

# Zoning and Transit-Oriented Development



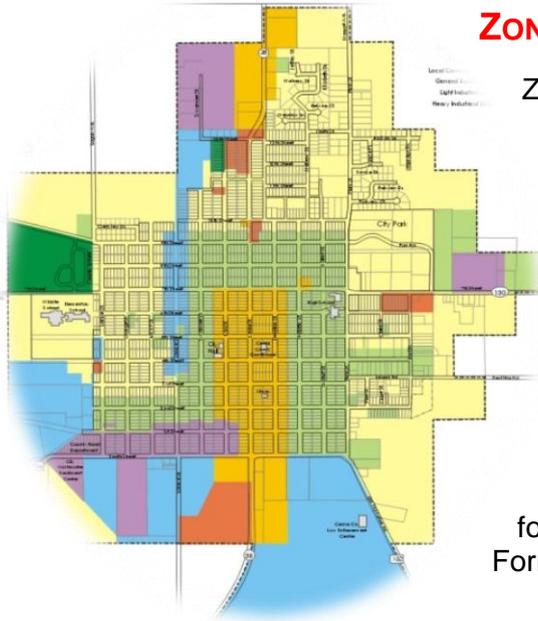
## A Best Practices Report

Authored by the Regional Transportation Authority of Northeastern Illinois

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## ZONING & TOD



Zoning is a device of land use planning used by local governments in most developed countries, derived from the practice of designating permitted uses of land based on mapped zones which separate one set of land uses from another. In theory, the primary purpose of zoning is to segregate uses that are thought to be incompatible. In practice, zoning is used to prevent new development from interfering with existing residents or businesses and to preserve the character of a community. Various types of zoning ordinances exist and are utilized; codes evolve as urban planning theory changes, market conditions change, legal constraints fluctuate and political priorities shift. The various approaches to zoning can be divided into four broad categories: Euclidean, Performance, Incentive, and Form-Based<sup>1</sup>

The purpose of this report is to outline the various types of zoning ordinances and how they can support Transit-Oriented Development (TOD). Aspects of traditional TOD include pedestrian-friendly commuter access and circulation in and around transit areas, a mix of housing choices, efficient parking and commercial, retail and service amenities.

To allow for TOD, a municipality can create a special TOD zoning designation, change existing zoning classifications, require review through the planned unit development process, or create special design standards to be applied to TOD areas. The creation of an *overlay zone* is one such common example of the application of design standards to existing zoned areas, as opposed to changing or revising current zoning classifications. As its name implies, an overlay zone is placed on the zoning map over an existing zoning district(s). The overlay zone modifies, eliminates, or adds regulations to the base zoning designation by effectively controlling land use without increasing the complexity of zoning regulations<sup>2</sup>.

A growing list of U.S. cities (San Diego, Seattle, Philadelphia, Portland), including many in the Chicago Metropolitan area such as Prairie Grove, Blue Island and Manhattan, have introduced or considered overlay zoning in recent years to existing or planned station areas to promote complementary mixed-use development. The following examples outline various zoning approaches, to which overlay zones can be incorporated.

### TRANSIT-ORIENTED DEVELOPMENT

Transit-oriented development (TOD) is a sustainable form of development that encourages compact, mixed-use, pedestrian-oriented, high quality development at and around rail and bus stations and corridors that increases ridership to the system, supports long-term system capacity, promotes livable communities, and has the potential to generate additional funding for transit. TOD areas are defined as the half-mile radius from rail stations and quarter-mile radius from bus stations and corridors.



<sup>1</sup> [en.wikipedia.org/wiki/Zoning](http://en.wikipedia.org/wiki/Zoning)

<sup>2</sup> [www.riderta.com/tod/guidelines](http://www.riderta.com/tod/guidelines)

### Advantages for TOD

- Simple use and bulk standards clearly describe the intent of the each zoning district
- Provisions provide for changes to standard zoning regulations through the allowance of special uses, variances and exceptions, providing flexibility in achieving the principles of TOD

### Disadvantages for TOD

- Separates land uses by district and does not encourage mix of uses
- Promotes automobile-dependent patterns of suburban sprawl, resulting in unsustainable development

The most traditional and common approach to zoning is called “Euclidean” zoning, named after the town of Euclid, Ohio and a pivotal court case involving a landowner and their challenge of the city’s zoning code. The validity of Euclid’s zoning ordinance was upheld in the U.S. Supreme Court in 1926 and the term “Euclidean zoning” emerged, having influenced the content and design of zoning codes across the country since<sup>3</sup>.

Euclidean zoning regulates land development by establishing various land use categories and associated dimensional or “bulk” standards. Typical land use classifications are single-family residential, multi-family residential, commercial, institutional, industrial and recreational. Each classification is regulated by a set of standards dictating the allowable height, bulk, density and area of structures. Setbacks, side yards, height limits, minimum lot sizes, and lot coverage limits are also included in these standards.

Some “accessory” or “conditional” uses may be allowed in order to accommodate the needs of the primary uses<sup>4</sup>.

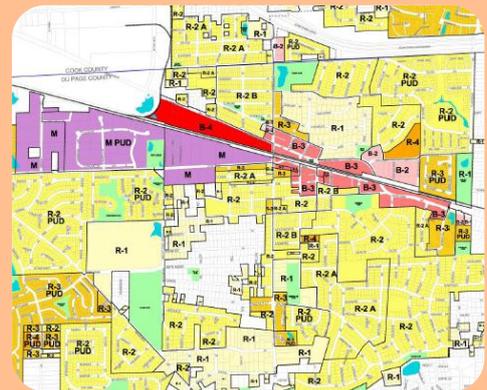
Although Euclidean zoning remains the most widely used zoning practice in the United States, it has recently come under increasing criticism due to its lack of flexibility and somewhat outdated theories. A growing number of municipalities and councils of government have recently adopted or considered newer types of zoning ordinances.

Elements of a Euclidean zoning ordinance include a zoning map of the various zoning districts, regulations and allowed uses in each zone, special district regulations (if applicable), overlay districts (if applicable), administration procedure and submittal process, and definitions of terms.

### Roselle, IL

([http://library3.municode.com/default-now/home.htm?infobase=12055&doc\\_action=whatsnew](http://library3.municode.com/default-now/home.htm?infobase=12055&doc_action=whatsnew))

The Village of Roselle utilizes a traditional zoning code to regulate land use and development throughout the community. The purpose of this ordinance is to divide “the entire Village of Roselle into districts and classifying, restricting, and regulating therein trades and industries, and the location, construction, reconstruction, alteration, and use of buildings, structures, and land, whether for residence, business, manufacturing, or other specified uses.” The Village designates their downtown TOD area as B-3 Town Center District, allowing for mixed-use buildings, PUDs, and higher density than in outlying districts.



<sup>3</sup> <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=272&invol=365>

<sup>4</sup> [www.zoningmatters.org/facts/trends](http://www.zoningmatters.org/facts/trends)

### Advantages for TOD

- Allows a wider range of uses and more flexibility for both the municipality and developer, encouraging more innovation for access and amenities in a TOD area.
- Promotes development that only positively impacts the municipality

### Disadvantages for TOD

- More difficult to administer, allowing for more opportunities for variances outside the intent of the regulations
- Uses are determined through potentially confusing calculations of a variety of factors
- Performance parameters replace use regulations, threatening the mixed-use intent of TOD

## PERFORMANCE ZONING

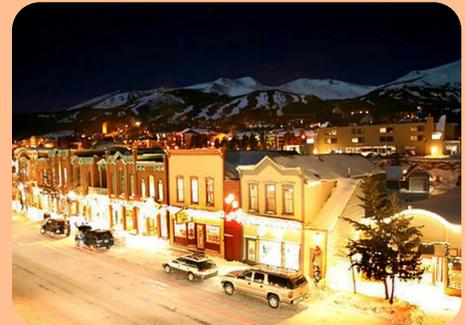
Performance zoning attempts to regulate the impacts of development, rather than to strictly limit uses. This type of zoning was initially developed to set commercial and industrial standards. Where conventional zoning specifies what uses land can be put to in specified districts, performance zoning specifies the intensity of land use that is acceptable. It deals not with the use of a parcel, but the performance of a parcel and how it impacts surrounding areas.

Performance zoning is intended to provide flexibility, transparency and accountability, avoiding the arbitrary nature of traditional zoning and better accommodating market principles and private property rights with environmental protection. Although the use of performance zoning has not been widely adopted in the USA, many of the types of performance standards associated with performance zoning are increasingly being incorporated into zoning codes<sup>5</sup>.

### Breckenridge, CO

[www.townofbreckenridge.com/Modules/ShowDocument.aspx?documentid=1190](http://www.townofbreckenridge.com/Modules/ShowDocument.aspx?documentid=1190)

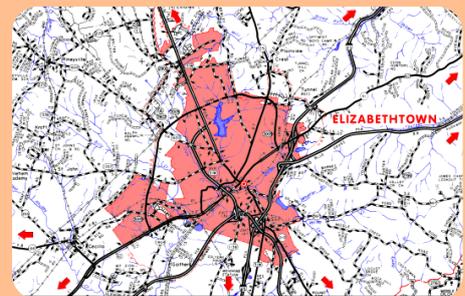
The town of Breckenridge adopted a performance-based code in 1978, which is a combination of traditional zoning and performance zoning. Unlike traditional zoning, it reviews a proposed project against its potential impacts, rather than against a strict set of standards and criteria, considering not only the proposed project's physical impacts but also its social, aesthetic and historic impacts as well. The code is further distinguished from traditional zoning in its ability to be flexible without relying on the variance procedure. Similar to traditional zoning, however, the code sets minimum standards that must be met before a development permit is granted.



### Hardin County, KY

<http://www.hcky.org/pdfs/ZONINGORDINANCE.pdf>

The land development ordinance allows agricultural and single family uses by right. All other uses must be evaluated by a three-step process. At the first step, the agricultural and development potential is evaluated using a point system. If the site scores a minimum threshold value, then it moves onto the second step, a compatibility assessment. The final step involves typical review of subdivision standards and requirements.



<sup>5</sup> [http://en.wikipedia.org/wiki/Zoning#Zoning\\_types\\_in\\_the\\_United\\_States](http://en.wikipedia.org/wiki/Zoning#Zoning_types_in_the_United_States)

### Advantages for TOD

- Incentives encourage sensitivity to the character of the community and maintenance of land use control
- Increased height and density thresholds are available in exchange for other measures such as additional pedestrian amenities and affordable housing units, which further promote the principles of TOD

### Disadvantages for TOD

- Allows a high degree of flexibility, which can complicate and extend the administrative approval process
- Regular updates may be required to ensure that incentives are marketable to developers, also increasing administrative responsibility and extending the approval period

## INCENTIVE-BASED ZONING

First utilized in Chicago and New York City, incentive zoning is intended to provide a system based on rewarding development that meets established urban development goals. Typically, it allows developers more density in exchange for community improvements, such as open space, affordable housing, special building features, etc. The extent to which incentive zoning is truly an incentive depends on the demand for density increases and the limitations on density increases under the existing zoning ordinance<sup>6</sup>.

### Chicago, IL

[www.cityofchicago.org/city/en/depts/dcd.html](http://www.cityofchicago.org/city/en/depts/dcd.html)

To encourage mixed-income housing, the City of Chicago has chosen to use incentive-based zoning rather than a mandatory inclusionary housing program. The incentive, a density bonus, provides additional floor area ratio and height in exchange for providing either fee or on-site affordable housing. For on-site units, developers

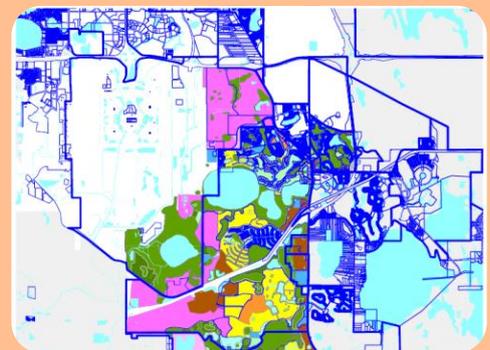
receive a 4:1 bonus of additional square footage for each foot of affordable housing. If the developer opts to pay the fee it is deposited in a special fund used to help offset related housing impacts of the development. Although the City's downtown affordable housing zoning bonus is not currently focused on TOD, Mayor Daley has recently proposed to expand the program beyond the downtown areas to neighborhoods well-served by transit.



### Orlando, FL

[www.cityoforlando.net/planning](http://www.cityoforlando.net/planning)

The Southeast Orlando Sector Plan (for a 19,300-acre greenfield area located adjacent to the Orlando International Airport) provides incentives for development that is consistent with the plan. Key plan concepts include building livable neighborhoods and mixed-use centers that are compact and walkable, accommodating all modes of travel, focusing on traditional design and civic amenities, protecting the environment, and creating a healthy jobs-housing balance. Incentives for development consistent with the plan's vision include expedited administrative and environmental review; smaller street sections, increased densities, and opportunities for mixed-use development where Traditional Design Standards are used; and reduced transportation impact fees where certain criteria are met. An additional incentive is fee waivers for growth management plan amendments, rezonings, master plans, and subdivision platting for five years from the initial master plan approval.



<sup>6</sup> [http://en.wikipedia.org/wiki/Zoning\\_in\\_the\\_United\\_States](http://en.wikipedia.org/wiki/Zoning_in_the_United_States)

## FORM-BASED ZONING

### Advantages for TOD

- Clearly defined design standards and form can achieve a more predictable physical result, which allows for more control in shaping the TOD area
- Allows for more, smaller developments that can each focus on certain aspects of design in a TOD area rather than attempting to incorporate all TOD principles in a few larger developments

### Disadvantages for TOD

- Lack of standardization of allowed uses can hinder control of land use
- Requires a significant understanding of architectural and material standards, which may complicate the already-complex nature of TOD projects
- Conflicting ideas of the nature and character of a community may surface during public involvement and delay some TOD projects that are already subject to higher degrees of scrutiny

Form-based codes offer an effective alternative to conventional or Euclidean zoning. This type of zoning regulation addresses the relationship between building facades and the public realm, the design and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in form-based codes are presented both in text and clearly drawn diagrams for visual reference. Other elements of a form-based code may include architectural, landscaping, signage and environmental standards<sup>7</sup>.

### Winter Springs, FL

[http://www.doverkohl.com/files/pdf/Winter%20Springs\\_low%20res.pdf](http://www.doverkohl.com/files/pdf/Winter%20Springs_low%20res.pdf)

In 1998, the Winter Springs City Commission adopted the conceptual master plan. In 2000, the City commenced modifications of their land development regulations and created the Winter Springs Town Center District, which includes a form-based code regulating the form and uses in this district. A number of residential and mixed-use buildings have been completed. The Town Center District Code was created to replace Winter Springs' existing land development regulations and legalize mixed-use development as envisioned in the Master Plan. The code is highly graphic and simple to understand.



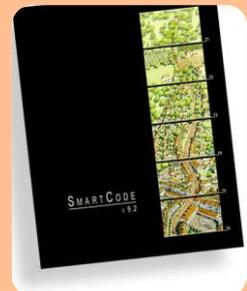
### SmartCode

<http://www.smartcodecentral.org/>

SmartCode is a model form-based unified land development ordinance designed to create walkable neighborhoods across all types of communities (rural and urban), incorporating zoning, subdivision regulations, urban design, and basic architectural standards into one compact document. It enables communities to illustrate their planning vision by coding certain variables and inputs into a template code that can be adjusted and calibrated based on the desired character of the community.

**Advantages for TOD:** By design, it creates model communities that are walkable and promote a mix of uses, similar to the goals of TOD. Users would be able to see how a template zoning ordinance would fit into their community, with opportunities to make necessary tweaks to the ordinance to suit their community character.

**Disadvantages for TOD:** Each TOD site is different, with different needs and different capacities for uses. A model code cannot be applied to a general area without the necessary and appropriate adjustments. This would require a high-level of staff knowledge to utilize the SmartCode efficiently. This may add additional levels of complexity to zoning administration.



<sup>7</sup> [www.formbasedcodes.org/what-are-form-based-codes](http://www.formbasedcodes.org/what-are-form-based-codes)

### Advantages for TOD

- Promotes the preservation of community character while also encouraging a mix of uses, necessary for successful TOD

### Disadvantages for TOD

- Incorporating aspects of various zoning ordinance types may also, if not carefully drafted, pose conflicting ideas that regulate the built environment and uses in a community
- TOD projects are unique on their own; adding layers to their complexity could delay their

## HYBRID ZONING

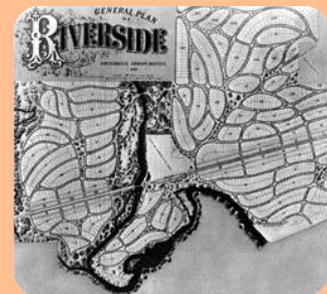
Many communities across the country are showing new interest in using zoning regulation to better realize a desired building form. A hybrid code combines traditional zoning controls with form-based zoning techniques. By integrating form-based controls into a traditional zoning code, a community can pinpoint the specific design elements desired in new development. When done correctly, incorporating form-based elements can help refine and focus standard bulk requirements, while still regulating allowable uses.

In blending elements of form-based and conventional zoning codes, it is important to understand the strengths and weaknesses of each type of code, and where each can be successfully applied.

### Riverside, IL

[www.sterlingcodifiers.com/codebook/index.php?book\\_id=610](http://www.sterlingcodifiers.com/codebook/index.php?book_id=610)

In Riverside, the desire was not to create a strictly form-based code, but rather to combine form-based techniques with a traditional ordinance – creating a “hybrid” zoning ordinance. Traditional controls, such as maximum height and minimum yards, create a building envelope but do not speak directly to the “form” of new development. Form-based codes, on the other hand, concentrate primarily on design. This interest in form-based coding arises from a community’s desire to establish a more refined form coupled with dissatisfaction over the end result of current development regulations. However, in many communities, particularly those that are fully built-out, most of the traditional zoning controls are, in fact, working and current staff may not have the capacity or expertise to shift to a fully design-oriented code. Usually it is only one part of town, such as a downtown, or a particular issue, like residential teardowns in Riverside’s case, which needs special attention.

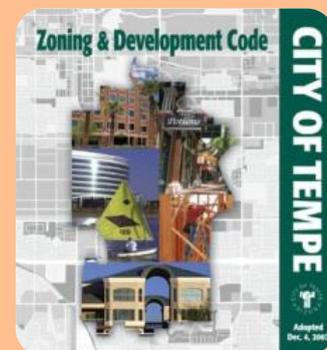


### Tempe, AZ

[www.tempe.gov/zoning/ZDCCode/ZDCpart5.pdf](http://www.tempe.gov/zoning/ZDCCode/ZDCpart5.pdf)

[http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=610](http://www.sterlingcodifiers.com/codebook/index.php?book_id=610)

The City of Tempe, AZ has created a Transportation Overlay District to encourage appropriate land development and redevelopment that is consistent with and complementary to the community’s focused investment in transit, bicycle and pedestrian infrastructure in certain geographic areas of the City. This Overlay District regulates land uses and establishes development standards in order to prevent developments which would interrupt the transit, bicycle and pedestrian experience.



## IMPLEMENTATION

Many communities across the country are showing new interest and increased efforts in using zoning regulation to better realize a desired building form. Hybrid codes are emerging as an acceptable approach as these codes combine traditional zoning controls with form-based zoning techniques. By integrating form-based controls into a traditional zoning code, a community exercised greater control over the design as well as the function of specific building types referenced in the “regulating” plan for each TOD. When done correctly, incorporating form-based elements provides greater certainty for the community and developer over the desired outcome by combining design with standard zoning bulk requirements, while still allowing communities control over types of uses.

Determining the appropriate zoning code type for a community’s TOD area is an important first step in realizing the changes required for new development to comply with a TOD plan. Traditionally, changes or updates in a community’s zoning ordinance occur in response to development proposals for a specific property. Depending on the size of a project, the application of desired standards may take years to achieve. Therefore, the implementation of desired TOD vision should be done comprehensively through the establishment of zoning standards on an area wide basis in order to ensure adherence to the TOD plan.

The various types of zoning codes discussed in this report can be implemented by utilizing one of the following approaches:

- **Mandatory Codes:** This is the most common adoption approach. Compliance is required; therefore this approach is very strict in regulation. It is also considered the most ambitious of the approaches, making the new code a seamless part of, or a complete replacement for, the existing zoning ordinance. The form-based code can be adopted as a new zoning district or as an overlay district.
- **Floating-Zone Codes:** Floating zones are most often written to facilitate master-planned suburban communities and are sometimes referred to as Planned Unit Developments (PUDs), or similar to overlay zones. However, floating-zone codes are now being written as hybrid form-based codes to facilitate urban development that regulates not only form but also use.
- **TOD Overlay Zones:** Transit Oriented Development Overlay Zones are intended to promote the creation and retention of mixed land uses in areas with high potential for enhanced transit and pedestrian activity. Pedestrian circulation and transit access are especially important and have increased emphasis in areas with the TOD overlay zone. The development standards are designed to encourage compact urban growth, opportunities for increased choice of transportation mode, reduced reliance on the automobile, and a safe and pleasant pedestrian environment, by insuring an attractive streetscape, a functional mix of complementary uses, and provision of amenities that support the use of transit, bicycles, and pedestrian facilities.

