Local Land Use Regulations: a Vermont primer

Two Rivers-Ottauquechee Regional Commission
The Basics

- ALL land use is planned.
- Zoning IS local control.
- Landowner rights always have limits.
- A town’s power to regulate land has it’s limits, too.
Access Permits

- Regardless of whether you have zoning or subdivision regulations, any *new or modified* access onto a town road requires an access permit.
Access Permits

- The access permit ensures that the access is safe and will not harm the town highway. Proper angle, slope, drainage and placement on the lot are all looked at.
Flood Hazard Area Regulations

- Towns must regulate at least the federally defined flood areas to the National Flood Insurance Program (NFIP) minimums if residents are to be able to buy flood insurance.
Free standing ordinances (adopted under 24 VSA, Chapter 59)

- Signs
- Junkyards
- Roads
- Parking
- Dogs
- Lighting
- Noise
- Burning
Town plans can have regulatory effect.

- In Act 250: Town Plans need to have a section on the town’s desired future land use. If a town plan has specific, directive language, “conformance” by a project with that language can be required.

- Access Permits: Whether issued by the town or state, access permits must be “compatible” with the Town Plan.
Zoning Regulations

- Zoning regulates what is allowed where, often through specific districts, and generally with the least restrictions on single home residential development and more stringent conditions on commercial or industrial uses.
Zoning has limits by law. It cannot:

- Treat mobile or modular homes different than standard homes.
- Regulate most electric distribution and generation.
- Regulate farming or forestry that is done according to state standards.
- Regulate most aspects of farm buildings.
- Prohibit the use of part of a home for a “home occupation”.
- Prohibit any home from adding on 1-bedroom apartment.
- Make a structure or use that predated the adoption of the regulation a violation.
- Prohibit small child care, residential care, or group homes.
- Prohibit cellular towers.
- Have the effect of creating only unaffordable housing.
Additional “public” land uses are protected by law

Protected types of development include:

- State or town buildings or facilities
- Schools
- Churches
- Hospitals
- Landfills

- These **must** be allowed in at least part of town.
- Land use regulations cannot be so strict that they overly interfere with these uses.
Zoning Regulations

- At the individual lot level, a zoning regulation’s setback limits create a “box” where development can go.
- Front setbacks are often measured from the road centerline.
Zoning Regulations

- Lots must also meet minimum size, depth, and frontage requirements.
Zoning Regulations

- For single residences, that is usually the extent of regulations, and only a zoning permit is needed before you build. This simply involves paying a small fee and waiting a few weeks.
Subdivision:

- The division of a lot into two or more new lots is a subdivision.
- Whether or not developers obtain a local subdivision permit, they must also get a state subdivision permit (this is *not* an Act 250 permit) or file a deed notice.
Subdivision permits can be used to control impacts of development:

- Minimizing proliferation of access points by requiring a single access.
- Protecting natural resources through placement of roads and buildings.
Septic Regulations

- Septic systems may require a local permit now, in addition to a state permit.
- After July 1, 2007, local septic regulations will essentially cease.
Act 250 jurisdictional thresholds

If a town has **not** adopted **both** zoning and subdivision regulations, Act 250 will regulate*:
- any commercial project over 1 acre.
- A subdivision that creates 6 or more lots.

If a town has adopted both, or if you have not opted out of this provision by ordinance, then the thresholds are:
- commercial projects over 10 acres.
- subdivisions that create 10 or more lots.

*and some additional types of projects