

## **URBAN NEIGHBORHOODS – MULTIFAMILY CODE UPDATE**

White Paper: Zoning techniques and systems in use in other cities.

### **Introduction**

As part of the Multifamily Code Update, Department of Planning and Development (DPD) staff examined zoning codes throughout the U.S. to see what types of codes are in use or under development. The intent is to apply lessons learned from other jurisdictions in making recommendations for a new multifamily code for Seattle.

Seattle's existing zoning code is a hybrid of several zoning approaches and emphasizes prescriptive zoning, which provides certainty and predictability, but less flexibility than some other approaches. The proposed revisions to the multifamily code balance this approach with a greater emphasis on incentive-based zoning, and some ingredients of 'performance zoning', as in the proposed approach to parking requirements. The combination of these approaches is tailored to fit the specific circumstances of Seattle development and the City and community's goals for development.

There are several types of zoning codes in use today in various cities in the United States. Most types of zoning can be grouped into four categories, although in practice no approach is pure and most zoning codes are hybrids. The paper begins with a summary of the types of zoning codes in wide use today. The paper concludes with a summary chart showing zoning codes in various U.S. cities.

*For a summary of Seattle's multifamily zones see the "Zoning Charts" under the "Publications" menu at DPD's website: <http://www.cityofseattle.net/dpd/>*

### **Approaches to zoning**

**1. Building block** or Euclidean zoning codes. This is the traditional zoning code most frequently found in communities around the country, including Seattle. The name is from the Village of Euclid, Ohio, whose codes were reviewed and upheld in a landmark 1926 Supreme Court case. Building block zoning is typically based on a system of zoning districts, lists of uses associated with each zoning district and dimensional standards:

- Zoning districts specify a category of uses (e.g., single-family residential, multi-family residential, commercial, industrial, etc.) and are applied geographically on the community's zoning map.
- Allowable uses indicate the range of residential, non-residential, public, or other uses permitted within a zoning district. While certain uses are "permitted" within the zone, others are identified as "accessory" to the permitted uses, and still others may be allowed only as "conditional" uses, requiring a conditional use permit to determine that the use is appropriate for a specific site and applying special conditions to the use.
- Dimensional standards include criteria that outline the parameters for the creation of lots and the placement of structures on a lot, also called the building "envelope."

These standards generally include, but are not limited to: minimum lot size, minimum setbacks, and maximum height.

Building block zoning is prescriptive: when the standards of the code are met, a project would generally be approved and building contrary to the uses and standards outlined in the code is prohibited. The primary advantage of the building block approach is its logical presentation of districts, uses, standards and a form that is widely familiar to professionals, public officials, and the public. The major disadvantage of the approach is its lack of flexibility to address the particulars of a site and its surroundings, particularly if the code attempts to so precisely prescribe what is to be done in an attempt to dictate what the development product will look like.

**2. Performance zoning** attempts to regulate the impacts of development through flexible standards that are targeted to objectives, as compared to prescriptive zoning, which focuses on strict limitations of uses. The performance approach provides flexibility by basing permit decision making on performance criteria. For example, the performance criteria for a development standard gauges the maximum permitted development based on impact, such as noise or traffic. A performance system may be set out in either a point system or through discretionary criteria.

Evaluating permit applications through a point system requires a certain amount of points to be approved. Points can be accumulated in various categories, including gross floor area of dwelling units, living area of dwelling units, site coverage of dwelling units, total number of occupants of dwelling units, and/or vehicular trip generation from dwelling units. The numbers of points for each category can be identified on a worksheet in the Code, Director's Rules or Client Assistance Memoranda.

Another method of evaluating applications is through applying discretionary criteria. Permit review staff would evaluate the application based on how well the project achieves certain objectives, such as open space, minimizing visual impacts, or providing good pedestrian access. Code provisions can include a 'menu' of options to meet the objectives.

The primary advantage of performance zoning is its flexibility regarding allowed uses and development standards. Requirements are often tied to statements of intent or purpose. However, performance zoning is more often used to supplement "use" provisions and dimensional standards, rather than to supplant them.

The disadvantages of the performance approach are that impacts are frequently site-specific, so that a set of standards may not be adequate to address all impacts. The requirements can be difficult to implement, since they often involve complex calculations not familiar to those who use the code. Employing performance zoning to replace "use" limitations ignores some of the fundamental reasons to provide for or prohibit uses (providing for primarily residential areas as alternatives to living in mixed-use areas).

Cities have been reluctant to deviate from density and intensity limits and/or employ the highly discretionary review process needed to apply a performance zoning approach. Instead, performance zoning in codes is generally limited to providing special standards for specific uses, such as the nuisance-related criteria for certain uses, as is the case in Seattle's Commercial Code.

**3. Incentive zoning** was developed to encourage desired development through incentives, allowing for greater flexibility for the applicant and discretion for the jurisdiction. Incentive zoning was first tried in Chicago and New York City and is now commonly used across the county. It is often used to encourage affordable housing construction. Density and floor-area ratio (FAR) bonuses and reduced parking requirements are the most common incentives offered. Affordable housing bonuses are frequently included in the zoning regulations for California cities, primarily because they are required as part of state housing legislation. Seattle's downtown and Highrise (HR) zone, one of the multifamily zones, include incentive provisions.

The primary advantage of incentive zoning is that it encourages certain objectives of the community without requiring them on a site-specific basis. In some instances, this may be a more effective means of realizing those objectives.

The major disadvantage of "incentive zoning" is that it is difficult to calculate the appropriate balance between the benefits provided to the applicant and the additional regulatory requirements that fulfill community and City objectives. As a corollary, it can be difficult to identify a predictable schedule for implementation of those objectives. If the incentives (from the applicant's point of view) are not attractive enough, they may not accept the additional obligations of, for example, including affordable housing. If applicants regularly accept those obligations, the incentives may be too easily achieved and the requirements may need to be re-calibrated so that the City's objectives can be met even sooner. There is a delicate balance involved in the use of incentives to match the cost of the incentive to the value of the bonus.

In addition, there are legal considerations involved in incentive zoning. Federal or state requirements, case law or local ordinance requirements may affect such programs.

**4. Design based** or schedule zoning uses various urban design rules in combination to guide new development. An applicant often can choose among sets of 'schedules' of rules, depending on site size, location and other characteristics. The intent is to allow greater flexibility in the physical form that new development may take.

In schedule zoning, schedules may be correlated to different variables. Variables might include size of lot, topography, location in relation to business or commercial areas, or specific design objectives for certain parts of the city. This type of zoning is not widely used in Seattle today. As part of the Multifamily Code Update, this type of approach may

help to recognize neighborhood characteristics such as typical lot size and abutting zoning designations. As an example, requirements may differ based on lot size. The schedule for infill development on smaller lots would emphasize different standards than that for a large lot development.

As in the building block method, regulations are geared toward very specific situations. For example, a proposed multifamily development that is adjacent to a commercial zone may not need to setback from the property lines to the degree a development next to a single family zone would. This approach would help achieve more transition in multifamily zoned areas than in the current code. As development is allowed without setbacks in commercial zones, setbacks for multifamily development are not as necessary as when abutting single family, where landscaped setbacks can help new development be more visually sensitive to the surrounding single family area.

**Comparison of 4 major zoning approaches**

<b>Type of Approach</b>	<b>Characteristics</b>	<b>Examples</b>
<b>1. Building block</b>	<ul style="list-style-type: none"> <li>• Includes "districts," "uses" and "dimensional standards."</li> <li>• "Prescriptive" - prohibits development not consistent with code.</li> </ul>	<ul style="list-style-type: none"> <li>• Base districts</li> <li>• Use classifications</li> <li>• Development standards i.e: setbacks, height, lot size, density, floor area ratio.</li> </ul>
<b>2. Performance</b>	<ul style="list-style-type: none"> <li>• Regulates "impacts" of development, i.e. nuisance impacts, impervious surface, trip generation, etc.</li> <li>• Some forms of this code rely on statements of intent plus flexible standards or a menu of approaches.</li> </ul>	<ul style="list-style-type: none"> <li>• Nuisance (odor, noise, vibration, glare, toxics, etc.) standards in commercial zones</li> <li>• Performance criteria (floor area, impervious surface, trip generation, etc.) are used to compare development alternatives</li> <li>• Parking menu of options (proposed)</li> </ul>
<b>3. Incentive</b>	<ul style="list-style-type: none"> <li>• Flexibility to achieve objectives through "incentives" such as density or floor area bonuses in exchange for historic preservation, affordable housing, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Exemption from FAR for child care facilities</li> <li>• FAR bonuses for preserving historic structures</li> <li>• Density bonuses for affordable housing</li> </ul>
<b>4. Design Based</b>	<ul style="list-style-type: none"> <li>• Standards based on site characteristics and context</li> <li>• Graphic-based design approach to regulations, including design "typologies" for homes, townhouses, flats, etc.</li> <li>• Can result in a prescriptive design-based code (New Urbanist codes)</li> </ul>	<ul style="list-style-type: none"> <li>• One set of standards for typical conditions and another for larger lots</li> <li>• "Regulating plan" to outline design typologies - often emphasizes "New Urbanist" principles.</li> </ul>

**Multifamily zoning in other U.S. cities**

A chart is available on DPD's website that contains summary information about multifamily codes that are in use in cities that provide for densities and scale of development comparable to Seattle or include innovative or interesting approaches. DPD's website: [http://www.seattle.gov/dpd/planning/multifamily\\_code\\_update/](http://www.seattle.gov/dpd/planning/multifamily_code_update/)