

**LAND USE MANAGEMENT ORDINANCES
SUBDIVISION AND LAND DEVELOPMENT ORDINANCES AND ZONING ORDINANCES**

Existing Land Use Management Ordinances

As authorized by the Pennsylvania Municipalities Planning Code, the subdivision and land development ordinance and the zoning ordinance are the principal land use management tools which are available to local municipalities in Pennsylvania. Zoning is the primary tool used by municipalities in Pennsylvania to direct different types of land uses to certain locations. Only two of the twelve NTC municipalities, Liberty Township and Silver Lake Township, have adopted a subdivision and land development ordinance. The other ten are under the jurisdiction of the Susquehanna County Subdivision and Land Development Ordinance. None of the NTC municipalities have a zoning ordinance, and Susquehanna County has no plans to adopt a zoning ordinance. When a local municipality adopts a zoning ordinance or subdivision and land development ordinance, the locally adopted ordinance supercedes the corresponding County ordinance.

Subdivision and Land Development Ordinance Compared to Zoning Ordinance

The subdivision and land development ordinance (SALDO) provides standards for dividing land and for residential and commercial development projects ensuring the provision of adequate community facilities such as roads, water supply and sewage disposal, utilities, proper highway access, and storm water control. The adoption of a SALDO by a local municipality is typically far less controversial than adopting a zoning ordinance. Regulating how land is divided and served by facilities is not perceived by the public as nearly as intrusive as zoning. In addition, most municipalities in the Commonwealth that have not adopted a SALDO are governed by a county ordinance. This is the case in Susquehanna County as well. By adopting a SALDO, the local municipality is simply shifting the responsibility from the County. Many municipalities embarking on land use management first adopt a SALDO, and then proceed to zoning.

The zoning ordinance regulates the use of land by dividing a community into districts to separate land use activities (residential, commercial, industrial, etc.); sets standards for lot size, setbacks and building height; includes specific standards for a broad range of land uses including for example: parking, signs, junkyards, mobile home parks, natural resource uses and multi-

family dwellings, and other general community development and environmental performance standards. The adoption of zoning ordinances typically follows the path of development. In other words, as development increases local support for zoning builds based on residents’ sense of the need to protect the community.

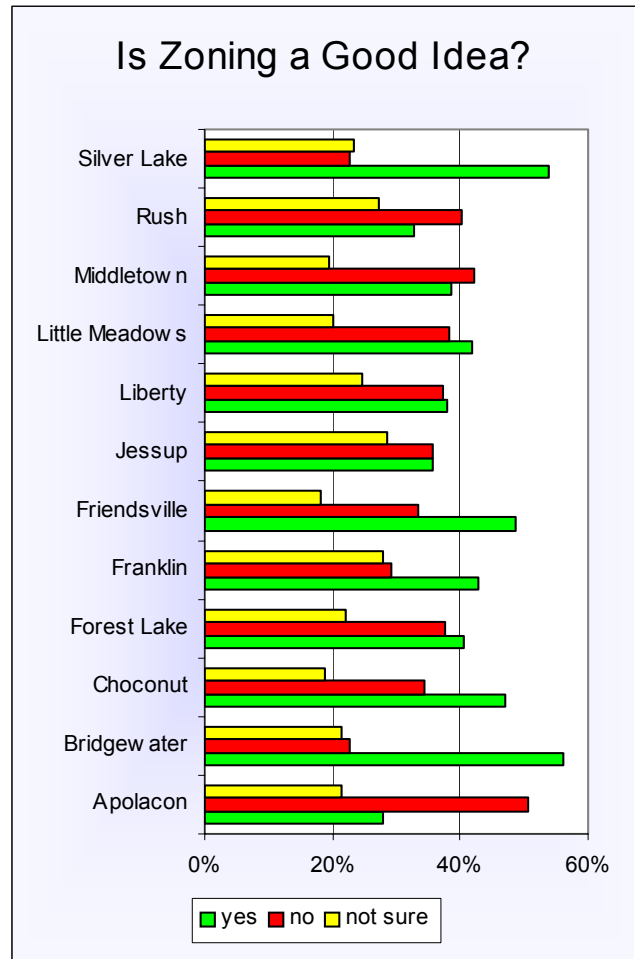


Figure - Zoning Question

Zoning - The Principal Land Use Management Tool

Based on this philosophy, this *Comprehensive Plan* recognizes that the adoption of a zoning ordinance is the most critical action required to implement the future land use plan and manage the growth and change which is inevitable for the Northern Tier Coalition. Continued planning by consulting, reviewing and updating this *Comprehensive Plan*, and amending the zoning ordinance to address changing conditions are associated on-going actions. The timing of the adoption of a zoning ordinance is the critical question.

Is zoning a good idea for your municipality?	yes	no	not sure
Apolacon	28.0%	50.5%	21.5%
Bridgewater	56.0%	22.6%	21.4%
Choconut	47.0%	34.3%	18.7%
Forest Lake	40.5%	37.7%	21.9%
Franklin	42.7%	29.3%	28.0%
Friendsville	48.5%	33.3%	18.2%
Jessup	35.8%	35.8%	28.4%
Liberty	38.0%	37.4%	24.6%
Little Meadows	41.7%	38.3%	20.0%
Middletown	38.6%	42.1%	19.3%
Rush	32.7%	40.1%	27.2%
Silver Lake	53.9%	22.6%	23.5%

Community Survey Results

NTC community survey respondent support for zoning varies among the twelve municipalities, with the relatively high proportion of *not sure* responses suggesting the desire for more factual information about zoning before making a determination of support. (See the *Zoning Question Figure* and *Zoning Question Table*.) Each individual Borough and Township must determine its time and approach to educating the public about zoning and its adoption. The decision to zone or not zone will depend on level of development, public understanding and support, and local official commitment to land use management.

County Zoning

At the current time, the Susquehanna County Planning Commission and Commissioners do not support creating a county-wide zoning ordinance. This position is obviously shared by most county commissioners in the Commonwealth, with less than ten of sixty-seven counties having adopted zoning ordinance. Zoning has historically been viewed as a local municipal prerogative and most counties are reluctant to exercise authorities generally held by local officials. Similar to subdivision ordinances, a locally adopted zoning ordinance automatically supercedes a county zoning ordinance. Also, the administration of a county-wide zoning ordinance is difficult.

THE COUNTY ROLE

Excerpt from the 2003 *Susquehanna County Comprehensive Plan Update . . .*

How can the Susquehanna County Planning Commission foster intermunicipal planning and zoning?

- *Identify planning areas comprised of local municipalities within the County with common growth and development issues.*
- *Work with local officials to create a committee of representatives from each municipality in a planning area to discuss the potential for joint planning and cooperative zoning in the planning area.*
- *Provide information and resources such as the Northern Tier Regional Planning and Development Commission, the Pennsylvania Municipal Planning Education Institute, and the Pennsylvania Department of Community and Economic Development, to each municipality about the benefits of intermunicipal zoning and its affects on their individual municipality.*
- *Provide technical assistance to the municipalities that undertake intermunicipal planning and cooperative zoning.*

Traditional Zoning - District Separation

Traditionally, zoning has been used to divide communities into various districts to segregate various land use types such as agricultural, residential, commercial and industrial. The intent is to prevent the *externalities*, or the negative spillover effects, of one use on an adjoining use. One of the problems faced by local officials in designating districts, particularly in rural areas, is determining the ideal use of the hundreds of parcels of land in the community. Each parcel may have the potential for many uses and limiting the use of one parcel to agriculture while allowing commercial development on other parcels may result in a windfall for one owner and severe limitation for another.

Performance Zoning

More recently, municipalities have begun to use *performance zoning* or flexible zoning. In its purest form, *performance zoning* would allow any type of land use on any parcel of land and would control the

negative spillovers with development standards. Ordinance criteria would govern such issues as building height, noise, setbacks, lighting, and buffers aimed at protecting the rights of adjoining landowners and community at large, and all new development would be subject to the performance standards.

Traditional and Performance Combined

The 2003 *Susquehanna County Comprehensive Plan Update* states that *the County Planning Commission envisions for the local municipalities in the County zoning ordinances which use a combination of the traditional district designation approach and performance zoning*. This NTC Plan supports and is consistent with the *County Plan Update*. District designation is important to recognize areas already developed and where the restriction of incompatible uses can be logically applied. Existing residential neighborhoods, residential subdivisions, village main streets and commercial strips are good examples. In areas with limited development, a broad range of uses would be permitted and performance standards would be applied to protect adjoining properties from the effects of development. The Boroughs and Townships would develop zoning ordinances within this broad framework creating such zoning districts and including the performance standards necessary to address local needs.

A recent report by the Cascade Policy Institute, a non-profit Oregon policy research center, includes a discussion on the *digital economy* which points to the need for flexible zoning techniques: *In the 21st century economy, land-uses are likely to be much more varied than they have ever been. Technological innovation is breaking down geographic barriers at a rapid pace, with telecommunications capacity doubling roughly every 18 months. These innovations are giving Americans more choices with regard to where and how they live, work and recreate. This means that people will increasingly scatter themselves across the landscape, continuing a trend that has been underway for most of this century. Indeed, the trend is likely to accelerate because the technologies that enable people to live and work in disparate locations are becoming less expensive all the time. In terms of hours of work needed to pay for consumer goods, the costs of the four major technologies that allow suburbanization – electricity, telephones, computing, and motor vehicles -- are now a tiny fraction of when those products were first manufactured. In addition, the cost of housing has declined, encouraging people*

*to seek larger homes on larger lots.*¹

Cooperative Zoning

Intermunicipal, cooperative zoning would carry the approach of combining traditional and performance zoning to the next level. Two or more municipalities working together can manage land use from a regional perspective. This approach, authorized by the Pennsylvania Municipalities Planning Code if based on a multi-municipal comprehensive plan, allows great flexibility. Each participating municipality can adopt and administer its own ordinance or can adopt and administer a joint ordinance. This NTC *Comprehensive Plan* will enable NTC municipalities to undertake cooperative zoning.

Zoning cannot be used to exclude particular uses from a municipality, a dogma long held firm by the courts. In other words, a local municipal zoning ordinance must provide reasonable opportunity for the development of all legitimate uses including such activities as adult businesses, cell towers, solid waste disposal facilities, jails, and drug treatment centers. Cooperative zoning enables participating municipalities to spread the range of legitimate uses around the entire area, each not having to provide for every use within individual municipal boundaries. The Pennsylvania Municipalities Planning Code requires a joint comprehensive plan and formal inter-municipal implementation agreements between all municipalities participating in cooperative zoning. Other benefits derived from cooperative zoning include the ability to address land use on an area wide basis, less duplication of effort, shared manpower and decreased staff costs, increased availability of grant monies, and the option of using one zoning hearing board.

Municipal Long Term Commitment

It is critical for local municipalities to understand that zoning, whether adopted individually or undertaken cooperatively, requires a significant commitment from local officials. Developing the comprehensive plan and then the zoning ordinance are only the first steps in a perpetual effort. Understanding the limitations of zoning as the ordinance is prepared and the diligent administration, enforcement and evaluation of the ordinance are critical to its effectiveness. As noted

¹*Beyond Zoning: Land Use Controls in the Digital Economy*, Charles, John A., Cascade Policy Institute, Portland, Oregon, June 1998, www.CascadePolicy.org

earlier, the task of determining the future use for each parcel of land is a difficult one, and local officials must undertake this daunting responsibility with an eye to flexibility and the use of performance standards in districts where a broader range of uses are permitted. Concurrently, certain areas such as residential neighborhoods may warrant the designation of more exclusive districts to protect existing community character.

Management -- Not Preservation of Status Quo

Another zoning pitfall is that many local officials undertake zoning as a means of preserving the status quo. Overly large minimum lot sizes and excluding or over regulating certain uses are examples of such efforts. This approach simply does not work and results in extreme loss of credibility with constituents. Simply stated, zoning must provide for all legitimate land uses and is intended to guide, and not stop, development. Once adopted, the effective and reasonable administration of the ordinance is critical. The ordinance must be applied consistently to all properties, a qualified and dedicated zoning officer must be hired, and the zoning hearing board must closely follow prescribed standards and procedures. In addition, local officials must monitor the effect of the ordinance on the community and be willing to amend it to improve misdirected standards and meet changing community needs. In short, zoning is an ongoing process which requires careful attention to detail, a commitment to professional administration and a willingness to make required changes.

Specific Actions Related to Subdivision and Land Development Ordinances and Zoning Ordinances

The local officials of the twelve municipalities in the Northern Tier Coalition recognize that zoning is the key to the long-term realization of any adopted land use plan, yet also realize that zoning is a community-changing action. Concurrently, the officials also realize that beginning a local land use management program by adopting a subdivision and land development ordinance may be the best first step. Local officials, Planning Commissioners, and the multi-municipal Planning Committee are committed to gaining a better understanding of the subdivision and land development regulation and zoning process prior to adopting ordinances.

Specific actions include:

- Using this *Comprehensive Plan* to foster a better public understanding of growth and development issues, and subdivision and land development ordinances and zoning ordinances.
- Arranging detailed training for local officials about SALDO and zoning ordinance preparation and administration.
- Conducting a public education program to answer residents' questions.
- Coordinating the adoption of SALDO's with the Susquehanna County Planning Commission to ensure consistency of standards throughout the NTC and the County as a whole.
- Monitoring the need and public support for zoning in individual municipalities
- Focusing efforts on cooperative zoning and how it can be applied in the NTC.
- Monitoring the timing of zoning adoption in adjoining municipalities.
- Coordinating efforts of adjoining municipalities to facilitate adopting zoning on the same time frames.
- Taking full advantage of ordinance preparation and administration costs.
- Forming multimunicipal Planning Commissions among adjoining NTC municipalities to administer SALDO's and cooperative zoning.