Questions for the Analysis and Evaluation of Existing Zoning Regulations

"I'll know it when I see it." We can often spot a problem by relying on our instincts. Other times though, we need more guidance to sort the good from the bad. This list of questions is intended to assist you in determining whether your existing zoning regulations are out of date or otherwise inadequate to meet the demands of present conditions in your community. Many of the most important features of a zoning law or ordinance are listed, followed by questions you should apply to your set of zoning regulations. Your answers will help you find inadequacies or omissions in your regulations, and assist you in identifying the problems which must be faced in revising them. The list is by no means comprehensive, nor need every feature on the list be included in your zoning regulations. Adjustment should be made to meet local conditions, both physical and administrative.

The questions place principal emphasis upon the structure of the zoning regulations themselves and the methods used in their enforcement. It should not be forgotten that zoning regulations are an aid in the effectuation of a comprehensive plan for sound community development. Without such a plan to establish objectives and give purpose to zoning, zoning becomes at best a means for protecting existing conditions from further deterioration and for freezing the pattern of community development at that state it was in at the time of the passage of the zoning law or ordinance.

GENERAL PROVISIONS

Most zoning regulations follow a fairly standardized pattern which includes certain features which are necessary to insure the effectiveness of zoning. When these provisions are indefinite or missing, difficulties often arise in the enforcement of the regulations or in its application by the building inspector, or its interpretation by the Zoning Board of Appeals, or the court.

▪ Do the regulations have the customary introductory phrase stating that it is "an ordinance/local law to regulate the use of land and structures, etc., for the protection of the health, safety, welfare, and morals of the community" or otherwise refer to the statutory source of power?
▪ Do the regulations contain the customary "saving clause" stating that if any portion of the ordinance or local law is declared unconstitutional or illegal, the provisions of the rest of the ordinance or local law shall be deemed to be separately adopted and are still in force?
▪ Is the official zoning map made a part of the regulations by a specific statement to that effect?
▪ Do the regulations contain a section listing all districts for which regulations are established in the body of the regulations?
▪ Do the regulations state the manner in which the boundary lines of zoning districts will be established with reference to existing street lines, property lines, plats of record or existing natural features?
▪ Do the regulations state that the regulations and requirements are in addition to, and not in place of, any other restrictions controlling the use of land which may be found in other regulations such as the subdivision regulations, site plan review regulations or health regulations?
▪ Would the objectives and requirements of the zoning regulations be clarified by the inclusion of small illustrative maps or diagrams as part of the printed regulations?

▪ Do the regulations establish the methods and conditions for granting occupancy permits?

DEFINITIONS

The proper relationship between the list of definitions of terms used in the regulations to the body of the zoning regulations can do much to clarify the zoning regulations and to avoid needless repetitive phraseology.

▪ Are definitions of terms which are generally applicable to the entire zoning regulations scattered throughout the body of the regulations instead of grouped together to form one section for easy reference?
▪ Are there too many definition of terms which are commonly accepted definitions, which follow the dictionary or popular understanding of their meaning and whose elimination would result in a desirable reduction in the bulk of the regulations?
▪ Do the definitions vary so much from the commonly accepted or dictionary meaning of the terms defined, that confusion is generated in the mind of the average citizen in attempting to understand the zoning regulation?
▪ Are the definitions so vague and general, that the Zoning Board of Appeals is too frequently required to interpret their meaning?
▪ Are the definitions overly restrictive, making it impossible for the code enforcement officer or the Zoning Board of Appeals to act in circumstances which have not been foreseen and provided for by the regulations?
▪ Are there conflicts in the definitions where the same conditions have been described in different terms by the two or more definitions?
▪ Are the means for determining the reference points or lines from which measurements are to be taken (for set back, side or rear yard lines, etc.) included in the definitions?
▪ Are the definitions limited to words which simply describe a term, or do they include regulatory provisions which should instead appear in the body of the zoning regulations?
▪ Would the definitions be clarified by the inclusion of diagrams or pictures?

THE ZONING MAP

The zoning map is the instrument which applies the general provisions of the zoning regulations to specific areas throughout the municipality. However good the general provisions of the zoning regulations are, they will have little effect if the zoning map designating the zones of land use is carelessly drawn or poorly related to existing conditions and the future development of the municipality.

▪ Is adequate provision made for the changing and the recording of changes upon the zoning map?
▪ Are the custody and care of the zoning map specifically delegated to the proper official or department?
▪ Are the procedures to be followed in making future changes in the map and in the regulations clearly established?
▪ Has the zoning map been subjected to many changes since its original adoption?

▪ Do the type, location, and number of these changes indicate that a complete revision of the zoning map should be made?
▪ Are there areas which provide for much more development in the less restricted use areas than can be reasonably anticipated in the development of the municipality in the next five to ten years?
▪ Are there any areas in the municipality (such as those occupied or previously occupied by public buildings) which are not in any zone at all?
▪ Are the existing zones in conformity with a sound and comprehensive plan for the development of the municipality?
▪ Is the map characterized by many small zone areas (comprising from a half dozen to a dozen lots) which form small spots of less restrictive zones in areas predominantly devoted to a more restricted type of land use? (For example, commercial pockets within residential areas.)
▪ Has the zoning map been kept up to date by the person in whose custody it is kept?
▪ Are copies of the map available for general distribution to the public on request?
▪ Do the drafting techniques used in the map clearly indicate all zone boundaries?
▪ Can the map be reduced in size and printed inexpensively for general distribution?
▪ Is it desirable to prepare a series of zoning maps for the entire municipality indicating respectively, permitted used by zones, permitted lot sizes and family units per lot, and permitted structure heights?

ZONING DISTRICTS

The existing zoning districts should be examined (a) with regard to the type, quality, and number of districts and (b) with regard to the size and location of the districts in relation to the sound physical, social and economic development of the community. This can be done by checking their relationship to the extent and type of development proposed by the comprehensive plan.

▪ Are the number and extent of residential, commercial, agricultural, and industrial zones adequate?
▪ Are there an excessive number of types of zones?
▪ Are the distinctions between some zones so trivial that the consolidation of these zones is desirable?
▪ Are the classifications of permitted uses in some zones so broad that it is impossible to determine in which zone certain land uses are to be permitted?
▪ Is there a statement that any use not listed as permitted is prohibited?
▪ Is there sufficient control over residential uses in industrial and commercial areas?
▪ Where the districts allow a mix of uses, are there special use permit conditions that would reduce or eliminate potential conflicts?
▪ Do the existing zoning classifications reflect the mix of uses which are now needed or desirable incertain areas?
▪ Were the zoning classifications copied from the zoning classification of another municipality where the pattern of land use and where local customs and conditions differ considerably from existing local conditions?
▪ Do the location, shape, and size of the existing zones conform to the present and future needs of the municipality for sound development in land use in conformity with modern methods of transportation, provision of public facilities, and with modern progress in knowledge regarding the design and location of structures and land uses?
▪ Has special attention been given to taking the fullest advantage of natural features, scenic attractions, and topography in the establishment of the various types of zones and in designating their boundaries?

▪ Are the types and locations of the zones such that adequate provision is made for transitions from one zone to another so that detriment to property values, loss of utility or amenity is minimized along the boundaries of a zone where it borders upon a more restricted zone?
▪ Are certain business or professional uses permitted in residential zones which act as a "foot in the door" for more extensive business or professional activities which will eventually result in the deterioration of residential values in that zone?
▪ Are the businesses or professional uses permitted as home occupations adequately defined or regulated?
▪ Have the old patterns of strip zoning all major highways and of zoning the four corners of important intersecting streets resulted in excessive traffic congestion at these points?
▪ Are the standards for the development of land reflective of the desired community character, or are property developers exceeding the existing standards due to current levels of business competition?

LOT SIZES

Minimum lot sizes and minimum lot widths and depths established by zoning regulations exercise important control over the use of land and the distribution of population. Under certain conditions they are capable of exercising considerable control indirectly over the distribution of socioeconomic groups through the effect upon the relationships between the cost of a lot and the cost of the structure developed upon it.

▪ Are the minimum lot sizes established by the zoning regulations tending to become the standard lot sizes for future development?
▪ Are the minimum lot sizes adequate to provide the necessary protection against fire hazards, noise, lack of privacy or loss of amenities?
▪ Are the minimum lot sizes in some areas excessive because they result in high cost in property maintenance and landscaping, or increased cost of streets, water, sewer, and street lighting installations and maintenance?
▪ Are the minimum lot sizes adequate to provide space for private wells or septic tanks, or both, under the recognized health standards in areas where community water and sewer facilities are not available?
▪ Do the existing standards of residential development so far exceed the minimum requirements of the zoning law for lot sizes that these minimum requirements should be increased to insure the protection of the areas already developed?
▪ Does the minimum lot size include dimensional minimums as well as square footage minimums?
▪ Do the minimum lot size standards specify that they are based on one dwelling unit per lot?
▪ Do the regulations contain provisions regulating the location of two or more separate dwelling units or other structures upon the same lot?
▪ Are the minimum lot size requirements accompanied by requirements limiting the number of family units permitted per lot in multi-family zones so that a relationship of lot area to dwelling unit is established by the regulations?
▪ Are there minimum lot standards that are also applicable to multi-family housing, linking the number of family units permitted per lot in multi-family zones to the lot area?
▪ Is there a maximum lot coverage established for the buildings or structures erected on the lot?
▪ Do the minimum lot sizes conform to the comprehensive plan?

▪ Are special provisions made governing minimum lot sizes in areas where natural features, scenic attraction, public open spaces, or topographical conditions affect the development of the land?
▪ Are there provisions setting standards for temporary or transient structures such as mobile homes or construction trailers?

SIDE AND REAR YARD REQUIREMENTS

Minimum side and rear yard requirements should be coordinated with minimum lot size requirements to establish effective standards of population distribution in residential areas. They should also be carefully examined to determine whether they provide the necessary protection in making the transition from a less restricted to a more restricted zone.

▪ Are the side and rear yards in each category adequate to ensure the provisions of the light and air required by the various land uses permitted in that zone?
▪ Do the side and rear yards provide protection against noise and ensure adequate privacy?
▪ In lots in residential areas where off-street loading is required and where no rear alley exists, are the side yard or rear yard requirements sufficient to guarantee the access of motor vehicles to garage facilities or unloading platforms in the rear of the lot?
▪ Are the side and rear yard requirements flexible and related to building height, so that tall structures are required to provide increased side or rear yard areas where an increase in height of the building would be detrimental to adjacent property?
▪ In areas of less restricted use which border upon areas of a more restricted use, are the side or rear yard requirements of the more restricted use, applicable to all lots where one or more of the lot lines are a common boundary between the two zones?
▪ Are the minimum side or rear yard requirements sufficient to provide access for fire fighting equipment or to permit access for inspection by police and health authorities?
▪ Are the reference points or lines from which side or rear yard dimensions are to be measured and the methods for the measurement of side and rear yards, (particularly in lots of irregular shapes) clearly defined in the regulations?
▪ Are special provisions necessary in dealing with side yard requirements on corner lots where two sides of the lot are bounded by intersecting streets?
▪ Are the side and rear yard requirements so inflexible in nature that they would hamper the development of private or public housing projects developed on a large area in the form of condominiums, townhouses, or other housing forms which may require a different spatial relationship between individual structures?

SET BACK LINES

Set back lines which establish the distance by which the structures must set back from lot lines are an important and flexible tool in the zoning law or ordinance for the protection of highway rights of way, sidewalk areas, space for the planting of street trees, streetscapes and “street walls”, and for the insurance of adequate sight lines for traffic. Furthermore, they can ensure adequate access to light and air, prevent overcrowding of the land and provide for openness, privacy, protection against noise, and general amenity in street design. Local customs and habits of living, climatic conditions which would affect the growth and shrubbery or other decorative planting, the extent of traffic on streets, prevailing

building heights, the directions of streets, prevailing wind, the desire to promote a downtown appearance, and the orientation of the building to obtain maximum sunlight are factors which must be considered in the establishment of set back requirements as in the establishment of side and rear yard standards. Set back lines may also be desirable along the edges of streams and drainage ways to minimize flood damage and facilitate future drainage structure installation.

▪ Are the set back requirements best handled by establishing a general minimum distance for set backs which will apply to all structures within a given zone?
▪ Are there areas in the community where a maximum setback would also be desirable in order to promote a more uniform appearance of in-fill development?
▪ Do special conditions in the municipality indicate that it would be better to establish a series of set back distances for varying conditions and types of streets rather than to attempt to establish such set back requirements by one set of overall provisions?
▪ Is the method for measuring distances clear in the regulations?
▪ Are the existing set back lines in the present regulations inadequate to ensure privacy, quiet, sufficient areas for future street widening, or to provide for street parking area?
▪ Are the set back requirements excessive in some areas by placing an unnecessary burden upon the property owner for the maintenance of the area between the structure and the street lines or by making it difficult for the owner to develop adequate space to the rear of his or her structure to meet the needs of his or her manner of living?
▪ Do the regulations make adequate provision for the future widening of the main thoroughfare in the municipality?
▪ Do conditions exist in the municipality which would make desirable the establishment of special set back lines off drainage ways, areas subject to flooding, public parks or properties?
▪ Are special set back requirements desirable to apply to public or quasi-public institutional buildings or structures for the protection of the surrounding neighborhood or for the provision of additional light, air or privacy to the public structures?
▪ Are there provisions in the law which govern the orientation of the building itself, such as requiring it to locate its entrance or to face in a certain direction or upon a public street or thoroughfare?

NON-CONFORMING USES, STRUCTURES AND LOTS

The elimination of uses which do not conform to the zoning law or ordinance is often a problem. There are some instances where communities include provisions in zoning regulations for the eventual elimination of non-conforming uses by establishing a maximum period for the operation of a non-conforming use, which would permit the amortization of capital investments in structures or other installations. Other municipalities provide for the continuation of a non-conforming use or limited expansion of a non-conforming structure.

▪ Has the number of non-conforming uses decreased appreciably since the enactment of the zoning regulations?
▪ Do the regulations provide for adequate control over the continuance or expansion of non-conforming uses to insure their eventual elimination?
▪ Do the regulations provide for control over the extension, expansion, or addition to non-conforming structures which violate the provisions establishing set back, side or rear yards?

▪ Do the regulations contain the customary phrase forbidding the reestablishment of a non-conforming use if it has ceased to operate for a specified period of time?
▪ Is it desirable to amend the existing regulations by adding a section which would provide for the elimination of non-conforming open land uses (such as parking lots) or non-conforming uses which have a small capital investment in structures (such as signs or used car lots) by establishing an amortization period for the operation of these uses at the termination of which the use itself shall cease?
▪ Do the regulations provide for the substitution of a less intensive use for a more intensive and detrimental non-conforming use under specified standards administered by the Zoning Board of Appeals?
▪ Do the regulations address the development of a non-conforming lot, perhaps by exempting the lot owner from the need to obtain certain area variances?
▪ Do the regulations provide for the merger of contiguous non-conforming lots under the same ownership?

ACCESSORY BUILDINGS

The effectiveness of the control exercised by zoning regulations can be considerably impaired if inadequate control is exercised over the use, location, size, and area occupied by accessory buildings.

▪ Are the functions and relationships of the accessory buildings to the use of the main structure clearly defined?
▪ Are standards established governing the maximum amount of the lot area which can be occupied by an accessory building or buildings?
▪ Are the uses permitted in accessory buildings having a detrimental effect upon adjacent properties in certain zones?
▪ Do side yard, rear yard or height limitations governing accessory buildings adequately control their size and location?
▪ Are the regulations governing the use of accessory buildings or structures for residential purposes adequate?
▪ Are secondary or accessory uses in accessory buildings tending to become the primary land uses?

SPECIAL PROBLEMS

Many zoning regulations establish methods for controlling certain special problems. Without attempting to suggest solutions for these problems, the following questions indicate problems for which zoning regulations may wholly or in part provide a solution.

▪ Are special problems presented by the existence of agricultural uses within predominantly urban areas for which the customary urban type of zoning regulations is inappropriate?
▪ Does the existing type of manufactured home park development require special provisions in zoning to control their location and the extent of their operation?
▪ Is special treatment required to regulate the location, height or size of public and institutional buildings where such regulation is within the community's purview?

▪ Are special provisions required to govern the location of public and private airports, air fields, or air landing strips?
▪ Should special control be exercised over land uses and structure heights in areas immediately surrounding all airports facilities in addition to the normal control exercised by the general provisions of the zoning regulations?
▪ Are the regulations overly restrictive or obsolete in the control exercised over certain types of garden apartment development or private group-housing projects?
▪ Do the regulations provide for any of the range of specialized housing types for senior citizens?
▪ Are special provisions required to control the installation and maintenance of decorative hedges, trees and shrubbery?
▪ Are special provisions required to control the location, height, and character of walls and fences?
▪ Are the required number off-street loading and parking spaces provided by property owners insufficient or excessive in the downtown area, in local shopping centers, or in association with certain types of buildings, such as theaters, churches, schools, hospitals, stadiums or large department stores?
▪ Do local conditions suggest a need to require regulations which would control the design, general layout, height, and bulk of structures in certain types of business areas by the adoption of specific designs for business development in such areas?
▪ Is adequate control exercised by the regulations over advertising sign boards?
▪ Are changes desirable in the existing business and commercial zones in order to permit the introduction of certain small light industrial activities (such as self-storage facilities) in these business zones?
▪ Are special regulations desirable to control the conversion of older homes into rooming houses, boarding houses, or bed and breakfasts by the adoption of regulations limiting the number of occupants, the minimum floor area per family unit, the construction of additions to the structure, the use of accessory buildings, the parking of vehicles or the display of advertising?
▪ Are special provisions desirable to schools, clinics and nursing homes in residential areas or in commercial areas?
▪ Do the regulations set up minimum floor areas per family in certain districts?

ZONING BOARD OF APPEALS

The Zoning Board of Appeals exists to interpret unclear provisions of the zoning regulations and to provide relief to individual applicants who can meet the standards for the grant of a use or area variance.

▪ Do the regulations specify in the clearest possible terms the exact power to be exercised by the Zoning Board of Appeals?
▪ Are the powers so specified consistent with the state statutes?
▪ Do the regulations assign certain non-appellate functions to the Zoning Board of Appeals, such as issuance of special use permits or granting of site plan applications?
▪ Do the regulations establish any training or attendance standards for members of the Zoning Board of Appeals?
▪ Does the Zoning Board of Appeals (either under the provisions of the regulations or following a local custom) act as an advisory body when zoning regulation changes are under consideration by the planning commission or the legislative body?

▪ Has the Zoning Board of Appeals been burdened with an excessive amount of cases?
▪ Have the recent decisions of the Zoning Board of Appeals been consistent with its powers as specified in the statutes and zoning law or ordinance?
▪ Have the type, character, and number of its recent decisions been such as to result in excessive difficulties in their enforcement by the building inspector?
▪ Does the Zoning Board of Appeals follow a well-defined procedure in conducting its meetings?
▪ Does the Zoning Board of Appeals use well-designed appeal forms which clearly indicate the basis upon which its action is requested?
▪ Are standard forms used and standard procedures followed in hearing appeals?

ENFORCEMENT

Obviously no law can be effective if the manner of its enforcement is careless, arbitrary, or difficult to accomplish. Many zoning regulations are omit of necessary features or by establish standards or methods of enforcement which often become ineffective because of the difficulty of enforcement.

▪ Are adequate powers granted to the building inspector or zoning enforcement officer?
▪ Is the responsibility for the enforcement of the law clearly established?
▪Are the individuals charged with the enforcement of the law adequately trained, efficient, and conscientious, and familiar with its provisions and with their powers?
▪ Are constant surveys and inspections made to discover violations of the law?
▪ Are all violations so discovered followed by remedial action or action in the court?
▪ Have the courts consistently sustained decisions of the building inspector and the Zoning Board of Appeals?
▪ Has an adequate system been developed for checking on the termination date of temporary permits upon the expiration of which conformity to the zoning regulations is required?
▪ Can improvement be made in the system of record keeping by cooperation with the agencies (if any) issuing business licences, making assessments, collecting water bills or sewer charges, or making health, sanitary or fire inspections?
▪ Do the regulations establish the fines and penalties to be imposed upon those convicted of its violation?
▪ Does it provide (in a city or village) that each day of violation shall be considered a separate offense?

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