

# Land Use and Zoning Basic Training

January 2011

This class is for Code Enforcement Officers,  
not Planners

# 30-A M.R.S.A. §4451

## Training and certification for code enforcement officers

CEO is someone certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- a. Shoreland zoning
- b. Comprehensive planning and land use**
- c. Internal plumbing
- d. Subsurface wastewater disposal
- e. Building standards

Today's training covers b. Comprehensive Planning and Land Use  
SPO offers other workshops covering the other topics

# What are Comprehensive Planning and Land Use?

A **Comprehensive Plan** is intended to guide the growth and development of a community, typically including an inventory and analysis of housing, commerce, recreation, infrastructure, etc., goals for the community to accomplish based upon the inventory and analysis, and implementation strategies for accomplishing those goals.

A Comprehensive Plan is a MOUTHFUL

**Land Use** describes how land is occupied or utilized, typically including such terms as residential, commercial, industrial, open space, farm, pasture, wetland, etc.

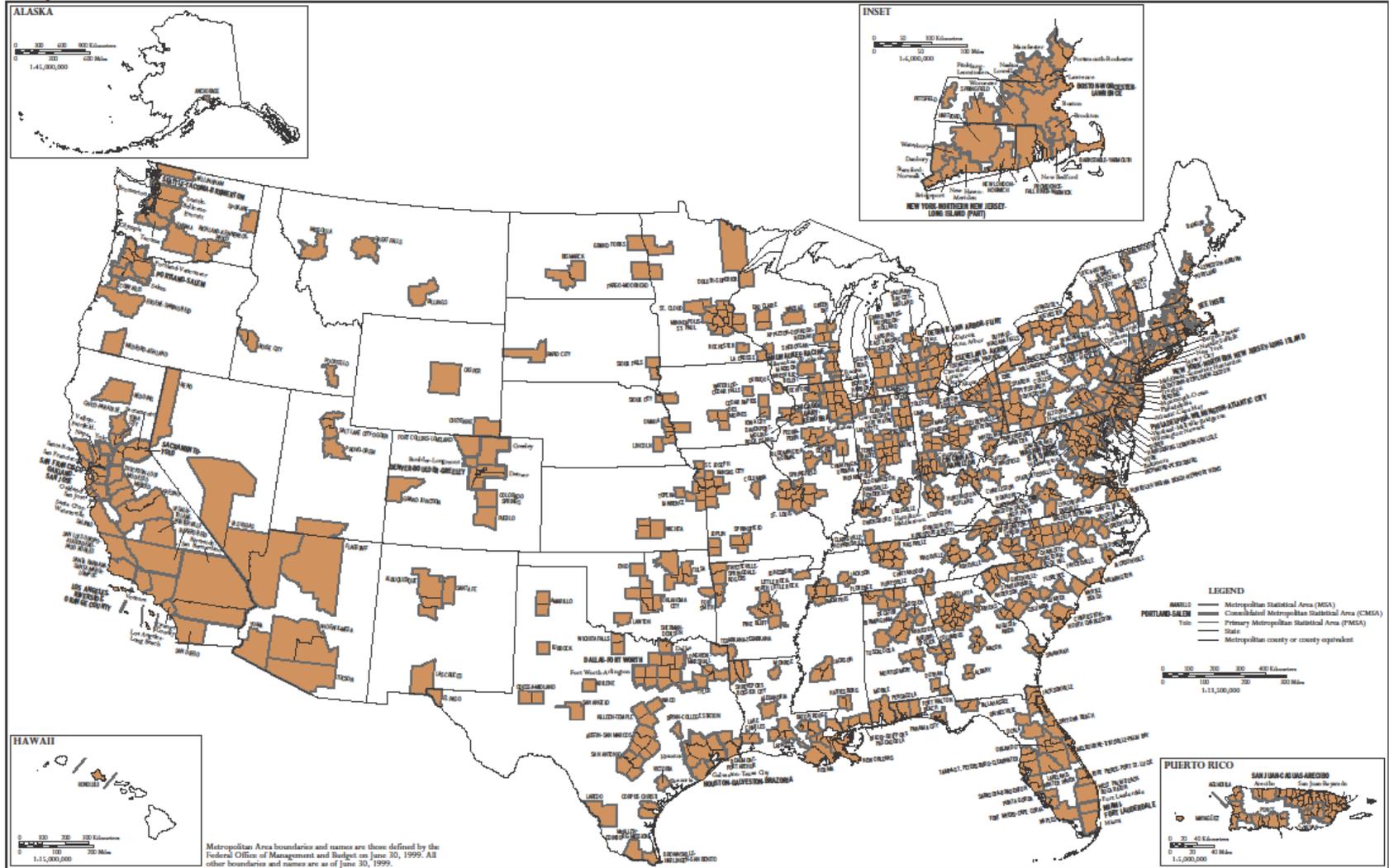
Zoning terminology comes from land use.

Land Use has a special, and controversial, place in American history.

In the United States there is more  
land where nobody is than where  
anybody is. This is what makes  
America what it is.

Gertrude Stein: *The Geographical History of America*, 1936

Metropolitan Areas of the United States and Puerto Rico: 1999



We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the **general Welfare...**

*Preamble of the U.S. Constitution*

The Congress shall have Power To lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defence and **general Welfare of the United States...**

*Article I Section 8 of the U.S. Constitution*

This is known as the *Police Power*

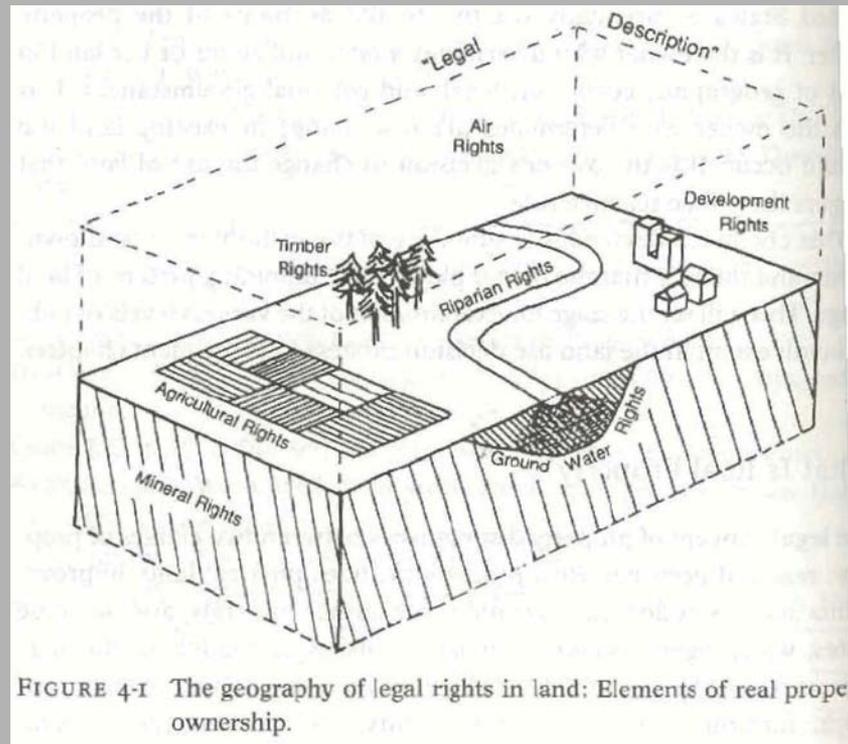
The common law of nuisance deals with nearly all the more serious and flagrant violations of the interests which the police power protects, but it deals with evils only after they have come into existence, and it leaves the determination of what is evil very largely to the particular circumstance of each case. The police power endeavors to prevent evil by checking the tendency toward it and it seeks to place a margin of safety between that which is permitted and that which is sure to lead to injury or loss. This can be accomplished to some extent by establishing positive standards and limitations which must be observed...

Ernst Freund: *The Police Power*, 1904

No person shall be...deprived of  
life, liberty, or property without  
due process of law, nor shall  
private property be taken for  
public use without just  
compensation.

*5<sup>th</sup> Amendment to the U.S. Constitution*

Each of these rights has its own separate value.



Platt: *Land Use and Society*, 1996 p.94

The value is dependent upon many factors, including geography, population, culture, etc.

Land Use is complex.

Land Use is controversial.

Land Use is at the heart of America.

# What is the connection between Comprehensive Planning and Land Use?

30-A M.R.S.A. §4301

Land Use Planning and Regulation Act

Also known as the Growth Management Act

Passed in 1989

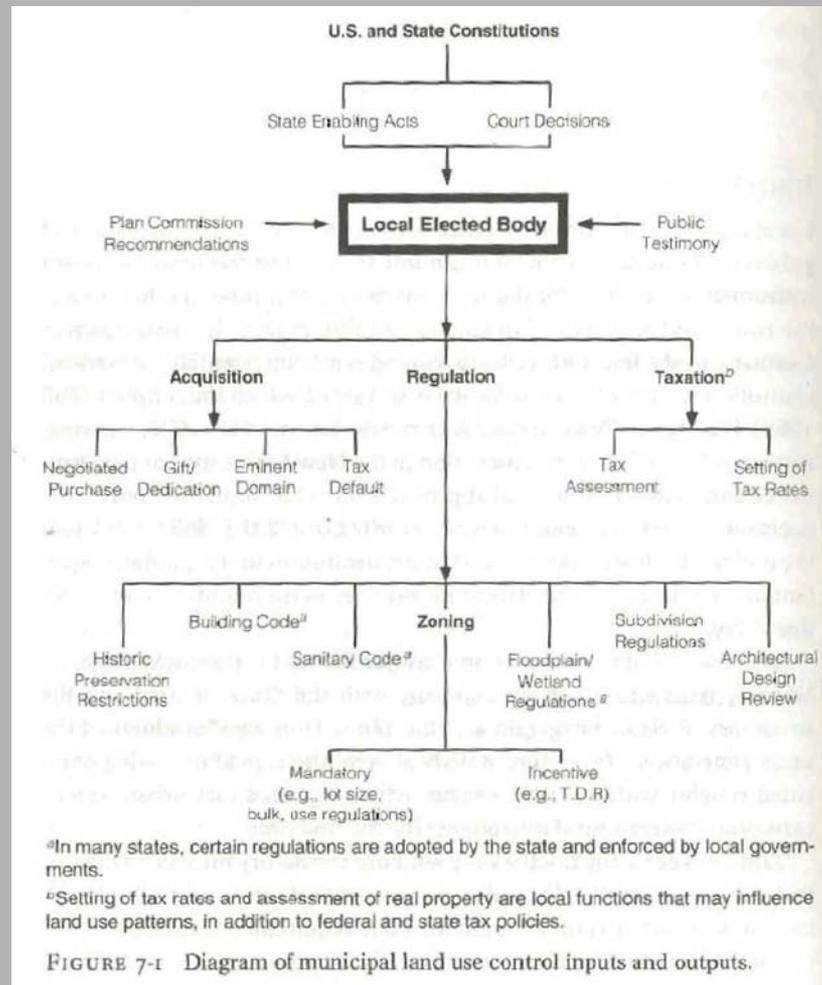
# Growth Management Act

Includes an analysis of 13 elements:

Population and demographics, economy, housing, transportation, recreation, marine resources, water resources, critical natural resources, historic and archaeological resources, agriculture and forestry resources, public facilities and services, fiscal capacity, and land use

Leading to a Future Land Use Plan

Underlying growth management must match the Comprehensive Plan, including the Future Land Use Plan



Platt: *Land Use and Society*, 1996 p.216

Plus state regulations such as shoreland zoning, informed growth act, floodplain management, etc.

What is the CEO's role in  
comprehensive planning and land  
use?

ADMINISTRATOR  
or  
Staff to the Planning Board

CEOs typically:

- a. Provide general technical assistance
- b. Provide initial review
- c. Physically issue permits
- d. Enforce the ordinances
- e. Keep records
- f. Conduct site visits, as necessary
- g. Inspect, as necessary



*Campoli, Humstone, MacLean: Above and Beyond, 2002 p.75*

Keeping records, and sharing records, is paramount

These three conservation subdivisions were developed at different times, and the open spaces have no connection to each other

CEOs can always refer decision-making  
to the Planning Board

Always take your time

You are – in a very real sense – enforcing  
the police power for the community

# Rule 80K

Rule 80K refers to the land use enforcement system found within the Maine Rules of Civil Procedure

Before Rule 80K, prosecuting a land use or environmental violation required the services of a lawyer. Under Rule 80K, a certified non-lawyer employee may represent municipalities, DEP, and LURC in District Court.

# Part II: A closer look at zoning and land use ordinances

Zoning as a planning tool developed in the  
early 20<sup>th</sup> Century

Specifically to improve living conditions

Zoning is segregation, so must be very careful



2.2 A 1999 close-up view of Shelburne Road as it runs through South Burlington, Vermont.



2.3 A simulated view of the landscape pattern along Shelburne Road in the 1930s.



2.4 An actual view of Shelburne Road taken in 1995.

Campoli, Humstone, MacLean: *Above and Beyond*, 2002 p.10

If you zone for strip commercial, that is what you will get



2.20 The unseen framework made visible. This image reveals the unseen infrastructure and land use regulations that shaped development along Shelburne Road in South Burlington, Vermont. Sewer and water lines, highway improvements, zoning districts, property lines and site design regulations have been drawn onto Fig. 1.1. The zoning lines show the large amount of land dedicated to one use.

Campoli, Humstone, MacLean: *Above and Beyond*, 2002 p.20

# Land Use Ordinances typically do the same thing as Zoning Ordinances

Land Use Ordinances sometimes try to combine multiple regulations, such as shoreland zoning, subdivision, and site plan.

Make sure all details from all ordinances match, such as public notification, time limits for response, or standards for review.

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