

# What is zoning?

Zoning is the process by which a community is divided into districts, or “zones,” each having a different set of uses, densities, dimensional requirements, and other development standards. Zoning helps protect public and private interests, preserve critical areas, promote orderly growth, and encourage development to occur at a rate and manner that the community desires.

## Zoning is a major instrument of planning.

*The federal government...helped to sell the concept of zoning across the nation. By 1922 [an advisory] committee had drafted a “Standard State Zoning Act,” which the federal government published, in order to ensure the uniform application of zoning power and thus avoid court rulings that zoning regulations represented unfair restrictions on private property and an unconstitutional use of police power.*

~ Christine Boyer, *Cities: The Forces that Shape Them*, “Is zoning compatible with preservation?”



Zoning is a process by which the residents of a local community examine what people propose to do with their land, and decide whether or not they will permit it. More importantly, zoning promotes the health, safety, morals and general welfare of the town. It is specific and regulatory and must deal with the present realities of the community. Zoning bylaws are the most practical means to implement the town plan. Though the plan may recommend many desirable approaches to development, only those provisions incorporated in the bylaws are legally enforceable (*Kalakowski v. John A. Russell Corporation* [1979] 137 Vt. 219, 401 A.2d 906).

### *A town’s authority to regulate land use is not without limitation.*

A town’s authority to adopt zoning is permitted by Chapter 117 of Title 24 of the Vermont Statutes (or Act 200), which was first enacted by the Vermont legislature in 1967. The United States Supreme Court sets limits on how a town may restrain an individual’s right to use and enjoy his or her property.

### *State statute authorizes zoning to regulate:*

- uses of land, water courses, and other water bodies
- the placement of buildings on lots
- the relationship of buildings to open space
- the scale, proportion, and height of buildings
- the provision of parking, signs, landscaping, and open space

# What is zoning? (continued)

*Zoning embodies and exemplifies the idea of orderliness in city development; it encourages the erection of the right building, in the right form, in the right place.*

*~ Dreaming the Rational City: The Myth of American City Planning, 1983 M.C. Boyer*

*We need intelligent planning and zoning that permits reasonable development while maintaining the beauty of the land.*

*~ Mt. Holly resident, Mt. Holly Town-Wide Survey*

## *Overview of zoning authority and limitations:*

- Municipal zoning ordinances must be written to advance a legitimate municipal interest which is expressed in the town plan.
- A bylaw or ordinance may only require a landowner to leave his land undeveloped if there is a clear and compelling reason.
- A physical invasion or occupation of the owner's property will be considered a physical taking of the property and will be unconstitutional unless compensated.
- A regulation or ordinance may only require a land owner to give part of the property to the municipality in exchange for the right to use the property a certain way if there is a 'reasonable relationship' between the conditions imposed on a development permit and the impact of the development.
- A regulation must leave property with some economically beneficial use. A regulation may leave property with no economic value if the purpose of the regulation is to protect other property from a common law nuisance arising from the regulated parcel, or if development of the parcel would otherwise be prohibited under common law.

*Vermont Municipal Guide to Land Use Regulation, Deborah Markowitz, Esq*

## How can I get more information?

Mt. Holly Planning Commission c/o Town Office  
PO Box 248  
Mt. Holly, VT 05758  
Hours: Monday-Friday 8:30am - 4:00pm  
Phone: 802.259.2391  
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