

APPENDIX A

TITLE 17

LOCAL GOVERNMENT; PROVISIONS COMMON TO COUNTIES AND MUNICIPALITIES

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CHAPTER 1

Zoning, Planning and Subdivision Regulation

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17-1-1.	<u>Definitions.</u>

The following words, whenever used in this chapter, shall, unless a different meaning clearly appears from the context, have the following meanings:

- (a) “*Municipality*,” any incorporated City or town within the State.
- (b) “*Governing authority*” or “*governing authorities*,” in the case of the County, and, in the case of municipalities, the Council, Board, Commissioners, or other legislative body charged by law with governing the municipality.
- (c) “*Comprehensive Plan*”, a statement of public policy for the physical development of the entire municipality or County adopted by resolution of the governing body, consisting of the following elements at a minimum:

- (i) Goals and objectives for the long-range twenty (20) to twenty-five (25) years development of the County or municipality. Required goals and objectives shall address, at a minimum, residential, commercial and industrial development; parks, open space and recreation; street or road improvements; public schools and community facilities.
- (ii) A land use plan which designates in map or policy form the proposed general distribution and extent of the uses of land for residences, commerce, industry, recreation and open space, public/quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following; residential densities; intensity of commercial uses; industrial and public/quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area encompassed by the plan may be the basis for quantitative recommendations for each land use category.
- (iii) A transportation plan depicting in map form the proposed functional classifications for all existing and proposed streets, roads and highways for the area encompassed by the land use plan and for the same time period as that covered by the land use plan. Functional classifications shall consist of arterial, collector and local streets, road and highways, and these classifications shall be defined on the plan as to minimum right-of-way and surface width requirements; these requirements shall be based upon traffic projections. All other forms of transportation pertinent to the local jurisdiction shall be addressed as appropriate. The transportation plan shall be a basis for a capital improvements program.
- (iv) A community facilities plan as a basis for a capital improvements program including, but not limited to, the following: housing, schools; parks and recreation; public buildings and facilities; utilities and drainage.

Cross References ---

For laws concerning counties and county officers generally, see Title 19.

For laws concerning municipalities and their officers, see Title 21.

17-1-3. General powers.

For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any County, the governing authority of any County, in its discretion, are empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required with reference to land used for agricultural purposes or for the erection, maintenance, repair or extension of farm buildings or farm structures outside the corporate limits of municipalities. The governing authority of each County and municipality may create playgrounds and public parks, and for these purposes, each of such governing authorities shall possess the power, where requisite, of eminent domain and the right, to apply public money thereto, and may issue bonds therefor as otherwise permitted by law.

SOURCES: Codes, 1930, § 2474; 1942, §§ 2890.5, 3590; Laws 1926, ch. 308; 1938, ch. 333; 1946, ch. 292; 1956, ch. 197. §§ 1-6; 1958, ch. 520, 532; 1960, ch. 402.

Cross references ---

For other sections derived from same 1942 Code section see §§ 17-1-5, 17-1-11, 17-1-23, 17-1-37.
As to condition when local regulations govern, see §17-1-21.
As to County acting with municipalities located within it see §17-1-5.
As to membership of Regional Planning Commission, see §17-1-29.
As to authority and powers of Regional Planning Commission, see §17-1-35.
As to association of local communities and Counties to solve common problem, see §§ 17-11-1 et seq.
As to authority for tax levies to meet cost of administration see §17-1-37.
As to creation of housing authorities by governing authorities of town, City or County, see §43-33-5.
As to Planning Commission's plan for area development, see §17-1-11.
As to scope of Regional Planning Commissions' advisory role in planning matters, see §17-1-33.
As to procedures for condemnation of lands for public use generally, see §§ 11-27-1 et seq.
As to exercise of eminent domain by municipalities, see §21-37-47.
As to Subdivision Regulation by governing authorities, see §17-1-23.
As to housing projects of an authority being subject to Zoning Ordinances and Regulations, see § 43-33-21.
As to Board of Supervisors' requiring utilities and streets in subdivisions, see §17-1-23.
As to Board of Supervisors' approval before recording and subdivision plat, see §17-1-23.
As to establishing zones within which sale of wine and beer may be prohibited, see § 67-3-65.
For special zoning regulations concerning airports, see §§ 61-7-1 et seq.
As to Counties issuing bonds generally, see §§ 19-9-1 et seq.
As to municipalities issues bonds generally, see §§ 21-33-301 et seq.

17-1-5. Manner of exercise of powers conferred.

In the exercise and enforcement of the powers conferred by §§ 17-1-1 to 17-1-27, inclusive, each County and each municipality within the County may act independently one from the other, or, in the exercise of discretion, the governing authority of any County and the governing authority of any municipality located within the County may act jointly in order to attain uniformity and consistency in the Zoning Regulations for the areas to be affected.

SOURCES: Codes, 1930, § 2474; 1942, §§ 2890.5, 3590; Laws, 1926, Ch. 308; 1938, Ch. 333; 1946, Ch. 292; 1956, Ch. 197 §§ 1-6; 1958, Ch. 520, 532; 1960, Ch. 402.

Cross References ---

For other Sections derived from same 1942 Code section, see §§ 17-1-3, 17-1-11, 17-1-23, 17-1-37.
As to condition when local regulations govern, see § 17-1-21.
As to authority and powers of Regional Planning Commission, see §17-1-35.
As to membership of regional planning commission, see §17-1-29.
As to association of local communities and Counties to solve common problem, see §§ 17-11-1 et seq.
As to authority for tax levies to meet cost of administration, see §17-1-37.
As to creation of housing authorities by governing authorities to town, City or County, see §43-33-5.
As to Planning Commission's plan for area development, see §17-1-11.
As to scope of Regional Planning Commissions' advisory role in planning matters, see §17-1-33.
As to procedures for condemnation of lands for public use generally, see §§ 11-27-1 et seq.
As to exercise of eminent domain by municipalities, see §21-37-47.
As to Subdivision Regulation by governing authorities, see §17-1-23.
As to housing projects of an authority being subject to Zoning Ordinances and Regulations, see §43-33-21.
As to Board of Supervisors' requiring utilities and streets in subdivision, see §17-1-23.
As to Board of Supervisors' approval before recording subdivision plat, see §17-1-23.
As to establishing zones within which sale of wine and beer may be prohibited, see §67-3-65.
For special zoning regulations concerning airports, see §§ 61-7-1 et seq.
As to Counties issuing bonds generally, see §§ 19-9-1 et seq.
As to municipalities issuing bonds generally, see §§ 21-33-301 et seq.

17-1-7. Zones.

For the purposes set forth in section 17-1-3, the governing authority of each municipality and County may divide the municipality or County into zones of such number, shape and area as may be deemed best suited to carry out the purposes of §§ 17-1-1 to 17-1-27, inclusive. Within the zones created, the governing authority of each municipality and County may, subject to the restrictions with respect to agricultural lands and farm buildings or structures as set out in §17-1-3, regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All regulations shall be uniform for each class or kind of buildings throughout each zone, but regulations in one zone may differ from those in other

zones.

SOURCES: Codes, 1930, § 2475; 1942, § 3591; Laws, 1926, Ch. 308

Cross References ---

For another section derived from same 1942 code section, see §17-1-23.

As to Planning Commission's plan for area development, see §17-1-11.

For Gulf Regional District Commission as planner for Counties and Cities, see §17-11-31.

As to a County acting with the municipalities located within it, see §17-1-5.

As to Board of Supervisors' approval before recording subdivision plat, see §17-1-23.

As to Board of Supervisors' requiring utilities and streets in subdivisions, see §17-1-23.

17-1-9. Purposes in view.

Zoning Regulations shall be made in accordance with a Comprehensive Plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such Regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout such municipality.

SOURCES: Codes, 1930, § 2476; 1942, § 3592; Laws, 1926, Ch. 308.

Cross References ---

As to housing projects being subject to Zoning Ordinances and Regulations, see §43-33-21.

For Special Zoning Regulations concerning airports, see §§61-7-1 *et seq.*

As to Planning Commission's plan for area development, see §17-1-11.

As to scope of Regional Planning Commissions' advisory role in planning matters, see §17-1-33.

17-1-11. Official Plan---local Planning Commission.

The governing authority of each municipality and County may provide for the preparation,, adoption, amendment, extension and carrying out of an official plan, in whole or in part, for the purpose of bringing about coordinated physical development in accordance with present and future needs and may create, independently or jointly, a local Planning Commission, to serve without pay, except in Counties having a population of more than one hundred thousand (100,000) according to the Federal Census of 1950 the Board of Supervisors may pay each member of such Planning Commission as compensation for the services the sum of Six Hundred Dollars (\$600.00) per year payable monthly at the end of each calendar month, with authority to prepare and propose (1) a master plan of physical development of the municipality or County, or part thereof; (2) a proposed Zoning Ordinance and map; (3) regulations governing subdivisions of land; (4) building or setback lines on roads and highways; and (5) recommendations from time-to-time to the governing authorities of each municipality or County with regard to the enforcement of and amendments to the proposals of the Planning Commission and Resolutions or Zoning Ordinances of such authorities.

The Governing authority of each municipality and County may adopt, amend and enforce the proposal of the local Planning Commission, in whole or in part after a public hearing thereon as provided by §17-1-15.

In the performance of its duties, the local Planning Commission may cooperate with, contract with, or accept funds from Federal, State or local agencies or private individuals or corporations and may expend such funds and carry out such cooperative undertakings and contracts.

SOURCES: Codes, 1942, § 2890.5; Laws, 1956, Ch. 197 §§ 1-6; 1960, Ch. 402.

Cross References ---

For other sections derived from same 1942 Code section, see §§ 17-1-3, 17-2-5, 17-1-23, 17-1-37.

As to County acting with municipalities located within it, see §17-1-5.

As to association of local communities and Counties to solve common problems, see §§ 17-11-1 et seq.

For special Zoning Regulations concerning airports, see §§ 61-7-1 et seq.

As to scope of Regional Planning Commissions' advisory role in planning matters, see § 17-1-33.

As to Subdivision Regulation by governing authorities, see § 17-1-23.

17-1-13. Utilization of services of Planning Commission, Engineering Departments or Advisory Committee.

The governing authority of each county or municipality may, in order to more effectively carry out its requisite zoning and planning activities, utilize the services of any appropriate local or Regional Planning Commission, and it may consider, act upon or otherwise make use of the suggestions, proposals or recommendations of any such appropriate local or Regional Planning Commission. Also, in carrying out its zoning and planning duties, the governing authority of each County and municipality may utilize the services of any appropriate municipal or County Engineering Department or the services of an advisory committee of citizens of such number as may be deemed appropriate to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. A preliminary report may be made, and public hearings thereon before submitting its final report, may be had.

SOURCES: Codes, 1930 § 3479; 1942, § 3595; Laws, 1926, Ch. 308.

Cross References ---

As to Gulf Regional District's conducting feasibility study of projects, see §17-11-27.

As to scope of Regional Planning Commissions' advisory role in planning matters, see §17-1-33.

As to Planning Commission's plan for area development, see §17-1-11.

17-1-15. Procedure for establishing, amending, etc., of regulations, zone boundaries, etc.--notice and hearing.

The governing authority of each municipality and county shall provide for the manner in which Zoning Regulations and restrictions and the boundaries of zones shall be determined, established, and enforced, and from time-to-time, amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing, in relation thereto, at which parties in interest, and citizens, shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such municipality or County.

SOURCES: Codes, 1930, § 2477; 1942, § 3593; Laws, 1926, Ch. 308.

Cross References ---

As to adopting, amending and enforcing official plans of the local Planning Commission, see §17-1-11.

17-1-17. Changes.

Zoning Regulations, restrictions and boundaries may, from time-to-time, be amended, supplemented, changed, modified or repealed upon at least fifteen (15) days' notice of a hearing on such amendment, supplement, change, modification or repeal, said notice to be given in an official paper or a paper of general circulation in such municipality or County specifying a time and place for said hearing. The governing authorities or any municipal agency or Commission, which by Ordinance has been theretofore so empowered, may provide in such notice that the

same shall be held before the City Engineer or before an Advisory Committee of citizens as hereinafter provided and if the hearing is held before the said Engineer or Advisory Committee it shall not be necessary for the governing body to hold such hearing but may act upon the recommendation of the City Engineer or Advisory Committee. Provided, however, that any party aggrieved with the recommendation of the City Engineer or Advisory Committee shall be entitled to a public hearing before the governing body of the City, with due notice thereof after publication for the time and as provided in this section. The governing authorities of a municipality which had a population in excess of one hundred forty thousand (140,000) according to the 1960 Census may enact an Ordinance restricting such hearing to the record as made before the City Engineer or Advisory Committee of citizens as hereinabove provided.

In case of a protest against such change signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom, or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the legislative body of such municipality or County.

SOURCES: Codes, 1930 § 2478; 1942, § 3594; Laws, 1926, Ch. 308; 1962, Ch. 553; 1971, Ch. 377, § 1, eff from and after passage (approved March 16, 1971).

Cross References ---

As to permits for structures or trees, or variances in use from airport zoning regulations, see §61-7-17.

17-1-19. Remedies of local governing authorities.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land, is used in violation of the zoning law or of any Ordinance or other regulation made under authority conferred hereby, the proper local authorities of any County or municipality, in addition to other remedies, may institute any appropriate action or proceedings, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

SOURCES: Codes, 1930, § 2480; 1942, § 3596; Laws, 1926, Ch. 308; 1962, Ch. 554, eff from and after July 1, 1962.

Cross References ---

For another section derived from same 1942 Code section, see §17-1-27.

As to penalties for violations of Zoning Ordinances, see §17-1-27.

17-1-21. When local regulations to govern.

Whenever the provisions of any other Statute or local Ordinance or regulation require a greater width or size of yards, courts or other open stories, or a greater percentage of lot to be left unoccupied, or imposed other standards higher than are required by the regulations made under the authority of §§ 17-1-1 to 17-1-27, inclusive, the provisions of such other Statute, or local Ordinance or regulation shall govern; otherwise the provisions of the regulations made under the authority of §§ 17-1-1 to 17-1-27, inclusive, shall be controlling.

SOURCES: Codes, 1930, § 2481; 1942, § 3597; Laws, 1926, Ch. 308.

Cross References ---

As to penalties for violations of Zoning Ordinances, see §17-1-27.

17-1-27. Penalties for violations.

Any person, firm or corporation who shall knowingly and willfully violate the terms, conditions or provisions of a Zoning Ordinance adopted under the authority of §§ 17-1-1 to 17-1-55, inclusive for violation of which no other criminal penalty is prescribed, shall be guilty of a misdemeanor and upon conviction therefor shall be sentenced to pay a fine of not to exceed One Hundred Dollars (\$100.00), and in case of continuing violations without reasonable effort on the part of the defendant to correct same, each day the violation continues thereafter shall be a separate offense.

SOURCES: Codes, 1930, § 2480; 1942, § 3596; Laws, 1926, Ch. 308; 1962, Ch. 554, eff from and after July 1, 1962.

Cross References ---

For another section derived from same 1942 Code section, see §17-1-19.

As to conditions under which local regulations will govern, see §7-1-21.

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