

ZONING, PERMITS AND VARIANCES

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UC Cooperative Extension Land Use Fact Sheet Series

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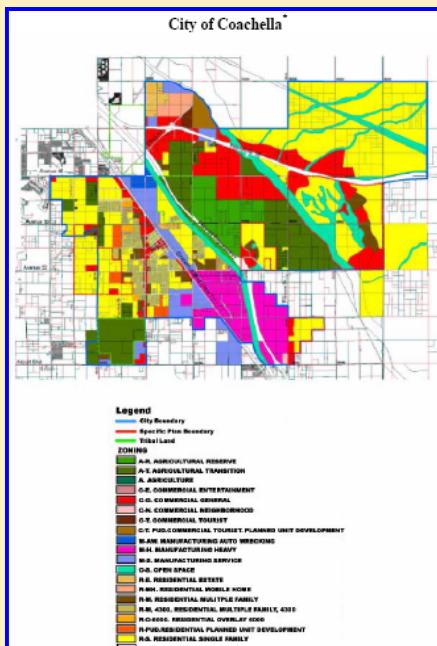
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ZONING

The distribution of residential, commercial, industrial, and other zones must be based on the pattern of land uses established by the community's general plan. Zoning maps illustrate how all uses are distributed geographically. **Zoning is adopted by ordinance and carries the weight of local law.** Land uses are limited by the zoning designation assigned to that parcel. For example, if a commercial zone does not allow 5-story office buildings, then no such building could be built on land with a commercial zone designation. **The zoning ordinance regulates land uses** within the community. It assigns each piece of property to a zone which describes the rules under which that land may be used. Classifications, such as "R-1" for single-family residences or "C-1" for neighborhood commercial uses, cover in specific terms the range of uses that are allowed in the general plan.

A typical zoning ordinance describes numerous zone classifications and development standards for each. Each of these zones identifies allowable uses and sets standards such as minimum lot size, maximum building height, and minimum front yard depth. **In most local ordinances, development of allowable uses does not require a public hearing.** Increasingly, however, communities are requiring a public review of the project's design before a building permit is issued. In many

communities, the planning commission is not the only body responsible for making zoning decisions. A board of zoning adjustment or a zoning administrator may be appointed to consider use permit and variance requests. Building design may be subject to approval by a design review or architectural review board. Public notice of zoning hearings must be given at least 10 days before the hearing by advertisement in a newspaper of general circulation and by direct mailing to the owners of property located within 300 feet of the proposal's boundaries.



before property may be rezoned. The council or board is not obligated to approve requests for rezoning and, except in charter cities, must deny such requests when the proposed zone conflicts with the general plan.

Form-based Code

In 2004, Assembly Bill 1268 was passed allowing the use of form-based codes. This bill changed planning law to allow form and design to be expressed in a community's Land Use Element and Zoning Ordinance.

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California Statutes

Full text of the following California Statutes may be found on the Official California Legislative Information website:

www.leginfo.ca.gov/calaw.html

CEQA Public Resources Code Sections 21000-21178

LAFCO Law Government Code Sections 56000-57550

Planning and Zoning Law Government Code Sections 65000-66037

General Plans Government Code Sections 65300-65404

Specific Plans Government Code Sections 65450-65457

Zoning Government Code Sections 65800-65863.13

Permit Streamlining Act Government Code Sections 65920-65963.1

Subdivision Map Act Government Code Sections 66410-66499.58

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Traditional zoning creates zones that allow certain building uses. Form-based code is more flexible about building uses in each zone, and more stringent about design elements such as architecture, landscaping, and ways of making streets and sidewalks bike and pedestrian friendly.

Overlay Zones

Overlay zones provide an additional layer of standards. They are often set up to protect natural and cultural areas such as historic districts, residential enclaves, wetlands, water fronts, and scenic views.

Variances

A variance is a limited waiver of development standards allowed by the zoning ordinance. It may be granted, after a public hearing, in special cases where: (1) strict application of the zoning regulations would deprive property of the uses enjoyed by nearby lands in the same zone; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege. **A variance does not permit a use that is not otherwise allowed in that zone** (for example, a commercial use may not be approved in a residential zone by variance).

Economic hardship alone is not sufficient justification for approval of a variance. Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed.

Conditional Use Permits (**CUPs**)

Some types of land uses are only allowed upon approval of a conditional use permit (also called a CUP or special use permit) after a public hearing. These uses might include community facilities (i.e., hospitals or schools), public buildings or grounds (i.e., fire stations or parks), temporary or hard-to-classify uses (i.e., Christmas tree sales), or uses with potentially significant

environmental impacts (i.e., hazardous chemical storage or surface mining). The local zoning ordinance specifies the uses for which a conditional use permit is required, the zones they may be allowed in, and the public hearing procedure. **A CUP imposes special development requirements to insure that the use will not be detrimental to its surroundings.** Requirements might include, for example, additional landscaping, soundproofing, limited hours of operation, additional parking, or road improvements. **A CUP does not rezone the land.**



SOURCES FOR MORE INFORMATION

The following sources offer a better understanding of planning in California:

California Land Use and Planning Law, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California), revised annually, looks at the planning, zoning, subdivision, and environmental quality laws & is illustrated by references to numerous court cases.

The General Plan Guidelines (Governor's Office of Planning and Research, Sacramento, California). The Guidelines discuss local planning activities and how to write or revise a general plan. Available online at <http://www.opr.ca.gov/publications/>

Growth within Bounds: Report of the Commission on Local Governance for the 21st Century, 2000.

Recommendations on future local governance options, including LAFCO reform. Available online at <http://www.opr.ca.gov/publications/>

Guide to California Planning, by William J. Fulton (Solano Press, Point Arena, California). A lively, well-written discussion of nearly every aspect of planning in the State.

Written by Valerie Borel and Holly George.
<http://ucanr.org/landusefactsheets>