

REGULATORY TOOLS SUGGESTED IN THE OPTIONS



Overlay Zones

Suggested in options: 2, 3, 4

DESCRIPTION/OVERVIEW:

An overlay zone is a zoning district which is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for affected properties, in addition to the base standards of the underlying zoning district. Communities often use overlay zones to protect special features such as historic buildings, areas with limited land, and environmentally-sensitive areas such as wetlands and areas with steep slopes. In this case, an overlay zone would be applied to ensure the conditions for specific development projects are achieved (overnight accommodations as a mixed-used or to include affordable housing, for example).

BENEFITS:

- Overlay zones tailor regulations to specific properties and districts as part of meeting specific community goals.

CHALLENGES:

- Overlay zones can create inefficiencies and inequities by applying regulations/restrictions to some properties and not others.
- Additional regulations may increase time and expense both for developers and reviewers involved in the approval process.

EXAMPLE: Kanab, UT - Commercial Planned Development Overlay

The Commercial Planned Development Overlay was established to provide for the commercial and service needs of both local residents and visitors by requiring multiple uses within a unified development that is attractively designed and exceptionally functional.

For Moab: Kanab shares some similarities with Moab. It is a gateway community to nearby national, state and regional parks and recreational sites. The community has absorbed some of the impact of the rapid growth and development taking place in St. George. This overlay has been in place for over ten years, modified in 2013. As it reads, the zone provides limited incentives to encourage a range of services are provided.



Form-based Codes

Suggested in options: 2

DESCRIPTION/OVERVIEW:

A form-based code is a regulation adopted into city, town, or county law that offers a powerful alternative to conventional Euclidian zoning regulation. Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks rather than just land use. The regulations and standards in form-based codes are presented in both written text and descriptions and clearly drawn diagrams and visuals. These codes are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development.

BENEFITS:

- Encourages diversity of architecture, materials, uses and ownership.
- Are prescriptive (state what you want) and, therefore, achieve a more predictable, high-quality built environment.

CHALLENGES:

- It can be challenging to link form-based regulation with more traditional zoning control mechanisms.
- Implementation can be much more staff and time intensive.

EXAMPLE: Flagstaff, AZ - Hybrid Form-based/Euclidian Zoning

Flagstaff's hybrid zoning code integrates form-based code elements with traditional zoning techniques. The form-based code covers large areas of the city's core and historic neighborhoods, with incentives for application. Incentives were originally included to address resistance to the new planning tool. However, over time community members began to understand the benefits of using smart growth and form-based principles, which ultimately eliminated opposition.

For Moab: Form-based elements are being considered as part of the solution to the moratorium on Overnight Accommodations. However, the necessary public outreach and education requires time and effort beyond the timeframe of this study and will have to be used in conjunction with other tools and on a longer timeframe.



Performance Standards

Suggested in options: 2, 3, 4

DESCRIPTION/OVERVIEW:

Performance standards regulate development by setting the desired goals to be achieved, rather than how those community goals are met. Instead of restricting specific uses on a property, performance requirements allow any use that meets the set standard. For example, the ordinance might be modified to specify that all overnight accommodation projects include mixed use and similar uses that benefit the community, but not specify the specific mixes, uses and locations of the beneficial uses. Performance standards attempt to address the same goals as traditional zoning ordinances (protecting community character), but with a greater amount of flexibility.

BENEFITS:

- Are a rational way of codifying values and goals without being overly restrictive.
- Can be integrated into a conventional zoning structure.

CHALLENGES:

- The flexibility of the standards makes administration difficult, expensive, and adds an element of unpredictability.

EXAMPLE: BUCKS COUNTY, PA

Performance zoning was focused on housing development. Some aspects of traditional zoning - such as zoning districts and certain use prescriptions - were retained, with each being governed by performance standards: an open space ratio, intensity factors such as building volume, trips generated, impervious coverage, and landscaping. Dense buffering was required between incompatible uses, and a site capacity calculation was used to limit development impacts on each parcel and its surroundings. Traffic impact analyses were used, density transfers were allowed to prevent hardships, and bonus densities were allowed to encourage affordable housing.

For Moab: Despite its early promise and particular relevance in an environmentally-challenged communities, performance zoning has not gained wide acceptance and would require a level of analysis and review beyond the means of Moab or Grand County.



Mandatory Mixed-Use Development

Suggested in options: 2, 3, 4

DESCRIPTION/OVERVIEW:

Mandatory mixed-use development requires the co-location of compatible uses, such as lodging, a restaurant, and retail OR lodging, office space, and residential. As with form-based standards, potential friction between adjacent land uses can be addressed through operational requirements, such as:

- Hours of operation
- Shared parking
- Noise restrictions
- Use restrictions on certain levels within

BENEFITS:

- Helps ensure that addition of other types of commercial uses, reducing the current under-provision of these other uses.
- Blends the line between the local community and tourism by adding local uses to typically tourist-centric locales.

CHALLENGES:

- Creating economically viable mixed use projects requires more research and time by the developer and more City/County oversight and review time.

EXAMPLE: SAN DIEGO, CA

San Diego recently established a new land use policy that will require developers to build mixed use projects with a range of residential, commercial and community service uses. The goal is to encourage housing projects to be built near jobs in major transportation corridors, preferably ones with mass transit. The new zoning is most likely to be used in older, dilapidated neighborhoods with large surface parking lots and only one type of use, but would apply to the entire city and could be used in other areas.

For Moab: A similar tool could be applied as part of an overlay zone. It could also be developed as part of a form-based code in areas where new overnight accommodations are permitted.

OTHER REGULATORY TOOLS EXPLORED

INCENTIVE ZONING

Incentive zoning is a tool that allows development to occur in a manner that ordinarily would not be permitted, in exchange for a public benefit that would otherwise not be required. For example, a developer may provide schools, parks, open space, plazas, low-income housing, mixed-uses or money, in exchange for permission to develop a hotel or other overnight accommodation project. In this case, the incentives would be directly tied to granting permission to build an overnight accommodation project.

Since incentive zoning is intended to produce specific public amenities and types of development, it can be an effective tool for communities wishing to accomplish goals in a specific neighborhood or outlined in the comprehensive plan. It also can help increase the number public goods available in the community.

UNIFIED DEVELOPMENT ORDINANCE

A Unified Development Ordinance (UDO) is a policy instrument that combines traditional zoning and subdivision regulations with other desired city regulations, such as design guidelines, sign regulations and traffic management. By combining all of these regulations into a single ordinance, a UDO streamlines and coordinates the development process of permits and approvals, making it easier for all parties (the developers, the public, and public entities) to understand the requirements. UDOs often use clear, consistent language and definitions, with many illustrations and tables.

A UDO can be beneficial for communities looking for a more comprehensive approach to land use regulation and economic development. It can also be helpful in accommodating mixed-use development, as it provides a more thorough and comprehensive approach to meeting goals such as environmental protection, mixed use and mixed-housing types.

TRADITIONAL ZONING: EXPAND OR CONTRACT ZONE BOUNDARIES

Increase or decrease the area and number of parcels where overnight accommodations developments are allowed.

ADEQUATE PUBLIC FACILITIES ORDINANCE

An adequate public facilities ordinance (APFO) is a growth management tool to help coordinate the timing and provision of public infrastructure with new development. An APFO allows the government to delay new development projects by prohibiting the issuance of development permits if existing government services, such as water, sewer, roads, schools, fire, police, etc., cannot support the development. Before developers can apply for development permits, they must be able to show that there are adequate resources currently available in the community. APFOs are not to be used as de facto moratorium, but simply as a tool to help government control the pace of development. If the government denies the developer permits due to the unavailability of resources, the government's capital improvement plan must show a good faith effort to make those resources, or infrastructure, available.

TRADITIONAL ZONING: MODIFY ZONING DISTRICTS

- CREATE A NEW ZONE DISTRICT that allows many commercial uses except overnight accommodations.
- MODIFY AN UNDERUTILIZED ZONE DISTRICT (e.g. General Business or Neighborhood Commercial).
- CREATE A MORE EXPLICIT "MIXED USE DEVELOPMENT" ZONE that only allows overnight accommodations as part of a mixed use development.

TRADITIONAL ZONING: ADJUST PERMITTED, CONDITIONAL, AND PROHIBITED USE RIGHTS

- Permit overnight accommodations by-right (permitted) or as a conditional use. It should be clear that conditional uses are permitted uses, but must meet some specific conditions for approval.
- Specifically prohibit overnight accommodations in zones where they are currently permitted.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

A TDR is a market tool used to preserve land. The preservation is accomplished by allowing one landowner to sever their development rights in exchange for compensation from another landowner who wants her development rights to increase. TDR programs transfer the development rights of a predetermined lot – known as a sending area – to another lot, known as the receiving area. Thus, while the development rights are reduced or severed on the sending area, increased density and development is allowed on the receiving area. The sending sites are typically deed-restricted so that only appropriate uses are allowed from the rights sale onward.

The desire for a TDR program arises when the public recognizes the significance of a resource, such as open space, agriculture or historical buildings, and wishes to preserve it. Therefore, TDR programs are usually the most helpful in communities experiencing rapid greenfield development in relatively rural and pastoral areas. TDR programs give communities the ability to achieve open space preservation as well as compact, centered development.

TDRs also require a lot of time and planning to restructure the zoning, and an oversight agency to regulate the market, so the program can have higher administrative costs than traditional zoning.

DEVELOPMENT EXACTIONS

An exaction is a required contribution to a governmental entity imposed as a condition of approval for a proposed land development. Exactions generally take the form of (1) dedication of land to the public; (2) construction of public improvements, (3) money paid in lieu of property dedication or construction, (4) connection fees, or (5) impact fees. See Utah Code §§ 10-9a-508 and 17-27a-507 for details.

Exactions are permitted, provided they meet legal standards established to protect constitutional rights. Exactions that do not satisfy those standards are not allowed. All local governments may impose exactions on a proposed development provided that it meets "rough proportionality" analysis, which is:

1. An essential link exists between the exaction and a legitimate governmental interest; and
2. Each exaction is roughly proportionate, both in nature and extent, to the impact of the development.

One type of development exaction is an Impact Fees (see below).

IMPACT FEES

Impact Fees are a one-time charge to mitigate the impact of new development on the local infrastructure. Local governments may charge impact fees, if they follow the terms of the Impact Fees Act, see Chapter 11-36a of the Utah Code. They may be used for permanent buildings and other physical facilities owned by the local government which have a life expectancy of more than 10 years. A local government may charge impact fees to fund the following public facilities:

- a. water systems and water rights
- b. roads
- c. wastewater systems
- d. stormwater control systems
- e. parks
- f. municipal power facilities
- g. public safety facilities (i.e., police and fire facilities)

OTHER UTAH & REGIONAL EXAMPLES EXPLORED

TOWN OF ALTA—BASE FACILITIES ZONE

TOOL TYPE: Traditional Zoning that Limits Overnight Accommodations as a Function of Limited Water Resources

OVERVIEW: In order to protect the sensitive landscape and surrounding watershed, the zoning ordinance caps development to 132 total units, spread equally among the four private land holding areas located at the base of the ski area. The code also requires approval from the County and Salt Lake City which control sewer and water access (at present, water provided by SLC corresponds to meeting the total development potential of the 132 overnight units). Limiting the size of the units is intended to ensure the number of occupants matches the availability of water. Each project (existing and new) must provide on-site housing for one employee for every five (5) guestrooms.

For Moab: Although the Town of Alta is very different than Moab, it also has experienced significant demand for overnight accommodations. Limiting the number of units could be a tool in the Moab area in the future, once the State's watershed report is complete and the limits of water resources are better known.

IVINS—DESIGNATED ZONES

TOOL TYPE: Designated Zones for Overnight Accommodations & Other Uses

OVERVIEW: With the goal of becoming a destination and resort community that is aligned with high quality of the surrounding desert environment, landscape, and views, Ivins designated where various types of overnight accommodations are permitted and created a specific, separate zone for each use. They have taken a similar approach for short-term rentals (see Short-term Rental Overlay District) and for preserving the historic town center (see Historic Township Overlay District).

Ivins also instituted a Mixed Use Development Overlay District where a single residential use can be combined with a single commercial use (Neighborhood Commercial, Community Commercial and Resort Commercial) as part of a mixed use neighborhood.

For Moab: Similar tools may not apply to the Moab region, as existing patterns have long been set that permit a wide range of commercial uses along much of the highway edge.

CEDAR CITY—MODIFIED TRADITIONAL ZONING

TOOL TYPE: Designated Zones for Overnight Accommodations & Other Uses

OVERVIEW: In order to address changing needs and changing land use needs, Cedar City repealed its General Commercial and Neighborhood Commercial Zones, replacing them with geographically-distinct zones for specific uses/character profiles (Central Commercial, Downtown Commercial, Highway Service and Mixed Use Zones). Most of these zones are determined by existing street layouts and networks.

For Moab: Implementing an approach similar to the Cedar City model would be relatively easy. However, it would probably need to include a greater level of detail and perhaps the use of other tools (design guidelines, form-based requirements) to address the needs of the project.

PARK CITY—DESIGNATED ZONES & DESIGN GUIDELINES

TOOL TYPE: Specific Zones for a Range of Overnight Accommodations, Architectural Guidelines, Historic District Design Guidelines

OVERVIEW: Varying overnight accommodations are permitted in the General Commercial District, the Historic Commercial District and the Recreational Commercial District zones of the city, with large hotels only being allowed in the General Commercial District Zone. Each zone requires specific design/architectural guidelines and are further controlled through a design review process.

For Moab: Park City is significantly larger, has a discernible and an intact historic core, and shares strong relationships with nearby communities that share a focus on mountain recreation and alpine sports. However, like Moab, overnight accommodations are a critical element of the city's economic structure. The delineation of specific zones for such uses has achieved many of the city's goals and vigilant efforts have established a clear community character.

ASHEVILLE, NORTH CAROLINA

TOOL TYPE: Limits on Short-term Rentals (STRs)

OVERVIEW: Similar to recent changes in Moab and Grand County, Asheville restricted the rental of entire dwelling units (sometimes called "whole-house" STRs) to those zones that allow "lodging facilities," like hotels and motels in order to help curb an affordable housing crisis. The city allows home-sharing situations called "homestays." A homestay allows the host to rent individual rooms within his/her residence for overnight lodging for a term not to exceed thirty days and requires the host to remain on-site during the homestay (e.g. no overnight travel allowed). Homestay regulations are subject to fines if violated, and the city uses an independent company to assess fines.

For Moab: A similar ordinance for the Moab area could help meet peak demand needs for overnight accommodations and reduce the need for constructing permanent overnight accommodation facilities. The application of this tool would likely be paired with limiting the development of permanent overnight facilities.

DURANGO, COLORADO

TOOL TYPE: Relaxed Rules on Accessory Dwelling Units (ADUs) to Address Affordable Housing Shortage

OVERVIEW: Relaxing rules on "Accessory Dwelling Units" drastically increased affordable housing stock in the city of Durango. Zoning laws were recently modified to permit the construction of accessory dwelling units (ADUs) in order to provide more affordable housing. The change allows primary homeowners to build additional housing up to 550 square feet as long as it is attached to the main house. The homeowners are not allowed to sell the addition or to move out of the home, but they could rent the additional space. The change was facilitated to help make Durango a more affordable place to live, and to help meet the gap in affordable housing construction.

For Moab: While similar changes could help meet housing needs, it would have little impact on the overnight accommodation market unless the units were allowed to be rented on a short-term basis.

TELLURIDE, COLORADO

TOOL TYPE: Permits short-term rentals in residential areas for a limited number of visitors and nights per year

OVERVIEW: The municipal and Land Use Code regulate short-term rentals, including additional restrictions for homes located in Residential Zone Districts. Residential Zone rentals are restricted by the number of total occurrences and total number of days that a dwelling may be rented annually. These regulations apply in seven residential districts, most of which are concentrated in the north end of the town. Recent changes limit the total number of days that a property may be rented on a short-term basis in the residential zone districts to a cumulative of 29 days or fewer in a calendar year, which may occur for no more than three periods in a calendar year. For example, you may rent your property once for 15 days, once for 10 days and once for 4 days in a calendar year.

For Moab: A similar ordinance for the Moab area could help meet peak demand needs for overnight accommodations and reduce the need for permanent overnight accommodation facilities. The application of this tool would likely be paired with limiting the development of permanent overnight facilities.

PORTLAND, OREGON

TOOL TYPE: Urban Growth Boundaries

OVERVIEW: Under Oregon law, each of the state's cities and metropolitan areas has created an urban growth boundary around its perimeter - a land use planning line to control urban expansion onto farm and forest lands. Land inside the urban growth boundary supports urban services such as roads, water and sewer systems, parks, schools and fire and police protection. The boundary is one of the tools to protect farms and forests from urban sprawl and promote the efficient use of land, public facilities and services inside the boundary. The Portland area urban growth boundary has been expanded about three dozen times since it was first drawn. In 2007, a system for designating urban and rural preserves was put in place, further honing criteria for bringing land into the boundary. Similar boundaries are mandated for urban communities in Idaho and Wyoming.

For Moab: Utah does not allow urban growth boundaries. This is not a viable tool without changes to State land use requirements.