

Coconino County Bar
Association
February 18, 2020
▶ Ashley DeBoard, Flagstaff
Law Group

Overview of Local Land Use Regulation in Arizona

Goals

1. Gain a basic understanding of the land use regulatory framework
2. Issue spot potential land use issues in your client case matters

Overview of Local Land Use Regulation



Sources of Authority
for Planning &
Zoning



Local Land Use
Planning Documents



Regulatory
Framework



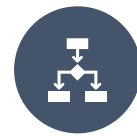
Types of Land Use
Permissions



Who Makes a
Decision?



How is a Decision
Made?



Review of Decision



Putting it Together -
Hypotheticals



What is land use
regulation?

What is Land Use Regulation?

A means by which local, state, and federal governments govern the physical development of property and the uses to which a property may be put.

A process to define a community's essential character. Zoning is a tool to protect public health and safety, define aesthetic and other public values, and ensure neighboring land uses are compatible.

Sources of Authority for Planning & Zoning

- Zoning is generally recognized as a valid exercise of police power. Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)
- Arizona enabling statutes govern local authority to zone
 - Cities: Ariz. Rev. Stat. Title 9, Chapter 4, Articles 6, 6.1, & 6.2 (A.R.S. § 9-461 *et seq.*)
 - Counties: Ariz. Rev. Stat. Title 11, Chapter 6 (A.R.S. § 11-801 *et seq.*)
- State & Federal statutes may also preempt local land use regulation
 - State: group homes, vacation rentals, agricultural uses, ranching, mining, RRs
 - Federal: telecommunications, FHA & ADA, RLUIPA

Local Land Use Planning Documents



Cities & Counties must adopt long range plans

“Comprehensive Plan” – Counties;
“General Plan” – Cities & Towns



Local Area Plans – Amendments to Comp or General Plan



Plans provide roadmap & public values concerning future development & use

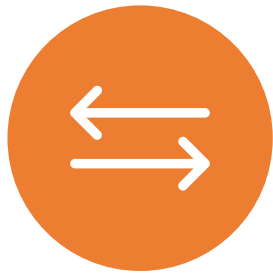


Plans contain goals & policies – guide land use decisions



Implemented through ordinances & regulations

Zoning Ordinances



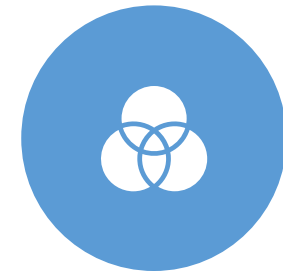
STANDARDS VARY BY JURISDICTION



SPECIFIES PERMITTED LAND USES IN
DIFFERENT ZONING DISTRICTS



GOVERNS SITE DEVELOPMENT
STANDARDS SUCH AS SETBACKS,
REQUIRED PARKING, BUILDING
HEIGHT



GOVERNS PROCESSES FOR REVIEW
OF CERTAIN LAND USE
APPLICATIONS SUCH AS CUPS,
APPEALS, REVIEW OF PERMITS, ETC.

Development Review

Also varies by jurisdiction

Includes regulations governing
development standards

Design & Engineering Standards

Subdivision Regulations


Building Code

Regulatory
Framework
How does it
fit together?

Comp. & General
Plans

Zoning
Ordinances

Development
Review

A dark, irregularly shaped graphic with a splatter effect, containing white text. The graphic is centered on a white background and has a rough, ink-like border. The text is white and reads: "Trivia: How many different types of land use permissions can you identify?"

Trivia: How many different types of land use permissions can you identify?

Common Types of Land Use Permissions

Rezoning

Subdivisions & Land Divisions

Special or Conditional Use Permits

Variations

Buildings Permits

Amendments to Zoning Regulations

General or Area Plan Amendments

Floodplain Permits

Who Makes the Decision?

Planning & Zoning Commission

- CUPs/SUPs; Initial Review & Recommendations for Board/Council decisions

City Council or County Board of Supervisors

- Subdivisions; Rezones; Amendments to Ordinances or Plans; CUP/SUP appeals

Board of Adjustment

- Variances

Voters

- Referendum on legislative decisions

How is Decision Made?



Planning Dept. review of application



Public outreach & noticing



Public hearing



Decision by majority* of quorum of public body, guided by standards in zoning ordinance and plans



Legislative decisions are highly discretionary

Review of Decision



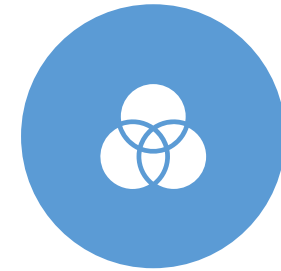
APPEAL - BY APPLICANT OR OTHER INTERESTED* PERSON



APPEAL – MADE TO CITY COUNCIL OR BD. OF SUPERVISORS, OR JUDICIAL REVIEW



LEGISLATIVE DECISIONS SUBJECT TO REFERENDUM



SCOPE & STANDARD OF JUDICIAL REVIEW – GENERALLY BASED UPON RECORD BEFORE PUBLIC BODY (PROTECT THE RECORD) & DEFERENTIAL STANDARD OF REVIEW (ABUSE OF DISCRETION, ARB & CAP)

Putting it All Together – Issue Spotting



HYPOTHETICAL #1 – NEW COFFEE SHOP IN DOWNTOWN FLAGSTAFF



HYPOTHETICAL #2 – FARMER'S MARKET



HYPOTHETICAL #3 – INVESTMENT PROPERTY WITH 2ND DWELLING UNIT

Questions?