

# ZONING PRACTICE

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## PRACTICE LAND-USE CLASSIFICATION

A large, bold, black number '9' is positioned in the lower-left quadrant of the cover. The background of the entire cover is a monochromatic orange-tinted photograph of a cityscape. On the left, a brick building features a sign that says 'Live GIRL' with a star. In the center, there are industrial buildings with tall chimneys and a large silo. In the foreground, a wooden barn is visible. In the upper right, an airplane is flying in the sky. The overall scene represents a mix of urban, industrial, and rural land uses.

# Classifying and Defining Uses and Building Forms: Land-Use Coding for Zoning Regulations

By S. Mark White, AICP

Defining and classifying uses is the heart of conventional zoning systems.

In zoning law, the term “use” refers to the purpose for which a parcel or building is utilized. Land-use classification systems are a systematic organization of land uses for purposes of planning or plan implementation. Conventional, or “Euclidean,” zoning assigns land uses to districts that are established in the ordinance. The theory behind Euclidean zoning is that assigning the right uses to each district protects the districts from intrusion by inappropriate uses. Precise definitions and distinctions between uses are needed not only to allocate uses to the appropriate districts, but also to determine how the uses are classified and the regulations that apply to them.

Form-based zoning (FBZ) has emerged as an alternative to conventional zoning. FBZ is based on the theory that design controls can resolve many potential inconsistencies between land uses. Design controls for FBZ ordinances include building envelope standards, building frontage requirements, fenestration (window and entryway), facade coverage, and traditional facade modulation techniques. FBZ regulations apply these elements to differentiate districts by building form and building-street relationships. By contrast, under Euclidean zoning, a use relates to the function of a structure and not its form.

FBZ can empower the evolution of traditional urbanism in existing and new neighborhoods. However, a pure FBZ ordinance ignores many of the secondary impacts of uses, such as traffic, noise, and lowering of property values. Accordingly, most existing FBZ ordinances include restrictions on uses along with design controls.



Systematic approaches to defining land uses are also needed for other types of land-use regulations, including impact fee and transfer of development rights (TDR) ordinances. For example, many impact fee studies use the broad land-use categories from the Institute of Transportation Engineers’ *Trip Generation* to calculate the fees. While this is a useful methodology, the ITE categories are often carried forward into the impact fee ordinance. This can create administrative issues because many specific land uses arguably fit either several broad ITE categories or none of them. In addition, failing to link ITE land-use categories to the zoning categories leaves zoning administrators guessing how specific zoning uses are

classified. This can be time-consuming and cumbersome, requiring the administrator to issue administrative interpretations as to which ITE category a specific land use fits. If the alternative land-use categories have significantly different fee amounts (which is typical), property owners and developers will argue for the category that carries the lower fee. If their arguments prevail in an administrative proceeding or court action, this can have a significant fiscal impact on the community.

Land-use classification systems are also useful for cutting-edge TDR regulations. While TDR typically involves transfers of densities and intensities between similar uses, some programs allow residential densities to transfer to commercial or non-residential uses on other sites. Land-use classification systems can be useful for determining which uses qualify for density transfers from a sending to a receiving site, and for calculating the appropriate transfer ratio.

Zoning use lists and other land-use regulations are often developed and adopted without a link to a land-use coding system. However, local governments increasingly use land-use classification systems to regulate uses, which is the focus of this issue of *Zoning Practice*. Land-use classification systems have the following advantages:

- **Systematically categorizing uses.** Coding systems allow zoning administrators and code users to see the relationships between uses, which creates a framework for allocating uses to various zoning districts.
- **Defining uses.** Land-use classification systems provide a basis for crafting definitions for principal, discretionary, and accessory uses.

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### About the Author

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- **Streamlining.** Land-use classification systems can shorten the length of an ordinance by providing an external reference for uses. This is particularly useful when staff have to address uses rarely seen in the jurisdiction. Instead of lengthening the ordinance and increasing printing costs by defining each use in the code document, the definitions can be reserved for uses that involve the majority of staff time.
- **Use relationships.** When a list of uses is published in matrix format, the reader can easily tell where the community permits the uses. The traditional enumerated list of uses permitted in each district does not allow such comparisons.

### WHY WE NEED CLASSIFICATION SYSTEMS

While form-based zoning is the latest trend in the planning profession, use districting remains the mainstay of most zoning ordinances. This is expected to continue into the foreseeable future because key participants in the land-use planning process have legitimate interests in district uses.

First, developers and landowners are interested in preserving uses that maintain the economic viability of commercial and industrial zoning districts. A simple change in commercial zoning from a district with limited uses to one with a broader range of uses can yield significantly higher rents from the same building. However, some commercial landowners are key proponents of use restrictions. This was one of the earliest justifications of Euclidean zoning. For example, a key objective of New York City’s 1916 zoning district regulations was to protect the city’s

Garment District. Local governments continue to use zoning to preserve land for uses that generate high employment or tax ratables, and to maintain opportunities for economic development.

Second, public officials have a significant interest in separating uses that can create public nuisance situations. Protecting the public health, safety, and welfare remains the most significant justification for zoning and land-use regulations. While environmental regulations can mitigate many impacts created by intensive land uses, spatial segregation is still one of the most powerful means to avoid adverse impacts on sensitive land uses.

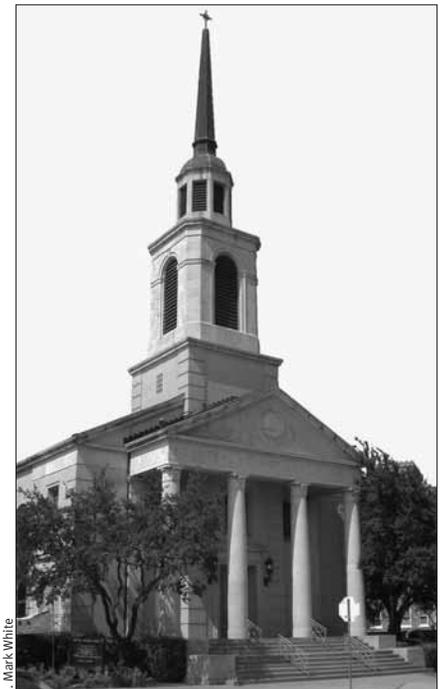
Third, neighborhoods are interested in use-based zoning to protect property values and to maintain the tranquility of residential neighborhoods. Regardless of how well a building is designed, the uses that occupy the building can generate noise, vibration, and similar characteristics that are incompatible with a residential living environment. Examples include high-turnover restaurants, adult bookstores, nightclubs, bars, and other uses that generate

high traffic volumes or characteristics that neighbors often find objectionable. On the other hand, zoning regulations must mediate neighborhood concerns with regional needs for affordable housing, living environments for disabled persons, and site locations for churches, cell towers, medical facilities, and other land uses that have regional benefits but that are typically unpopular with neighborhoods. Federal regulations governing such uses, such as the Telecommunications Act of 1996 and the Religious Land Use and Institutionalized



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☞ One of a growing number of storefront churches, which, by definition, are in commercial districts. Local governments must accommodate them under RLUIPA.



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☞ “Traditional” churches are typically permitted uses in institutional zoning districts.



➔ A mail distribution facility in a light industrial district. Communities often exclude residential uses from these districts to reserve land for economic development.

Persons Act (RLUIPA), require a careful legal review and diagnosis of use regulations to ensure compliance with state and federal law.

Zoning administrators are also concerned with use regulations because they are the ones involved in mediating competing concerns. They must be prepared to give applicants a clear answer on what is permitted in a district and the applicable procedures for zoning approval. On the other hand, the regulations must be sufficiently clear to allow administrators to bring a zoning enforcement action if inappropriate uses are established in a neighborhood.

### BREADTH AND FLEXIBILITY

Zoning district use regulations typically require several modifications. First, zoning district use lists can be underinclusive, often because today's uses were largely unknown when the regulations were drafted. While it is impossible to contemplate every possible use in existence either today or in the future, it is possible to develop a comprehensive list of uses by using several national classification systems for uses or industries, such as the North American Industrial Classification System (NAICS) and the American Planning Association's Land-Based Classification Standards (LBCS).

Conversely, overinclusiveness creates a rigid separation of uses based on their differences rather than basing the uses on real—even perceived—problems with locating them in the same neighborhood. Not only can this present a hardship to landowners, but it can also thwart comprehensive planning policies that foster more compact, pedestrian-friendly neighborhoods. This result can be sprawling development patterns where otherwise complementary districts are beyond walking distance from one another. Planners and code

drafters can resolve this issue by focusing more on building forms than uses in the regulations. While most local governments are not prepared to completely abandon use controls, a greater emphasis on building design and a de-emphasis on use can permit the evolution of mixed-use, complete neighborhoods. The buildings classification in LCBS can be built into the matrix to substitute building form for conventional use restrictions.

Finally, even zoning ordinances with comprehensive use listings typically do not define all of the listed uses. Developing a complete list of definitions would take years, consuming hundreds of pages. Fortunately, the use classification systems described above contain definitions of uses and industry classifications. Specific definitions should be provided where state or federal law, local policies, or other factors require a unique definition.

### OBJECTIVES OF USE CLASSIFICATION SYSTEMS

Zoning classification systems should focus on several objectives: usability, enforceability, and consistency with local land-use policies.

First, the list of uses must be *clear and understandable*. In other words, the list of permitted uses must be *user-friendly*. To achieve these goals, the following are required:

- (1) The terminology must be clear and as free as possible from interpretation. This makes the list of permitted uses easier for both the zoning administrator and applicants to understand. Clear terminology and definitions minimize the amount of time zoning staff needs to prepare interpretations and helps to avoid arguments with applicants. In addition, a clear use matrix explains the rules of the game to applicants before they approach the zoning administrator.

- (2) The uses must be well organized. Uses should be placed under categories where people expect to find them. The list of uses should be organized clearly and in a way that is consistent with professional practice. If uses are not well organized, staff and applicants lose time attempting to locate the use in the matrix. In addition, the likelihood of uses being classified differently in several places creates the potential for inconsistencies and vagueness.

Most zoning ordinances organize uses broadly into residential, commercial, and industrial land-use categories. This has been the practice since the inception of zoning in the United States, and continues under most ordinances today.

- (3) Uses should be clearly defined. If uses are not clearly defined, zoning staff is called upon to interpret the ordinance.

If the applicant disagrees with the interpretation, courts could be called upon to interpret the ordinance. Because ambiguities in zoning regulations favor the property owner, the result could be an interpretation that undermines the integrity of the local government's zoning scheme. Further, from the applicant's perspective, it means an unnecessary delay in the development approval process.

Second, the list of permitted uses should be exhaustive. While this makes the list longer, it also minimizes the need for formal interpretations and potentially minimizes litigation. Under most zoning systems, omitting uses means either that the use is not permitted or that it fits within a broader use category. This creates the need for staff and administrative agencies (such as the board of adjustment) to render a formal interpretation. If the applicant or landowners in surrounding neighborhoods disagree with this interpretation, the result could be litigation.

This does not mean every particular use must be enumerated in the list of permitted uses. However, all potential uses should be covered to the extent possible. For example, a general use category for retail sales will encompass a number of potential sales establishments, including some not in existence today. Again, it is not possible to contemplate every use that will become the subject of a zoning application.

Third, the list of permitted uses should be consistent with the local government's

planning policies as expressed in the comprehensive plan. The permitted uses should support and reinforce the districting policies established in a future land-use element and other elements of the plan.

Finally, the list of permitted uses must be consistent with state and federal law. For example, constitutional law, federal legislation, and sometimes state legislation require that adult uses, cell towers, churches, and similar uses be permitted somewhere in nearly all jurisdictions. Failing to recognize these uses in the permitted uses list or elsewhere in the zoning ordinance could result in their outright exclusion from the jurisdiction or failure to accommodate them in a sufficient number of locations. The result may be an unwinnable lawsuit, along with potential litigation expenses, damages, and attorneys fees.

#### LAND-USE TAXONOMY: EVOLUTION AND APPLICATIONS

**Industrial classification systems.** Perhaps the earliest system of land-use taxonomy in the United States was the List of Industries for Manufacturing and List of Industries for Nonmanufacturing industries, completed in 1938–1939 by the Interdepartmental Committee on Industrial Statistics established by Central Statistical Board of the United States. This was later replaced by the Standard Industrial Classification (SIC) developed by the United States Office of Budget and Management in 1957. In older zoning ordinances, SIC was used to organize and define uses. Many zoning ordinances still use it as a cross-reference for permitted uses.

In 1997, The United States Department of Commerce updated the industrial classification system in the North American Industrial Classification System (NAICS). The system includes nearly every economic classification or activity in existence on the North American continent, and is updated periodically.

Industrial classification systems have several shortcomings as applied to zoning regulations. First, they are overspecialized for use in zoning ordinances and comprehensive plans. Listing every use in the classification system can result in a zoning ordinance that is excessively long and difficult to organize and understand. Second, the purpose of classification systems is to categorize industries rather than address land-use impacts. Accordingly, uses within the same industry

can have widely different impacts. For example, service sector uses such as nail salons are classified in the same category as tattoo parlors. However, many local governments are interested in restricting tattoo parlors because of their perceived neighborhood impacts. By focusing on similar market characteristics, the industrial classification system ignores the differences between these two very different uses. SIC and NAICS are comprehensive, but their classifications are sometimes incongruent with zoning.



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Some uses are difficult to classify, such as a public safety facility in a commercial storefront.

**Transportation models.** Transportation professionals have also developed classification systems to predict trip generation for various uses. An older version of this model is the Standard Land Use Classification Model (SLUCM). In 1965, the Urban Renewal Administration of the Housing and Home Finance Agency (now HUD) and the Bureau of Public Roads of the Department of Commerce (now the Department of Transportation, Federal Highway Administration) developed SLUCM to establish an extensive system of land-use activities for the purpose of providing uniformity in collection and analysis of planning information. It contains four levels of land-use activity categories, each higher level providing progressively greater specificity. SLUCM is still used by the United States Air Force and Federal Aviation Administration for airport compatibility planning.

SLUCM refined the nomenclature originally developed in 1957 in SIC, which was developed to provide a classification system for economic activity. SLUCM land-use categories have no particular relationship to noise sensitivity, aircraft accident considerations, or

any particular planning consideration. They are merely intended to provide a uniform and comprehensive categorization of land-use activity.

An up-to-date classification system is included in ITE's *Trip Generation*. The manual uses broad land-use categories to assemble data on observed trip characteristics. Because it is a comprehensive empirical database of trip generation—a key indicator of land-use impacts—it is typically used in impact fee studies. However, the breadth and limited scope of the manual limit its effectiveness for use in a list of permitted uses in zoning districts.

**APA's Land-Based Classification Standards.** The Land-Based Classification Standards (LBCS) merges the different forms of land-use classification into a single model that can be used for a variety of applications. Originally conceived as an update to SLUCM, LBCS consists of five classification systems: activity, function, structure, site, and ownership. The function classification works as an industry classification, although at a much less detailed scale than NAICS. The structure classification is best for design-based codes in communities or situations where the concern is more about the form and massing of a building and not its use. In practice, most communities prefer a combination of the function and structure classifications. The activity, site, and ownership classifications are generally more adaptable to mapping than to zoning regulation. Most states prohibit regulation of forms of ownership through zoning, eliminating this classification for zoning.

APA developed LBCS in collaboration with numerous public and professional agencies. APA maintains an extensive collection of land-use descriptions under each category, color-coding systems for mapping, working papers, photographs, and other useful information at [www.planning.org/lbcs/index.html](http://www.planning.org/lbcs/index.html).

#### APPLYING LBCS

The application of a land-use coding system such as LBCS to a zoning ordinance involves several key steps.

**Organizational framework.** First, the jurisdiction must determine how it wants to regulate land use. Is it interested in maintaining both a tight separation of land uses and the relative simplicity of conventional zoning? Or does it want to maintain flexibility between uses to achieve better design? Answering this key question will go a long way in determining

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➡ These images show different arrangements for similar uses. Clockwise from above: convenience store/gas station combination with pumps in rear; inconspicuous drive-thru of a suburban fast-food establishment; fast food/gas station combination use. The photos also show the necessity of defining accessory uses such as canopies.



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## THE FIVE CLASSIFICATION STANDARDS OF LBSCS

**Activity.** *An observable characteristic of land based on actual use.* It describes what occurs in physical or observable terms (e.g., farming, shopping, manufacturing, vehicular movement, etc.). For example, an office activity refers only to the physical activity on the premises, which could apply equally to a law firm, nonprofit institution, courthouse, corporate office, or other office use. Similarly, residential uses in single-family dwellings, multifamily structures, manufactured houses, or other building types would be classified as residential activity.

**Function.** *The economic use or type of establishment using the land.* The type of establishment determines the characterization of land use. Land-use terms, such as “agricultural,” “commercial,” and “industrial,” relate to establishments. The type of economic function served by the land use gets classified in this dimension; it is independent of activity on the land. Establishments can offer a variety of on-premise activities yet serve a single function. For example, two parcels are said to be in the same functional category if they serve the same establishment, even if one is an office building and the other is a factory.

**Structure.** *Type of structure or building type on the land.* Land-use terms embody a structural or building characteristic, which indicate the utility of the space (in a building) or land (when there is no building). Land-use terms, such as “single-family house,” “office building,” “warehouse,” “hospital building,” or “highway,”

also describe structural characteristic. Although many activities and functions are closely associated with certain structures, it is not always so. Many buildings are often adapted for uses other than their original use. For instance, a single-family residential structure may be used as an office.

**Site.** *The overall physical site development character of the land.* For most land uses, it is simply expressed in terms of whether or not the site is developed. But not all sites without observable development can be treated as undeveloped. Land uses, such as parks and open spaces, which often have a complex mix of activities, functions, and structures on them, need categories independent of other dimensions. This dimension uses categories that describe the overall site development characteristics.

**Ownership.** *Legal and quasi-legal ownership constraints of the land.* Ownership refers to the relationship between the use and its land rights. Since the function of most land uses is either public or private and not both, distinguishing ownership characteristics seems obvious. However, relying solely on the functional character may obscure such uses as private parks, public theaters, private stadiums, private prisons, and mixed public and private ownership. Moreover, easements and similar legal devices also limit or constrain land-use activities and functions. This dimension allows classifying such ownership characteristics more accurately.

Source: American Planning Association, Land-Based Classification Standards, LBSCS Tables, at [www.planning.org/LBSCS](http://www.planning.org/LBSCS)

how to structure a system of uses. Jurisdictions that want conventional zoning will need a longer list of uses to maintain the integrity of the districting scheme, avoid unwanted intrusions into residential districts, and reserve land for higher economic uses. Those that focus on design can get by with a much shorter list of uses or an abbreviated list based on the structure classification system of LBCS.

Most code updates today include a hybrid of conventional and form-based zoning concepts. While comprehensive plans frequently recite a desire for better design and new urbanism, neighborhoods and developers want to maintain some form of use districting. Because updates must go through the legislative process, most jurisdictions end up with a combination of districting along with design standards such as build-to lines and building fenestration.

The organizational framework will determine the number of levels employed in the land-use classification system. A jurisdiction that is interested in tightly controlling land use will typically use levels to the fifth or sixth level of classification. Those with greater design interests and with less of an interest in the range of permitted uses may use one or two level classifications in the use matrix.

**Develop an initial list of uses.** Based upon staff experience and identified land-use trends, jurisdictions typically develop an initial list of permitted uses. These uses should include existing uses or use categories, uses currently going through the permitting process, uses for which the staff expects to receive applications, and uses the jurisdiction would like to encourage. It is good practice to begin with a comprehensive list of uses, such as the LBCS function and structure categories, and then pare down the list to conform to local conditions. The list should not be simply cut and pasted, but should instead reflect local conditions.

**Distribute uses to zoning districts.** Once the initial list of uses is developed, they should be distributed to individual zoning districts. As a starting point, consult the comprehensive plan policies and, if applicable, the existing zoning system. Ideally, the uses should conform to the policies expressed in the jurisdiction's future land-use map or transect-based plan. However, planning staff should be aware of where uses are currently permitted before taking the use list

through the legislative process. Landowners are likely to object if uses currently permitted are no longer permitted when the list is updated. In practice, most zoning code updates include the addition of new uses and removal of others. Also, uses can be reassigned to a discretionary process instead of removing them completely.

**Display.** Finally, the code drafter must decide how to display the list of permitted uses. The alternatives are a use matrix or a list of uses in individual districts. A matrix consolidates the listing of permitted uses, shortening

exclude some uses to shorten and streamline the list. While this may create the appearance of a user-friendly ordinance, it can create problems in practice. If uses are omitted, staff time can be consumed in preparing administrative interpretations or processing requests for use variances or rezonings. Because many ordinances provide that uses not listed are prohibited from the zoning districts, omitting a use can exclude it from a jurisdiction entirely. As mentioned earlier, federal and state law prohibit many uses from being



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☞ Communities must accommodate social uses such as group homes and homeless shelters under federal and state laws. Because a variety of building types can house these uses, classification systems such as LBCS may create a duplication.

the ordinance and allowing the reader to quickly determine what uses are allowed and where they are permitted. The disadvantage of the matrix is that it requires the reader to shuffle between the zoning district dimensional regulations and the list of permitted uses.

Conversely, displaying the uses in individual districts has the advantage of consolidating all of the district regulations, including the use regulations. The disadvantage is that uses must be repeated in each district where they are permitted. This adds to the length of the ordinance and can create a rather cumbersome display.

**Controversial uses.** In preparing use matrices, code drafters may be tempted to

excluded from an entire jurisdiction. In addition, excluding a use entirely could invalidate the ordinance on preemption grounds. For example, environmental regulations in many states create licensing schemes for certain uses, such as landfills, hazardous waste facilities, and concentrated animal feeding operations. Under the doctrine of preemption, a local government cannot prohibit what the state permits.

**Unusual uses.** Despite the best efforts and long hours of national experts in producing land-use and industry code standards, some uses will invariably fall through the cracks. Tattoo parlors and adult uses are two such examples, neither of which is listed



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⊕ Though sometimes controversial, indoor skate parks may not appear in some land-use classification systems.



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⊕ This environmental monitoring station is difficult to classify. Though it may show up in the use classification system, local zoning administrators may be unaware of it.

expressly in LBCS or NAICS. To the extent such uses are known, they must be defined and assigned to a zoning district. The ordinance must allow many of them—adult uses in particular—a place in the jurisdiction, allocating sufficient land area to pass judicial standards.

It is impossible for the zoning staff to anticipate all future uses. Technological advances and market conditions will undoubtedly create new ones. Accordingly, zoning district regulations should include good standards for making administrative interpretations for them. If they do not, the landowner will normally need to request a text amendment to permit the use in one or more of the existing zoning districts (or create a new district for the use). A

use variance is permitted in some states but requires a standard of review that will not work for many sites. The interpretation standards can be tied to the land-use classification system along with performance standards such as trip generation and compliance with appearance or community impact standards.

**Defining the uses.** There are several ways to define uses, including directly in the zoning ordinance. This option expands the text of the zoning ordinance but minimizes the need to refer to external sources. Local governments can use a hybrid approach by defining those uses that will consume the majority of staff time while leaving the others to external references such as LBCS definitions. A

second option is to cross-reference LBCS. The ordinance should include a date and location for the sources so that applicants can obtain recent definitions. Code drafters should avoid the practice of cross-referencing the “latest” edition of the LBCS document. Normally, future updates to LBCS will not automatically become legally incorporated into the zoning ordinance by reference because an external reference would have the effect of amending the zoning ordinance without following the procedures required by state zoning statutes. When revisions are made to LBCS or other code references, a simple text amendment should be adopted that incorporates that edition by reference.

Again, code drafters should avoid “punting” uses that are controversial or difficult to understand. Failing to define a use could expose the ordinance to invalidation based on total exclusion from the jurisdiction or vagueness. Due process requires that zoning rules be ascertainable to a reasonably intelligent person. If the ordinance is too vague to convey meaning, or if staff is given unfettered discretion to determine where the uses are permitted, some courts will strike down the zoning provisions. While the remedies vary between states, some courts will order that the use be permitted or award damages. Even if the penalty is simply to amend the ordinance to conform to state or federal law, litigation is costly and can undermine public confidence in zoning administration.

**Distinctions between uses.** The primary purpose of zoning district lists is to allocate uses to districts. Once completed, the jurisdiction must determine how they are permitted. Under most ordinances, uses permitted by right are entitled to be established with a simple building permit if they comply with the ordinance standards. Conditional uses, special uses, or special exceptions require a public hearing and discretionary review by zoning agencies such as the planning commission, board of zoning adjustment, or legislative bodies such as a county commission or city council.

Even for by-right uses, the zoning regulations can make other distinctions, including standards for square footage or scale, design, parking, landscaping and buffering, or similar standards. Code drafters can make the distinctions in the use matrix, in a separate section that includes dimensional standards, or in both.

## REGULATORY ALTERNATIVES FOR CLASSIFYING AND CODING USES

Regulatory Alternative	Advantages	Disadvantages
Consolidates uses into a matrix.	Abbreviates text, and reader may compare uses among districts.	Scatters district regulations.
Uses NAICS/LBCS to expand uses.	Improves thoroughness and allows local government to tailor districts more effectively to different situations.	Complicates the ordinance.
Uses LBCS structure classification to replace use classification.	Allows zoning to focus on building form rather than uses, consistent with the mandate of the plan.	Not likely to be acceptable to some neighborhood groups.
Uses LBCS structure to supplement use classification.	Preserves ability to regulate building form while providing control over uses.	More complicated than regulating by building type alone.
Expands list of uses permitted by discretionary review (e.g., conditional use permit, special exception).	Promotes mixed use by permitting wider range of uses while preserving discretionary control.	Lengthens the ordinance. Some mixing of uses consistent with plan policies could be discouraged by discretionary review or thwarted by political opposition.
Expands list of uses permitted by right in each district, but subject to criteria prescribed in the ordinance.	Preserves control over potential adverse impacts through the use of standards while allowing streamlined permitting.	Eliminates case-by-case review at public hearings.

### CLASSIFICATION SYSTEMS EMPLOYED

**San Antonio, Texas.** In 2002, San Antonio updated its unified development code to incorporate new urbanism and update the city's conventional zoning district categories. The city combined two zoning regimes: an older one that included aging, traditional city neighborhoods, and a newer set of zoning districts adopted in 1987. In combining these districts, the city adopted an updated list of permitted uses based on LBCS and NAICS.

An early draft of the zoning district standards included a streamlined list of uses based on LBCS structure classifications and a few uses selected from the function category. The list was responsive to the city's master plan policies that directed a more design-based code based on principles of new urbanism. While the streamlined use classification system was praised by the local media, participants in the steering committee charged with updating the ordinance found that a longer list of uses would be more administratively convenient in the long run. To avoid future interpretation problems, the city ultimately adopted a longer, more comprehensive list of uses.

**Hillsborough County, Florida.** A design-based code could use a reference to building form, rather than simply uses, in each zoning district. These codes focus on building design

in each district rather than on the type of business occupying the building. Hillsborough County's traditional neighborhood development code divides new planned developments into four subareas: greenspace, residential neighborhoods, commercial, and core. Within each subarea, a zoning matrix using

the LBCS structure classification controls building form.

**Frederick, Maryland.** Frederick's land management code (LMC), adopted in July 2005, divides permitted uses into 10 major categories, including residential; accommodations and group living; general sales or service;



Angela Mesaros

⊕ A relatively new use in America (a telco hotel) housed in an old building.



Michael Davidson

⊕ A general use category for retail sales will encompass a number of potential sales establishments, including this aquarium.

industrial and manufacturing; warehousing and storage; arts, recreation, and entertainment; education, public administration, health care, and institutional; transportation, communication, information, and utilities; utility and structures; and agriculture.

The uses are displayed in a matrix that corresponds to the city's 20 zoning districts,

within which uses are permitted in one of several ways (see Frederick, Maryland, Use Matrix). Standards are included for interpreting omitted uses. For questions about whether a use falls within an existing category, the zoning administrator looks first to the use classifications. If the classifications prove insufficient to answer the question,

the administrator applies trip generation as identified in ITE's trip generation manual or local studies.

The LMC also creates incentive-based performance standards for increases in density and intensity. While applicants can use their property for the uses and intensities permitted in the baseline zoning

**FREDERICK, MARYLAND, USE MATRIX**

Use	RC	RO	R4	R8	R12	R16	R20	PB	NC	GC	MO	M1	M2	DB	DR	DBO	MU	MXE	IST	PRK	LBCS Function	LBCS Structure	NAICS
<b>Residential Uses</b>																							
Accessory Apartments			C	C	C	C	C	P	C	C				P	C	C	P	P	C				
Accessory Detached Dwelling Unit			P	P	P												P						
Duplex				P	P	P	P							P	P	P	P				1100	1202	-
Multi-Family				P	P	P	P							P	P	P	P	P			1100	1200	
Multi-Family with Accessory Retail						C	C							P	C	C	P				-	-	-
Single-family	P	P	P	P	P	P	P	A						P	P	P	P				1100	1120	-
Townhouse				P	P	P	P							P	P	P	P				1100	1140	-
Two-family				P	P	P	P							P	P	P	P				1100	-	-
<b>Accommodations and Group Living</b>																							
Bed and breakfast inn		C	C	C	C	C	C	C	C					C	C	C	M				1310	-	721191
Group Home				P	P	P	P							P	P	P	P		P		6520 6561	-	623220 623990
Hotel, Motel, and tourist court								P		P	P	P		P	P	P	P				1330	1330	-
Senior Living & Retirement Facilities				C	C	C	C							C	C		M		P		1200-1210	-	623312
Nursing Home/Domiciliary Care/Adult Living Facility		C	C	C	C	C	C		C					C	C		M	C	P		1230 1250 6520	-	623110 623111 623112 623312 623311
Rooming House			C	C	C	C	C							P	C	P	P	C			1320	-	721310
<b>General Sales or Service</b>																							
Accessory Drive Through Facilities								A	A	A	A	A	A	C		C	A	A	C				
Animal Care Services (including grooming & boarding)										P		P	P						P				
Animal Grooming (Excluding Boarding)									S	P				P			P	P			2720	-	541940
Antiques									P	P				P		P	P	P			2145	-	-
Apparel									S	P				P			P	P			2133	-	-
Arts, crafts, or hobby supplies									P	P				P		P	P	P			2134	-	45112, 45113
Art Gallery, including framing								P	P	P				P		P	P	P			-	4410	45392
Automobile Filling Station/Service Station									P	P	C	P	P				P	P			2116	2270	4471

Frederick, Maryland, Land Management Code

**CLASSIFICATION OF USES IN ZONING DISTRICTS**

- |        |  |
|--------|--|
| Symbol | Meaning  |
| P      | Indicates that a use is permitted as of right in the district.   |
| C      | Indicates that a use is permitted only as a conditional use. Board of zoning appeals approval is required. Specific requirements for conditional uses are set forth in § 308 (conditional uses) of this code.                                |
| M      | Indicates that a use is permitted only as a conditional use within the mixed-use district. Planning commission approval is required. Specific requirements for mixed-use conditional uses are set forth in § 310 (master plan) of this code. |
| A      | Permitted only as an accessory use to a principal permitted use (see §§ 801 through 803).  |
| T      | Permitted only as a temporary use (see § 867).   |
| S      | The ("S") in neighborhood commercial zone stands for permitted use in shopping center only. See § 863 for specific criteria and standards for neighborhood stores.   |

## RESOURCES

- Basset, Edward M. 1936. *Zoning: The Laws, Administration, and Court Decisions During the First Twenty Years*. New York: Russell Sage Foundation.
- Callies, David. 2004. *Cases and Materials on Land Use*. St. Paul, Mn.: West, a Thomson business, 4th ed.
- Chapin, Stuart F., and Edward Kaiser. 1979. *Urban Land Use Planning*. Chicago: University of Illinois Press. 3rd ed.
- Everett, Jerry, and Chimai Ngo. "Land-Based Classification Standards—Federal Role." Proceedings of the 1999 American Planning Association National Conference, at [www.asu.edu/caed/proceedings99/LBCS/EVERETT.HTM](http://www.asu.edu/caed/proceedings99/LBCS/EVERETT.HTM).
- Guttenberg, Albert Z. 1959. "A Multiple Land Use Classification System." *Journal of the American Institute of Planners*. Vol. XXV No. 2., pp 143-50.
- \_\_\_\_\_. 1965. *New Directions in Land-Use Classification*. Chicago: American Society of Planning Officials.
- \_\_\_\_\_. 1967. *The Social Evaluation of Non-Residential Land Use Substandardness Criteria*. Urbana, Illinois, Bureau of Community Planning.
- \_\_\_\_\_. 1977. "Classifying Regions: A Conceptual Approach." *International Journal of Regional Sciences*. Vol. 2, no. 1.
- Institute of Transportation Engineers. 2003. *Trip Generation*. 7th ed.
- Jeer, Sanjay. 2001. "Land-Based Classification Standards." Online, [www.planning.org/LBCS](http://www.planning.org/LBCS). American Planning Association: Chicago.
- Kaiser, Edward, David Godschalk, and Stuart F. Chapin. 1995. *Urban Land Use Planning*. Chicago: University of Illinois Press. 4th ed.
- Merriam, Dwight. 2005. *The Complete Guide to Zoning: How Real Estate Owners and Developers Can Create and Preserve Property Value*. New York: McGraw-Hill.
- U.S. Census Bureau. *Development of NAICS*. Published at [www.census.gov/epcd/www/naicsdev.htm](http://www.census.gov/epcd/www/naicsdev.htm).



Michael Davidson

➔ Use-based zoning protects residential areas from the potential impacts of certain uses, including adult uses, which, in turn, are protected under the law from residents.

districts, the LMC provides the option of increasing development intensity subject to impact and design-based performance standards.

### CONCLUSION

Developing a list of permitted uses is not the most enjoyable aspect of zoning regulation. Assembling and cross-referencing uses can be tedious and time-consuming. However,

zoning classification systems are useful for developing and refining the local use list, ensuring its completeness, and organizing information.

Finally, many stakeholders consider permitted uses the heart of the zoning system. Using LBCS to assemble and streamline the list can provide the basis for a user-friendly and effective system of land-use regulations.

Cover photo: Land-use composite to illustrate the breadth of classifications. Concept design by Toby Zallman.

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# CAN CLASSIFICATION SYSTEMS SIMPLIFY REGULATION?

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