

Edward J. Bloustein School of Planning and Public Policy  
**Center for Government Services**

**A Brief History of Zoning and Development Regulations in the U.S.**

Stuart Meck, FAICP/PP  
Director, Center for Government Services

*Form-Based Codes 101: An Introductory Course*  
Center for Government Services, New Brunswick, NJ  
November 1, 2006

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**Overview of Presentation**

- Origins of zoning and land use controls in the U.S.
- The Standard Acts and their impacts
- The Quiet Revolution in Land Use Control
- Growth management
- The next period: suburban and urban form-based regulation

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**Bias: The East Coast Perspective**



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## Early Land Use Controls

- 1885—San Francisco bans public laundries in most areas—aimed at Chinese
- 1886—U.S. Supreme Court invalidates S.F. ordinance in *Yick Wo v. Hopkins*, 118 U.S. 356

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## Early Land Use Controls

- S.F. restricts dance halls, livery stables, slaughterhouses, saloons, pool halls
- 1882—Oak Park, Illinois, adopts subdivision control
- 1885—N.Y. state limits the height of tenements to 1 ½ times the street width

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- 1898—Massachusetts restricts buildings around Copley Square (above) in Boston to 90 feet
- 1909—U.S. Supreme Court upholds height restrictions in Boston in *Welch v. Swasey*, 214 U.S. 919
- By 1913, 22 cities had height control

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## Early Land Use Controls

- 1909-1915—Los Angeles divides city into 27 districts, including one large zone restricted to residences
- 1915—*Hadacheck v. Sebastian*, 239 U.S. 394, upholds ban on brickyards in L.A.

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## Early Land Use Controls

- By 1913, there were more than 50 buildings in Manhattan of more than 20 stories and 9 above 30 stories

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## The Equitable Building

- 120 Broadway
- Completed in 1915
- 38 stories
- Cast shadow over seven acres—concerned property owners



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NYC Tenements, Elizabeth Street, 1912

NYC Tenements, Thompson St., 1912

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## Early Land Use Controls

- 1916--New York City adopts first comprehensive zoning ordinance
  - Fifth Avenue merchants, garment district
- Three districts
  - Residential
  - Business
  - Unrestricted
- Ordinance remains in effect until 1961

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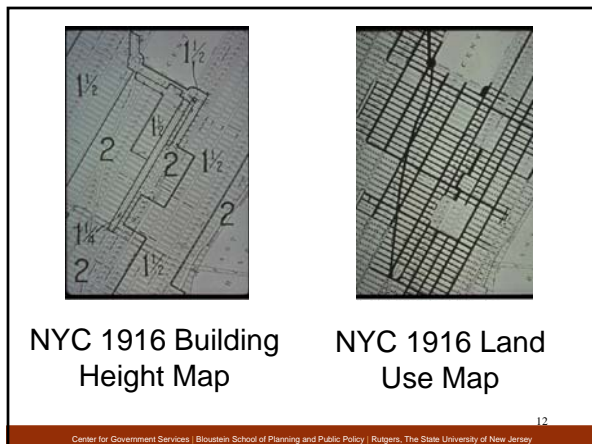
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NYC 1916 Building Height Map

NYC 1916 Land Use Map

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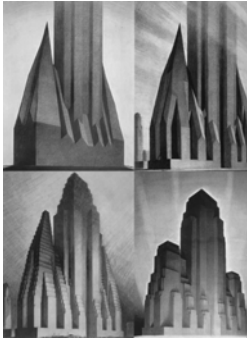
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Hugh Ferriss,  
"Study for the  
Maximum Mass  
Permitted by the  
1916 NYC Zoning  
Law," 1922

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Impacts of NYC building  
envelope

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## The Standard Acts

- Commerce Secretary Herbert Hoover creates advisory committee in 1921 to draft model state zoning, planning enabling acts



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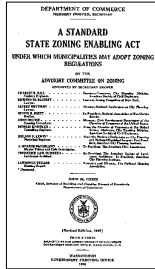
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## The Standard Acts



Edward M. Bassett  
"Father of Zoning"



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## The Standard Acts



Alfred Bettman



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## The Standard Acts

- The Standard State Zoning Enabling Act
  - Delegated power to zone
  - Established procedures for amendments, special exceptions, variances
  - Created the board of zoning appeals
  - Enigmatic language "in accordance with a comprehensive plan"

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## The Standard Acts

- Standard City Planning Enabling Act
  - Established municipal planning commission
  - Authorized preparation of master plan
  - Required review of proposed public improvements by planning commission
  - Authorized subdivision regulation
  - Authorized the preparation of the “official map” showing precise location of proposed improvements
  - Created regional planning commissions

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## The Standard Acts

- Assumptions
  - Built on nuisance concept
  - Concern about congestion →
  - Land use was local issue



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## The Standard Acts

- Motivations
  - Response to post-WWI growth
  - Protection of value of land as commodity
  - Delegation of authority to avoid invalidation
  - Authority to exclude, backdrop of immigration, racism, especially in the South
  - Zoning Act more popular, adopted in all states

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THE VILLAGE OF EUCLID OHIO, SHOWING LOCATION OF THE AMBLER TRACT

ZONING OF PROPERTIES NEAR THE AMBLER REALTY TRACT

1926—*Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, upholds constitutionality of zoning

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### The Standard Acts— The Transition Begins

- William Doebele—New Mexico study (1960):
  - Enhanced role of comprehensive plan
  - Gave plan more binding power

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### The Standard Acts— The Transition Begins

- Jacob Beuscher/Orlando Delogu—Wisconsin Study (1965):
  - Critical area protection
  - Special protection of lands near major state infrastructure investments

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## The Standard Acts— The Transition Begins

- American Society of Planning Officials—Connecticut Study (1966):
  - Strengthened relationship of zoning to planning
  - Authorized new techniques and structural changes
  - Corrected inconsistencies, ambiguous provisions

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## *The Quiet Revolution in Land Use Control (1971)*

- Fred Bosselman



- David Callies



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## *The Quiet Revolution in Land Use Control*

- Prepared for U.S. Council on Environmental Quality
- Chronicled emerging state role in land use
- States asserting dormant interests
  - Mainly environmental—e.g., Hackensack Meadowlands, N.J.
  - Some organizational issues
  - Affordable housing (only in Massachusetts)
- Land seen as commodity and resource

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## The Quiet Revolution in Land Use Control

- Example: Wisconsin Shoreland Protection Program
  - State supervision of local regulation of land use adjoining shoreland resources
  - State model ordinance

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## The Quiet Revolution in Land Use Control--Transition

- Callies: Assessment 25 years later
  - Environmental regulation continued into 1980s
  - “Precious little permit simplification”
  - Local zoning had not withered away
  - Emergence of *growth management*

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## Growth Management

- 1950s—Begun in New York State, movement attempts to affect timing as well as location and characteristics of growth
- *Golden v. Planning Board of Town of Ramapo*, 285 N.E.2d 291 (NY-1972), upheld development timing system
- *Construction Industry Ass'n v. City of Petaluma*, 522 F.2d 897 (CA/Fed 9<sup>th</sup> Cir.1975), upheld building permit allocation system

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## Growth Management

- Assumptions
  - New development should be supported by adequate public facilities
  - Urban development should be matched by urban services
  - Recognition that public investment affects pace of development
- Not necessarily aimed at “sprawl”

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## Growth Management

- Some objectives
  - Reduce consumption of land, make development more compact
  - Establish minimum standards of competence for local planning and land use control
  - Vertical and horizontal integration

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## Growth Management

- Some techniques
  - Urban growth areas
  - Priority funding areas
  - Permit allocation systems
  - Adequate public facilities ordinances
  - Impact fees
  - State review of plans, regulations

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## Non-growth Management Devices Affecting Design

- Beginning in the 1960s, increased use of discretionary regulatory techniques
  - Planned development
  - Cluster development
  - Conditional uses
  - Overlays
  - Design review guidelines
  - Performance zoning

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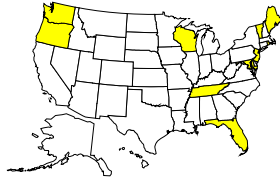
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## The Growth Management States

- Florida
- Maine
- Maryland
- New Jersey
- Oregon
- Rhode Island
- Tennessee
- Vermont
- Washington
- Wisconsin



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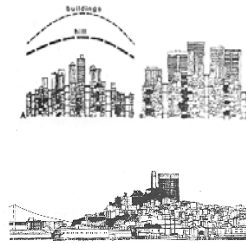
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## Urban and Suburban Form-Based Regulation

- 1972 San Francisco Urban Design Plan
  - Design principles applied to entire city
  - Zoning regulations based on plan



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San Francisco Urban Design Plan

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### Urban and Suburban Form-Based Regulation

1982--Seaside, Florida, New Urbanist Community, Andres Duany & Elizabeth Plater-Zyberk<sup>38</sup>

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### Urban and Suburban Form-Based Regulation

- 1994—The Transect, a system of classification and design, by Andres Duany & Stefanos Polyzoides

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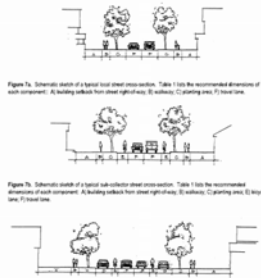
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## Urban and Suburban Form-Based Regulation

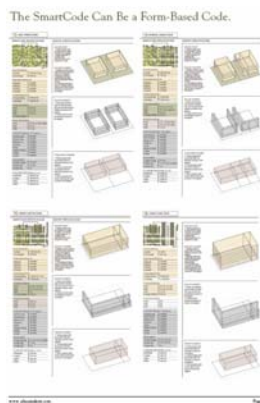
- 2001--Wisconsin Model Traditional Neighborhood Development Ordinance—result of 1998 Smart Growth Act



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## Urban and Suburban Form-Based Regulation

- SmartCode 2003—Model code by Andres Duany



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## Urban and Suburban Form-Based Regulation

- Recent state legislation
  - California—AB 1268 (2004)
  - Connecticut—Village District Act, Conn. Gen. Stat. § 8-2j (1998)
  - Pennsylvania—Traditional Neighborhood Development, Penn. Municipalities Planning Code, Art. VII-A (2000)
- APA *Growing Smart Legislative Guidebook*, Secs. 8-201 and 8-303 (2002), authorizes form-based regulation

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## Summary

- Shift in regulatory regimes
- Euclidean codes—represented use segregation and presumed efficiency
- Form-based codes—acknowledges the modern reality of the interaction of uses, emphasis on city structure and patterns, attempt to build community

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