



Basics of zoning and subdivision regulations

Introduction

Taos County has identified the need to update its land use code and subdivision regulations, and has embarked on a project to accomplish this. The existing land use code (zoning) was last updated in 2018, but had been amended and grown incrementally over many years without comprehensive review and revision. The subdivision regulations were adopted in 2005 and have not been substantially revised since then.

For more information on the project's purpose, steps in the project and the County's current zoning system, please refer to **Introduction to the Taos County Development Code Update Project**, a pdf also available on this webpage.

This paper is intended to give a brief explanation and introduce some of the special vocabulary used in the county's ordinances that regulate land use.

Zoning

The primary purpose of **zoning** is to regulate land use to promote "health, safety and public welfare". The authority for a county or municipality to zone is given by the state through enabling legislation. In the county, the authority only applies to unincorporated private property - not to land in municipal limits, Pueblo lands, or federal and state lands.

Conventional zoning divides a jurisdiction into districts, such as residential, commercial, industrial, and mixed use corridors. It establishes within each zone district permitted uses, prohibited uses, and conditional uses, dimensional standards (such as lot size, setbacks, building height and lot coverage) and standards for specific uses.

Historically the theory has held that keeping a set of uses reasonably uniform within each zone district protects the interests of residents and businesses, promoting compatibility. Recently some mix of uses and densities is considered important to better serve communities.

All kinds of other aspects of the physical environment can be regulated through zoning, including but limited to: parking, signs, night skies, fire protection, terrain management, environmental protection, and protection of historic and cultural properties and character.

Zone districts are usually hierarchical ("Euclidean"), with the greatest deference to protect single family residential uses in urban and urbanizing areas from intense uses, and the least restrictions on manufacturing. Agricultural zoning in rural areas is usually with the largest lot sizes, intended to protect agricultural activities from uses that may intrude into farmland and tend to crowd out agriculture. Standards are often modified through zoning overlays and special use zones.

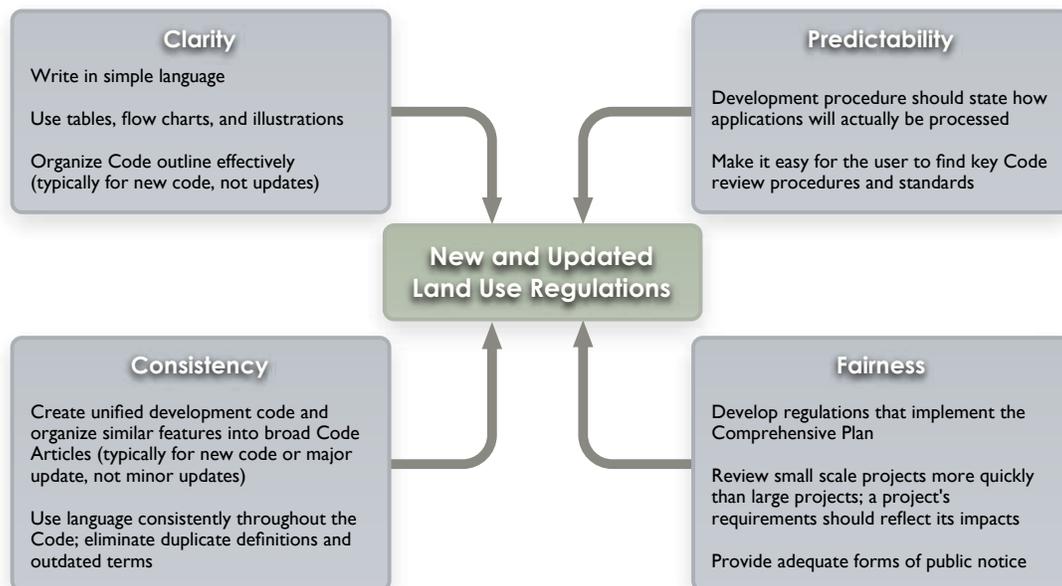
Zoning codes set the application requirements, review process steps and responsibilities of parties - typically the planning department, planning commission, body of elected officials (Board of County Commissioners).

Discretionary reviews allow for a responsible party to approve, approve with conditions or deny an application case-by-case. Conditional (or special) uses, planned unit developments and rezoning are discretionary, and provide opportunities for public input through public hearings. Subdivision approval, regulated through subdivision regulations, are also discretionary.

Zoning codes are one of the main tools that a jurisdiction has to implement the comprehensive plan. While the comprehensive plan is long-range and advisory, zoning has regulatory authority. The zoning code and subdivision regulations should be consistent with and follow the guidance of the comprehensive plan.

Subdivision regulations direct the process and standards for splitting properties into separate parcels. The New Mexico Subdivision Act requires each county to develop subdivision regulations and specifies some of the contents of codes. It mandates that all counties have subdivision regulations and specifies a number of provisions that must be in each county's regulations. It specifies thirteen exemptions from the definition of subdivision, types one through five subdivisions, public hearing requirements, preliminary plat provisions, summary review provisions, and final plat procedures. The Act requires in each county's regulations: proof of water, liquid waste and solid waste, terrain managements, and protection of cultural properties. It also requires a subdivider's disclosure statement.

Successful codes are clear, consistent, predictable, and fair. These principles guide the process of developing a new code or updating existing codes.



standards are subjective and cannot be easily measured or defined, the performance system morphs into discretionary zoning.

Performance zoning may use a menu of compliance options where a property developer can earn points or credits for limiting environmental impacts, including affordable housing units, or providing public amenities. In addition to the menu and points system, there may be additional discretionary criteria included in the review process. Performance zoning may be applied only to a specific type of development, such as housing, and may be combined with a system of use-based (conventional) districts.

Composite

As already indicated in this discussion, combining systems is a common practice in order to take advantage of the benefits of different approaches. Most conventional zoning systems include conditional uses that are discretionary. Form-based codes often specify a range of permitted uses. Discretionary and performance zoning are also often combined with use tables and dimensional standards (height, setbacks, lot coverage, and so on).

The following chart weighs pros and cons of the different zoning approaches.

Approach	Conventional	PUD / Discretionary	Form-Based	Performance	Composite
Compatibility	☑	☑	☒	☒	☑
Predictability	☑	☒	☑	☒	☒
Flexibility	☒	☑	☒	☒	☑
Placemaking	☒	☑	☑	☑	☑
Familiarity	☑	☑	☒	☒	☒
Streamlining	☒	☒	☑	☑	☑
Complexity	☑	☒	☒	☒	☒