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Rural Zoning In A Nut Shell

Michigan State University Cooperative Extension Service

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Louis A. Wolfanger, Soil Science and Resource Development

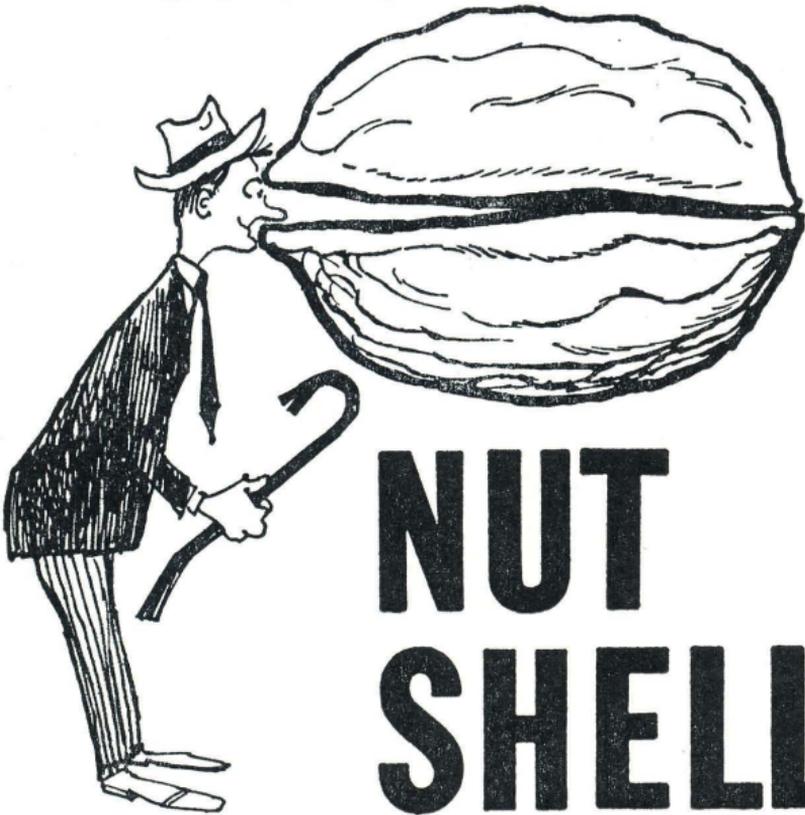
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# RURAL ZONING IN A



# NUT SHELL

MICHIGAN STATE UNIVERSITY

COOPERATIVE EXTENSION SERVICE

EAST LANSING

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# RURAL ZONING IN A NUTSHELL

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Departments of Resource Development and Soil Science Cooperating

## RURAL ZONING IN A NUTSHELL

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Extension Leaflet No. F-271, "What Is Happening In Your Community?" outlines some of the striking changes which are occurring in communities located in the unincorporated areas of Michigan—in farm communities, in suburban communities, in communities bordering a lake or river, in unincorporated villages, and in North Michigan communities (those comprising the northern part of the Lower Peninsula and the Upper Peninsula).

If you live in one of these, and are interested in keeping it a good community, this leaflet will tell you about rural or township and county zoning—what it means, how it works and what it can do for your community.

## Revolution in Land Use

Extraordinary history is in the making. From a trickle around the beginning of this century, ever-increasing streams of people are shifting their homes into the countryside which surrounds the town or city where they work. Many are living in a subdivision on the edge of town. Some have moved 10, 25 or more miles into the country. Some have their homes on a nearby lake or stream. Others commute from small nearby unincorporated villages.

The changes being wrought will be one of the distinguishing features of the 20th Century. A large part of rural Michigan is being tranformed. Many cities are now almost ringed with subdivisions. Hundreds of simple rural communities are being converted into complex mixtures of farms, homes and business enterprises.

These changes are creating many problems in the use of land or property. However, those changes which may lead to problems are generally more easily acted upon before they become serious. By developing a plan to guide future changes, and then putting the plan into operation through rural zoning and other action programs, many problems which might otherwise face the community can be diminished if not entirely eliminated. Happily, Michigan's laws

permit any township or county to plan and zone its rural or unincorporated area. This includes the "fringe area" around its cities as well as the more outlying lands.

## What is Rural Zoning?

When a township or county zones, it divides its unincorporated area into "Zoning Districts." In each district, the future uses of land or property is then reserved for or limited to certain uses or combinations of uses. Existing or current uses, however, are exempted even though they may not be in conformity with the ordinance.

These zoning districts are based upon a long-range plan for the township or county. Existing land uses and trends in land use are studied. Changes in population are noted. The resources and opportunities of each community are analyzed. Whatever is important in guiding future development is taken into account.

The lands recognized as best used for residence in the future are then zoned as Residential Districts. The natural farm lands are classed as Agricultural Districts. Areas adapted to trade are zoned as Commercial Districts. Those suited for manufacturing are put into Industrial Districts; for recreation into Recreational Districts; and so on for all other kinds of land uses that fit into the particular township or county. Land uses included in each of such districts are more fully described under the third "step" in zoning beginning on page 10.

## Regulations Must be Reasonable

Once the districts have been determined, an ordinance is prepared to encourage and support the uses for which each district seems best adapted. In turn, any new or future uses of land not in harmony with these uses may be limited or excluded from the district. Appropriate regulations or standards are then adopted governing future uses of land and any changing developments that may take place.

One example of such standards is the lot requirements which are usually set for Residential Districts. Most people prefer living under uncrowded conditions. They want sufficient space for their home—enough land for safe separation of water and sewage disposal systems—a reasonable distance between homes to reduce the risk of spreading fires and to

provide good light and air conditions—an adequate setback from streets and highways. Ordinances therefore provide that no lot may be less in area or width than a specified minimum.

Good spacing standards are very important in zoning. They build quality into a community. A neighborhood of homes that are too closely packed may often lose its quality after its newness wears off.

Whatever standards or regulations are adopted, they must be reasonable, not arbitrary. On this point Michigan's Zoning Laws are very definite. Regulations must take into account such conditions as the nature of each district, its suitability for particular uses, the conservation of property values and natural resources, the general trend and character of land, building and population development, and similar pertinent conditions.

All farm buildings (barns, silos, etc.) and structures (fences, etc.) are usually exempted from the requirements of zoning ordinances. The chief requirement, if any, is that such buildings be set back far enough from highways so as not to create a traffic hazard.

## Like Planning a Home

Planning the use of land, and zoning it for its appropriate use, is like planning and laying out the space in a home for the best use and convenience of its occupants. In constructing a home, one part is selected for the living room, another part for the kitchen. Other parts are set aside for sleeping or other uses.

A township or county is a kind of giant house shared by some hundreds or thousands of people. Some parts are best planned and used as residence districts. Others serve best for trade or industry. Some lands are wisely left in farming. Some areas are selected for parks, summer cottages, outdoor sports, hunting (i.e. the wild land in North Michigan) and other forms of recreation.

The purpose of zoning is not to exclude any legitimate or appropriate use of land or property. The aim is perhaps best expressed by the well-known saying, "A place for everything, and everything in its place." A good zoning ordinance tends more to "zone in" than "zone out" land uses—to invite in or encourage those uses for which a zoning district seems best adapted. Some things may have to be "zoned out" in the process, but primarily only with

the view of protecting the right uses from injury, and the overall purpose of creating more orderly, sound and attractive communities for living, work and play.

## Who Does The Zoning?

Four groups of persons are involved in enacting a zoning ordinance:

1. **A Zoning Agency.** Its duties are to study the township or county, prepare a zone plan and ordinance, and hold hearings on its proposals. The township agency is called the Township Zoning Board. This board, appointed by the township board for staggered terms, must include at least 4 persons, but the number may be increased up to 7 by resolution of the township board. No elected officer of the township nor any employee of the township board may serve as a member of the zoning board.

When a county zones, the agency is known as the County Zoning Commission. This is a five-member body—no more, no less—appointed by the Board of Supervisors. One must be a supervisor. The other four must be selected from the electors of the county but, similar to townships, cannot include any elected officer of the county nor any employee of the board. Appointments are likewise for staggered terms.

2. **The Citizenry.** Before submitting its recommendations to the township or county, the zoning agency must, as stated above, hold a public hearing on its proposals. This enables the citizen to voice his reactions and suggestions. Later, after the ordinance has been adopted, citizens may also petition for a referendum on the ordinance. This gives them the final say-so, if they wish to exercise it.

3. **An Approving Agency.** This agency reviews the proposed ordinance to see that it is in harmony with the law, with the ordinances of other townships in the county (if the ordinance is a township ordinance) and, in the case of counties, with the interests of the state. A county agency acts in this capacity for townships; the Michigan Department of Economic Development acts for counties. See Step 5 below for details.

4. **A Legislative Agency.** This is the Township Board, or the County Board of Supervisors, as the case may be. The zoning and approving agencies are primarily only study and advisory committees. They have no legislative power. This power rests solely and alone in the governing bodies.

The part each of these groups plays is more fully outlined in the following list of "steps" which a township or county must take to zone. To assure itself of precise conformance with the law, a township or county in the process of zoning should consult its enabling act for legal details of procedure, which space precludes enumerating in this folder.

## Eight Major Steps

### 1. Adoption of a Resolution to Zone

Before a township or county may zone, its governing body must first adopt a resolution declaring its intent to zone under the appropriate law. (Act 184 of the Public Acts of 1943, as amended, for townships; Act 183 of 1943, as amended, for counties.) Legal public notice of the passage of the resolution must then be given in a newspaper within 10 days of passage. Townships must publish this notice in a newspaper having general circulation in the township; counties, in a newspaper published in the county, or an adjacent county, if the county has no such newspaper.

The board may adopt such a resolution on its own initiative. Or it may be prompted by a petition signed by registered voters. In townships, the signers must not be less than 8% of the registered voters residing in the unincorporated portion of the township. In counties, the signers must reside outside the limits of the incorporated cities, and the number of names must be not less than 8% of the total vote cast outside of the incorporated cities for all candidates for governor at the last preceding general election.

### 2. Preparation of a Basic Land-Use Plan

Preparing the zoning ordinance is the chief responsibility of the zoning agency. Since the ordinance is primarily concerned with future changes, it should, as previously stated, be based upon a sound land-use plan. This is not only common sense but Michigan's zoning acts require zoning agencies to "adopt and file" with their respective governing boards "recommendations as to a zone plan . . . based upon an inventory of conditions pertinent to zoning . . ." in the county or township as a basis for the zoning ordinance.

## The Inventory

Many facts are needed before a good plan can be formulated. The zoning agency should know the township or county from top to bottom—what it is like, what changes have taken place, and what changes are likely to occur. Aerial, topographic and geologic maps, if available, are very helpful. The following are some of the important facts usually worthy of study. Whenever possible, they should be placed on a good base map, even if only in a rough way, and a separate map, as a rule, used for each item.

1. The nature of the land—the location of level and hilly land, well-drained and poorly-drained soils, lakes and streams, and other natural resources.

2. The existing use of every lot or parcel of land—whether for farming, residence, trade, industry, recreation, forestry, public services (parks, playgrounds, hospitals, public buildings) and so on. Separate maps showing past uses, where information is available, help to show trends.

3. The area and width of all lots including the setback, and width of side yards and rear yards of all existing buildings.

4. The quality of all buildings.

5. The types of water supply and sewage disposal systems being employed including the location of any public systems.

6. The location of schools, school districts and bus routes.

7. The location of drainage districts, drainage lines and their condition.

8. The location of transportation and power facilities—i.e. railroads, bus routes, landing fields, power lines, gas lines, and the like.

9. The location of areas which are undergoing rapid change, and of those likely to change materially in the future.

10. The changes which are occurring in the number of people in each community, including the number that have recently moved into an area and where they came from.

11. The location of “problem” areas—where uses of land or resources are unwise or substandard.

12. Vacant land (other than agricultural land) and the unused or undeveloped resources, if any—i.e. good water frontage, good residence, commercial or industrial sites, water power, minerals, wildlife lands, recreational lands.

## The Land-Use Plan

The stage is now set to prepare a land-use plan—to determine how each part of the township or county is best used. A careful study of the data collected will reveal what has occurred to make each community what it is today. It will show what may take place if the future is left to chance, what uses are good, what uses need correction, adjustment or improvement.

The plan should be as complete as possible for it is really a projection into the future. It should show the best uses for all lands as far ahead as good judgment may be exercised. It should include whatever is needed to make each community “go” and go right. Care should be taken not to classify areas for uses for which facilities are lacking or are too costly to supply. These might include lack of water for industry, or soils for residence with percolation rates too low for septic tank systems. A copy of the same base map used in the inventory will be found most useful for showing the projected land-use districts.

The time and effort spent in preparing a land-use plan will vary. Townships or counties that are chiefly rural may need only a simple or roughed-out plan. Whether simple or complex, the plan will prove invaluable in helping shape decisions as to what zoning districts shall be created, and the standards or regulations that should be adopted for each district. It will also prove very useful as a guide for other public or private projects in the township or county, such as the location of new roads, schools, churches, or playgrounds.

The creation of a good land use plan is a big responsibility. A wise zoning agency will surround itself with unofficial advisory committees to assist it in gathering information and interpreting it.

The cooperation of property owners’ associations should be sought in suburban and resort areas. If none exists their formation should be encouraged. In the farming areas, farm organizations can be helpful. Business organizations and service clubs should be consulted regarding commercial and industrial locations. Since unincorporated villages are included in zoning ordinances, their residents should be invited to create committees to counsel the zoning agency. Public officials, departments and agencies can furnish information and counsel.

## Planning Commissions

Michigan's laws permit any township or county to also create an official planning commission to study its conditions and formulate a "master plan" (townships under Act 285 of 1931; counties under Act 282 of 1945). These plans may serve not only as a basis for zoning, but also as a guide for other matters in which the township may be interested. The two acts differ in certain respects, however, and their relation to zoning should be carefully noted.

The act under which townships may create a planning commission is primarily the city or municipal planning act. It was opened to townships in 1952 by merely inserting the word "township" into the definition of "municipal." No other change was made. Some of the terms employed by the act must accordingly be interpreted when applying them to townships, such as supervisor for "mayor", township board for "council", and so on.

More important is a provision of this act that the planning commission becomes also the zoning agency. This commission acquires all of the zoning board's duties and powers in addition to planning functions. Townships, therefore, have a choice in zoning. They may do so either through the agency of a zoning board or through a planning commission created under the city planning act. Most townships in the state have zoned through the agency of a zoning board. As problems increased and the need for more comprehensive planning developed, some have changed to planning commissions.

However, when a county creates a planning commission, the commission does not acquire the powers or duties of the zoning commission. It can of course work cooperatively with the zoning commission in developing plans as a basis for the zoning ordinance. But it can only act in an advisory capacity. It may not also function as the zoning agency.

### 3. Preparation of the Zoning Ordinance

The zoning ordinance will not necessarily fully reflect all of the projections or determinations of the plan. Perhaps population must first increase, a public water system be devised or installed, or some other future condition realized. The ordinance reflects mainly the practical land uses for the more immediate future; later amendments can bring it in line with changing conditions.

A zoning ordinance is composed of (1) a map showing the location and boundaries of the zoning districts (a map is not required by law—the location can be described by sections, metes and bounds, etc., in the text of the ordinance) and (2) the accompanying text.

Again, the same base map used for the inventory and land-use plan will be useful for the zoning map. The zoning districts may be of any number, shape, size or kind that best serve the needs of the township or county. Their boundaries should be carefully described or clearly shown on the map. Where boundaries on the map do not follow roads or other established lines, their location should be carefully scaled and appropriate dimensions entered on the map.

### Residential Districts

The Residential Districts generally comprise more than just homes. Schools, playgrounds, parks, churches and similar land uses that go to make up residential areas are ordinarily included.

### Agricultural Districts

Areas classed as Agricultural are usually combinations of agriculture and rural residence areas. While most good farm communities prefer having their community remain primarily in farming, many land owners also wish to retain the privilege of "selling off" a lot, or an acre or two, or even the entire farm for nonfarm homes or subdivision use. As in Residential Districts, other compatible uses are likewise generally included—i.e., schools, churches, community buildings, storage plants, roadside stands, golf grounds and parks.

When an ordinance zones land as agricultural, it includes not only the tillable land but also the wooded pasture and other lands that make up most farms. But, as sometimes supposed, it does not regulate what crops are to be grown or how the land is to be managed, or any other affairs of a farm. Each land owner is free to make these decisions for himself just as he would be without zoning.

The ordinance merely provides that land in the district be used primarily for agriculture along with any combinations (residence, schools, recreation, roadside stands, and the like) that are desirable.

### Commercial and Industrial Districts

Commercial Districts are combinations of business, commercial and service enterprises. These may in-

clude stores, shops, restaurants, offices, personal service shops, and garages. They may also include "light" industries. Industrial Districts are those areas selected for general manufacturing. A good industrial district has available power, good transportation, suitable conditions for waste disposal, good water supplies, and ample space for buildings, yards and parking. While some ordinances permit homes in both Commercial and Industrial Districts, this is generally considered not good practice. In time, as these districts fill up, the same clashes may arise as in cities.

Home owners may dislike an increasing number of stores or industries coming into their neighborhood, and business and manufacturing enterprises become unhappy with homes increasingly located in their vicinity. Many modern industries now frequently refuse to go into districts not zoned against homes, preferring districts zoned primarily in their interests. Failure to provide for such districts (if an area possesses the conditions which industry needs) may deprive a community of an important tax source to help support its schools and other needs and also a source of employment.

Today, most industries build and maintain plants which are as attractive as homes. They no longer comprise the "nuisance value" associated with them. In fact, industry often seeks areas as attractive as those desired by home owners.

### **Recreation Districts**

Lake and stream borders, wooded areas, and lands which have some unusual natural feature or historical interest may be zoned as Recreational Districts. If an area is within commuting distance of city employment and includes all-year residences as well as summer cottages, it may be called a Recreational-Residential District. Stores, shops, boat liveries, skating rinks, night clubs, dance halls and other places of amusement or service usually associated with recreational areas may be zoned as Recreational-Commercial Districts. To avoid conflicts, all such business enterprises are best grouped separately and not mixed with residential land uses.

### **Forestry Districts**

These districts occur mainly in North Michigan. Their chief use is production of trees and various forest products. Since most forested areas are also good for some kind of recreation (summer camps, resort lodges, hunting, fishing, winter sports), they may be zoned either as Forestry or Recreation-Forestry Districts.

## **The Zoning Text**

The text of the zoning ordinance lists the future uses of land and property that will be permitted in each district. It details the standards or conditions under which these uses may be carried on (the size of lot required, etc.). It provides for the administration of the ordinance. In brief, it sets forth the conditions to which uses of land or property that may be undertaken in the future will be subject.

People sometimes murmur over the length of zoning ordinances. "Can't we have just a short ordinance?" is a common question. The answer, of course, is "Yes." An ordinance may be as long or as short as desired. A "short" ordinance, however, governs no more than it includes. Unfortunately, life in most communities is no longer simple. It includes many types of people and interests. With only a short ordinance, an I-don't-care land owner is left free to use his property in any way in which the ordinance does not limit him.

## **Technical Assistance**

Since members of planning and zoning agencies are chiefly laymen in these fields, the enabling acts permit them to engage technical assistance. Various kinds of aid are available—professional planners and consultants, planning firms, engineers, and the like, although the number of persons trained in rural planning and zoning is still limited.

Assistance may also be obtained from educational institutions in the state through the county's cooperative extension office or directly. Such expert assistance can be very helpful. Any township or county is at liberty, however, to plan and zone without employing such assistance, and many have proceeded largely on the modern "do-it-yourself" basis.

## **4. Public Hearing on the Proposals**

After working out the zoning proposals, the zoning agency must hold a public hearing before submitting its recommendations to the governing body for action. Two newspaper notices of the hearing must be given in advance, the first not more than 30 days nor less than 20 days, and the second not more than 8 days in advance. The notices must include the places and times at which the proposed ordinance and maps may be examined before the hearing, so that anyone that wishes may inform himself of the proposals.

However, experience has shown the value of first holding informal neighborhood hearings in advance of

the legal hearing. These meetings provide opportunities to explain the proposals "on the ground," to seek local advice, and to see how well the proposals meet the conditions of each neighborhood. They are the time-tested manner of obtaining good government by democratic means. Issues that may be difficult to settle at the legal hearing are often more easily resolved in informal meetings.

### **5. Submission of Zoning Proposals to Approving or Coordinating Agency**

Following the public hearing, township zoning boards must submit their proposals to their county zoning commission for approval. If the county does not have such an agency, then the board of supervisors is required to appoint a "coordinating zoning committee" of three persons to review the township's proposals. This committee may be made up of private citizens, or supervisors, or both. As the name indicates, the chief responsibility of this committee is to coordinate the ordinance with those of other townships in the county that have zoned.

Counties must submit their ordinances to a state agency for approval. The Michigan Department of Economic Development at Lansing is the agency at present charged with the responsibility of approving county zoning ordinances.

The order of procedure for townships and counties differs slightly at this point, however. Township proposals must be approved by the county coordinating agency before they are submitted to the township board for adoption as an ordinance. County ordinances, however, must first be adopted by the Board of Supervisors and then sent to the state agency for approval before they can become effective.

### **6. Enactment of Zoning Ordinance by Governing Body**

Since a township board is the legislative body of a township, it is this board that actually enacts the township zoning ordinance. The county board of supervisors enacts the county ordinance. Neither board, however, must adopt the proposed ordinance and map as submitted to it. It may make any changes it considers desirable. However, if changes are proposed, the board must first submit them to the zoning agency for a report or its advice. This provides an opportunity for further study of any issue. It also tends to prevent or reduce the influence of some pressure groups which may be self-seeking.

The township board, after receiving the report of the zoning board, must grant a hearing, on any proposed provision of the ordinance to any property owner who has filed a written request to be heard. After that, at any regular meeting, the board may then adopt a zoning ordinance with or without any amendments that have been previously considered by the township zoning board.

County boards of supervisors are not required to grant such a hearing, but it would seem advisable for them to follow the same procedure. They may act on a recommended zoning plan either at the next regular meeting following receipt from the zoning commission, or at any special meeting called for the purpose.

### **7. Publication of Ordinance**

Township ordinances must be published in full within ten days after adoption in a newspaper which circulates in the township.

County ordinances need not be so published. A certified copy, however, must be kept available in the office of the County Clerk for public use and a copy filed with the Secretary of State. Counties usually print their ordinances voluntarily in booklet or leaflet form as a public convenience. Most townships also make printed copies in booklet form available for public distribution.

### **8. Optional Referendum or Vote on Ordinance**

There is a popular belief that township and county zoning ordinances must be voted on before they become effective. **This is not true.**

Voting is entirely optional. If eligible voters petition for a referendum within a specified period of time, then the ordinance will be put to a vote and a simple majority can sustain or reject it. Otherwise an ordinance becomes effective on the date set for it. The voters may also petition for a referendum should the township board itself reject a proposed ordinance.

A petition for a vote on a township ordinance must be filed within 30 days of passage or rejection by the township board. Petitions for county ordinances must be filed within 50 days following approval by the Department of Economic Development. The county zoning act does not provide for a referendum on a county ordinance if rejected by the board of supervisors.

The privilege of demanding a vote on an ordinance places zoning on a strictly "home rule" footing. It provides direct democratic action. In the last analysis, the decision of how the people of a township or county wish to live together, and under what standards, rests with the people. They may have the "last word"—not the zoning body, or the coordinating agency, or the governing body.

## Existing Uses May Be Continued

What happens as regards any use of land or property being carried on when an ordinance is enacted? Suppose a district zoned for certain purposes contains existing uses contrary to the ordinance? Could such uses be forced to discontinue?

No. The use of any "building or structure and of any land or premises as existing and lawful at the time of enactment of a zoning ordinance . . . may be continued although such use does not conform with the provisions of such ordinance" is written right into the state's zoning acts.

In other words, zoning is not retroactive. The privilege of continuing a "nonconforming use," as this is called, may even be exercised by the owners of the property (whether heirs or other persons) so long as the use existed at the time of enactment of the ordinance. Should a nonconforming use ever be abandoned or discontinued for a period of time, however, zoning ordinances usually require that all further uses of the property conform with the ordinance. The general thought behind the limitation is this:

Nonconforming uses are not in line with other uses of property in the district. They may even be a problem, or in the nature of a nuisance, or a hazard to surrounding uses. It is accordingly reasoned that the community should be able to look forward to an eventual elimination of its nonconforming uses. The fairest time, it is generally agreed, is when such uses are discontinued or abandoned. Ordinances usually set a time limit—six months or a year or so—following abandonment or discontinuance after which the privilege of resuming a nonconforming use is forfeited.

## Enforcement and Penalties for Violation

To carry out the purposes of the ordinance, the legislative body appoints some person as its administrative agent. In townships, the "zoning administrator" or "building inspector" is sometimes a selected member of the township board, sometimes a person

especially employed for that purpose. Counties usually engage individuals who are not members of the board of supervisors.

Persons planning to erect a building are then required to file an application declaring their intention with the administrative agent. If the intent conforms to the ordinance, he issues the applicant a "permit" or "certificate". Whether or not a fee is charged, and the amount of fee, is left to the decision of each township and county. It must, of course, be a reasonable sum.

Failure to comply with the ordinance is considered a "misdemeanor" by general state law, and is punishable by a fine up to \$100.00 or imprisonment up to 90 days, or both. Each township and county may decide the limits for violations of its ordinance within these limits, as for example no more than \$50.00 or 30 days' imprisonment. The exact amount in any case is then fixed by the court upon conviction. Action for violation may be initiated in either justice or circuit court by any citizen as well as any official or agency of the county or township.

The requirements of most ordinances are usually easy to comply with. They include most of the common-sense things that people would do anyway. Violations occur chiefly on the part of persons unwilling to "go along with" the community.

## Boards of Appeal

Zoning ordinances sometimes work unintentional hardships on individuals since they are broad in scope and are necessarily designed to benefit the community as a whole. An individual may find himself unable to meet some "letter" of the ordinance, and yet be able to act entirely within its intent and purpose.

The Zoning Acts therefore require each township and county to provide a three-man Board of Appeals to adjust such cases. The Board serves as a kind of simple court made up of the individual's own fellow citizens to whom he can come and seek justice. The Zoning Acts empower this Board to act upon two kinds of matters.

- (1) It may serve as a "court" to which actions of the administrative official may be appealed, should an applicant disagree with his decisions. If, for example, the administrative official refuses to issue a "permit" for some purpose and the applicant feels the refusal is not justified, he may appeal the decision to this Board.

(2) The Board may vary the strict letter of the ordinance in some degree so that substantial justice is done and yet the spirit of the ordinance is observed. It should be noted that the word, "vary" means only partial change and not a complete conversion into something different. As an illustration, the ordinance may require erection of all future dwellings on lots having widths no less than 75 feet, but a land owner may find himself with only a 70 foot lot wedged in between other land owners. In such a case, the Board of Appeals may vary the 75 foot requirement and permit construction of the dwelling on the 70 foot lot provided the over-all purpose of the ordinance is being achieved.

However, a Board of Appeals does not have power under the guise of a variance to either disregard or amend the ordinance under which it functions. The Board cannot change its fundamental terms nor rezone land for other uses, as is sometimes believed (and as such boards sometimes illegally do.) Only the Township Board, or the County Board of Supervisors, may amend or change any part of their respective ordinances. A Board of Appeals is primarily a quasi-judicial agency. It has no legislative powers, nor may any such powers be delegated to it by the zoning ordinance.

Decisions of the Board of Appeals may be appealed to the Circuit Court on questions of law and fact.

### Keeping Up-To-Date—Amendments

Zoning ordinances may be changed or improved like any other law. Amendments may be petitioned for by the citizens of the township or county as well as proposed by the zoning agency or governing body. In amending an ordinance, exactly the same procedures—step by step—must be followed that were employed in enacting the ordinance. Following adoption of any amendment, it may also be voted upon by petition, as in step no. 8. Thus no individual, group or governmental body is in a position to, as it were, play fast and loose with an ordinance.

It is important to amend an ordinance from time to time. Human judgment is limited, new conditions arise, and changes which an ordinance was designed to guide may take new directions. The basic land-use plan should be constantly studied and brought up to date, and the zoning ordinance amended accordingly.

To help keep ordinances up to date, the zoning acts provide that zoning agencies be continuing bodies. They must hold a minimum of two regular meetings a year at which any persons having interests in any matter that should properly come before the agency must be heard. The township zoning board must give newspaper notice of the meeting not more than 15 days nor less than 8 days, (and a county zoning commission not more than 20 days nor less than 8 days) in advance of the meeting. Township zoning boards are also required to file a report with their township board at least once a year on how the ordinance is working out. This should include recommendations as to changes that should be made. County zoning commissions must similarly file a report with their governing body at least every two years.

### Not a Building Code

People often confuse zoning with building regulations. This occurs because many zoning ordinances require "building permits." They also concern themselves with the size of buildings, where buildings must be located, and how they shall be used. However, the construction of buildings, and the manner and materials of their erection, is the special business of building codes.

Such codes, moreover, should be enacted as separate ordinances. Regulations governing the construction of buildings should not be included in zoning ordinances. The legislature has provided separate laws under which such regulations may be adopted (Act 185, P.A., 1943, as amended, for townships; Act 62, P.A., 1943, as amended, for counties). Zoning ordinances which include such regulations are in jeopardy of being found unconstitutional since the state's constitution declares that "No law shall embrace more than one object" (Article V, Section 21.) However, the provisions of a building code and zoning ordinance may be coordinated, similar to those of any other laws.

### When Should a Township or County Zone?

Forward-thinking citizens are coming more and more to believe that the township or county which leaves its future to chance, and which is not conserving the basic things upon which its well-being is founded, is failing in its duty to its citizens, both of the present and future. It is permitting its resources and particular advantages for living, work and play to

be wasted, exploited and even destroyed. The result is to impose unnecessary and sometimes all-too-costly handicaps upon its people and their descendants.

No county or township need grow like Topsy and become a hodge-podge of conflicting land uses. Most of our rural and suburban communities are still virtually unspoiled. However, it is shortsighted to believe that they will somehow remain so. One day a parcel of land will change hands. Then another, and yet others. What kind of uses will be made of them? This is a decision which the people of the community may make in advance.