

Emerging Land Uses

Adapting Land Use Code to New Industries - Are You Ready for the New Boogeyman?



IDAHO COUNTIES:

PERMITTING

THE CHALLENGES THAT MATTER

ORDINANCE DRAFTING. PROPERTY RIGHTS. PUBLIC PROCESS.

Practical Strategies for Today's Most Contentious Land Use Decisions



ORDINANCE DRAFTING

Clear, defensible
regulations for
emerging land uses



BALANCING PROPERTY RIGHTS

Protecting rights while
serving the public
interest



PUBLIC PROCESS

Building trust through
transparent and
inclusive engagement



NAVIGATING POLARIZED ENGAGEMENT

Strategies for managing
anti-growth groups and
social-media dynamics



STRONG COMMUNITIES.
THOUGHTFUL DECISIONS.

IDAHO COUNTIES CONFERENCE

2026



Instructor - Gary Armstrong

Gary has been working in Public Policy for more than 30 years. He has worked at every level of policy making, from small town planning, to facilitating mediation sessions for major national policy matters. Among the most contentious were negotiating access to national oil reserves in Northern Alaska in ways that satisfied both the oil industry, as well as the environmental protection interests. He also facilitated public outreach and planning efforts for the BLM in Las Vegas just weeks after the “Bundy Standoff.” Through his career, Mr. Armstrong has facilitated thousands of public meetings.

For the last ten years, he has been the Planning Director in Eastern Idaho, working for 5 years in Teton County and for the past five years in Madison County. His background in policy making, local land use, and environmental analysis bring can help navigate the new path forward on these important and delicate issues.

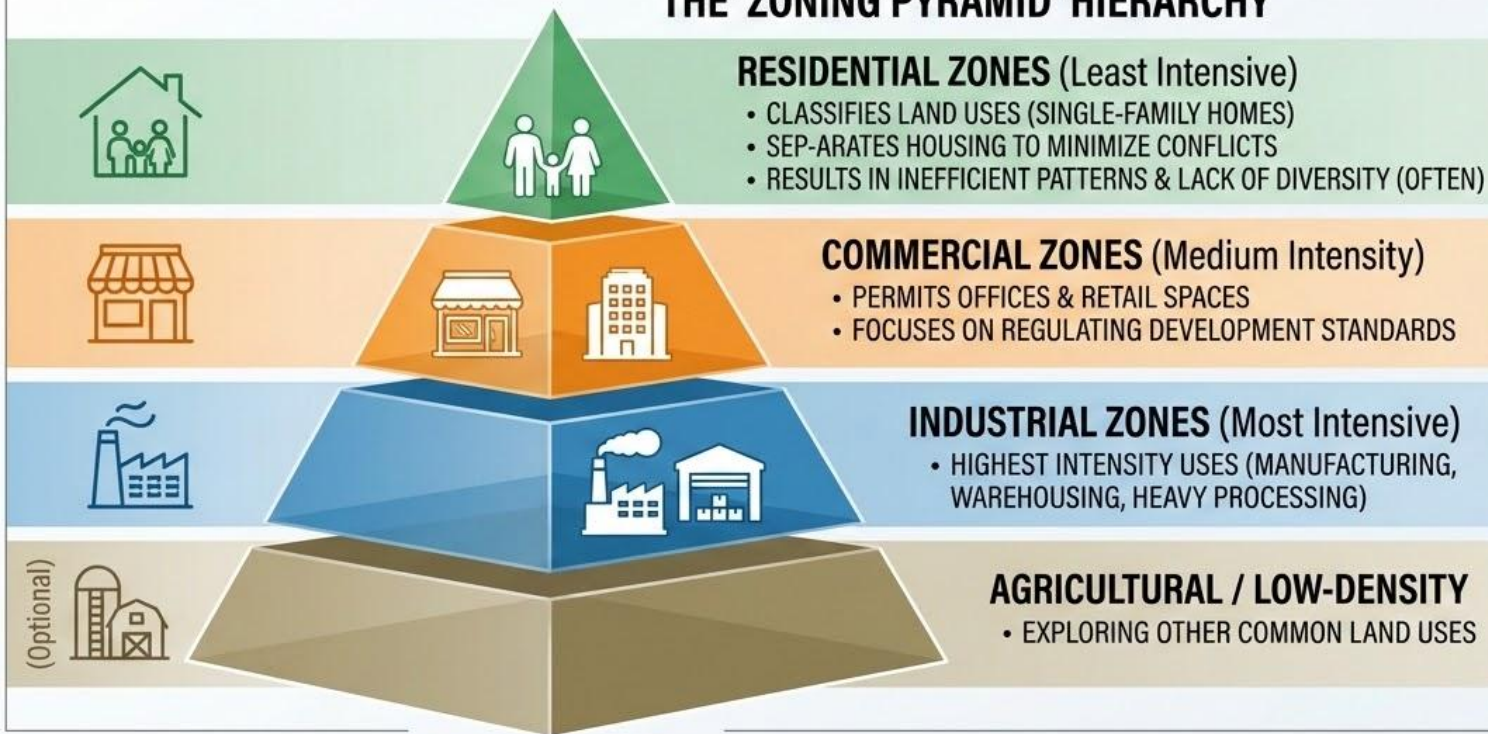
ZONING TYPES

**AS WE LOOK TO REVISE OUR CODES, WE CAN EXPLORE VARIOUS
TYPES, OR PHILOSOPHIES OF ZONING SO WE CAN FIND AN
APPROACH THAT FITS BEST FOR YOUR COUNTY**



UNDERSTANDING EUCLIDEAN ZONING: THE SEPARATION OF LAND USES

THE 'ZONING PYRAMID' HIERARCHY



EUCLIDEAN ZONING |
A traditional approach where specific zones dictate allowed uses. True Euclidian models create a "Pyramid" where zones become increasingly restrictive.

ENUMERATED ZONING

You can only do what is listed.

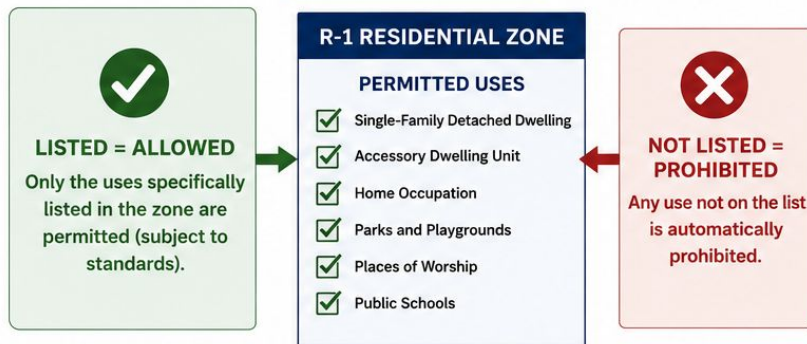
Enumerated zoning is a strict approach where specific land uses are explicitly listed and allowed in each zone. Any use not listed is prohibited.



**CLEAR RULES.
LIMITED TO WHAT IS LISTED.**

This is the foundation of most zoning codes.

HOW IT WORKS



BENEFITS

- Clear and predictable rules for property owners and staff
- Reduces potential conflicts between incompatible uses (when uses are clearly defined)
- Provides certainty and consistency in decisions

CHALLENGES

- Inflexible—may not adapt well to changing needs or new trends
- Requires regular updates to stay current
- Can limit innovative ideas and opportunities not yet imagined

EXAMPLE: R-1 RESIDENTIAL ZONE

ALLOWED (If Listed)	NOT ALLOWED (Not Listed)
Single-Family Homes	Retail Stores
Accessory Dwelling Units	Light Manufacturing
Home Occupations	Gas Stations
Parks and Playgrounds	Auto Repair Shops
Places of Worship	Multi-Family Apartments
Public Schools	Self-Storage Facilities
	<i>...and any other use not listed.</i>



Most jurisdictions use enumerated zoning in some form—often combined with other approaches such as prohibited uses and impact-based standards for greater flexibility and better outcomes.



BOTTOM LINE: Enumerated zoning provides certainty by listing what is allowed.
Everything else is prohibited.

What that looks like - Land Use Table

County Code



Sec 117-51 Land Use Table

Legend for Land Use Table Uses

P = Permitted use

C = Conditional use

Blank = Not permitted

Not Listed = Not permitted. Please see planning & zoning administrator.

Zones

AG = Agricultural

A/R = Agriculture/Recreation

C = Commercial

I-L = Light Industrial

I-H = Heavy Industrial

MPC = Master Planned Community

R = Residential

TS = Town Site

TAG = Transitional

Land Use Table

Land Use	Zone								
	AG	A/R	C	I-L	I-H	MPC	R	TS	TAG
Residential									
Apartment/condominium building		C	P	C		P	P	P	C
Live/Work Unit	C	C	P	C		P			
Rowhouse		C	P	C		P	P	P	C
Duplex dwelling	P	P	C	C		P	P	P	C
Single-family dwelling	P	P	C	C		P	P	P	P
Accessory Building	P	P		P		P	P	P	P
Accessory Dwelling Unit	P	P					P	P	P
Mobile Home Park			P	P			C	C	
Assisted living housing, major			C						
Assisted living housing, minor	P	P	P	P	P	P	P	P	P

PROHIBITIVE ZONING

Everything is allowed unless it is specifically prohibited.

Prohibitive zoning allows **any land use by default** unless it is specifically listed as prohibited in the zoning ordinance. It focuses on **preventing incompatible or harmful uses** while allowing **flexibility** for everything else.



ALLOWED BY DEFAULT

Any use not listed as prohibited is permitted.



Homes



Shops



Offices



Restaurants



Studios



Services



Innovation

and more...



If it's not prohibited and meets development standards, it's allowed.



PROHIBITED USES

Only uses that are incompatible or create unacceptable impacts.



Heavy industrial uses



Junkyards and salvage yards



Landfills and transfer stations



Hazardous waste facilities



Adult entertainment businesses



Any other use that creates nuisance or serious impacts on surrounding properties

HOW IT WORKS



The ordinance lists only those uses that are specifically prohibited.



All other uses are allowed, provided they comply with development standards and all applicable laws.



Protects the community from harmful or incompatible uses while encouraging innovation and economic opportunity.

BENEFITS



Greater Flexibility
Accommodates a wide range of uses and business models.



Encourages Innovation
Allows new and emerging uses without waiting for code updates.



Fewer Amendments
Reduces the need for constant updates as markets and needs change.



Economic Opportunity
Supports job creation, entrepreneurship, and local investment.

STILL MUST MEET DEVELOPMENT STANDARDS



Setbacks



Height Limits



Parking



Landscaping & Screening



Building & Fire Codes



Environmental Regulations

...and all other applicable federal, state, and local requirements.



BOTTOM LINE: Instead of listing everything that is allowed, prohibitive zoning *only lists what is not allowed*, allowing communities to adapt while protecting neighboring properties.

What that looks like - Can't Do Lists



Section 8-3-301. Commercial / Light Manufacturing (C-M) Zone – Prohibited Uses.

Purpose - The Commercial / Light Manufacturing (C-M) Zone is intended to provide areas for retail, service, office, commercial, and light manufacturing activities that support the local economy while minimizing impacts on surrounding properties. Businesses may engage in manufacturing, assembly, fabrication, processing, storage, and distribution provided the operations do not create significant off-site impacts or hazards.

B. Prohibited Uses - The following uses are prohibited within the C-M Zone:

1. Heavy industrial manufacturing involving blast furnaces, primary metal smelting, or petroleum refining.
2. Mining, quarrying, gravel pits, and rock crushing operations.
3. Asphalt or concrete batch plants.
4. Commercial hazardous waste treatment, storage, or disposal facilities.
5. Municipal solid waste landfills, transfer stations, or incinerators.
6. Explosives manufacturing, storage, or testing facilities.
7. Nuclear power generation or nuclear waste storage facilities.
8. Commercial livestock feedlots or concentrated animal feeding operations (CAFOs).
9. Slaughterhouses or rendering plants.
10. Correctional institutions, prisons, or detention centers.
11. Airports serving commercial passenger service or air cargo hubs.
12. Heavy truck terminals intended primarily for long-term truck parking or fleet storage.
13. Adult entertainment establishments.
14. Outdoor salvage yards, junkyards, and automobile wrecking facilities.

PERFORMANCE-BASED (IMPACT-BASED) ZONING

Focus on outcomes, not uses.

Instead of prescribing what you can build,
performance-based zoning sets clear standards for **how** a development performs.

THE IDEA



Establish the results the community wants.
Developers have flexibility in how they achieve them.
Projects are approved when they meet
the performance standards.

EXAMPLE PERFORMANCE STANDARDS



Environmental
Energy efficiency,
water use, tree
canopy, air quality



Transportation
Trip reduction,
bike/walk access,
transit connectivity



Housing
Affordable housing
units or fees,
diverse housing types



Site & Stormwater
Stormwater quality,
green infrastructure,
erosion control



Community
Open space, public
benefits, health &
well-being



Economic
Local jobs, economic
vitality, fiscal
responsibility

HOW IT WORKS



SET COMMUNITY GOALS
Identify the outcomes
that matter most.
(e.g., sustainability,
mobility, affordability,
neighborhood character)



ESTABLISH PERFORMANCE STANDARDS
Create measurable
criteria or metrics.
(e.g., energy use, traffic
impact, stormwater,
affordable units)



DEVELOPER PROPOSES A SOLUTION
Developers design projects
that meet or exceed the
standards using innovative
approaches.



MEET THE STANDARD, EARN APPROVAL
If the project meets the
performance criteria, it is
approved—regardless of
the specific use or form.

BENEFITS



FLEXIBLE
Allows creative,
innovative solutions
to meet goals.



ADAPTABLE
Responds to changing
market demands and
technology.



ALIGNED
Ensures development
reflects community
values and priorities.



SUSTAINABLE
Promotes long-term
environmental, social,
and economic health.



RESILIENT COMMUNITIES
Focus on outcomes
that build stronger,
more livable places.



BOTTOM LINE:

Performance-based zoning regulates impacts and outcomes—not specific uses—
creating flexible, future-ready communities that meet today's needs and
tomorrow's challenges.



**Right Outcome.
Right Place.
Right Future.**

What that looks like - Lists Impacts



Section 8-3-302. Impact-Based Commercial (IBC) Zone

A. Purpose -The Impact-Based Commercial (IBC) Zone is intended to accommodate commercial, service, office, and similar business uses that are compatible with surrounding properties and rural infrastructure. Rather than regulating specific business types, this zone regulates the impacts of development to ensure that commercial activities do not adversely affect neighboring properties or public health and safety.

B. Performance Standards -All uses within the Impact-Based Commercial (IBC) Zone shall comply with the following standards:



Private Water, Wastewater, Stormwater. The proposed use shall be capable of operating utilizing an individual private well and an individual on-site wastewater treatment system (septic system). Uses requiring community water or community sewer service shall not be permitted. Stormwater shall be managed on site.



On-Site Loading and Unloading. All loading, unloading, delivery, and service activities shall occur entirely on the property. No loading or unloading shall occur within a public street or public right-of-way.



On-Site Parking. All required parking for employees, customers, visitors, and company vehicles shall be provided on the property. Parking shall not rely upon public streets or neighboring properties.



Off-Site Impacts. Uses shall not create objectionable impacts beyond the property boundaries, including but not limited to:
Noise; Odors or smells; Smoke, dust, fumes, or other airborne emissions; Excessive lighting or glare; Vibrations; or
Any other nuisance that unreasonably interferes with the use and enjoyment of neighboring properties.



Compliance with Laws. All uses shall comply with applicable building, fire, health, environmental, and other federal, state, and local regulations.

Exclusionary zoning –



EXCLUSIONARY ZONING



Exclusionary zoning uses rules like large minimum lot sizes, high building standards, bans on manufactured homes, and costly permit requirements to **restrict development and keep out** low-income and minority families. This leads to fewer affordable housing options, perpetuates inequality, and limits opportunities for vulnerable populations.



Exclusionary zoning is mostly implemented by HOAs through CCRs, as fair housing and civil rights laws generally prohibit most typical forms of exclusionary zoning.

A COMBINATION APPROACH TO ZONING

Most jurisdictions use a mix of tools to achieve their community's goals.



No jurisdiction goes with one singular approach.
Almost all jurisdictions use a **combination of approaches**.

THE ZONING TOOLBOX

1. ENUMERATED (EUCLIDEAN ROOTS)



You can only do what is listed.

- Permitted Uses
- Conditional Uses
- Accessory Uses

Example Use:
Traditional residential neighborhoods with established development patterns.

2. PROHIBITED USES (INCLUSIVE APPROACH)



Everything is allowed unless it is specifically prohibited.

- Only uses that pose incompatibility or harm are listed.

Example Use:
Rural and agricultural areas, innovation districts, and entrepreneurial environments.

3. IMPACT-BASED ZONING (PERFORMANCE FOCUS)



Focus on the impacts, not the specific use.

- Regulate noise, traffic, lighting, emissions, odor, hours, etc.
- Greater flexibility for new and evolving uses.

Example Use:
Commercial, mixed-use, and light industrial areas where impacts can be managed.

4. EXCLUSIVE TOOLS (LIMITING APPROACH)



Tools that limit who can live or build in an area.

- Large minimum lot sizes
- High cost standards
- HOA CCRs and restrictions
- Limits on housing types

Example Use:
High-end or amenity-focused communities seeking to preserve a particular character.



WHY COMBINE APPROACHES?



Protects community character and property values



Provides flexibility for innovation and economic growth



Focuses on real-world impacts, not just use categories



Helps meet housing needs while respecting local priorities



KEY TAKEAWAY: A balanced zoning strategy uses the right tool in the right place—
combining enumerated, prohibited, impact-based, and other tools to build healthy, vibrant, and adaptable communities.



Question at Hand -

How do we want to approach new uses such as:

- **Energy Development**
- **Data Centers/Energy Storage**
- **Emerging Technology Not Yet Considered**

**With any new Land Use,
We need to decide:**

Yes

No

Maybe

If you have Enumerated zoning – only do this

YES	NO	MAYBE
List the use in your land use table. You may add a section of code that explains any pre-established Conditions	DO NOT list the use in your land use table. Also in zone description, list the use as PROHIBITED	List the use in your land use table as CONDITIONAL USE or SPECIAL USE. Add a section of code with baseline conditions, and additional conditions that may be negotiated.

If you have Prohibited zoning – Can't do this

YES	NO	MAYBE
List the use in your land use table. You may add a section of code that explains any pre-established Conditions	In your Land Use Table and Code Section, list the use as PROHIBITED	List the use in your land use table as CONDITIONAL USE or SPECIAL USE. Add a section of code with baseline conditions, and additional conditions that may be negotiated.

If you have Impact-Based zoning –

only do this

YES	NO	MAYBE
Establish LIST OF ACCEPTABLE IMPACTS in each zone. Then require applicant to demonstrate that impacts of proposed use comply with your requirements. Suggest use of outside expertise to help evaluate proposal.	Establish LIST OF ACCEPTABLE IMPACTS in each zone. But make the acceptable impacts so impossible to meet that it is unrealistic that any development could comply. And if they do, then is it really that bad?	List the use in your land use table as CONDITIONAL USE or SPECIAL USE. Add a section of code with baseline acceptable impacts, and additional impacts that could be negotiated based on more site-specific consideration.

Established Impacts -

- **Must use existing water/water rights**
- **May not produce impacts such as noise, dust, harmful emissions, or use of dangerous chemicals**
- **Must not degrade County infrastructure such as roads, water, power grid**
- **Must demonstrate net gain for County through revenue, taxation, long-term job creation**

Are these acceptable impacts?

Your Next Steps

1. **Decide how you want to approach - Yes - No - Maybe**
2. **Choose the right tool -**
 - a. **Enumerate -**
 - b. **Prohibit -**
 - c. **Impacts -**
3. **Write the code that fits your county's needs**
4. **Proceed and Adjust as Necessary**