

Unified Development Ordinance

A Case Study for Winnebago County

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Zoning Methods and Unified Development Ordinances

Winnebago County is currently experiencing widespread residential growth. In the past several years, developers have begun to build subdivisions within the unincorporated areas and attempted to bring industrial installations to the region in order to capitalize on the proximity to Chicago and transportation centers. In many instances controversy existed surrounding these attempts and complications due to the lack of a comprehensive and flexible zoning scheme that would allow for a balanced approval of all of these uses. The absence of planned, designated areas for modern industrial users inhibits growth and results in ad hoc decisions that cause additional problems for the County. Further, Winnebago County is fortunate enough to have some of the richest farmland soil in the country. It is especially important that the protection of this valuable resource is taken into account while still balancing the growth and future economic development of the County.

The rewriting of the County's zoning code will result in a unified development ordinance (UDO). As a result of the comprehensive nature of the UDO, traditional zoning issues, as well as subdivision regulations and other development issues, will all be addressed in a single document and future land use issues for the County will be minimized.

We stand at the crossroads of a truly historic opportunity in Winnebago County as the predictions of continued growth from the east begin to materialize. With an effective zoning and planning process, our County and the communities within it are in a position to help foster and promote controlled growth. A UDO was the best option for the County as it provides a comprehensive overall scheme, which can be tailored to dovetail with municipal zoning ordinances to create a unified development plan throughout the county for years to come.



Zoning Frameworks

There are two major forms of zoning schemes that can be used in developing a zoning code, traditional (use based) and New Urbanism (form based).

Traditional Zoning Methods

Traditional zoning codes (or Euclidean codes – named after Euclid, Ohio where this type of zoning was first established) were originally developed to limit and restrict property uses. Under the Euclidean system of zoning, property is classified from the most restrictive to least restrictive use, as residential, commercial, or industrial property. While most traditional zoning codes have several different sub-classifications of each type, all zoning falls somewhere onto the scale and the restrictions go from very restricted use to very unrestricted use.

The net result of a pure traditional system is that a community becomes divided into segmented, single-use areas. Though it is technically possible for “mixed use” developments to be created in the commercial and industrial districts (i.e. those areas with both businesses and homes residing harmoniously in the same segment with one another), communities usually end up with only one of the three types of uses in each zone.

The positive result (and the reason that this type of zoning remains a useful tool) is that homeowners feel secure in knowing that their homes will remain in a quiet neighborhood. Residents are more likely to move into an area if they know that their property values will remain stable and will not be affected by different commercial and industrial uses. Traditional zoning promotes conventional suburban design, which is less flexible in regulating older established neighborhoods and development. This zoning method is easier to implement and enforce in outlying and Greenfield areas. The disadvantage of traditional zoning is that it is highly prohibitive to the mixing of land uses vertically and horizontally, which contributes to urban sprawl and unplanned development. One of the outcomes of this is that it can leave inner city areas undeveloped and decaying due to lack of use. However, traditional types of zoning methods are much easier for the municipality to regulate and enforce.



Zoning Frameworks

New Urbanism

New Urbanism is a movement that started to see some popularity beginning in the 80s and 90s, and is a zoning scheme designed to help eliminate some of the urban sprawl and blighted areas created by unchecked Euclidian zoning. The New Urbanism movement seeks to use land use policy and zoning to reestablish the concept of a centralized community through the use of traditional neighborhood developments (TND) and a system of “smart growth” (mixed use development) zones.

Whereas traditional Euclidean zoning is broken up into a system of use restrictions (different pods for different uses), New Urbanism (designed based) zoning is divided into a 7 types of “transects” (as the New Urbanists refer to their zoning districts) ranging from rural to urban. Each transect is a mixed use area, with the zoning code specifying the density and quantity of each type of traditional zoning element (i.e. homes, businesses, industrial sites) within each transect. A key feature in a New Urbanism zoning code is a much more dense land use policy than is normally associated with urban areas.

This concept of a centralized developed core, along with the conservation of green space, is further reinforced by the creation of “rural reserves” and “rural preserves.” These two zones allow little, if any, development and are designed to keep green spaces from becoming sprawling developments. The rural reserve allows for the development of sports complexes and parks, while the rural preserve is designed to preserve the area in its natural state.

The end result of a New Urbanism zoning plan is to increase densities in the urban areas while essentially reducing the development of sub-urban areas. More neighborhood communities are created around a central axis, and the economy is less dependent on vehicles for many people through space. Urban sprawl is reduced, and the downtown areas once again become the focal point of a community. However, it takes much more planning to create a New Urbanism zoning plan. There must be a strong vision of what the community should become, and then the plan must be created to reflect this commitment.



Putting a Zoning Scheme in Place

Once the general zoning framework is put into place, there are different sets of tools used to create the code itself and assist in implementing the overall comprehensive plan.

Form Zoning Codes

Form based zoning codes are a concept that can be used in conjunction with the comprehensive plan to create a simplified development scheme. Form based codes essentially create a zoning ordinance using pictures to clearly show developers the expectations are for different land use areas. The principle of this type of zoning regulation is that design is preeminent, so land development is regulated by setting controls on building form with broad parameters on building use. The form based zoning codes show, through maps and illustrations, where trees and green spaces should be located in relation to streets and buildings, where the building should be placed on a piece of property, how high, wide, and deep a building should be, and the many other details that control to the look of an area.

Form based zoning is a very specific type of land development regulation that looks at development on a parcel-by-parcel basis. In addition, it requires a very detailed land use and design planning process that delineates the development of each parcel before any regulations are crafted. For this reason, it is difficult, if not impossible, for a county to undertake a pure form based code. However, the design standards of a form based code are a tool that can be used within a county zoning ordinance. Form based techniques can be adapted to the context of a traditional zoning ordinance. In areas where a certain character has been established, or where the county would like to create a certain character, form based zoning techniques such as design guidelines, build-to lines, minimum height regulations, etc., can be included within the zoning ordinance.



Unified Development Ordinances

Unified Development Ordinances (UDOs) are another tool that can simplify zoning codes and make them more accessible and user friendly. UDOs essentially combine subdivision codes and zoning codes as well as any other appropriate land development ordinances, such as environmental overlays or floodwater controls, into one document to create a unified system of development regulations for a municipality. UDOs, when done properly, usually have separate sections consisting of subdivision codes and zoning ordinances, and can even include signage and watershed ordinances. These components are then combined into one document so that all of the sections interrelate with one another. This creates a development code that developers and municipalities can use to much more efficiently plan and approve developments. It helps to eliminate the problem of separate codes that either directly conflict with or fail to complement one another in the overall development scheme of the County as set out in the comprehensive development plan.

The UDO unites all of the different development regulations and can actually spur growth in the County which in the long run can result in an increase in the property tax base. Additionally, many of the costs of developing the UDO will be associated with data collection and analysis. Due to the fact that Winnebago County chose to re-draft the comprehensive plan and the zoning ordinances at the same time, these costs were not duplicated and were actually lower overall than if the two plans were developed separately.

In designing Winnebago County's UDO, the consultants plan on using elements of several different design schemes. While the overall code will essentially remain a use based code, there will be elements of form zoning to help clarify and simplify zoning procedure and requirements. By using several different zoning "tools" and creating a hybrid ordinance, the new code will be more effective and flexible, and will better reflect the needs of the County as established in the comprehensive land use plan.



About Nicolosi & Associates, LLC

Nicolosi & Associates is a Rockford-based firm that has successfully served the public strategy and financial planning needs of municipalities since 1948. Our law firm provides legal advice and services on a full range of issues for municipalities, including real estate acquisition matters, such as negotiation, documentation, tax increment financing, conflicts of interest and ethics rules, and zoning appeals, as well as drafting of ordinances and resolutions. We also help municipalities with Comprehensive Financial Plans, Special Taxing Districts, Business and TIF Districts, and Impact Fees and Exactions.

Nicolosi & Associates' follows a multi-disciplinary approach that sets us apart from more traditional municipal law and public finance firms, and enables us to deliver innovative and effective solutions that work for municipalities in today's economy.

ROXANNE M. SOSNOWSKI, JD

Roxanne Sosnowski concentrates her practice in the areas of civil litigation and municipal law and has done significant work on behalf of local governments, including, the County of Winnebago, to develop and execute a new Unified Development Ordinance and Land Use Plan. She is a key contributor to the Nicolosi & Associates municipal law practice, which provides legal advice and services on a full range of issues for municipalities, including real estate acquisition matters, such as negotiation, documentation, tax increment financing, and eminent domain; conflicts of interest and ethics rules; zoning issues; drafting of ordinances and resolutions; and more. Ms. Sosnowski earned a B.A. degree in Liberal Arts and Sciences at Northern Illinois University in 2003. She received her J.D. cum laude from Northern Illinois University College of Law in 2004 where she served as an editor of the Northern Illinois University Law Review. She is a member of the Winnebago County Bar Association, Illinois State and American Bar Associations and is also a member of the Rockford Junior League.

DAVID SIDNEY, The Buckley Companies

David Sidney's experience spans many areas of planning from urban development to land use planning for public and private agencies. He is a key contributor for The Buckley Companies, an affiliate of Nicolosi & Associates, on consulting projects for local governments, including Winnebago County and Wilmington, Illinois. Mr. Sidney's adept proficiency with ArcGIS allows our firm to proactively and interactively review and comment on proposed development plans submitted by developers to our local government clients. Mr. Sidney holds a M.A. in Urban Planning, from the University of Illinois, Urbana-Champaign, IL, has a B.A. in Urban Planning, University of Illinois, w/ Honors, 4+1 Student, Urbana-Champaign, IL. He has been recognized by a number of prominent planning organizations through many awards. He is a member of numerous professional affiliations and boards including American Planning Association; Greater Rockford Transportation Coalition of Rockford, IL; and New Urbanism Discourse at the University of Illinois, advisory board.