaffordable.

On the right:

- Different housing types - apartments, row houses, detached homes occupy the same neighborhood, sometimes the same block.
- People of different income levels mingle.
- Housing diversity enables families to “move up” without moving away (from a row house to detached housing).

(Slide No. 12 – Smarter Land Development Regulations can...)

Fortunately, citizens don't have to settle for existing conditions. LDRs can be amended to foster:

- Healthy communities -- that provide families with a clean environment.

- Strong neighborhoods -- which provide a range of housing options giving people the opportunity to choose housing that best suits them.
- Neighborhood revitalization -- by making existing neighborhoods better places to live for current and new residents.
- Transportation choices -- that give people the option to walk, ride a bike, take transit, or drive.
- Economic development and jobs -- by improving the local tax base; providing neighborhood services and amenities; and creating economically competitive communities.

In the remainder of this presentation, we'll look at some of the ways that state and local governments have been revising their regulations to promote this kind of community development.

(Slide No. 13 – Regulatory Reform)

Many state and local governments have taken progressive steps to amend their land development regulations in order to achieve the benefits I just mentioned.

States are clarifying what good planning should entail and encouraging coordination across jurisdictional lines. They are passing enabling legislation to give cities and counties new tools to promote smart growth and offering assistance to help them tailor these tools to their needs.

For their part, local governments are engaging citizens in the process of setting new goals for balanced growth, then tackling the hard work of revising their plans and regulations to achieve those goals. The result in many places is greater clarity about what the community wants and greater efficiency in reviewing and approving proposed development projects.

What follows are just a few of the many examples of innovative reform that can be found on the web sites listed at the end of this presentation.

(Slide No. 14 – Wisconsin)

In the State of Wisconsin, only 29% of the communities had a land use plan prior to 1999. The state legislature found that the content of these plans varied widely and that many municipalities were not following their adopted plan when granting development permits.

The result in too many places was low-density sprawl, leap-frogging across city and county boundaries...inadequate provision of affordable housing...and damage to important natural resources.

(Slide No. 15 – Wisconsin’s Smart Growth Law (s.66.1001))

In 1999 the state legislature responded to this looming crisis by passing what has come to be called Wisconsin’s smart growth law.

Signed by Republican Governor Tommy Thompson, the law requires all cities and counties in the state to prepare and adopt comprehensive plans, based on strong citizen involvement.

In considering what a plan must cover -- at a minimum -- the state followed the recommendations of the American Planning Association in its *Growing Smart Legislative Guidebook*.

Each plan must address nine “elements” including housing (for all income groups), transportation choices, the public infrastructure on which development depends, and other issues critical to a balanced community.

In addition, each community must spell out how it will implement the plan and revise all of its regulatory procedures, if necessary, to make them consistent with the plan by January 1, 2010. To help cities and counties fulfill the law, the state makes planning grants and technical assistance available.

(Slide No. 16 – Traditional Neighborhood Development (TND) Ordinance - WS)

A unique feature of Wisconsin’s law is that it also required every city and village with a population of at least 12,500 to adopt a “traditional neighborhood development” -- or TND -- ordinance by January 1, 2002.

The law defines TND as “a compact, mixed-use neighborhood where residential, commercial, and civic buildings are within close proximity to each other.”

Municipalities can decide whether to designate specific areas for such development or apply TND as an “overlay” on top of existing zoning. The legislature directed the Wisconsin Extension service to draft a model ordinance for cities and villages to consider.

In passing this provision, the state sent a clear signal that it is not merely “enabling” municipalities to permit this kind of compact development if they want to, but actually requiring that they make this option available to developers.

The goal is to promote more livable communities and make better use of both land and public investment in infrastructure, like the TND shown here: Middleton Hills, located in Middleton, a suburb of Madison.

(Slide No. 17 – New Jersey Rehabilitation Code)

In 1997, the State of New Jersey instituted a first-in-the-nation Rehabilitation Code designed to encourage the adaptive re-use of older buildings and to support existing communities as centers of commerce and residential activity. The Code reduces the cost of rehabilitating existing structures by eliminating unnecessary modifications that are standard in new construction.

In the first year of the rehab code's use, rehabilitation work increased substantially, increasing by 84 percent in Jersey City, 40 percent in Trenton and 59 percent in Newark. By comparison, rehabilitation work in the year prior to the rehab code's enactment increased by only 2 percent. Rehabilitation codes have also started to appear in other states and localities including Maryland and Delaware.

Before proceeding, I want to note that the U.S. Department of Housing and Urban Development has created a model code provision for rehabilitation (Nationally Applicable Recommended Rehabilitation Provisions), and rehab codes are being incorporated into the International Code Council as well as the National Fire Protection Association's model codes.

(Slide No. 18 – Rehabilitation in Elizabeth, New Jersey)

One project that has benefited from the rehabilitation code is the Rafael Cordero Day Care Center located in what was an abandoned warehouse in the Elizabethport section of Elizabeth, NJ. Elizabethport is the oldest neighborhood in Elizabeth and is the most disadvantaged and economically depressed. It is primarily residential, but with large industrial and commercial concentrations. Many of the commercial structures are unused or underutilized and in need of rehabilitation.

The Rafael Cordero Day Care Center property is a 15,000 square foot building that originally served as a clothing store and warehouse. The building was subsequently leased out to various businesses but eventually became abandoned. The neighborhood also became a prime area for illegal drug sales and prostitution despite being located next to City Hall.

(Slide No. 19 – Rehabilitation in Elizabeth, New Jersey)

The Puerto Rican Organization for Community Education and Economic Development (P.R.O.C.E.E.D.) acquired and rehabilitated the warehouse into a

state-of-the-art office building that contains a child care center including outdoor playground (for 60 children) and 10,000 square feet of social service office space at a total cost of \$1.2 million. Total development costs would have been much higher had the development been required to meet new construction codes.

For example, upgrading/modernizing existing buildings to meet requirements for new buildings could require elements such as windows, doorways, and stairways to be ripped out and replaced to conform with modern codes, even though they are perfectly safe. This requires expensive alterations on top of expensive renovations.

(Slide No. 20 – Rehabilitation in Elizabeth, New Jersey – Rafael Cordero Day Care Center)

If it had not been for the provision of New Jersey's Rehabilitation Code, the restoration of this particular property would not have occurred. New development would have been a more appealing option.

Importantly, this rehabilitation has spurred other economic development in the Elizabethport neighborhood. A number of existing businesses have expanded in size and several new restaurants have opened.

(Slide No. 21 – Town of Huntersville, NC)

The Town of Huntersville, North Carolina, lies 12 miles from the center of Charlotte, in the northern part of Mecklenburg County. Historically a rural community, the town experienced explosive growth during the early 90's, prompting elected officials and town planners to engage citizens in a discussion of growth options.

Out of this dialogue grew a consensus that the town's development regulations needed to be overhauled so that Huntersville would not be consumed by the same suburban sprawl occurring elsewhere in the region.

Following careful consideration of innovative options -- and a one year moratorium on new development -- the town's Board of Commissioners adopted new zoning and subdivision ordinances in 1996.

(Slide No. 22 – Development Principles - Huntersville)

The new development code is based on some fundamental principles:

That Huntersville should maintain its small town, friendly character, even as it accommodates increased population.

That both new and infill development should foster connected, walkable districts rather than isolated commercial or residential areas.

That the town should provide a range of housing types for a range of household incomes.

That higher density development should be concentrated around existing highways and a rail line slated for new transit service.

That the town's watershed should be protected and aspects of its rural heritage preserved.

(Slide No. 23 – Zoning Districts - Huntersville)

The new ordinance established ten zoning districts.

Mixed use centers allow for shops, restaurants, offices, housing, and various public facilities to be located at higher densities in Huntersville's historic downtown, at the core of new neighborhoods, and at future transit stops.

A range of housing types is encouraged in residential districts, from small scale infill projects and accessory dwelling units to new, walkable neighborhoods. Up to 30% of the housing in a major subdivision may be attached, such as townhomes and apartments.

Recognizing the need to accommodate some auto-oriented businesses and large-scale employers, the code also designated certain districts for highway-related and "campus" style uses.

Finally, to preserve the rural character in the area surrounding the town, the ordinance establishes open space districts where compact development is encouraged with a system of density bonuses for the amount of open space saved.

As a service to long time residents and newcomers, Huntersville uses its web site to explain the town's planning philosophy, goals, and techniques.

(Slide No. 24 – Vermillion – Huntersville)

The new regulatory environment lead to an envisioning process for a new neighborhood called Vermillion. Planned for 360 acres, the neighborhood features interconnected streets, a range of single family homes, and a future rail stop.

Serving as a backbone of the neighborhood is a one-and-a-half mile greenway surrounding a small, protected creek. For these and other smart growth features, the Sierra Club named Vermillion the “best development project” in North Carolina.

(Slide No. 25 – Accessory Dwelling Units – Huntersville, NC)

One way that Huntersville and other communities across the country have found to increase the population of a neighborhood -- without substantially affecting its visual character or requiring additional infrastructure -- is to allow what are called “accessory dwelling units.”

These can generally be apartments created in a house, above an attached or detached garage, or even small free-standing cottages reached by a rear alley.

While some jurisdictions permit ADU’s only for use by the home-owner’s relatives, Huntersville imposes no occupancy restrictions, thus making these small units accessible to a wider array of people who need affordable housing.

(Slide No. 26 – Live/Work Provisions – Salt Lake City, UT)

Traditionally for artists because it provides them an affordable way to survive economically by working in the same place that they live, live-work facilities are becoming popular for professionals of varying backgrounds. Live-work housing is also attributed to increasing employee productivity by keeping workers off congested highways and improve worker morale by allowing them to spend more time with their families.

In most cities, live-work is a hybrid of residential, industrial, and commercial codes with amendments to include live-work within mixed use or light industrial or manufacturing districts. Most of the cities where major live/work spaces have been developed had to revise their codes.

In the early 1980s, community activists in Salt Lake City petitioned the Planning Commission to designate a Westside Warehouse District facility, along Pierpont Avenue, zoned for manufacturing to permit residential as a conditional use. After the City Council adopted the designation change, city officials gradually realized the potential that this use would have for assisting the neighborhood to flourish. When the city’s zoning ordinance was rewritten in 1995, amendments were made to create live/work areas.

With the support of many generous individuals, government agencies, and foundations, the Pierpont warehouse now provides 28 affordable live/work studios and residences, a public art gallery, and space for other non-profits and retailers. Hundreds of individuals visit, live, and work on Pierpont Avenue

creating a safe and vital environment in what was once a very troubled neighborhood.

(Slide No. 27 – Process for Changing Land Development Regulations)

Communities often find that their LDRs conflict with their goals for achieving smart growth. Consider the following when attempting to change LDRs.

- Take advantage of the lessons learned by other communities **when attempting to modify land development regulations.**

- Assess the political climate** - if people and politicians aren't ready for change the reform process won't get very far.

- Community participation** - It is important to get citizens, community representatives, and every local agency with development review authority to actively participate. Further, it is important to involve elected officials in the process, as they must ultimately vote to adopt proposed changes.

- Initiate a dialogue on local development** - Inquire about: the rate of development; does it employ conventional practices; do existing LDRs prohibit innovative development strategies.

- Form a local site planning roundtable** - The roundtable brings together a diverse cross-section of key players from the local government, development, and environment communities. Through consensus, these stakeholders can hammer out development rules best suited to achieving smart growth objectives.

- Assess current codes and ordinances** - Identify existing development rules and compare them to principles for better site design. A Codes and Ordinances Worksheet may be helpful for an in-depth review of LDRs that shape how development occurs in your community.

- Pinpoint areas that are recommended for change** - Through a consensus process, determine the LDRs that will require revision to achieve smart growth objectives. Recommend model development principles and suggestions for how LDRs may be amended to foster smart growth.

- Changing LDRs represents one piece of the smart growth puzzle.** To achieve smart growth, other issues need to be addressed such as brownfields redevelopment, transportation, housing, economic development, the environment, etc.

Get started and be committed - Changes to LDRs won't happen over night. Accept conflict as a normal part of the process; therefore, patience is important..

(Slide No. 28 – Resources)

(Slide No. 29 – Smart Growth Network Partners)

(Slide No. 30 – Acknowledgements)