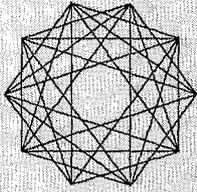


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P A D C O

PLANNING AND DEVELOPMENT COLLABORATIVE INTERNATIONAL

A Guide to Use and Development of Populated Area Lands/Zoning



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U M S No. 3

URBAN MANAGEMENT SERIES

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A Guide to Use and Development of Populated Area Lands/Zoning

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FOREWORD BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT

A Guide to Use and Development of Populated Area Lands (Zoning) represents one more important result of fruitful and multifaceted co-operation between Ukraine and the United States which has lasted for nearly four years. One of the most important fields of this co-operation involves the reformation of land ownership relations in Ukraine as well as the creation of effective land markets, in particular, markets of populated area lands in Ukraine.

Taking into account ongoing drastic changes in Ukrainian economy, the existing urban developing documents as well as methodology of their drawing up need to be reconsidered since they constitute a basis for planning territorial development of populated areas in Ukraine. Application of a new urban planning document which is common for market economies - local regulations on territorial use and development (zoning) - may be viewed as one of the first steps in this direction.

In Ukraine the first zoning-plan was successfully drawn up in Chernihiv by Ukrainian specialists together with American experts from PADCO/US Agency for International Development (US AID). Ukrainian - American project on Poltava zoning-plan has started. It is also planned to draft zoning-plans for Dnipropetrovsk, Zaporizhia, Cherkasy, Sumy and other Ukrainian cities, which, of course, will require a clear understanding of "what zoning is" from local officials and urban planning specialists involved in drafting of such projects. The necessity to give a detailed theoretical basis of zoning and to highlight western and local experience in drawing up and operation of zoning called forth drawing up of this Guide. We are sure it will serve as a helpful instrument both for local authorities and planning specialists directly involved in working out zoning projects.

Lately, four all-Ukrainian seminars devoted to zoning-plan drafting, new procedures for land parcel allocation and withdrawal, problems associated with preparation to land auctions as well as land evaluation, were conducted. A number of regional training seminars devoted to above-mentioned and other problems which are directly connected with the reformation of land relations in Ukraine were held.

Development of relations between Ukraine and the United States gives every reason to hope that the program of technical support of the Ukrainian Government by the USA will continue. Constant creative co-operation between Ukrainian specialists and American experts will be a pledge of successful land relation reforms facilitating Ukraine joining the international community of developed countries.

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FOREWORD BY AUTHORS

The solution to numerous social and economic problems in the independent Ukrainian state is inseparably lined to the acceleration of ongoing reforms of the administrative system. Development of local self-government is of special importance: a reliable economic base for this institution should be created and its functional mechanisms need improvement.

Working out and providing rational methods to govern the use and development of populated areas seems to be one of the most urgent tasks because its solution will help to increase revenue yield to local budgets, attract new investments and revitalize local economies, encourage the development of cities, populated areas and rural settlements, improve their architectural design, etc. These methods should consist of market related and democratic administrative measures which satisfy the general trend of reform activity in Ukraine.

The methods which were used to resolve issues of administration of land use during the time of state land and real estate ownership are still effective to a great extent, although they neither meet modern requirements nor satisfy people's needs. This was the reason why the State Committee on Urban Development and Architecture undertook to carry out research aimed at establishing new ways of administration, making use of the experience of other countries where these issues have been successfully solved.

A Memorandum of Cooperation between the US Government and the City of Chernihiv, which was signed in April 1993 on the initiative of the State Committee on Urban Development and Architecture, and the resulting demonstration project of Chernihiv territorial zoning development, illustrate the results of such creative work. For the first time in Ukraine local Regulations on the use and development of urban territory have become effective, which correspond to the current conditions of multistructural ownership and the market economy.

At a seminar devoted to this problem which took place in 1995 under the sponsorship of the State Committee on Urban Development and Architecture, the Chernihiv City Executive Committee and PADCO/US AID, this work was highly appraised. Specialists in urban development, as well as those involved in administration should study this work carefully and, perhaps, will be able to suggest alterations and amendments. It is clearly understood that when this new means of administration comes into force, local self-governing bodies will be able actually to influence the effectiveness of urban land use, to solve numerous questions regarding the location of all types of construction, their characteristics and required control, and to help attract new investments in an open and democratic manner.

The proposed methods of administration are closely connected with the idea of self-government and are the result of local initiatives. Their implementation in the populated areas of Ukraine cannot be achieved through efforts made by the central government, or by merely copying some model procedure with strict "obedience" by local authorities. Therefore, it is necessary for the public and authorities to learn more about the advantages provided by these regulations, and to realize that they should be used in every city, village and settlement. Practical recommendations and advice on how to begin this work successfully will be of great use for those who have made up their minds to put into effect these Regulations.

This book deals precisely with these problems. In concise form, it considers the current situation in the regulation of urban land use and development, the need for its improvement and the utilization of world experience, the tasks required and essential substantive provisions of this new management system, and methods for its creation and implementation.

The authors hope that their work will assist the administrative officials and local specialists to cope easily with the issues of control of territorial use and development, the acquisition of the technical knowledge required to draft such Regulations, the facilitation of public involvement in solving urgent problems of administration, and the promotion of the local self-government system in Ukraine.

*The authors express their sincere thanks to the US Agency for International Development and personally to **F.Shklyaruk**, Manager Program, to PADCO, Inc., and to **D.Kissick**, President, **M.Shea**, Department Director, **J.Kayden**, Real Estate Attorney, **L.Davis**, Project Manager, **C.Scala**, Deputy-Project Manager, **G.George**, Expert in Urban Development and **O.Makukhin**, General Manager of the PADCO Land Office (Kyiv).*

*We also received significant assistance from our working experience in the Demonstration Project of zoning development in the City of Chernihiv. This project was carried out successfully due to the initiative and personal contributions made by **V.Kosykh**, Head of the Chernihiv City Rada, **I.Vergeles**, his deputy, **T.Mazur**, Chief Architect and **A.Kodulina**, Chief Engineer.*

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**PART 1 THE CONCEPTUAL FRAMEWORK FOR
THE REGULATION OF LAND USE AND
DEVELOPMENT OF POPULATED AREAS
IN UKRAINE AND ITS ROLE TODAY**

The existing methods for administrating the use and development of populated area lands do not meet current requirements for the development of the country and the needs stipulated by reforms. To bring about improvements it seems reasonable to study world experience, and consider if it may be used in local practice. Among various administrative mechanisms zoning (administration based on the division of territory into zones) proved to be one of the best. It can be used in Ukraine in the form of local Regulations on land use and development. All of the necessary preconditions have been created.

These issues are considered in the first part of the book, in which tasks and contents are discussed, the expected effectiveness of the proposed system is explained and the legal and normative aspects of its implementation are discussed.

SECTION 1.1 CURRENT METHODS OF REGULATING LAND USE AND DEVELOPMENT OF POPULATED AREAS IN UKRAINE

The Land Code of Ukraine serves as the legal base for dealing with all kinds of issues associated with the use of populated area lands and other categories of land. The Land Code states a very important legal principle: land use in cities, urban-type settlements, and rural populated areas should follow planning and development designs (Article 63-65). This legislative norm ensures rational land use in populated areas on the condition that private, public and state interests are mutually resolved, and territorial peculiarities and plans for its future social and economic development are taken into account.

However, the Land Code makes no mention of any clearly defined mechanism for the implementation of this legislative norm. None is made in the Law of Ukraine "On the Principles of Urban Development" either. Article 21 of this law reads: "The establishment of territories and the selection of land intended for urban development is based upon the approved urban development documents...". Therefore, legislative acts and local initiative should guarantee strict compliance with legally determined principles for regulating land use in populated areas in accordance with the planning documents. Current practice supplies a great deal of evidence that the mechanisms actually in use are ineffective.

The system for regulating land use and development in populated areas has historically evolved under exclusive state ownership of land and other real estate. At that time state legal entities acted both as customers and developers, while no money was charged for the land use. This system, based upon administrative and command management of the national economy, was overcomplicated and involved many stages of bureaucratic procedures. Decisions on the location and designation of objects of construction were both rigid and ambiguous. The process of granting and obtaining the permit for land parcel development included over 20 bureaucratic procedures, which were within the competence of officials who performed their duties without any control on the part of the citizens, even though they should have been greatly interested in the most effective use of particular areas and the creation of the most suitable environment. Hence, there was over-rigidity in dividing land into categories in accordance with a "target" use and an expectation of strict observance of such use. This meant that neither a landowner (who nowadays may not be a state entity) nor a land user was entitled to resolve the issue of the most efficient land use on his own, following his own interests. The establishment of the land target designation was determined exclusively by the terms of reference of administrative organs. The owner of the land parcel had to coordinate his intentions regarding housing, production, service or other types of construction with respective

local Rada. Consequently, the principle of "land target designation" was not at all compatible with a market economy since it proceeds from a government monopoly in making decisions on the land use and deprived the owner, user or investor of the opportunity to respond to changes in economic environment.

Can planning urban development documents play their role as envisioned by the law in a situation like this? The Master Plan of a particular populated area cannot directly affect the use and development of land parcels because of its function, content and legal ambiguity. In some cases it can be completely ignored while decisions are made on a particular land parcel use. However, after being officially approved at a session of a local Rada of People's Deputies, this document passes to the local body responsible for urban development and architecture. Further on, the impact of the Master Plan provisions upon the actual managerial decisions depends upon the authority and skills of the staff. As a result, there are numerous instances when adopted decisions on territorial use are in conflict with the planning urban development documents, and this violation of the law does not entail liability for anybody.

Thus, there is an uncontrolled legal gap between the Master Plan and particular managerial activities. This gap is filled only with bureaucratic procedures, and it does not satisfy state, public and private interests. Because of restricted access to planning documents a potential investor lacks the information required to substantiate his intentions with regard to the most profitable capital investments in land. This is a serious obstacle for the economic development of the area as a whole.

At present, the process of privatization of land and other property is taking place. In accordance with the Land Code land parcels on which private houses are located, as well as land provided for subsidiary small holdings under orchards, dachas and garages are subject to privatization. On the whole these parcels constitute over half of the territory in populated areas. The Decree of the President of Ukraine #608 of July 12, 1995 "On Privatization and Lease of Non-Agricultural Land Parcels for Entrepreneurial Activities" allows the sale of land parcels intended for these uses as well as land parcels located under units which are being privatized or have already been privatized in accordance with Ukrainian legislation.

All of these factors which act in combination with the extension of local self-government and with the diminishing role of the state in financing the development of populated areas, make it necessary to introduce changes in the methods applied to the management of land relations so that they can meet newly occurring demands. The principles for ensuring rational land use, for making decisions on land parcel use and development, and for carrying out the related procedures of land alienation, transfer into ownership or use, registration, and establishing and changing the land parcel boundaries should be most conducive to investments in land improvement, development and enhanced economic activities. To accomplish this, management mechanisms would favor the increase of the value and cost of land, buildings and construction, irrespective of the types of ownership, and will prevent the devaluating of real estate.

A mechanism for accomplishing strategic planning for the development of the populated area, through day-by-day work of a local government body, should be worked out and put into practice. It should provide legal certainty and clarity of procedures related to the use of land parcels, and at the same time offer possibilities for different uses.

Regulation of land relations, as well as urban development on the whole, is a controversial point for conflicting private, public and state interests. A new mechanism should provide for the reconciliation of these interests. This means that, even under a market economy, a land parcel owner cannot make use of the parcel in accordance with his own discretion

only, not taking into account the rights of other owners and the benefit of the populated area as a whole. That is why, under privatization and extension of greater rights to land and other real estate owners, the role of the state in regulating the use of land will in no way diminish, and a new managerial mechanism should take this fact into account. When the new mechanism comes into force, rigid administrative and command decision-making will give place to self-regulation based on deliberate choice of the territorial uses most beneficial both for the investor and the public. Accordingly, the strategic role of urban planning documents will increase, since they contain the idea of state's long term policy for the development of the populated area and for the system of priorities and restrictions regarding use of specific areas.

A new mechanism of land use management in populated areas should be distinguished by its openness.

Decisions on current and long-term land use as well as activities of the local governmental body not envisioned in the planning documents should be accessible and understandable for the public. The public should be informed in a timely way about land use plans drawn up by the government, have the opportunity to familiarize themselves with these plans, submit proposals, and appeal against unacceptable decisions. This is in line with Article 5 of the Law of Ukraine "On the Principles of Urban Development", realization of these principles is the task of a new management mechanism. In this manner the owners whose property is located within the area surrounding the land subject to the government action will become the most careful controllers of how the requirements of land use, in line with their interests, are observed.

Each owner, user or developer and any other actual or potential investor should have an access to the accurate information on permitted uses. If this is not provided, it will make it difficult for an investor to assess the potential value of a particular land parcel, its price and the expediency of leasing or purchasing it. Under such conditions there is no incentive for long-term investments in land and major construction. On the contrary, to reduce the risk created by legal and information uncertainty, the investor will try to use the land only in such a way as permits recoupment of the invested money as soon as possible.

That is why all of the persons who are parties to legal relations, when investing their own or borrowed capital, should be certain that:

- **first**, a new procedure for managing land use and development will not delay implementation of their projects and, to a great extent, will make it possible to predict the positive effect of administrative procedures;
- **second**, their new buildings and land uses will be able to operate steadily for a definite time period providing capital reimbursement and profit;
- **third**, if in the future their investments are used inefficiently, they will be able to introduce changes to provide new technology or to produce new products and services in order to ensure continuous profit.

Thus, the efficiency and workability of a new management mechanism will be based upon the fact that the most efficient land use and development will be determined not by officials' decisions but by numerous independent investors, owners and users of land parcels. These will be industrial and commercial businesses, landowners and other persons enjoying long-term rights to land and buildings, construction firms and individual developers, loan institutions, local and national government establishments, families and individuals they all will be interested in investing in urban development. Their intentions will result from their own calculations of possible potential profit from land purchase or lease,

construction of new buildings, demolition of the old ones, development of new infrastructure and introduction of new land uses. This, in its turn, will promote citizens' well-being, economic development for the area they inhabit and the country as a whole.

SECTION 1.2 WORLD EXPERIENCE IN REGULATING URBAN LAND USE

Legislation on urban development in foreign countries with market economies is based on the recognition that the society, represented by the central or local governments, has the right to control landowners as to the type of use of land parcels and projected changes in these uses.

World practice shows that in the course of developing social relations and improving mechanisms for reconciling mutual interests, different countries have elaborated certain procedures for state and public regulation which currently are operating quite efficiently in the public benefit, and are honoring the basic rights of private ownership of land and real estate. Under modern market relations capitalist countries ensure the democratic nature and efficiency of regulating urban land use by:

- establishing a clear-cut decision-making procedure with respect to land use and its implementation in management practice;
- flexible response to plans made in advance, possibilities of changes in function following the clear-cut procedure;
- openness in planning (that is each individual, owner or investor has access to all the information needed);
- developing a community of owners and the awareness of each owner (realization of individual and group interests, the need for their reconciliation with state and public interests, and the inevitable responsibility for violating rules) which results from practices which will be in existence for many years.

Proceeding from these premises, in the majority of developed countries there are two levels of planning documentation. The first level covers the whole urban territory and establishes the urban development strategy and the main types and conditions of land use. Its decisions are binding only for the municipality.

The second level (which in Germany, France, and the Netherlands is called "territorial use plans") may cover either the whole territory or its part (such as a city district, several streets, blocks of land parcels). It establishes specific forms for implementing the decisions made at the first level, detailed zoning of the territory, lists permitted uses, and basic parameters for the permitted development of land parcels. At this level the documents have the status of a local law and are binding both for the local administration and for individuals. In Germany these documents regulate the number of stories and the height of buildings, the density of construction, etc.

This local law establishes the rule for the development, consideration and approval of planning documents, decision-making procedures regarding use of particular land parcels, and granting of construction permits, i.e. implementation of the territorial use plan.

The so-called "zoning", common in the US and some European countries, has become quite popular. In these countries it is a recognized form of local legal regulation of urban land use. This mechanism was first introduced in Los-Angeles in 1909 and obtained its legal status in New-York in 1916. In 1924 legal standards for states and local communities were worked out. They provided the basis for legislative zoning acts. At present, these

acts cover 98% of all the cities with population over 10,000 in the US. According to experts, zoning is the form which specifically and concisely embodies public and state ideas of democratic and legally appropriate management of land use. Due to its nature zoning can be used both in conjunction with long-term professional planning (Master Plan practice) or independently in which case it performs the functions of a planning project. The administrative structures which support zoning have been organized and operating for many years. Over time zoning has undergone changes and improvements to meet new requirements .

A crucial feature of zoning rules is their common accessibility. To ensure such accessibility, zoning rules are formulated, when possible, without resorting to strictly professional terms, but in legally correct form allowing for its use in litigation. There is clearly defined procedure for the issuance, dissemination and use of these rules. Each owner of a land plot or a building, and each potential or actual investor has an opportunity to obtain detailed information on the zoning rules, and if necessary to achieve complete certainty, to submit a protest or a proposition concerning advisable changes.

Generally speaking, the essence of the zoning rules is as follows:

- establishing a set of non-contradictory (compatible) and naturally complementary types of territorial use and development which are appropriate for a certain territory. This will ensure market opportunities through a relatively wide range of functional uses for each land parcel;

- tying this set of uses to certain portions of the urban territory characterized by uniformity of use and development. This is the territorial zoning which is embodied in a zoning map;

- establishing the norms and standards of land use and development which are uniform for each zone. These norms and standards are common and apply to each land plot located within the boundaries of a given zone. For widely-distributed types of construction the compliance of a new building with these norms and standards is sufficient precondition for constructing this building;

- identifying land uses which may considerably affect the city's architectural character or the quality of life of the citizens and which, correspondingly, require more strict regulation and planning control, that is, a special permit for land use and development;

- establishing the procedure for obtaining a special permit;

- establishing the procedure for the use of the existing land plots, buildings and construction which do not meet zoning requirements and the procedure by which it will be possible to bring these uses and developments into line with respective requirements;

- establishing the procedure for zoning implementation, including various institutions, public participation, etc.

Zoning rules may restrict the height, number of stories, size of buildings, percentage of plot development, size of yards and other open spaces, and may regulate the location and use of land and buildings and structures intended for housing, production, commerce, etc.

Zoning rules take into consideration the fact that within some zones there are land plots and structures which do not meet the requirements regarding their use or the parameters established for their zones. This compelled disparity should be documented, fixed legally as a factual discrepancy with the requirements which will persist.

As to vacant areas which are to be developed, zoning rules provide an information basis for investors when identifying their intentions and planning capital investments. The rules also may facilitate the decision-making procedure of obtaining permits for construction and other land uses. From the zoning documents any person may get the required minimum of information regarding the type of use of the urban land, and may acquire preliminary data about the potential character and location of the desired object, and the legal procedures without having to address the officials.

In areas which have already been developed, the establishment and strict observance of the zoning rules guarantees to the land and building owners a level of preservation and increase in the value of their property, which in turn promotes active investments in land and construction. Zoning rules protect the value of existing land uses by the fact that they guarantee the observance of these rules by the neighbors of the land users and owners. There is no legal possibility of undesirable changes in the use of the adjacent land parcels. Zoning rules define the optimum ways for the future land use in the districts with mainly old buildings. By establishing new types of permitted uses and development the reconstruction of these districts may be stimulated. This effect may be more pronounced if the tax system considers the real estate value to proceed not from the existing, but from the potential, development of land parcels.

In New York there are about 800,000 land parcels, their size being from 300 sq. meters to 10 hectares and more (industrial enterprises). The city, state, federal government own about 10,000 land parcels where establishments of general use (schools, police stations, etc) are located and 25,000 land parcels whose owners practically have abandoned their rights (in accordance with the law, the city can expropriate any land parcel whose owners have not paid taxes for two years). Every year the city Department of Buildings (Chief Architect) has about 2,000 applications for construction of new buildings and approximately 12,000 applications from owners wishing to reconstruct their buildings or install new equipment. Among these are about 150 applications which require special permits and 150 more which ask for a deviation from the zoning provisions. Solution of these 300 applications in accordance with the zoning regulations requires from 6 to 18 months and these applications are rather expensive taking into account the time spent. All other applications are considered by associates of the Department of Buildings who review the building or reconstruction designs to make sure that they satisfy zoning requirements, as well as construction code requirements. Such consideration takes several days in the case of a reconstruction, several weeks when construction of a small residence or commercial building is concerned, and 2-3 months when it is a question of constructing an office building or apartment house.

The same short procedure applies when an owner wishes to change the use of a land parcel or building or its separate parts, when a new use is permitted by the zoning regulations. Thus, old and non-profitable uses are quickly changed, investments are stimulated and the construction is maintained in a good state. The predominant part of the city territory (up to 90%) is characterized by high economic activity. Old and unoccupied buildings and undeveloped land plots can be found mainly in the poorest New York districts where profitable use of land is impossible without governmental subsidies.

In general, the rules of a zoning Regulation contain a detailed description of a procedure for territorial zoning as well as requirements for the establishment, changes of boundaries and use of land parcels and buildings in each zone, and for zoning amendments, when these are required.

An inalienable part of the functioning of zoning is the participation of the public in the discussion of zoning issues and the decision-making. In the first place, this concerns the participation of the subjects concerned directly with the proposed development or

use, secondarily by the owners and users of neighboring land parcels, and thirdly, by the public generally. This participation is ensured by the procedure of public notice concerning the beginning of zoning implementation and its possible amendments, and by the carrying out of an obligatory procedure of public discussion. It is necessary to identify the issues which cannot be settled without public participation, considering public and individual proposals, remarks and protests. Since practice shows that changes in zoning occur continually over the months and years, zoning should be regarded as a dynamic and flexible management mechanism which can promptly respond to social and economic demands and changes in public priorities.

At the same time strict regulations prevent interference on the part of local administrative officials, arbitrariness, abuse, etc. Mutual control of land use between the citizens and governmental bodies is guaranteed, this being a common principle of Western democracy.

If an owner believes that, because of the limited zoning rules which apply to his particular land parcel, he cannot make a reasonable use of his land or buildings, he has the right to appeal to have then rules varied for his particular parcel or project, or to have the rules changed for his and other parcels in the zone.

In the USA, municipal zoning Regulations have a detailed legal procedure to deal with such appeals. It consists of five main steps: submitting the application, public notification, preparation of recommendations by competent bodies, public hearings, and decision-making. The owner has to pay a modest filing or administrative fee when submitting the application. A portion of this sum is used to cover the expenses incurred in publishing notice of the application and date of hearings in the local press. The owners of the neighboring land parcels are notified in person. The application is considered by the local officials, and each department makes a statement on the respective aspect (transportation, water supply, sewage, etc.). This is followed by a general recommendation to grant or deny the variance given by an expert zoning or planning commission.

The final decision is made by the City Council through its vote. In some municipalities the majority of votes is sufficient to grant a variance, in other places, a 2/3 vote or 3/4 vote is required. The latter ratio is required if a number of owners of the adjoining parcels have spoken out against the zoning changes or the variance, or if the expert commission has come to a negative conclusion.

The positive effect of zoning on the development of local economies as well as the interest shown in its decisions by the many thousands of residents who take part in the public discussions each year has been confirmed through many years of world zoning practice.

SECTION 1.3 REGULATIONS ON TERRITORIAL USE AND DEVELOPMENT - THEIR AUTHORITY AND LEGAL STATUS

The unsatisfactory state of the existing management of land use in populated areas of Ukraine, the need to introduce better management mechanisms meeting the demands of reforms, and the above examples of an efficient solution in the developed countries have led our specialists to carefully study the possibility of applying zoning principles in our national practice of regulating urban land use. How effective will zoning principles operate in the local practice of regulating urban land use? Are there necessary prerequisites which can ensure that the efforts put forth to implement a new management system will not be vain?

There are such prerequisites.

First, in Ukraine there is a growing awareness that the existing principles of management in territorial use and development which have been kept from the days of state monopoly over land and other resource funds do not meet current needs. It has become obvious that the processes of investment, to a large extent, are impeded by administrative and command methods, and by willfulness of some officials. Recognition of the necessity to introduce essential changes in the management system testifies in favor of more democratic and market-oriented mechanisms of decision-making with respect to territorial use and development. Their implementation will promote the formation of qualitatively new subjects of land legal relations, and increase the public interest in territorial planning.

Second, such an improvement directly corresponds to the legal requirements and, moreover, it promotes the filling of an existing legal and normative vacuum.

The Law of Ukraine "On Principles of Urban Development" (Articles 11 and 12) reads that local radas issue ordinances on urban, settlement and village development, and that these bodies may make decisions on effective territorial use applying zoning methods. The respective power is given to local Radas by the Law of Ukraine "On Local Radas of People's Deputies and Local and Regional Self-Government" and other legislative acts.

It should also be emphasized that implementation of the rules mentioned above answers the purpose of developing local self-government, helping to fulfill the real sense of this term.

Third, the principle of functional territorial division as a basis by which to define territorial use is not completely new for Ukraine. Since regulation of urban development using territorial planning has been performed for many years, it brought into existence a professional school of well-trained specialists in urban development planning as well as respective normative and methodological base and wide practical experience. If appropriate amendmends, which are in line with current demands, are introduced in the existing system, the national school of professionals and the system of urban development documentation will give reliable support to newly commenced work.

At present, therefore, the establishment of a new management mechanism based on territorial zoning and guided by the advantages of world experience of zoning seems to be quite real.

However, it is not possible merely to copy this experience in Ukraine. It is necessary to consider local peculiarities and national traditions of urban development, and Ukrainian legislation. Only in this way the proposed mechanism of regulating urban land use will be an organic part of the management system and only in this case will it demonstrate its effectiveness.

The term "**Regulations on land use and development of the populated area territories**" (hereinafter - "Regulations") is the most common in the existing legislation and will be understandable for urban development specialists, management officials and all physical and judicial entities.

Given the purpose of introducing the Regulations, their terms of reference will cover the establishment of the contents and procedures for:

- dividing the territory of a populated area into homogenous parts (zones) in terms of uses and type of development;
- identifying uniform planning and development standards for land parcels in each zone;
- issuing special permits for certain types of territorial uses and developments;

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- using existing land parcels, buildings and structures which do not meet the requirements established for a certain zone;
 - establishing new land parcels and changing existing ones;
 - making decisions by the local governmental body on the use and development of particular land parcels;
 - setting up and operating a special body affiliated with the Chairman of the executive body of the local Rada for the purpose of implementing the Regulations;
 - public discussion of the above-mentioned matters;
 - actions by individual and judicial entities of all forms of ownership with respect to use and development of land parcels (including their familiarization with the requirements of the Regulations, the procedures for getting a special permit, submitting of appeals, etc.);
 - possible deviations from the provisions of the Regulations;
 - controlling compliance with the Regulations.

In order to make the Regulations "work" their observance should be required in cases of:

- all types of new construction (buildings, structures, streets, greenery planting and improvement of the territory);
- renovation of buildings and structures, replanning of the territory;
- addressing the issues of land use in populated areas not related to construction;
- changing the designation or use of buildings, structures or land parcels or subdividing existing ones.

These Regulations should be binding for all subjects of ownership of land parcels, buildings and structures in populated areas as well as for design, planning and construction organizations irrespective of their location and departmental subordination. They should also be obligatory for all boards and departments of the local executive body in performing planning, designing, site preparation, construction, renovation, repairs and maintenance of any units of real property, as well as for the selection, alienation, registration of land parcels, greenery planting and improvement of the territory, supervision over the use of land, buildings and structures as well as other procedures in the area covered by the Regulations.

To achieve this goal the regulations should be approved by respective decisions of local Radas. In the same way all the decisions on the application of the Regulations should be approved.

In accordance with Article 22 of the Law of Ukraine "On Local Radas of People's Deputies and Local and Regional Self-Government" the decisions made by Radas within their terms of reference, are binding for their bodies, local and state administrations, enterprises (associations), organizations and institutions as well as individuals. Thus, these decisions (including those pertaining to the Regulations) achieve the status of local law, although this particular term has not yet been legally defined.

The violation of such decisions entails administrative responsibility. This is stipulated,

in particular, by the Law of Ukraine "On Responsibility of Enterprises, Their Associations, Institutions and Organizations for Law Violation in Urban Development". Thus, Article 1 of this Law establishes responsibility in the form of a fine for making use of objects of real property which were not constructed in observance of the development rules for a populated area.

SECTION 1.4 SOURCES OF THE REGULATIONS' EFFICIENCY

Before these Regulations are applied in practice it is necessary to make sure that they are going to be efficient, that is, that related substantial changes in the procedure of decision-making on land parcel use and development as well as the restructuring of the management in the populated area, the additional expenditures, and other such administrative actions will not take the form of unnecessary bureaucratic procedures and will be beneficial to the society and individuals.

The efficiency of the Regulations results from their purpose and terms of reference. It is realized by creating the conditions to accomplish a mission that consists of two indissoluble united parts:

1. Large-scale investments in land, allowing implementation of the Master Plan provisions concerning the development of the populated area; 2. Guaranteeing efficient state and public control over these processes.

This is achieved due to the fact that the Regulations:

- establish multivariate land uses but within certain limits determined by ecological, social, economic and purely urban development restrictions;
- provide land parcel owners and users with a wide range of uses and development possibilities;
- provide potential investors with timely information on the most profitable capital investment and enable the investor to choose the best option as to land use and development;
- simplify the procedure for obtaining a construction permit and guarantee its result;
- offer favorable opportunities for investors to realize their construction and renovation projects under public control to the benefit of all the residents of the populated area and to their own benefit.

The efficiency of the Regulations for a private developer is especially noteworthy because the developer risks his own money, not that belonging to the state, and he depends on a reasonable income from his private activity, not that paid by the state. The Regulations not only enable him to opt for a certain activity on the land, but also provide him with a simple, understandable, predictable and legally valid system for obtaining permit for such an activity, guarantee stability of such decisions, offer the possibility for change of the type of land use in the event that the market changes, and provide legal liability for any officials who violate these Regulations.

The social efficiency of the Regulations lies in the fact that, due to their "transparent" character they secure equality of various subjects of legal relations in such a sensitive and socially important issue as land use. They actually put these matters under public control, prevent abuses and corruption and, consequently, social conflicts. Use of these

Regulations contributes to the residents' feeling of belonging to their habitats and makes them conscious and active members of this process.

Due to these Regulations any person choosing to reside in a particular zone on his own free will assumes certain behavior and household patterns, because the homogeneity in the types of land parcels and housing facilities within the particular zone serves as a kind of guarantee of social homogeneity of the residents (meaning their welfare, demands for services and utilities, life style, etc).

The economic efficiency of the Regulations is ensured not only by cutting unnecessary waste of public and private time and money while solving land-related matters but also by the maintenance and steady increase in land value, encouraging investment in social and economic development programs in populated areas, and stimulating their rational use. Through these Regulations a real functioning of land markets is possible simultaneously with regulation, in a civilized manner, of competition in the processes of obtaining rights to land ownership, lease, or use.

As foreign practice shows, the introduction of zoning may change land price by 100 and even 1000 percent. If these rules envisage reduction of the amount of land designated for some functional use, it may result in its becoming more expensive, and vice versa - the imposition of more restrictions on land uses may cause reduction in land price. When placing certain restrictions on land use in particular zones, the competition between various uses becomes less, while at the same time, competition for the same land by the same uses gets stronger.

For example, by prohibiting certain types of construction in the central part of the city, the Regulations not only restrain the excessive growth in land parcel price but they also stimulate investments in development of other urban districts, where needed. Thus, market methods regulate harmonious and complex development of the whole urban territory. Maintenance of land value is achieved through prohibition of incompatible uses and development in the zone. In particular, the value of a land parcel in a residence district will be preserved because it is guaranteed that no industrial or other manufacturing enterprise will be constructed in the neighborhood.

The ecological efficiency of the Regulations is achieved through the creation of favorable conditions for actual compliance with the restrictions on the land use and development related to the environmental protection.

SECTION 1.5. LEGAL, NORMATIVE AND INFORMATIONAL FRAMEWORK FOR THE ENFORCEMENT OF THE REGULATIONS

The elaboration of the Regulations has been shown to be in keeping with the existing legislation of Ukraine and may be performed (at least, at the first stage) based on norms which are now in force and on existing information sources.

The legal basis for introducing the Regulations is formed, first of all, by the Land Code of Ukraine which was adopted by the Supreme Rada of Ukraine on March 13, 1992, and by the Law of Ukraine "On the Principles of Urban Development" adopted by the Supreme Rada on November 16, 1992.

The Land Code provides that land use in cities, and urban type settlements and rural populated areas should be based on planning and development designs. The Code also defines the rights and obligations of landowners and land users (including protection and guarantees of their rights), maximum sizes of land parcels intended for certain economic activities, individual housing, garage and dacha construction, orchard keeping, etc., procedures

of land parcel transfer into ownership, purchase and sale, transfer for use, termination of ownership and use rights, alienation (buy-out) of land (including acquisition for state and public needs), and obtaining permits for the use and development of land parcels.

Article 12 of the Law of Ukraine "On the Principles of Urban Development" grants the city Radas of People's Deputies the authority to approve the regulations on urban development in accordance with the existing legislation. These regulations are drawn up by the Executive Committees of the respective Radas. Article 13 of the Law refers the development of regulations on settlements and rural populated areas under the authority of local state administrations according to legislation as well as their submission for approval by the respective Radas of People's Deputies.

Hence, the Law entitles local Radas to establish the Regulations which would operate within legal requirements in terms of health protection, natural and cultural environmental protection, ensuring safe living conditions, development of production and infrastructure, rights to ownership, authority of different governmental bodies, etc.

The elaboration of the Regulations should be based, first of all, on the state construction standards "Urban Development. Planning and Construction in Urban and Rural Settlements" ДБН 360-92, as well as corresponding branch standards. The information required for elaboration of the Regulations can be found in Master Plans of populated areas or in a Concept of their development, detailed planning designs, land and urban development cadastres (if there are such), basic historic and cultural plan, schemes of the development of particular branches of local economy and those of territory protection from hazardous geologic and hydrologic processes, maps of environmental pollution, location of productions potentially hazardous from technogenic point of view, in the materials from departments and boards of executive bodies of the local Rada, topogeodesic maps with scales 1:2000 - 1: 10000, etc.

Materials of special and targeted examination of populated areas which should be carried out in accordance with special programs in the course of elaborating the Regulations are also considered an important source of information. Study of the existing experience in drawing up such regulations in Ukraine seems to be helpful. As to the methods to be applied while elaborating such regulations, this book contains the first national recommendations on this matter.

SECTION 1.6 OBJECTS COVERED BY THE REGULATIONS

Since the introduction of the Regulations is a complicated process involving considerable efforts and funds, these should be spent as efficiently as possible. It is very important to identify the objects covered by the Regulations. First and foremost, they include the territories of populated areas (cities, towns, townships and villages) which are distinguished by densely developed lands or those to be densely developed, by high land and real estate prices, and by potentially dynamic changes in the uses and development of land, the formation of new land parcels and the alteration of the boundaries of existing land parcels. It is important to note that the existing legislation of Ukraine envisages introduction of these Regulations exactly on the territories mentioned.

It is advisable to draw up the Regulations for the whole territory of a certain populated area since this allows the establishment of systemic requirements for land use and development and the consideration of the common interests of the city, township or village. It is expedient to draw up the Regulations within the design boundaries of a populated area as fixed by the Master Plan.

However, various situations may occur in terms of finances, availability and quality of urban development documents, priorities in modernizing the existing structures or in developing new areas, and the like. In these situations a step-by-step implementation of the Regulations may be considered. They may be drawn to cover separate parts of the populated territory. For example, this may include territories designated for new construction - residential, etc.- which are being developed on private initiatives, because it is on these territories where the new property relations regarding land, buildings and structures will emerge. It may also be reasonable to implement the Regulations in certain developed districts where active reconstruction and renovation is underway, in order to prevent the deterioration of living conditions, or to mitigate conflicts in an historic district where it is important to preserve the original or distinctive buildings.

When defining the stages for implementation of the Regulations, it is necessary to perform a comprehensive analysis of the strategy of the urban planning for the settlement as a whole. In this case, at the first stage, the scheme of zones for the whole territory should be accomplished, and the common procedures to be set forth in the Regulations (obtaining special permit for certain uses and development, violation of the regulations, etc.) should be defined for the whole territory. Particular standards of land use and development in each zone may be outlined gradually. It seems probable that legal problems may arise when there is an irregularity in applying new ordinances to different territories of the same settlement. Therefore, from the legal point of view, utmost precision in implementing the Regulations, as well as continuous contacts with the public and elucidation of the advantages of this method made in local press and over radio and television, seem to be of great importance.

SECTION 1.7 PUBLIC PARTICIPATION IN IMPLEMENTING THE REGULATIONS

One of the basic principles in the use of the Regulations is their orientation towards consideration and agreement among the interests of all the parties concerned about land use and development. To the greatest extent this regards the general population as the most numerous interest group in the process.

Therefore, residents of a populated area have the right to participate in the process of creating and administering the Regulations, either individually, through respective professional organizations, territorial self-government bodies (public committees and district councils, neighborhood, street, block and other committees, associations of unit owners in apartment houses, etc), or directly through local referenda or general assembly. This right can be exercised by submitting proposals, amendments, remarks and appeals with respect to the content of the Regulations in the course of their elaboration, as well as to decisions made on the basis of the approved Regulations. Responses to public appeals based on clear grounds are also obligatory. The residents may also participate in public discussions of all the issues pertaining to the use and development of the territory if these affect their interests; they may request that independent inspections be conducted; and they may prepare and submit alternative decisions for consideration.

Therefore, public participation in drawing up and implementing the Regulations will provide for:

- the fullest possible consideration, for various specific features in the development of a populated area, of the rights, intentions and desires of legal entities and individuals residing within its boundaries;
- openness and democratic process in drawing up and applying the Regulations,

which can have the result that people understand clearly the usefulness of observing the Regulations;

- public control over the use of land and development, as land is one of the most valuable resources of a populated area ;
- prevention of abuses and corruption;
- consolidation for public consideration of related matters pertaining to territorial development;
- the fostering of law-abiding and socially active citizens.

Finally, all these factors help to insure the efficiency and potential feasibility because observance of the regulations is a key part of their beneficial purpose.

SECTION 1.8 THE REGULATIONS AND URBAN DEVELOPMENT DOCUMENTS

As stated in the Law of Ukraine "On the Principles of Urban Development", urban development documents, duly approved, constitute the basis for resolving matters concerning the rational use of territories, regulating settlement, locating all types of construction and designing specific projects.

In fact, these documents provide well-organized and focused information for respective state and local governmental bodies, enabling them to make decisions on land use and development. However, they do not deal with specific land parcels. That is why urban development documents are binding only for authorities but not for an individual owners or users of land, or individual developers. These documents do not form the basis for regulating direct actions on land use and development. If, for example, the Master Plan foresees the particular development of a certain territory, this does not grant a developer the right to begin the construction. Urban development documents have no legal status and their violation does not provide grounds for court appeal.

The Regulations will be the only document directly affecting the rights of juridical and physical persons in terms of use and development and their proprietary interests. The interrelation of the urban development documents and the Regulations, and the stages for working these out may be best described as follows: the urban development documents define the general strategy of land use and development, thus dealing with territories that have relatively large areas (irrespective of the subjects of ownership and use), while the Regulations address issues regarding use and development with respect to particular land parcels, each having its own owner or user.

Urban development documents are, and will remain, a forecast and design basis for further detailed distribution of urban functions and for the determination of types of territorial use. The Master Plan (if improved and modified in accordance with current urban development requirements) will be drawn up as the strategic basis for the long-term policy of local government and as the method of defining the principles of land use and prospects of various types of development of the land (including advisable directions of the territorial expansion). The Master Plan will also be used, for planning large-scale organizational, investment and engineering activities (construction of infrastructure and transportation systems, including underground service lines, bridges, overpasses, location of major technological structures, etc.). In its tasks, contents, format of materials, the Master Plan will remain a professional instrument not fully suitable for public use. Previous practice has shown that any attempts at public

familiarization with the Master Plan materials, and public discussions, have had a minimal social effect because of their technical features.

The Regulations on use and development of land, worked out on the basis of the Master Plan and other planning documents will become an instrument of everyday management by the local government and an instrument for its dialogue with the public, and with owners and investors. The need to fulfill these tasks will determine the form and contents of the Regulations as well as procedures for their utilization.

Such an approach does not exclude a feed-back mechanism: in the process of specifying urban development conditions and changes in the investment situation, alterations in the initial principles of land use seem to be possible and advisable. This will call for modifications of the planning documents in accordance with the procedure specified in the Regulations.

The role of detailed planning underlying the establishment of more accurate boundaries between various territorial uses and developments will in no way decrease. For new development districts, such planning of unoccupied territories will be absolutely necessary.

As to respective planning projects, new requirements should be set. Detailed planning should be devoid of excessive strictness because this would preclude an investor from selecting the most effective investments in territorial development. Obviously, scrupulous planning on vast territories without considering the intentions of real developers seems to be unnecessary; it will be sufficient merely to determine the general principles of architectural design, paying attention to planning and engineering matters.

The main task of detailed planning will be to determine the location of red lines and to establish the principles of engineering and transportation systems, depending on the planned types of development. It is quite possible, that based upon the detailed planning, some modifications will be introduced in previously established territorial zoning (in accordance with the Master Plan).

**PART 2. HOW TO DRAW UP AND IMPLEMENT
REGULATIONS ON LAND USE
AND DEVELOPMENT**

The implementation of these Regulations in any settlement will involve a number of organizational and general methodological issues:

- by whom and in what order will decisions be made to draft and adopt the Regulations;
- who should participate in the drafting and adoption process;
- in what succession should the work be done and what written and graphic materials should be included;
- how to provide for public participation in drafting and adopting the Regulations;
- what key points of regulation of land uses and developments are to be covered by the Regulations;
- what organizational methods will ensure effective application of the Regulations?

The second part of the book gives answers to these questions.

SECTION 2.1 PRINCIPAL STEPS IN CREATING THE REGULATIONS

The success of drafting and adoption of the Regulations on land use and development is largely determined by the clear understanding of the Regulations' purposes and tasks by all the persons concerned - members of the local Rada, government officials, specialists, investors, and the public - and by recognition of their place in the system of decision-making by the administrative organs. Administrative officials must be ready to spend some time considering issues connected with elaboration and application of the Regulations, and they should be ready to undertake a dialogue with the public to insure that all positions are coordinated. Essentially, elaboration of the Regulations mainly concerns the resolution of a number of problems on territorial use and development, this being the scope of the everyday work of the administrative organs. However, because of the necessity to predict how these issues should be solved starting from the current state of development and use of the territory and considering proposals included in existing urban development documentation, market relations and public opinion, it is necessary to take a careful approach, using practical skills to predict and assess long-term effects of the adopted solutions.

Following a rational order for drawing up the regulations and observing definite procedural form will contribute to successful work.

Four steps may be distinguished in elaboration of the Regulations.

Step 1. The decision to draft Regulations is made and preparatory work is conducted.

The decision to draft the Regulations on land use and development is made by a respective City Rada (for urban territories), Rayon Rada (for rural settlements and urban type settlements) in accordance with the authority granted by the law (Articles 11, 12 of the Law of Ukraine "On the Principles of Urban Development" and other legislation).

This decision entrusts the executive body (City Executive Committee or state administration) with the task of drawing up the Regulations and the organizational, legal and other support work.

It is advisable that this decision should establish a specific procedure for the interaction

between the task force and deputies' committees and public organizations, as well as the terms and procedures for consideration of the Regulations and for the coverage of this process by the local mass media.

The executive body will take the measures necessary for organizing the drafting of the Regulations and the resolution of all the issues.

Step II. The urban development situation is studied and required information is collected.

The status (availability and quality) of the planning documents already worked out for the whole territory or its parts to be covered by the Regulations, as well as other information and normative acts, are studied thoroughly. If there are land and development cadastres, they are also analyzed together with their suitability for the Regulations' purposes. A study is made of the local normative acts (ordinances, decrees and resolutions of the local government) with respect to territorial use and development, and a preliminary analysis of their compatibility with the Regulations is made, as well as conclusions on the advisability of including them in the Regulations. The existing procedure for preparation and decision-making regarding land parcel allocation and withdrawal, issuance of construction permits, etc. is assessed, and the level of interaction and coordination of management bodies' work is evaluated.

At this stage the task force should make a conclusion on the suitability of the available planning documents to be used in drawing up the Regulations. This refers to the Master Plan of the city, settlement or village, and the planning designs of separate districts. The task force faces a number of crucial questions. Do the planning proposals, which were formulated previously, meet the present requirements of territorial development? Are they in line with the provisions of urban development, land ownership or other legislation which might have been changed following the adoption of urban development documentation? Have all the planning restrictions been identified and considered? Is the proposed functional territorial division in keeping with present requirements? Is it clearly defined how vacant territories should be used and how the territorial extension of the populated area will proceed? The answers to these questions will greatly affect the further work on the Regulations.

It may happen that planning documents, completely or in part, do not meet the requirements of the Regulations. For example, The Master Plan of the city may be outdated; its proposals might have been already realized or they may be unrealizable because they are not grounded from an economic point of view. The suggested functional division may not provide an appropriate basis for the zoning as stipulated in the Regulations. In these cases, it would be determined that it is necessary to introduce changes in the Master Plan. Should elaboration of the Regulations be postponed? Not in the least. Updating of the planning documents may be carried out in parallel with the drawing up of the Regulations. This would even increase the substantiation level of both documents, and would provide the opportunity to study the territories carefully and in detail, factoring in the actual conditions and procedures for implementing the planning documents. Naturally, the stages and terms of this work should be well-coordinated.

Step III. Territorial zoning.

Identification of the main and additional (permissible) types of land use and the division of the territory into zones in accordance with the types of use and development is, of course, the key step in drawing up the Regulations.

The task force elaborates a preliminary scheme for the territorial zoning; makes a zone-by-zone analysis; specifies the types of zones and their boundaries; and establishes planning characteristics and development standards for the land parcels within each

zone. These issues are highlighted in the third part of this book. This work results in the drawing a Map of Territorial Zones, the listing of the zone types and of their main and auxiliary uses and types of construction.

A scheme of planning restrictions is also drawn up. It supplements the graphic information on the peculiarities of use of the territory and of certain land parcels.

Taking into account the importance of this stage in the elaboration of the Regulations, special attention should be paid to achieving the best-substantiated and well-balanced decisions. This part of the Regulations should be put under the closest scrutiny by governmental body, deputies' committees, and public organizations prior to submitting the Regulations for approval by the local Rada of People's Deputies.

Step IV. Formulation of the procedural and institutional parts of the Regulations.

In accordance with the requirements of the laws governing urban development, land and nature-protection, with other legislation and normative acts, and with due consideration for local peculiarities, a detailed procedure for raising and resolving issues pertaining to land parcel use and development is set forth. These issues include the selection and allotment of land parcels for various purposes in different urban development situations, the elaboration and approval of planning documents, design and cost estimates for construction, the obtaining of construction permits and special permits (in the cases in which they are required). The text should mention the procedure for the formation of new land parcels and the change of boundaries of existing parcels. The method of control over land use and development should also be specified in the text.

The Regulations establish the procedure for the continuing use of land parcels and buildings which are already in existence within various zones but which do not meet the Regulations' standards in their characteristics and use.

The procedural sections of the Regulations also include a description of the procedures for public consideration of proposals for amendments of the Regulations or of certain provisions thereof, including changes in zone boundaries and changes in the conditions of use and development of particular land parcels.

The institutional part consists of a schedule for special coordination and the creation of and advisory body for territorial planning - the Planning Council. The Regulations should state its tasks, composition and procedures.

The process of drawing up the Regulations should envisage the necessity for the revision of earlier completed steps in order to make amendments and improvements, based upon new circumstances which emerge in the course of the further work.

The completed Regulations, including the results of their public discussion, are submitted by the local executive body to the local Rada for approval. At the same time any proposals concerning amendment, supplements or repeal of other existing normative documents on territorial use and development are submitted. It is advisable to provide for simultaneous approval by the Planning Council.

SECTION 2.2 WHO IS ENTITLED TO DRAFT THE REGULATIONS? HOW TO FORM AN AUTHORIAL BODY

The task force (authorial body) is formed by the respective City Executive Committee or rayon administration in fulfillment of the decision on drafting the Regulations on territorial use and development taken by the Rada of People's Deputies. The composition of the task force, the terms and procedures for its operations and its financial

arrangements are approved by the decision of the executive body (or by a decree issued by the head of this body).

In selecting members for the task force it should be borne in mind that drawing up of the Regulations is a creative process requiring not only professional skills and management understanding, but also a vivid interest in territorial development issues. It should also be noted that drafting and introduction of the Regulations is a novel step towards the improvement of management mechanisms and is associated with the need to overcome traditional mentality. For this reason the social awareness of the experts engaged in this work is of no less importance than their professional competence.

For these Regulations to be effective, managerial offices as well as public representatives should participate in their drafting to the maximum extent possible. It would be desirable for the task force to include members of the local Rada, officials from the executive body, representatives of public territorial associations, local businessmen interested in construction and versed in investments. These panel members will formulate the general strategy of the Regulations, specify policy regarding any controversial parts of the territory and the most important organizational issues: adoption of the work schedule, public relations, contacts with the managerial body, consideration and preparation of the work to be submitted for approval.

It is only natural that these Regulations cannot be worked out without the participation of experts. The task force should include the following professionals (one or several persons):

1. Planning architect. A complex approach to territorial use and a specific planning vision is indispensable for the success of the Regulations. Besides, construction is the major type of land use in populated areas, and the Regulations must take into account numerous functional, esthetic and normative aspects of urban development and construction.

Specialists in territorial planning who are well versed in a particular urban development situation should participate in drafting the Regulations. It is desirable to enlist the city Chief Architect (rayon architect) or another experienced specialist as well as the authors of the respective Master Plan who will act as experts in planning matters.

2. Experts in land use. Their participation is made necessary by the importance and complexity of the land issues, the need to use cadastre and inventory information on land, and to deal with numerous conflicts associated with land use. It would be most expedient to enlist employees of the local land resources office.

3. Lawyer. The Regulations are, first and foremost, a legal document. Therefore, professional approaches and formulations, especially in the procedural part of the Regulations, legal competence are of extreme importance for the quality of the work done. Experience in norms-making, specialization in urban development or in regulating land and property relations is a must.

In addition to these mentioned professionals, specialists in economics, communal utilities (housing stock, engineering equipment, transportation, greenery planting and improvement of territory), sanitary hygiene, nature protection, etc. should be invited when necessary.

It seems a good idea to have the task force headed by one of the local executive body officials. This will attach greater authority and facilitate the solution of practical problems.

Since Ukraine lacks practical experience in drafting Regulations and the methodology is only now being created, it would be desirable to have experts who have been previously engaged in drawing up the Regulations for other territories, who have acquired knowledge about typical conflicts and how to resolve them, and who are aware of the priorities and most influential facts which are important for the Regulations and the procedure of decision-making on various issues.

SECTION 2.3 STRUCTURE AND CONTENTS OF THE REGULATIONS

The structure and contents of the Regulations are determined by their orientation which is described in the respective portions of this book. Their contents cannot be strictly prescribed. At the same time, there are certain necessary issues which should be highlighted in the Regulations. These include:

1. *The legal basis for the Regulations (existing legislation and other normative acts and the way in which they affect the elaboration and implementation of the Regulations).*
2. *The Regulations' terms of reference (who acquires rights and obligations in the use and development of lands in populated areas when the Regulations are introduced; and what these rights and obligations are; the general circumstances for realizing these rights and obligations).*
3. *Types of zones (the list of zones and the description of the use and development types permitted by the Regulations on any parcel in each zone).*
4. *The planning parameters for land parcels and the development standards for each zone (their maximum or minimum permitted parameters - area, length, width of parcels, density and height of buildings, distance between land parcel boundaries or red lines and buildings, requirements for open space, etc.).*
5. *Planning restrictions (the location of sanitary protective and protection zones, environmental pollution zones, unfavorable or unsafe engineering and construction conditions and natural phenomena, zones with regulated development surrounding architectural monuments, etc.; and the description of the additional standards for territorial use and development resulting from these factors).*
6. *Criteria for identification, legal status and procedure for continuing use of land parcels, buildings and structures which fail to comply with the Regulations.*
7. *Criteria for identification, legal status and procedure for continuing use of land parcels, buildings and structures of compelled disparity (variances) .*
8. *Special permits (types of use requiring special permits and procedure for obtaining them).*
9. *Allocation and use of land parcels in accordance with the Regulations (planning and re-planning of the territory accompanied by the formation of new land parcels and changes in the boundaries between existing ones, procedures for obtaining construction permits and control over this process).*
10. *Institutional basis for application of the Regulations (role of the local Rada, its executive body and various departments , setting up the local Planning Council, its composition, terms of reference and organization of its work).*
11. *Procedures for approval of the Regulations and for amendments (by whom, in what cases and in what way should these take place).*
12. *Public participation (in what cases it is obligatory; its forms and procedures).*
13. *Definition of key terms used in the Regulations.*

The Regulations should include a separate part dealing with modifications of the standards, the criteria for such a possibility and the parameters of additional requirements for potential users of the modified Regulations. It is possible to consider such modifications when necessary to stimulate development in a specific part of the populated area. The rules for such modifications would best be included in the part of the Regulations devoted to special permits, because in such cases, the special permit procedure would be used to consider whether the modified standards should apply. The additional requirements for the types of uses, development of land parcels and the respective zones where such modifications could be allowed should be listed in a separate section.

Depending on the territorial peculiarities, the text may include other sections as well.

SECTION 2.4 MAP OF TERRITORIAL ZONING. SCHEME OF PLANNING RESTRICTIONS

Graphic materials constitute an inseparable part of the Regulations. The success in introducing the Regulations, the efficiency of their utilization in dealing with day-to-day territorial management to a great extent will depend on the quality of the graphic materials, their clarity and simplicity for non-specialists.

The Map of territorial zoning in the scale of the Master Plan presents the planning structure of the territory (highways, streets of all categories within red lines, functional use of territory), the boundaries of the zoned territory, its administrative units and the boundaries of separate zones with different types of territory use and development. To simplify the drawing it is possible to depict only the generalized scheme of existing construction. Individual buildings and individual land parcels should not be shown.

The zones may be shown by local transparent pale colors which do not interfere with reading the drawing. Zones of the same type are represented on the Map by the same index. The conventional signs (key) disclose the meaning of zone indices.

Open and generally available materials (scheme of the city planning structure, scheme of the city streets, etc.) are used as a graphic base for the Map of territorial zoning. The design (main) drawing of the Master Plan may be used if it is cleared from inappropriate information and data concerning the relief and bench-marks, coordinate grids, locations of special objects, etc.

In larger cities where the Master Plan drawings are made in smaller scale, it is possible to use the general planning chart of the whole territory, and Maps of zoning may be drawn separately for each administrative district with all the necessary information.

A scheme of planning restrictions has the same graphic base and the same scale as the Map of territorial zoning. The scheme marks the location of all objects which cause the restrictions, the boundaries of territories where these restrictions are effective. To show smaller details (individual parcels) separate fragments may be drawn in larger scale thus supplementing the scheme which should have the respective marks (references).

The character of the planning restrictions is marked by conventional signs (sanitary protection zone, zone with regulated construction height, zone with slides or sinking of the land surface, flooded zone, etc.).

While performing this work and choosing the way to present the information (graphic language) attention must be paid to the need for subsequent copying of the drawings in smaller scale, in order to disseminate the Regulations. This means that the way the drawings look will largely depend upon the technical means chosen for copying them.

In addition to the obligatory drawings mentioned, graphic materials may also include sketches or drawings illustrating the planning parameters and land parcel development standards in the different types of zones.

SECTION 2.5 PUBLIC PARTICIPATION IN DRAWING UP AND IMPLEMENTING THE REGULATIONS

The legal basis for public participation in the elaboration and implementation of the Regulations is provided by the Law of Ukraine "On the Principles of Urban Development" (Article 5), "On Local Radas of People's Deputies and Local and Regional Self-Government" (Articles 54-56), and "On Public Associations".

These laws define possible organizational forms of public participation in resolving the most vital problems affecting citizens' interests.

The Regulations establish a two-stage system for this participation, its main organizational form being public discussion.

The first stage includes the process of drawing up the Regulations. In its course the public gets an opportunity to familiarize itself with the preliminary results and give comments and proposals which should be taken into account while preparing the final draft. The public also considers the final version of the draft Regulations before they are submitted for the approval to the local Rada.

At this stage public participation should be arranged by the local executive body which, first of all, issues a public notice of the hearing on the preliminary or final draft Regulations. The public notice should appear in at least one local newspaper - an official organ of the local government - or be announced over the local radio or television not earlier than 45 days and not later than 15 days before the public hearing.

The announcement should contain information on how citizens may familiarize themselves with the draft Regulations and on the time and place of public discussion. The local Department on Urban Development and Architecture should take the necessary organizational steps at this stage.

The second stage provides for public participation in the Regulations' implementation, i.e. in discussing the decisions to be made by the local Rada with respect to the territory use and development in accordance with the Regulations.

The text of the approved Regulations includes a list of issues subject to the obligatory public discussion and the procedure thereof.

Public discussion is obligatory in addressing the issues concerning:

- application for special permits to locate and construct objects in accordance with the Regulations;
- applications for special permits to change the uses of land plots, buildings and constructions which fail to meet the requirements of the Regulations;
- applications for special permits to preserve the compelled disparity of a land parcel with the planning parameters and development standards established by the Regulations for the zone where the land parcel is located;
- appeals submitted by physical and juridical entities;

- territory re-planning involving the formation of new land parcels or changes in the boundaries of existing ones.

In addition, public discussion is obligatory in the following cases:

- modification of the Regulations (zoning amendments, in particular) caused by the adoption of new state legal acts, construction, sanitary or other norms and standards related to the use and development of the territory;

- agreement on urban development documents (planning designs for planned developed districts, in particular) prior to their approval by the local Rada.

At this stage public discussion of these issues is arranged and held by the local Planning Council set up and operating in accordance with the Regulations. Local Board (department) of urban development and architecture may act as a working body for the Council.

The Planning Council is obliged to publish the public notice on the time and place for public familiarization with the relevant materials and their public discussion at a session of the Planning Council.

The public notice should include information on the issues to be discussed. Public notification should be given not earlier than 45 days and not later than 15 days before public discussion.

The Regulations should also provide that public notification will be made by:

1. Written notification to the owners or users of land parcels, buildings and structures located at the distance up to 50 meters from the parcel under consideration. 2. One of the following methods:

- by an announcement in at least one local newspaper;
- by an announcement over local radio and television;
- by installing a notice board on the land parcel under consideration.

SECTION 2.6 HOW THE REGULATIONS, WHEN EFFECTIVE, GOVERN SELECTION, ALLOCATION, USE AND DEVELOPMENT OF LAND PLOTS, THE FORMATION OF NEW LAND PLOTS AND CHANGES IN THE DELINEATION OF THE EXISTING ONES

The procedure for transferring land parcels into ownership and use, and for changes in the land plot use is established by the Land Code of Ukraine. Articles 9 and 10 state that land parcel transfer into ownership and use (including lease) on the territory of populated areas is within the terms of reference of respective rural, settlement and city Radas. Article 3 stipulates that local Radas may delegate their authority in transfer, the allocation and withdrawal of land plots to state executive bodies or local self-government bodies. This is also mentioned in Article 18 of the Law of Ukraine "On Urban Development Principles".

The Regulations on oblast, Kyiv and Sevastopol city state administrations approved by the President's Decree of August 21, 1995, refer land plot allocation and withdrawal to their terms of reference. The Presidential Decree of December 30, 1995, delegates the authority of state executive bodies to the Chairmen and Executive Committees of the City Radas headed by them (in oblast subordinated cities) in regard to the issue of construction permits.

Article 17 of the Land Code establishes the procedure for land plot transfer into individuals' ownership, Article 19 regulates allocation of land parcels to be used by enterprises, institutions, organizations and individuals.

Article 34 establishes the procedure for resolving the issues connected with land withdrawal (buy-out). In agreement with landowners and users, local Radas and authorized state bodies on land protection and use have the authority to fix the size of the land plot and the conditions of its withdrawal (buy-out), taking into account complex development of the territory and the need to ensure normal functioning of all objects located on the parcel in question and adjusting territories, normal living conditions and environmental protection).

Article 30 states that the transfer of the ownership right to building or structure means the transfer of the right to ownership or use of the land parcel without changing its target designation. If the target designation of a land plot is changed, it may be transferred into ownership or use by means of allocation.

In accordance with Article 39 land plot owners or users may construct residential, production, welfare and other buildings only upon the agreement with village, settlement or city Rada. Lessees come to an agreement with the village, settlement or city Rada or other lessors about the construction of production and non-production buildings, including housing facilities, on the leased land parcel.

The Presidential Decree of July 12, 1995 "On Privatization And Lease of Non-Agricultural Land Parcels Intended For Entrepreneurial Activities" establishes that individuals and juridical entities of Ukraine wishing to receive a land parcel for entrepreneurial activities not related to agricultural production apply to the respective state administration, Executive Committee of a local Rada, where this land plot is located. Resolutions passed by these bodies together with a design for land parcel allocation provide the grounds for concluding a purchase and sale contract which is notarized and registered at the respective Rada upon the payment of the land cost.

These procedures are rather complex. What advantages do these Regulations provide?

Their application facilitates and simplifies certain procedures, naturally, without changing legally established procedures of selection, allocation and use of land plots and without limiting the rights of local Radas. This is possible because of the fact that a number of procedures are accomplished in the course of drawing up the Regulations, and gaining the agreement of the respective administrative bodies and approval of the local Rada.

The results may be analyzed in typical situations involving the selection, allocation and changing the uses of land parcels, if the Regulations are effective.

1. If a land parcel owner or user intends to undertake residential, production, cultural and welfare or other construction on it, he, having familiarized himself with the Regulations requirements regarding the use and development of the territory in the zone where this land parcel is located, and having obtained information on the conditions of the land plot use at the local urban development and architecture agency, should develop the following documents, assisted by the relevant experts (organizations):

- plan of the building (structure) location on the plot;
- building (structure) design.

Together with these materials an individual submits an application while a juridical entity petitions for a construction permit to a governmental body (to Kyiv, Sevastopol state administrations, City Executive Committee in an oblast subordinated city, local Rada

or its Executive Committee, depending upon the location of the plot). The local urban development and architecture agency considers the design materials and in case of their compliance with the Regulations, passes a draft resolution by the local government on issuing the construction permit.

If a land plot owner's or user's intentions involve a use or construction requiring a special permit, he will have to address other agencies at the executive bodies in accordance with the Land Code because in this case in the course of drawing up the Regulations no prior coordination with these agencies is stipulated.

2. A similar procedure is followed when, in case of transfer of the ownership right to a building and a structure, the right to ownership or use of a land plot is also transferred, and if a new owner is going to change its use (target designation according to the Land Code).

3. If an individual or a juridical entity has the desire and the right to acquire a land plot free of charge or purchase it into ownership or for use from the reserve land, he should follow the procedure given below:

- familiarize himself with the Regulations requirements on use and development of the territory in the zone where the desired plot is located, or specify (taking into account the Regulations requirements in other zones) the desirable location of a land plot and permitted uses;

- obtain information on the conditions of use for the given land plot at the local urban development and architecture agency;

- arrange for drawing up a site plan (location of the parcel in the respective zone), plan of the building (structure) location on the parcel and the building (structure) design;

- together with these materials an individual submits an application while a juridical entity petitions for a permission to draw up a design for land parcel allocation, to the respective governmental body.

Local agencies of urban development and architecture, and those of land resources consider the design materials and in case of their compliance with the Regulations draw up a draft resolution of the governmental body regarding the permit to design the land parcel to be allocated. Based on the land parcel design the governmental body passes a resolution on transfer of the land parcel into ownership or use, and on the issuance of the construction permit. In case of paid-for land privatization this resolution provides the basis for a purchase and sale agreement. In case of competitive privatization the conditions of the land parcel use and development are presented to all the participants in advance (prior to the competition), and the resolution on the land parcel transfer into ownership is adopted in accordance with the results of the competition (auction, tender).

The procedure for obtaining a special permit for use and development of a land parcel, if necessary, remains obligatory and is accomplished in accordance with Articles 17, 18 of the Land Code.

4. If an individual or a juridical entity has an intention and the right to acquire into ownership or for use a land parcel which is owned by another physical or juridical entity, and to change the use of the land plot, he should:

- familiarize himself with the Regulations requirements regarding the use and development of the territory in the zone where the said plot is located or specify (taking into account the Regulations requirements for other zones) the desirable location and possible uses of the plot;

- obtain the information concerning the conditions of land plot use and development from the local urban development and architecture agency;
- agree with the land plot owner or user upon the specific conditions of its purchase, including the sale price if purchase into ownership is meant;
- arrange for drawing up a building design (including its location on the plot and a site plan, if necessary) if construction is planned;
- an individual should submit an application together with the materials mentioned above and the conditions of withdrawal (buy-out) of the land plot, and a juridical entity should petition for a permission to draw up a land plot allocation design to the respective governmental body.

The local urban development and architecture agencies and land resources agencies consider the design materials and in case of their compliance with the Regulations they draft the resolution of the governmental body on the permission to draw up a land parcel allocation design. This design is agreed upon with the parcel owner, and alienation of the property is effected in legally established order.

After that, the local governmental body, on the presentation of the boards (departments) of urban development and architecture and land resources, passes a resolution on:

- issuing permission to register the land plot acquired for ownership, or to withdraw the plot which is currently in use, and to lease it out with the subsequent registration of the transfer of the ownership or use rights;
- issuing a construction permit.

However, in case a new type of use, or planned construction, requires obtaining special permit, in accordance with the Regulations, the respective procedure is applied.

The Regulations should establish the procedure for new land parcel formation and marking boundaries on site. In particular, planning parameters (dimensions, indentions, etc.) established for each zone should be observed. The same principles should be followed when delineation of the existing land parcels is changed (splitting or merging, changes in size). These actions should not result in emerging land parcels not meeting the Regulations requirements (conformity to planning dimensions, possibility of uses permitted in this zone, etc.).

The Regulations should require a free access to common streets and roads from the newly formed land plots, as to land parcels located in the development zone - the possibility to put in place engineering infrastructure in accordance with construction standards.

SECTION 2.7 CONDITIONS IMPOSED FOR THE LAND PARCEL USE AND DEVELOPMENT, PROCEDURE FOR GETTING THE CONSTRUCTION PERMIT

Conditions imposed for the land parcel use and development should include:

- description of a land parcel (owner, location, boundaries, current use, if there are any buildings and structures on the parcel, perennial greenery, etc.);
- principal and additional permitted uses (household and other activities);

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- requirements for the type and parameters of constructions (area of the construction, its height, distance from the land parcel boundaries and other requirements set up for the respective zone);
 - conditions for use of engineering infrastructure, transport facilities;
 - special requirements regarding the architectural design (if they are established by the Regulations for a zone);
 - special requirements on the observance of state and public interests (for example, they may require the use of ground floors in buildings located in the central part of the city for public service);
 - special requirements regarding environmental protection (in case of planning restrictions, obtaining special permits);
 - special requirements for engineering make-up of the territory (in case of planning restrictions), and the necessity to preserve the fertile layer of top soil;
 - special requirements on observing neighbor relations in accordance with Article 10 of the Land Code of Ukraine (if there are such requirements).

If a land parcel owner or user does not agree with the requirements imposed upon the use of a land parcel, an appeal procedure is applied - the subject addresses the governmental body disputing the conditions and proposing the changes.

The Law of Ukraine "On Urban Development Principles" (Art.18) stipulates that the construction of urban development objects irrespective of the form of ownership may be carried out only with the permission of the local Radas or by their commission - of respective executive bodies. It is the task of the Regulations on territorial use and development to specify this legal requirement.

Therefore, for cases involving new construction, reconstruction, attached construction, renovation and capital repairs the Regulations should establish:

- the procedure for applying to a governing body (address, list of required documents, etc.);
- the grounds for decision-making;
- terms for consideration, terms of the permit validity;
- additional conditions, if there are any.

While defining the procedure for obtaining a construction permit the Regulations should proceed from the premises of maximum time saving and simplification of the decision-making procedure. At the same time it is necessary to take into account special characteristics regarding construction on the state (communal) and private lands. That is why, when a developer applies for a construction permit the only factors to be considered are:

- the right to ownership or use of the land parcel;
- the conformity of the planned construction to the given conditions of the land parcel use;
- the availability of the building design (design and cost estimate documents) and its compliance with the state standards.

If these documents are available and comply with the requirements, the governmental body cannot refuse a construction permit. It cannot set up the requirements on the architectural quality of the design additional to those established by the conditions of the land parcel use given to the developer. In cases, specially stipulated by the Regulations (in particular, construction in the city center, a historic zone or construction of ecologically hazardous objects), obtaining a construction permit should be preceded by getting a special permit for the land parcel use and development.

Planning and site preparation works may be accomplished by an investor only with the permission of the parcel owner (Art. 25 of the Land Code of Ukraine) after he has been provided with the conditions of the plot use. In accordance with Art. 22 of the Law of Ukraine "On Urban Development Principles" a land parcel maybe developed only after the right to the ownership or use has been gained and following the issuance of a construction permit.

SECTION 2.8 HOW TO GUARANTEE THE ENFORCEMENT OF THE REGULATIONS. THE PLANNING COUNCIL

The efficiency of the Regulations depends upon the way their implementation is organized. This will greatly affect the use and development of the populated area territories. The executive bodies of local Radas have special structural units traditionally engaged in these tasks. These are, first of all, the Board of urban development and architecture, the Board of land resources and boards of sanitary and fire control, ecologic safety, municipal economy, municipal transport, etc.

However, isolated activity by these agencies complicates the systemic solution of the issues mentioned and it does not provide for public participation in this process.

That is why it is so important to set up a special consultation and advisory body - the Planning Council affiliated with the Chairman of the respective local executive body. This agency's make-up should reflect, first of all, its interdepartmental structure, and, secondly, the need for large-scale public participation in solving the problems of land use and territory development. The Planning Council should operate based upon openness, democracy, and accessibility for all physical and juridical entities concerned. This Council is the place where, often conflicting, the interests of individuals, society and state are manifested and coordinated.

The Planning Council is set up by a decree of the Chairman of the Executive Committee of the local Rada (in the Cities of Kyiv and Sevastopol - heads of the local state administrations) and is headed by the Deputy Chairman. In cities the Planning Council should include deputies of the city and rayon (within the city) Radas of People's Deputies, heads (first deputies) of respective departments and boards of the city Executive Committee (economics, land resources, nature protection, municipal economy, health protection, transport), experts in architecture, urban development, ecology, engineers, representatives of public committees, block councils and other types of territorial public organizations, businessmen, representatives of public organizations (local branches of the Association of Architects and the Association of Urbanists of Ukraine, etc.).

In towns of rayon subordination where there is no Chief Architect as well as in settlements and villages the members of the Planning Council should include (by agreement with heads of respective rayon state administrations) the employees of the aforementioned

departments of these administrations. It is advisable to set up a common Planning Council for a group of village under the same village Rada.

The Chief Architect of the city (if there is such) or the rayon architect becomes the deputy head of the Planning Council.

What do the terms of reference of the Planning Council cover?

Its responsibility is to draw up recommendations for the respective Rada of People's Deputies and its Executive Committee (depending upon their authority) to make decisions on the following issues:

- on issuing special permits for types of use and development stipulated by the Regulations;
- on splitting the existing land plots and formation of new ones;
- on issuing permits for additional construction, replanning, reconstruction of buildings and structures not meeting the requirements of the Regulations, in cases when these activities are not directed at meeting the requirements, but are permitted in accordance with the Regulations;
- on interpreting, if necessary, certain provisions of the Regulations including interpretation of the established restrictions, use of development standards, etc.;
- on making amendments to the Regulations on the use and development of territories, to the zoning and zone boundaries map, to the development standards;
- on appeals of physical and juridical entities;
- on deviations from the zoning requirements in cases stipulated by the Regulations.

To find out where, to what extent and under what conditions deviations from the Regulations are possible, it is necessary, based on the Master Plan, to identify the most acute strategic and tactical issues of its development, the existing and expected resources for implementation, and their connection with particular zones. This may concern, for example, engineering substantiation and equipping the new construction districts, increase in the capacity of various service establishments, changing the specific character of some enterprises or their moving out, etc. That is how the requirements for the use and development of the land parcels in various zones are established. These requirements may be used in conducting tenders for the sale into ownership or sale of the lease right of land parcels.

The issues regarding deviations from the Regulations are solved, if there is a developer's appeal, in accordance with the procedure established for issuing special permits. The final decision on this matter is made by the local Rada based upon the conclusion made by the Planning Council which is formulated taking into consideration the decisions of the public discussion.

The changes to the Regulations are introduced by the decision of the local Rada in accordance with the proposal of the Planning Council when:

- changes to the existing legislation, other normative acts, state standards, norms and regulations are introduced;

- the Master Plan of a settlement is amended.

To accomplish this goal, the Planning Council must be authorized to:

- consider, discuss and pass resolutions on all issues connected with the Regulations;
- require, if necessary, that the parties concerned produce supplementary substantiation and calculations when obtaining a special permit is regarded;
- arrange, when necessary, for technical, ecologic or other types of expertise;
- arrange for public discussions of draft resolutions in cases stipulated by the law and these Regulations;
- draft resolutions, within its powers, of the Rada of People's Deputies and its Executive Committee.

Each of these actions has its own procedure which is described in respective sections of the book and should be spelled out in the Regulations. In general, each issue, first of all, should be considered at the respective agencies of the executive body of the local Rada which prepare their conclusions. The decisions of the Planning Council are accepted by vote of a simple majority. In some cases, when a certain percentage of the owners of the adjoining land parcels are against satisfying the appeal, or when the deviations from the Regulations requirements are concerned, or when some agencies of the executive committee respond negatively, it is expedient to have 2/3 or even 3/4 of votes. In case of refusal the applicant is entitled to another appeal, but not earlier than 6 months after the refusal date.

How often should the Planning Council hold its sessions? It depends upon the number and application dates of the matters to be considered. It is expedient to stipulate that the Planning Council holds its sessions when needed but not less than once in a month. The results of these sessions are fixed in the minutes.

Who should be permitted to attend these sessions? Is anybody's permission required at all? The answer is negative. The sessions should be open to all physical and juridical entities concerned, as well as to the mass media and all those wishing to attend the session.

Does the Planning Council restrict in any way the rights and duties of the Chief Architect of the city or rayon, leaders of local agencies on land resources, other administration or control agencies? Not at all. They retain all their rights and responsibilities. But the functioning of the Planning Council makes it possible to coordinate and synchronize the work of all these establishments to the benefit of the public, society and the state.

SECTION 2.9. SUPERVISION OVER THE REGULATIONS OBSERVANCE

Supervision over construction and other uses of land is stipulated by the urban development and land legislation and state normative acts. Specific mechanisms to exercise such control are envisaged. This greatly simplifies the task of drawing up the Regulations. In the section dealing with the supervision over the compliance with the Regulations it is advisable to cite legal and normative grounds for such control:

- Section V of the Land Code of Ukraine;

- Article 25 of the Law of Ukraine "On the Principles of Urban Development ";
- Law of Ukraine "On The Responsibility Of Enterprises, Their Associations, Institutions And Organizations For Violation Of Law In Urban Development";
- articles pertaining to control in nature-protection, sanitary and other legislation; - Decrees of the President of Ukraine "Regulations On Oblast, Kyiv, Sevastopol City State Administrations And Regulations On Rayon State Administration And Rayon State Administration In The Cities Of Kyiv And Sevastopol" of August 21, 1995 and "On Delegating The Powers Of The State Executive Authority To The Chairmen Of Village, Settlement And City Radas And Executive Committees Headed By Them" of December 30, 1995.

Further on, the Regulations may give excerpts from these documents in order to explain the essence and the supervising tasks, or they may contain a free presentation of the responsible bodies and the proper procedure to execute this control.

Since paragraph 4 of the "Regulations On State Architectural And Construction Control" entitles the respective body with control of compliance with the local development rules, this body may be regarded as a central body in providing for the implementation of the Regulations. Therefore, it is advisable to include in the Regulations information on the rights and powers of the inspection officials in the course of inspection.

Public participation in controlling compliance with the Regulations has no clear cut normative form. That is why it is most advisable to address this issue while elaborating the appeal procedure for public objections against the actions performed by physical and juridical entities or by government bodies in land use and development, and the procedures for public discussions, etc.

**PART 3. METHODS APPLIED FOR DRAWING UP THE
REGULATIONS**

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There is no doubt that territorial zoning and establishing precise procedures for implementing the Regulations constitute the most complicated and crucial part in drawing up the Regulations.

This part of the book gives the proposals on effective utilization of zoning regulations, specifying zone boundaries and planning restrictions, and establishing planning parameters and standards for land plot development in each zone.

A detailed analysis of the following procedures is given:

- obtaining a special permit in certain cases of land parcel use and development; - regulation of land parcel use and development not meeting the requirements of the Regulations; - conferring the status of "compelled disparity" on land parcels.

Recommendations on building the glossary of the Regulations are also given.

SECTION 3.1. TERRITORIAL ZONING

Territorial zoning means determining all types of land use and development which are advisable or permitted within the territory boundaries and their mutual spatial location, and establishing zone boundaries, planning parameters and standards for land plot development in each zone.

The Regulations should rely upon the approaches to territorial zoning capable of ensuring functional, planning, social and economic, ecologic and esthetic compatibility of all the existing or projected types of use and development of the territory, most beneficial for its further development. Each zone is considered in the Regulations from the point of view of its functional integrity, as well as economic and social sufficiency.

In order to encourage investments, options for land uses and their changes depending upon the market demands promote maximum widening of the land uses range which is obviously profitable for a land parcel user or owner. On the other hand, the requirement for functional, ecologic, architectural and planning and other compatibility of different types of uses limits the permitted amount of these types.

In case of pronounced dominant function various combinations of the prevalent and additional types of use and development may occur. The best possible combination is the one when dominant type of land use is supplemented with other compatible uses, advisable for supporting the main function, enriching it, promoting better living conditions, cutting down spatial public migrations, contributing to better appearance of the territory or providing for other benefits.

For example, it is the combination of housing and daily service facilities for which state construction standards have established maximum accessibility range. For the city downtown or for a district center it would be natural to have a combination of housing, trading, cultural and other facilities, services, even offices and administrative buildings.

After determining upon spatially fixed main types of land use, a list of required additional types of use should be compiled (taking into consideration the state construction standards and the current situation). Besides, additional uses should be identified which in their overall ecologic, planning and other characteristics may be combined, in principle, with the main and supplementary uses (e.g., location of service stations, technical maintenance centers for motor cars in a populated area downtown). The approach may be applied according to which the uses which in no case can be

combined with the main and supplementary uses, are identified. Then all other uses are considered permitted for the zone.

But the final criterion for referring the territory to a certain type zone is provided by the possibility to establish a system of uniform planning characteristics for all or the overwhelming majority of land plots located on this territory, as well as uniform norms (standards) for their development. This uniformity is aimed at precluding all sorts of conflicts. In particular, definite building height will prevent a situation when a multi-story building springs up quite of a sudden (in compliance with the existing state construction standards) among one-story houses, and its shadow reduces to nothing all the orchards in the neighboring plots.

Proceeding from such understanding of a zone in terms of application of the Regulations, we may suggest the following succession in land zoning.

Preliminary zoning.

Upon stating the suitability of urban development planning documents for drawing up the Regulations, the proposed functional division of a territory is regarded as the initial one for zoning division (this decision may be taken by the zoning drafters even in a case where the planning documents require some minor modifications. This can be done simultaneously with drawing up the Regulations). Such a division into zones, proceeding solely from the dominant type of use and development of a particular territory, is represented on the preliminary sketch for the zoning Map.

At this stage the use and development of separate land parcels is disregarded. Their correspondence to general requirements to the zone should be considered only on a qualitative level ("the majority of the land parcels" - such a criterion seems to be sufficient enough).

Special characteristics of zoning in developed and vacant territories.

For the territories which are already developed, in full or to a greater extent, division into zones and establishing the conditions for land parcel use is aimed at ensuring a steady and expedient use of land and buildings, as well as guaranteeing the owners that on the neighboring land plots only acceptable types of use and development will be permitted in terms of ecology, function, esthetics, and they will not cause deterioration of the living conditions, or devaluation of land and property. If the approved Master Plan recognizes the expediency of preserving the dominant type of land use in the course of projected urban development, there will be no problems in referring the territory to a particular functional zone.

However, there are districts with outdated construction which do not meet current requirements, and use of the territory is unpractical in terms of its place in the city planning structure. Apparently, the Master Plan has envisaged some reconstruction measures - in this case changes in land use are possible which would entail its reference to a different zone. Establishing such a zone with respective normative requirements regarding land parcel use and development does not mean an obligatory discontinuance of the existing land use or elimination of outdated structures, they may exist in future, but they acquire the status of not meeting the requirements of the Regulations. In this case an essentially different situation is created which encourages investments in territory reconstruction, and the most favourable conditions are formed for constructing in accordance with the standards established for a new zone. Of course, it is quite natural that the duration of reconstruction as well as the time period necessary to acquire the territorial integrity will completely depend on how active the investors are.

For the territories with the so called "functional strips" and incompatible uses the Master Plan should provide for measures to improve the situation (this might be withdrawal of certain units). And in this case the zoning should be guided, first and foremost, by planning proposals. All types of use which are unacceptable for a given zone are classified by the Regulations as "incongruous", and other sections of this book will explain the consequences.

The designation of vacant territories to be covered by zoning should be basically determined by the time of drawing up the Regulations in the planning document proposals. Certain urban territories can be left for agricultural or other activities, others are referred by the Master Plan to recreational or nature-protection zones.

For vacant territories, which are to be developed, the Master Plan delineates tentative boundaries, planning structure and types of construction. In each particular case it should be established whether it is enough for zoning. If the planning proposals do not provide a clear-cut division of the vacant territory (which is quite possible taking into account the task of the Master Plan and its drawing scale), the need for a more detailed planning arises.

What is meant is not obligatorily a traditional detailed plan of a district, since under market economy this type of design which includes an obligatory sketch of the territory development imposes too many limitations upon the location of certain land parcel use or change of use for future investors. It is reasonable to elaborate, in an acceptable scale, a general scheme of the district planning, specifying the planning structure and location of transport communications, location of red lines, types of constructions, social facilities and engineering infrastructure. This scheme should be submitted to the governmental body and investors as a basis for further elaboration of investment projects and development planning. Local conditions might prompt other ways to cope with the initial lack of certainty in zoning of vacant territories planned for the development. Further specifying of the initial zoning Map is highly probable - in case the investors come out with better proposals which do not contradict the Master Plan.

Logically, a question arises: can the territories, not subordinated at the time at which the Regulations are being drafted, be covered by zoning and included in the Map, if the Master Plan only suggests changes in the existing administrative and territorial division?

Such actions will not run contrary to the law, since they remain within the limits of projected and intellectual activities. When referring the territory which is not subordinated to it, to a certain zone, the governmental organ is just formulating its long-term plans. Naturally, the Regulations will come into force, regarding the zoned territory, only after it has been subordinated in the established order to the governmental body which has approved these Regulations. To preclude any misunderstanding, this issue should be spelled out in the text of the Regulations (the "Planned development areas" section or some other).

By-Zone Analysis.

The next operation consists in a detailed analysis of specific features in land use and development in each previously identified zone (by-zone analysis). It implies consecutive examination of planning documents, construction or renovation designs which might be drawn up for some particular parts of the territory or land parcels, cadastres, other documents which reflect the existing and projected state of social, engineering and transportation support, etc. Catalogues of use and development types for separate territories by zones are compiled. Special development features are determined in the course of on-site examinations, field measurements, these results are given in descriptions, charts and diagrams.

While doing it, there is no need to focus on specific features in the use and development of particular land parcels - general territory characteristics are of interest, they may be used as the basis for making more precise the previously outlined zones. (Land parcels and buildings not characteristic for the general context later on will be referred to incongruous types of use).

The by-zone analysis fixes the principles for locating buildings with different number of stories, their condition in terms of capital construction and age of service (the issue of architectural value of the construction cannot be neglected), the availability of vacant yard spaces (whether they are sufficient in terms of standards), of undeveloped land plots (they present a potential for the development), density of settlement, the nature and efficiency of location of service facilities, traffic schedules and stops (which can provide both conveniences and discomfort), parking facilities, etc.

These materials are represented in territorial development cartograms by density, number of stories, level of engineering infrastructure and other major characteristics.

The next step will be to assess the development potential for each zone or its parts. What are the prospects for the dominant function? Is there a need to support it with additional construction, renovation or, on the contrary, is it necessary to reduce the development density or vacate the territory, and what are the reasons for it? Maybe, it is sensible to extend the range of permitted uses and types of development to make the territory more attractive for investors? Public opinion and investors' proposals are studied, etc.

For instance, large territories in the cities are occupied by collective orchards and dachas. Proceeding from their original destination they should be referred to recreational zone. But will this take into consideration, to the due extent, the prospects for their use? The matter is that in the process of construction many houses have been turned into comfortable residential units. The owners may apply to the governmental bodies asking for a change in the status of the building, there are lots of individuals wishing to undertake new construction on these territories. It is worth considering whether it is reasonable or not to classify some of the territories as family-house development zone which will produce social and economic effect - of course, provided the adequate level of infrastructure and other standards are guaranteed.

At the same time, the factors slowing down the long-term development and reducing its potential for investment are also evaluated. It concerns, first of all, planning restrictions which prevent certain types of use and development. As a rule, information of this type is included in the Master Plan, but it should be specified (the respective section of the book treats this issue in detail). But other factors such as inconvenient transportation (definite measures should be taken), lack of social prestige, the need for considerable initial capital investment, etc. also may slow down this process.

For some territories the need may be identified to have additional design work done in order to specify planning characteristics and ways to solve engineering, transport - related and other problems.

Architectural and spatial characteristics of the zoned territory (parameters of parcels, their dimensions along the streets, distance from other construction, availability of closed courts or open spaces as related to the height of the buildings, etc.) are given in diagrams and sketches - there is no need for detailed representation. Naturally, special attention should be paid to historic districts, there should be a basic historic-architectural plan, measurements data, etc.

The results of by-zone analysis are used to improve and specify the previous zoning, this consists in forming new types of zones in accordance with characteristics of the existing or planned use and development of territories, their development or renovation potential, other factors as well as specifying previously determined boundaries. While doing this the following additional factors may be taken into account:

- There may be a need for attracting capital investments to ensure the development of a certain territory, i.e. the permitted uses and development standards in the zone should favour actual investments. (In this case some deviations from the Regulations provisions may be permitted in order to stimulate investment. This is done in exchange for investors' additional commitments to implement local social and economic, construction and other programs);

- Local residents are strongly against traffic growth and presence of the so called "day residents" in the neighborhood which leads to the reduction in constructing movie theaters, restaurants and other mass attractions , even if they are functionally compatible;

- Conservative motives should prevail because the existing buildings are of architectural value, and they influence the neighborhood appearance and rigidly determine construction standards, etc.

Establishing the standards and zoning specification.

The final criterion for zone formation, as mentioned above, is the possibility to establish within the zone territory uniform parameters for land parcel planning, and standards for their development. This eliminates the necessity for rigid fixation of certain types of land use permitted for this zone, and basically it is consistent with the market requirements. Further on the investor will be able to put his intention into effect to his benefit and in the interest of territorial development. Naturally, when defining the main and additional types of land use for each zone legal provisions should not be violated. In establishing planning and development standards no violation of state construction, sanitary and other norms is permitted. Competent use of normative acts opens wide prospects for the formulation of the Regulations' provisions. For instance, restrictions with respect to certain types of economic activity on personal plots can be based on the demands for maintaining good-neighborly relations stipulated by Article 40 of the Land Code of Ukraine.

An objection may be raised that there is no legal and normative basis required for exhaustive solution of all topical problems related to use and development of territories. This is true, but the legislation grants enough authority to the local government for settling these issues, and these are the Regulations which should provide for that. The practice shows that numerous conflicts, complaints, appeals to high governmental bodies result from lack of normative regulations for such issues as height and design of fences at the personal plots, whether or not bee- and rabbit-keeping is permitted, etc. At present the cities face the problem of locating private trading kiosks. In the course of further development of citizens' personal freedoms and economic opportunities new problems will arise: may a radio amateur construct a mast aerial on his plot? Is it permitted to put a fountain in front of a private building? Will the neighbors object to a mini-bakery? and many others. Even now there may exist solutions for these problems by the local government, and these should be incorporated into the Regulations.

There is no standard and there can never exist one with respect to a number of zone types and requirements set up for each zone.

For example, while examining the territory of family-house constructions it may be detected that in one area the plots were developed long ago. Small houses prevail. They are owned by people with medium or low income who do not strive for renovation or

additional construction for their homestead. The use of the territory and the life style in this neighborhood is marked by their stability, the potential for economic development is rather limited. However, in the neighborhood businessmen have settled. Instead of old houses they erect comfortable cottages with larger living area and make proposals on the improvement of the territory.

Since the adjoining neighborhoods are characterized by different types of territory use and development, the question of priorities arises in the course of zoning. From the economic point of view the activities of new developers should be supported, as eventually they will replace the extensive land use. In this case it is advisable to refer both neighborhoods to one zone and establish planning and construction standards meeting up-to-date investment intentions. In such a way the Regulations would promote renovation of the urban territory, increase in the value of land and buildings. But there is also another decision which can safeguard, for a certain period, the social protection of the owners of old houses. This variant (resulting from public pressure put upon the local Rada) will refer these neighborhoods to different zones. Standards of land use for the first one will be in keeping with characteristic features of the existing constructions (e.g., the number of stories will be limited as well as the maximum living area per parcel).

One more example. The city downtown was developed early in this century and the so called "profit-generating" 5-story buildings prevail there. They are of no architectural and historic value but the general appearance of the city is determined exactly by such buildings. There is a special character of land use: the buildings form blocks, there are courtyards and this, to a certain extent, determines the life style of children and adults. In fact, it is a question of certain standard of territory use.

New city neighborhoods with their "free planning" have a different look even if they have the same number of stories. Their territory - using structure is also different. The practice shows that it is next to impossible to single out from the neighborhood territory that attached to one serial building. There is no place for such a notion as "a courtyard" which has been irretrievably lost. And respective social consequences have emerged.

Though the number of stories is the same for two neighborhoods, is it advisable to refer them to one zone type basing on this formal sign (say, "Residential 5-story buildings")? Such a decision will result in the establishment of common construction standards. The situation can be easily imagined, when in the course of the old neighborhood renovation an investor might suggest placing there a serial industrial building which would fully comply with the Regulations but spoil the architecture and interfere with the residents' life style. That is why in the course of final zoning it is worth considering the widest possible range of effects following the reference of a territory to a certain zone.

Industrial territories may be zoned in accordance with the industries' hazard classes under sanitary norms, planning and functional characteristics (need for railway communication, nature of freight turnover, etc.). It might happen that within an industrial territory there are some enterprises which are more hazardous according to sanitary classification and incompatible with the use of the neighboring territories (such as housing, recreational, etc.). In this case a decision on referring this territory to a zone type according to the hazard class of the majority of enterprises is made. Then the existing enterprises belonging to the higher hazard class will acquire the status of incongruous use of the territory and call for reorientation, changes in technology, etc.

The issue of zoning territories falling into sanitary-protection industrial zone, is of special interest.

State sanitary norms allow the enterprises of lower hazard class to be located in

sanitary-protection zones of enterprises with more hazardous emissions. This principle may be applied in zoning. Unfortunately, more complicated and more frequent is the case when the sanitary-protection zone is already being used in some way, for example, for residential facilities. The following decisions regarding zoning may be made.

If the presence of a sanitary-protection zone is viewed by the Master Plan as a steady planning factor, the project on the improvement of this sanitary-protection zone will be developed at the request of the local government. All the land uses which cannot be located there due to sanitary norms will be withdrawn or planned for withdrawal from this zone. In this case the city planning documents, the project of improving the sanitary-protection zone will establish the use of the territory and, accordingly, a decision will be made on its reference to some particular zone (an industrial zone with enterprises of lower hazard class, or a municipal service zone). The existing units and types of use which are planned for removal will be hereinafter considered by the Regulations as "incongruous".

But in case the calculations and other studies show the possibility of reduction or liquidation of the sanitary-protection zone within a short term (with respect to introduction and operation of the Regulations) and appropriate measures have been developed and approved by the state sanitary control agencies - in this case the territory may be referred to the zone type according to its actual use (for example, residential). Actual environmental pollution is factored in as a planning restriction upon certain activities (new housing construction may be prohibited) until the hazardous factor ceases to exist.

Final zoning.

When these basic issues are settled in general, and the Zoning Map is drawn up, planning parameters and construction standards are established for each zone. These materials are subject to consideration by an executive body and by the local community. For this purpose copies of the Zoning Map will be submitted to the concerned government departments with simultaneous public discussions. The public is most of all interested in the quality of the decisions pertaining to the use and development of the territory, the public has own ideas and intentions as well as unique information on specific features of the territory under zoning.

Critical evaluation of the whole zoning project may cause some alterations and amendments: reduction of the number of zone types or introduction of new ones, modifications of the requirements established for each type of zones. Following this evaluation, the boundaries location for each zone are precisely set to ensure the most compact delineation, observing the existing boundaries of land parcels and other factors.

SECTION 3.2 ESTABLISHING ZONE BOUNDARIES

Since the reference of each land parcel to a certain zone in accordance with the Regulations is crucial for further decisions on permitted types of use, types and standards of development, the zone boundaries should be established with utmost care.

At the initial stage of zoning the planning documents provide sufficient information. Under planning and construction norms for populated areas with respect to structural units of territory planning, their boundaries should run along main thoroughfares and residential streets, natural and artificial borders. Such a division may be regarded as preliminary - apparently, it is insufficient for dealing with specific issues related to the application of the Regulations. It should be borne in mind that the Master Plan, due to its purpose and scale, does not represent the location of separate land plots. There is no such need at the initial stage of zoning.

Following a detailed by-zone analysis new ideas with respect to territorial division into zones will emerge. In the course of amending and supplementing the previous zoning, the location of zone boundaries will also be made precise. For this purpose planning documents and development projects which have been worked out for separate districts and territories should be used, as well as topogeodesic surveys in larger scale, land inventories and cadastre materials containing information on the location and boundaries of land parcels.

The following boundaries of functional zones on the territorial Zoning Map should be regarded as more precise:

- **external administrative boundaries of the territory under zoning (existing or suggested by the planning documents);**
- **red lines of streets and thoroughfares which run along the edge of the considered zone (in accordance with approved detailed planning projects, construction projects);**
- **axial lines of streets and thoroughfares at the zone edges;**
- **boundaries of the land plots located at the zone edges;**
- **boundaries of microrraions, residential neighborhoods within red lines;**
- **boundaries of railways, major commodity lines, heat lines, power lines and other infrastructural units;**
- **officially established boundaries of nature-protection and reservation units, resort zone, etc;**
- **natural boundaries (rivers, creeks, etc.).**

While specifying the zone boundaries it is necessary to consider if the use of red lines will cause the inclusion of the street territory in particular zone and the requirements established for this zone will cover the territory of this street as well. In such a way these Regulations may govern the improvement, greenery planting, location of trading kiosks, etc. In case of changing the location of the red lines (and this may be necessary because of some engineering and transport -related considerations) the land plots and buildings may acquire the status of "incongruous" (e.g., if the Regulations limit distances between the constructions and zone boundaries). From this point of view using street axial lines as boundaries will provide more planning flexibility (but the territory of the street will be referred to two zones). When selecting boundaries in each particular case these specific features should be taken into account.

The final location of the zone boundaries is established after the territorial Zoning Map has been discussed by the concerned local governmental bodies, state supervision agencies and public. Their pronouncements should be taken into consideration.

SECTION 3.3 SUBSTANTIATING PLANNING PARAMETERS AND STANDARDS FOR LAND PARCEL DEVELOPMENT IN EACH PARTICULAR ZONE

The establishment of land plot planning parameters and their development standards is an integral part of the territorial zoning, since, as it has been mentioned, the possibility to set up uniform planning characteristics and development standards is the final criterion for referring a certain territory to a particular zone.

Therefore, after the drafters of the Regulations have come to preliminary conclusions on the advisable territorial distribution of main and permitted (additional, supplementary) types of uses and development, based upon the planning documents (preliminary zoning) and detailed examination (by-zone analysis), the division into zones should be specified proceeding from the latter criterion.

What factors should be taken into account while drawing up the Regulations?

1. **THE LAND PLOT AREA.** This indicates the type of rational land use under local conditions. It is established within the limits permitted by land legislation, state construction standards and other norms for various types of use depending upon territorial resources, planning terms, technology and technological and economic studies. The Regulations may establish the minimum and maximum area of a land plot. It is understandable that in a certain type of zone the area of the land plot should meet the requirements established for the main and other uses permitted for this zone type.

2. **THE FRONTAL DIMENSION OF THE LAND PLOT** (its length along the street). This is established in accordance with the plot area, types of use and development permitted for the zone, planning terms, architectural or engineering (including technological) considerations.

3. **DISTANCES** are established from the front, lateral, back parcel boundaries, from the red lines (foreign documents mention "front, back, side yards" which are formed by distancing the building).

Depending on the type of use (industrial, residential facilities, etc) and types of development different regulation measures may be taken. The most common for home practice is the establishment of the distance from the red line, due to it "the construction line" and construction front are formed. The existing normative documents mention other grounds for establishing planning parameters for a land plot (sanitary distances from household constructions, garages, etc.).

It is noteworthy that state requirements to land plot planning in case of residential use concern, in the majority of cases, one-family houses. For example, the distance from the side boundary was fixed due to fire-protection and technological demands (building utilities). As to multi-story buildings located in the districts "belonging to nobody", creation of the appropriate normative base is a burning issue. A methodical base for the division of microrayon territories into plots attached to the residential buildings has already been approved by the government (common decree issued by the State Committee on Urban Development, State Committee on Housing and Communal Facilities, State Committee on Land Resources and State Property Fund # 31/30/53/396 of April 5, 1996). Of course, it is not enough for comprehensive consideration of this problem and the developers of the Regulations should be guided by professional experience in territory planning and development, using various approaches when applying the existing norms on locating constructions, providing all kinds of utilities (passages, special grounds for utilities, etc.) and defining planning parameters of the construction plots in respective zones.

4. **THE CONSTRUCTION AREA** determines the nature of land use and may be established for different zones in absolute units (not exceeding ... sq. meters) or in percentage (... percent of the land plot territory). The establishment of this standard for land plots in a certain zone is mostly aimed at keeping a portion of the territory vacant from constructions for ecological, architectural or functional reasons.

Naturally, this normative requirement should be coordinated with the next two parameters since all of them are very important from the economic point of view.

5. **THE DENSITY OF CONSTRUCTION** defines the intensity of the land use and can be expressed in the amount of housing stock or number of residential units per land plot (or unit of territory).

Differences in construction density can be an influential factor in the division of the territory into different types of zones and they can determine the use of different types of development, or vice versa, which may ensue from those development types which condition the territorial zoning. Which factor will be decisive depends on specific situation (in particular, whether the territory is vacant or already developed), the intentions of the authors of Regulations, etc.

6. **CONSTRUCTION HEIGHT** (in meters, number of stories) is established for each type of zone proceeding from economic, architectural, functional considerations.

Regulation of this parameter (as a rule, maximum height is limited but other variants are also possible) has not only economic implication. The city's general appearance largely depends upon the height of construction. The height of buildings may be a matter of prestige which would entail actual consequences for downtown architecture and also unjustified expenditures.

Height restrictions in the one-family house zones where the territory is used not for residence only, but for economic activities as well, namely, gardening, flower-growing, etc., are justified as they ensure guaranteed insolation regime on the territory attached to the building and prevent conflicts between neighbors. In the city's historical areas where regulation of the building height is suggested so that traditional urban landscape might be preserved, and new buildings' devastating effect upon the sight of the architectural monuments might be prevented, this parameter acts as a factor of additional territorial division into zones or is considered as a planning restriction.

The Regulations may establish other normative requirements, too, as parts of development standards for each type of zone if it is called for by specific circumstances. For example, architectural considerations may prompt the regulation of the roof shapes, nature and color of facades, fences, etc. It can help achieve certain uniformity of the development, though excessive restrictions will limit the freedom of architectural endeavors and will be opposed by owners and investors.

The given list of parameters makes up the planning and development standard for land plots in each type of zones. Not all parameters should be obligatorily used in all cases.

For developed territories the planning and development standards are based on generalized characteristics of the majority of buildings and plots on this territory. The parcels and buildings failing to meet these characteristics are potentially incongruous with the requirements established by the Regulations for a particular zone type. But the final decision on the standards establishment should be preceded by examination of whether they exhaust the Regulations' requirements. The Regulations will be responsible for the whole scope of managing the use and development of land parcels in each zone (only in special cases, stipulated by the Regulations, feasibility studies will be made), and this means that on condition of complying with the Regulations all use and development types (main and additional) permitted for this zone can be established on any land parcel.

Therefore, the standards should meet all the permitted use and development types. The drafters of the Regulations should be absolutely sure that this is so. Perhaps, to keep in line with all previously permitted types of use and development it is worth extending or modifying the standards a bit as they are generalized for the whole territory (if it is possible and does not contradict to the actual use). In other cases it might be advisable to

return to the previously established list of use and development types and make necessary changes in it. Land parcels should have sufficient sizes and areas; distances from their boundaries and red lines must be such as to ensure all types of use and development envisaged for each type of zone, without exception. The location of a certain type of permitted use will depend on the owner's or investor's decision, but the standards should be observed in any case.

It should be taken into account that a land parcel with the established parameters will exist for a long period, during this time the ideas about comfortable living conditions will change, new production technologies will appear as well as new commodities and services. That is why, while defining the planning parameters, especially when the area of a land plot located on the industrial territories is limited, the developers of the Regulations should envisage changes in its future use.

It is advisable for the drafters of the Regulations to have a set of drawings or sketches of typical types of development and other use for each functional zone. This will considerably simplify establishing planning parameters and other standards for a land plot of the minimum size permitted. **Appendix 4** gives an example of such sketch.

Identification of planning and development standards on vacant territories will, probably, require preliminary project elaboration: detailed planning, comprehensive incorporation of engineering, transportation and other factors, substantiation of sizes and uses, of land plots. In this case the standards might include some additional requirements resulting from specific proposals in the new planning documents.

However, in any situation **planning and development standards for land parcels established by the Regulations for each zone should proceed from legal requirements, state construction, sanitary, fire-protection, nature-protection and other norms. They should be oriented towards promoting investments and prevent ungrounded restrictions of personal rights and freedoms.**

Land parcel planning and development standards are set forth in the text of the Regulations in the section dealing with the requirements for each zone type, or they may be summed up in a chart (both variants are possible).

SECTION 3.4. CONSIDERING PLANNING RESTRICTIONS

While using and developing a land parcel additional requirements should be satisfied besides those ensuing from the fact that the land parcel was referred to a certain zone. These additional requirements may be established by existing legislation, state construction, sanitary, nature-protection or other norms depending upon natural or anthropogenic properties of the territories where the land parcel is located.

These requirements (planning restrictions) might apply to certain land parcels, cover a portion of the zone territory or territories of several adjoining zones, and consist in restricting the types of use and development permitted in these zones. The nature and contents of various planning restrictions are stated in relevant legislative and normative acts.

The urban development documents underlying the Regulations on use and development of the territory should identify the areas covered by the restrictions (location of units causing these restrictions, area of influence) and their nature. But if the restrictions affect only one or several land plots, they might not be always marked in the drawings. Besides, the contents of the planning restrictions, normative sources of their imposition are laid down in the planning documents only to the extent consistent with their purpose. For this reason the Regulations should provide a necessary additional analysis.



In the course of preliminary consideration of urban development documents it is advisable to make a list of all planning restrictions for the territory given and study all normative documents establishing these restrictions. A list of main planning restrictions is given in Appendix 5. At this stage consultations with the local executive bodies, state supervising officials responsible for setting up the planning restrictions and supervising their observance seem quite reasonable.

These agencies include:

- **internal affairs bodies (fire-protection, motor inspection department);**
- **environmental protection and nuclear safety bodies;**
- **state sanitary supervision bodies;**
- **agencies of the State Committee for Water Management;**
- **agencies of the State Committee for Labor Protection;**
- **agencies of urban development and architecture (including offices for preservation of historic and architectural monuments);**
- **local public defense headquarters;**
- **territorial bodies of mining supervision and geologic agencies.**

It is necessary to study the whole body of planning documents: the territory under consideration might have a basic historic and architectural plan developed for it, a comprehensive diagram for nature protection, other materials (for example, a chart for archeologic research).

It should be also found out if the normative requirements to planning restrictions might not have undergone modifications following the approval of the planning documents. New restricting factors might emerge or some of the existing ones might become invalid.

On the grounds of specified data the Scheme of planning restrictions is made. The Regulations state the mode of restrictions (permanent, temporary) and the mechanism for factoring them in while establishing the conditions of use and development for each land plot. They mention, in particular, that if a land parcel falls under a number of planning restrictions of different nature (engineering, sanitary, historic and cultural), they are all considered together or a stricter restriction gets precedence over a less strict one.

Planning restrictions factored in by the Regulations may be cited in the text (section "Planning restrictions") in three possible ways:

1. The contents of the normative requirements establishing the planning restrictions is fully reproduced in the Regulations. Normative documents (sources of restrictions) are quoted in full or in part, the information regarding these documents are provided (title, date of issue).

The advantage of such an approach is the exhaustive information and openness of the government's decisions for anyone interested in the Regulations. But it has disadvantages, too. When state norms undergo changes, the text of the Regulations needs to be modified. Normative requirements are mostly worded in specific technical terms - in order to understand them interpretations and comments with respect to application of norms are needed. These actions are permissible only upon the agreement with relevant state supervising bodies.

2. The Regulations state all the planning restrictions operating within the boundaries of the territory covered by the Regulations, and give full information about all effective normative sources. This allows each interested individual to find a respective normative act, to verify the grounds for the government's requirements, to formulate his own proposals or objections.

In this case changes in the norms (issue of new state normative acts) will entail the need to modify the Regulations.

3. The Regulations state all the planning restrictions and all the agencies and offices of an executive body, state supervising bodies which are competent in planning restriction issues, references are provided (addresses, telephone numbers, office hours).

This approach is the most concise and flexible, but the opportunity for interested subjects to obtain objective information will depend upon the efficiency of the state agencies' staff and does not preclude information misuse.

SECTION 3.5 SPECIAL PERMIT FOR TERRITORY USE AND DEVELOPMENT

One of major advantages of the Regulations is the fact that standard mass-scale type of land plot development, permitted in a certain zone, may be easily chosen by real or potential owners and lessees without resorting to complicated administrative procedures.

However, there are such types of use and development which may inappropriately affect the natural and cultural environment and jeopardize human habitation, preservation of historic legacy and landscape, disrupt the planning structure of populated area, etc. When locating them it is necessary to define the planning and construction parameters for each plot and for each type of activities.

Besides, there are units which can be located in one zone according to general procedure, but call for special procedures if they are to be located in a different zone. This means that the need for special approach arises not only because of some particular activity (like industrial production) but also due to the parcel position in the territorial planning structure (in a central zone, in a historic zone, etc).

Proceeding from these factors, the Regulations establish the types of land plot use and development which may be permitted in a certain zone only after considering and assessment of additional information for each case, i.e. obtaining special permits.

The range of cases when it is necessary to ask for a special permit depends on specific features of a particular territory and its zoning (presence or absence of resort, recreational zone, historic and cultural restrictions).

Special permit for territory use and development is required in the following cases:

- for all activities not related to the main function in the recreational, resort, nature-protection, historic and cultural zone (including construction of buildings and structures, temporary placing of kiosks and pavilions, installation of advertising boards and other advertizing);

- for constructing children-care centers, laundries, dry cleaners, production workshops, gas stations, technical maintenance centers for motor cars, water-purification facilities and other objects or groups of objects requiring land parcels exceeding 1.0 hectare in the central business part of a city;

- for constructing administrative buildings, recreational and amusement facilities, municipal facilities serving other territories, water-purification facilities in all residential zones;

- for constructing churches and other places of worship, unique objects of mass people attraction;

- for constructing hospitals, secondary specialized and higher educational establishments, health care establishments.

While drawing up the Regulations this list should be specified for a particular zone.

The procedure for obtaining special permit is as follows:

The investor (who may be assisted by experts or employees of the local Board on Urban Development and Architecture) studies the Regulations and makes sure that the type of land use and development in which he is going to invest money, calls for special permit. There is a variant when the investor submits a written application for a construction permit without studying the Regulations (when he already has a title or a lease to the land plot). In this case the need for a special permit will be established in the course of considering his application, and the applicant will be notified. If the need for a special permit has been established, the relevant agencies of the executive body of the local Rada should examine the additional materials in order to grant a permit.

These materials include:

- locational plan (scheme of the parcel location in the system of adjacent territories and units which may be affected by the proposed type of use);

- site plan representing the existing and proposed location of buildings and constructions, places to keep waste products, parking facilities, passages, etc);

- the information required for decision-making on resource-consumption by the proposed object (its needs in power, water supplies, labor resources), its freight turnover and needs in access transportation lines, its effect upon the natural environment (number of emissions and waste and the level of their sanitary hazard) and architectural appearance of the existing neighborhood, expected number of visitors and transportations, their schedule and routes, need for parking, enclosure, etc.

These materials are prepared by the investor and submitted together with his written application to the Chairman of the Executive Committee of the local Rada with a request to grant a special permit.

The materials are passed for consideration by the Planning Council. It is entitled to demand that the applicant should submit conclusions made by the relevant agencies of the executive body, independent experts, public organizations, etc.

The Planning Council arranges for an open public discussion of the issue preceded by notification of all the parties concerned in accordance with the procedure established by the Regulations.

When considering and drafting a decision on granting a special permit the Planning Council should take into account:

- whether the project is compatible with the permitted types of territory use and development in this zone;

- whether it will not harm the natural and historic and cultural environment;

- whether it will not harm the interests and rights of other physical and juridical entities;
- results of public discussion.

The draft resolution submitted by the Planning Council to the executive body should contain the following propositions:

- to grant a special permit without reservations;
- to grant a special permit with reservations which should guarantee health protection, safety and protection of citizens' wellbeing, and this should be taken into consideration by the applicant;
- to refuse granting special permit.

The draft resolution also establishes special standards for land parcel use and development in accordance with the special permit.

It is advisable to state that special permit is valid for two years following the date of its issue. If the applicant has not started the permitted use of the land plot within this period, he has to renew his special permit.

SECTION 3.6 INAPPROPRIATE USE OF LAND AND CONSTRUCTIONS

In the course of detailed analysis of the territory while zoning it may be determined that there are existing land plots, buildings and structures within the boundaries of certain zones, which do not meet the standards for use and development established for this zone.

Here arise very important questions: is it possible for them to exist in the future in the same condition or obligatory modifications are required? If so, do they require them immediately or within a certain period of time? What requirements should be placed upon their further operation and modifications? What is the procedure for these actions? What kind of the legal status will these plots, buildings and constructions acquire?

The significance of these issues is due to the fact that urban development practice is often ridden with acute problem of the actual use of land versus its projected use. It applies, for example, to the placement of residential, public and other construction in sanitary-protection and other protection zones of industrial enterprises, communication facilities, nature-protection, curative, historic and cultural units, etc. It also refers to reconstruction of the center and other districts of a populated area, renovation of the original appearance of architectural ensembles and groups, blocks and squares, to the location of objects which have different functions, to the existence of alien objects within certain functional zones, to numerous cases when land plots, buildings and constructions are located within red lines of designed streets, roads, squares, etc.

The Master Plans, proceeding from the requirements of the laws, state construction and other norms, suggest, as a rule, to solve these problems in such a way as to achieve the correspondence of land use to all normative requirements. In most cases it is correct. But implementation of these decisions, naturally, requires substantial changes in the functional and planning structure of populated area territory and huge amounts of money. Besides (and this is very important), such decisions affect the interests and rights of individuals and juridical entities - owners or lessees of land plots and buildings, but the problems of their practical implementation transcend the tasks of the Master Plan.

Therefore, the Regulations should tackle these complicated issues on the basis of realistic and consistent approach, not infringing upon anybody's rights and in the interests of the whole territorial development.

That is why the aforementioned land parcels, buildings and structures acquire the status of "inappropriate use", not meeting the requirements of the Regulations. Their legal status is based on the norms of the Land Code of Ukraine stating that the formation of sanitary-protection and other protection zones does not deprive landowners and users whose lands are situated within the boundaries of these zones, of the right to ownership or use with the restrictions established for these zones. The same should apply to other Master Plan provisions concerning the renovation of certain districts in populated areas.

The most important point here is that the Regulations proclaim that any land plot, building and construction which exists by the moment of the adoption of the Regulations but does not satisfy their requirements in terms of use, area, size and other characteristics, may continue to exist, until there is opportunity to modify them. But any modifications are permitted only in accordance with these Regulations and only towards meeting or approximating norms and standards of use established by the Regulations for a given zone.

Thus, changes in the area and other characteristics of a land plot which do not meet the requirements of the Regulations, may be introduced with the purpose and on condition of bringing them in compliance with these requirements (e.g., it is possible to extend the plot area to bring its size in correspondence with the requirements). Changes in designation and characteristics of buildings and structures not complying with the norms and standards for this zone can be made only with the purpose and on condition of bringing them in correspondence with the requirements of the Regulations.

Repair and operation of buildings and structures which do not meet the requirements, as well as their renovation and reconstruction, may be permitted if it does not result in more incongruities. No building or construction which does not meet the requirements can be replaced by another building or construction which does not meet the requirements. If the existing building, not satisfying the requirements, is obsolete, its reconstruction may not be permitted, and a new building may be constructed on this site only in compliance with the standards.

Changes in the type of land use which does not meet the activities permitted in this zone, can be made only with the purpose of making it meet the standards. It is not allowed to change one use, which does not meet the Regulations, for another inappropriate use. If an inappropriate use is terminated for more than a year, the Regulations should prohibit its renovation and continuation. In a case when appropriate and inappropriate uses adjoin each other on a land plot, the inappropriate use cannot be increased or moved in such a way as to occupy the space taken by the appropriate land use.

Any intention of the owners or lessees of land parcels, buildings and structures incongruous with the Regulations should be under strict control.

For this reason owners and lessees of incongruous land parcels, buildings and structures in case of need for changing the area and other parameters of the land plot, its type of use, repair, renovation, reconstruction or replacement of the existing building or structure, submit a written application addressed to the Chairman of the appropriate executive body of the local Rada with a request to grant permission for these actions. Attached to the application are relevant materials which are to demonstrate the possibility of granting their request in terms of the Regulations standards. These materials are considered by relevant executive body agencies, which submit their conclusions to the Planning Council. The Planning Council

discusses all these documents at an open session following the procedure for public discussions.

If the discussion shows that the applicant's actions will lead to greater correspondence to the Regulations, the Planning Council will draft a positive resolution of the local Rada. If not, the denial of the request will be recommended. It is advisable that this approach and these procedures be used for implementing all the rest of the relevant provisions of the Master Plan for populated areas.

Naturally, there are cases when rigid and unequivocal terms should be established for bringing land plots and buildings in compliance with the Regulations. It applies to units whose operation is harmful for human health and safety, first of all industrial enterprises which are sources of considerable environmental pollution, of technogenic emergencies hazardous for residents and the environment, etc. All these objects should be identified in the Master Plan materials and information provided by local or regional and national state supervision agencies (health care, natural environment protection and nuclear safety, civil defence) and in the list of activities and units of increased ecologic hazard which was approved by the Cabinet of Ministers of Ukraine on July 27, 1995 (#554).

As a result of consultations with these agencies and appropriate enterprises the terms should be established for bringing them in compliance with the standards. The methods for its achievement (modernization or reorientation of enterprises, their removal, liquidation of residential construction, etc) are established and financed by the enterprises which are the sources of hazardous factors, upon the agreement with local executive body.

SECTION 3.7 COMPELLED DISPARITY

As mentioned above, the Regulations establish unified planning and development standards for land parcels within a certain zone. They include the maximum permissible area, length, width of land plot.

There are cases, however, when an existing land parcel does not meet the standards established for a zone where it is situated in terms of size, length, width, etc. As a result, the types of use permitted for the zone cannot be established on it. Physically, or for other reasons, it is impossible to bring the plot in correspondence with the norms and standards established for a zone.

The local Rada will grant such parcels a special legal status of "compelled disparity" and, by a special decision, may establish individual standards for them. For this purpose the land parcel owner or a physical or juridical entity wishing to obtain a permission for its purchase or lease, submits a written application to the Chairman of the local executive body together with the materials describing the parcel. These materials are studied by the Planning Council at an open session with the participation of persons concerned.

The submitted materials should prove convincingly that the introduction of individual standards for use and development of the land parcel which fails to meet the zoning requirements, is:

- necessary for efficient use of the land stock;
- not harmful for the interests of the territory and does not infringe upon the rights of neighbors;
- admissible in terms of ecologic and esthetic requirements and acceptable from the point of view of the Master Plan.

SECTION 3.8 DEFINITIONS, OR GLOSSARY

The Regulations are a legal document, widely used in making decisions on the use of land parcels and other real estate, belonging to different physical or juridical entities.

The Regulation requirements should be worded in clear legal language. Vagueness or ambiguities in the key terms used in the Regulations may result in accidental or deliberate misinterpretation of the objects and procedures mentioned in the Regulations. It may lead to violation of the Regulations, numerous conflicts and even court litigation.

To prevent that it is advisable to provide the text of the Regulations with a section supplying the definitions of the major notions or with a terminological vocabulary (glossary). Its purpose will be to explain the meaning of the terms which are of primary importance for understanding and complying with the Regulations. Excessive volume of the glossary is not desirable since this will not be consistent with its functional role. In particular, it is not worth including the terms which are not used directly in the text of the Regulations, even though they might be related to the implementation of the Regulations.

First of all, the glossary should explain the names of the objects used in the Regulations. There is no need to interpret commonly known words. But if the Regulations use the term "land parcels" and "parcels" in the similar context, their identity should be pointed out. Alongside with the term "zone", the word "district" may be used - and it should be emphasized that not a city or administrative district is meant here. The following definition may be proposed:

"Zone or district - is a portion of territory within the boundaries of which the Regulations establish identical requirements to use and identical development standards for all the plots".

It is advisable to define in the glossary the professional terms which are important for the Regulations - those concerning the land parcel planning, characteristics of buildings and constructions: red lines, construction line, height of building, capital building, apartment house, multi-unit building, one-family building, etc. A considerable portion of these terms is defined in legal and normative documents, for the rest professional literature should be consulted and the lawyer's advice should be sought.

Secondly, it is necessary to explain the procedural concepts. And again, there is no need to interpret commonly used and understandable terms, as well as those explained in details in corresponding sections of the Regulations (for example, "inappropriate use", "compelled disparity", "construction permit").

Some terms ("construction", "capital construction") are being specified now, in the process of shaping the construction legislation, in particular, in the process of drawing up the draft Law "On Construction". Special attention should be paid to a procedural term "beginning of construction" - it has a criterial meaning for compliance with legislation and the Regulations. So far there is no generally accepted criterion to determine whether a subject has actually begun the construction in response to the obtained permission or not. Probably, the local government will be entrusted with formulating grounds for taking a special decision on this matter, and this can be done in the course of applying the Regulations. That is why the definition of the terms may include quantitative characteristics having criterial meaning.

For the glossary to be handy, it is recommended to arrange the terms in alphabetic order.

AFTERWORD

This book is the first publication dealing with the problem of elaborating new mechanism aimed at regulation of urban land use and development and implementation of this mechanism in the practice of administration in Ukraine. The authors' task was to touch upon the problems connected with application of this new modern means of administration-Regulations on territory use and development - at the transitional stage, and to disclose methodical approaches to drawing up the Regulations.

Paying attention to the advantages given by these Regulations, the authors, however, appraise the situation properly and realize that certain difficulties will be encountered while implementing these Regulations. In particular, it concerns expert, material and technical facilitation of the Regulations' drawing up since this work will be done mostly locally. Not everywhere highly qualified specialists are available. Psychologic inertia, wish to keep to traditional forms and methods in solving administrative issues will also hinder the successful implementation of the Regulations at the initial stages. So far a subject possessing public consciousness, whose interests are closely connected with the quality of planning and practical management of territory use, has not emerged. And this subject should act as a supporter and motive power in implementation of these Regulations. The existing legal and normative base is not devoid of certain drawbacks and contradictions.

On the other hand, however, the intention to use the Regulations and practical actions on their drawing up will help to overcome the difficulties mentioned. The main factor, in authors' opinion, is awareness of local management specialists, experts and public of the necessity to implement these Regulations and their firm will to make their intentions true. It is confirmed by the fact that the Regulations have already been drawn up and effective in one of the oldest and wonderful cities of Ukraine: on May 24, 1995, Chernihiv City Rada approved the Regulations on use and development of the territory of the City of Chernihiv. In general, these Regulations are in line with the principles mentioned in this book. The experience, acquired in Chernihiv, was approved and proposed for extension at the session of the Scientific and Technical Council of the State Committee on Urban Development of Ukraine. So the first step has already been made.

Great interest in the Regulations was shown in a number of cities - Poltava, Odesa, Dnipropetrovsk, L'viv, Kharkiv, etc. We hope that when more experience is accumulated the pace of drawing up the Regulations in Ukraine will accelerate. And the authors sincerely wish great success to those who want to make special efforts, thus hastening the process of introducing changes and implementing modern means in regulating urban land use.

APPENDICES

APPENDIX I. LIST OF POSSIBLE ZONE TYPES AND LIST OF POSSIBLE LAND USES AND DEVELOPMENTS IN EACH ZONE TYPE

APPENDIX II. SKETCHES FOR ESTABLISHING STANDARDS FOR LAND PARCEL PLANNING AND DEVELOPMENT IN A ZONE

APPENDIX III. ESTABLISHING PLANNING RESTRICTIONS

APPENDIX IV. SAMPLES OF INFORMATION PROVIDED BY THE LOCAL MASS MEDIA

APPENDIX V. MAP OF TERRITORY ZONING (INSTANCES)

APPENDIX VI. SCHEME OF PLANNING RESTRICTIONS

**APPENDIX I. LIST OF POSSIBLE ZONE TYPES AND LIST OF
POSSIBLE LAND USES AND DEVELOPMENTS
IN EACH ZONE TYPE**

The following major zone types can be established for urban territory:

I

Ж1 - residential zone with one- family (cottage) constructions with one residential building located on each land plot.

Ж2 - residential zone with medium-story constructions.

Ж3 - residential zone with multi-story constructions.

II

Д1 - secondary business zone (service centers for residential districts).

Д2 - central business zone (city downtown).

III

П1 - industrial zone with enterprises of the II-III classes according to sanitary classification of production.

П2 - industrial zone with enterprises of the IV-V classes according to sanitary classification of production.

П3 - utilities and storage zone.

IV

Р1 - resort zone.

Р2 - dacha and recreational zone.

Р3 - city landscape and recreation zone.

Р4 - zone of state historic and cultural preserve.

Р5 - zone of state nature preserve.

The following requirements to use and development of these types of zones can be established:

Ж1 - RESIDENTIAL ZONE WITH ONE-FAMILY (COTTAGE) CONSTRUCTIONS
with one residential building located on each land plot.

The following types of use and development are permitted:

1. *One- and two-unit residential isolated buildings.*
2. *Comprehensive (three-level) and specialized secondary schools.*
3. *Extracurricular children's establishments (on a special permit).*
4. *Pre-school children's establishments including those forming one unit with elementary schools.*
5. *Customer-service units, isolated or built-in or added in construction to other buildings: stores, beauty parlors, drugstores, cafes, snack-bars, tailors's, repair and small-scale manufacturing shops.*
6. *Isolated administrative buildings for local customer services: post-offices, police stations, saving-banks, administration offices, municipal utilities.*
7. *Churches (on a special permit).*

8. Places for public rest.
9. Technical buildings and constructions servicing this zone or the whole city (on a special permit).
10. Temporary pavilions and kiosks for all types of retail trades and services (on a special permit).

Additionally, it is permitted to locate on each plot:

1. An isolated, or built-in, or added in construction a motor car garage at a rate: one garage per unit.
2. Household structures, isolated, built-in or added in construction.
3. Conservatories and hothouses.
4. Outhouses if there is no centralized sewage.

It is permitted to grow flowers, fruits, vegetables on the plot, to store compost, to keep poultry, to be employed in individual business activities on condition that these are consistent with good-neighborly relationship.

The zone is developed according to the standards set up in items 3.18- 3.26 of ДБН 360-92* (State Construction Norms).

X2 - RESIDENTIAL ZONE WITH MEDIUM-STORY CONSTRUCTIONS

The following types of land use and development are permitted:

1. Isolated and blocked residential buildings with 1, 2, 3, 4 units with the possibility of allocating land plots.
2. Multi-unit buildings not exceeding 4 stories.
3. Comprehensive (three-level) and specialized secondary schools.
4. Extracurricular children's establishments (on a special permit).
5. Children's pre-school establishments, including those formed one unit with elementary schools.
6. Churches.
7. Isolated, built-in, or added in construction office and service buildings: food-stores and general stores, including specialized commodity stores, small-scale public-catering centers, cultural, customer-service and municipal offices, drugstores, post-offices with the actual space of no more than ... sq. meters.
8. Health care, recreation, hiking establishments, physical training and sanitary establishments (on a special permit).
9. Technical buildings and constructions for servicing this zone and the whole city (on a special permit).
10. Temporary pavilions and kiosks for all types of retail trading and services (on a special permit).
11. Greenery planting.

It is also permitted:

1. Location of isolated, built-in, or added in construction motor car garages on the plot with a one-two-unit building at a rate: one motor car per unit.
2. Location of motor-car garages on the plot attached to a multi-unit building for special categories of individuals entitled to social benefits.
3. Location of motor-car garages and household premises in the basement and ground floors of residential buildings.

4. *Location of motor-car parking lots, household, playing- and sports-grounds.*

Buildings and constructions should be placed in such a relation to each other, and improvement and greenery planting on undeveloped territories should be carried as it is given in ДБН 360-92*.

Ж3 - RESIDENTIAL ZONE WITH MULTI-STORY CONSTRUCTIONS

The following types of use and development of the territory are permitted:

1. *Isolated and blocked one-, two-, three- and four-unit residential buildings.*
2. *Isolated and blocked residential buildings with no more than 10 stories.*
3. *All types of comprehensive and specialized secondary schools.*
4. *Isolated, built-in and added in construction extracurricular children's establishments (on a special permit).*
5. *Isolated, built-in and added in construction pre-school children's establishments, including those forming one unit with the elementary school.*
6. *Isolated, built-in and added in construction administration offices, trading, service and catering centers.*
7. *Churches (on a special permit).*
8. *Health care, recreation, hiking, physical training and sanitary establishments (on special permit).*
9. *Technical buildings and constructions.*
10. *Temporary pavilions and kiosks for all types of retail trading and services.*
11. *Greenery planting.*

It is also permitted:

1. *Location of isolated, built-in, or added in construction motor car garages on the plot with a one-two-unit building at a rate: one motor car per unit.*
2. *Location of motor-car garages on the plot attached to a multi-unit building for special categories of individuals entitled to social benefits.*
3. *Location of motor-car garages and household premises in the basement and ground floors of residential buildings.*
4. *Location of motor-car parking lots, household, playing- and sports-grounds.*

Buildings and constructions should be placed in such a relation to each other, and improvement and greenery planting on undeveloped territories should be carried as it is given in ДБН 360-92*.

II

Д1- SECONDARY BUSINESS ZONE (SERVICE CENTERS FOR RESIDENTIAL DISTRICTS)

The following types of land use and development are permitted:

1. *Organizations and agencies of representative, executive and judicial power of the city districts.*
2. *Inter-school centers for computer literacy and industrial training.*
3. *Lyceums, colleges.*
4. *Art, music and other specialized children's schools.*
5. *District hospitals, outpatient clinics, dispensaries, first-aid centers (on a special permit).*
6. *Drugstores.*
7. *Bank branches (affiliations).*
8. *Trading centers, specialized and other stores engaged in retail trade in periodical demand commodities.*

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9. Market-places.
10. Restaurants and cafes.
11. Movie theaters.
12. District libraries, clubs leisure centers.
13. District post-offices.
14. Notary and lawyer's offices.
15. Churches (on a special permit).
16. Hotels (on a special permit).
17. District physical-training and sanitary centers (with outdoor and indoor swimming-pools).
18. Customer-service centers.
19. Fire-fighting depots.
20. Public toilets.
21. Parking lots for temporary parking.
22. Underground motor-car garages.
23. Gas stations (on a special permit).
24. Fountains, small parks, gardens.
25. Temporary pavilions and kiosks for all types of retail trade and service (on a special permit).
26. All other uses permitted for **Ж2** and **Ж3** which can be located in an isolated buildings or at any floor of a building having another use.

Buildings and constructions should be placed in such a relation to each other, and improvement and greenery planting on undeveloped territories should be carried as it is given in ДБН 360-92*.

Д2 - CENTRAL BUSINESS ZONE (CITY DOWNTOWN)

The following types of land use and development are permitted:

1. Organizations and agencies of oblast and city representative, executive and judicial bodies.
2. Secondary and high specialized educational establishments.
3. Specialized hospitals and health centers.
4. Consultative outpatient clinics.
5. Banks.
6. Offices of public and professional organizations.
7. Research and development organizations.
8. Trading centers, firm-owned and other stores engaged in retail trading in sporadic-demand commodities.
9. Restaurants and cafes (including those owned by one firm).
10. Theaters, movie theaters, concert halls, circus.
11. Museums, exhibition halls.
12. Specialized and city libraries.
13. Specialized clubs.
14. Radio and TV broadcasting stations.
15. Central communication services (post-office, telephone exchange, telegraph facilities).
16. Hotels.
17. City and specialized sports centers with indoor swimming-pool.
18. Universal sports and performance facilities.
19. Tourist centers.
20. City and specialized customer-service centers.
21. Parks and other city greenery-planted territories.
22. Parking lots for temporary motor-car parking, underground garages.

23. Gas stations (on a special permit).
24. Printing-houses, publishing houses and editorial offices.
25. Laundries, dry cleaner's (on a special permit).
26. Temporary pavilions and kiosks for all types of retail trade and service (on a special permit).
27. All other uses permitted for **Д1**, residential zones **Ж2** and **Ж3** which can be located in isolated buildings or at any floor of a building having another use.

Buildings and constructions should be placed in such a relation to each other, and improvement and greenery planting on undeveloped territories should be carried as it is given in ДБН 360-92*.

III

П1 - UTILITIES AND STORAGE ZONE.

The following types of land use and development are permitted:

1. Food industry enterprises, class V according to sanitary classification of production (flavouring substances, meat, dairy products) (on a special permit).
2. Trading facilities, fruit and vegetable facilities (general store-houses, distributing refrigerators, fruits and vegetables centers, potatoe, vegetables and fruits storage facilities).
3. Prepared- and convenience-food-producing enterprises.
4. Garages, parking lots and transport facilities (motor-car technical maintenance centers, gas stations, trolleybus depots, bus and taxi-cab parks).
5. Gas stations (on a special permit).
6. Customer-service centers (large-scale laundries, dry cleaner's, appliances, clothes, furniture repair).
7. Machinery, production and non-production repair plants.
8. Municipal utility enterprises (road-cleaning vehicle parks, housing operation and repair centers, engineering communication centers).
9. Fire-fighting depots (on a special permit).
10. Veterinary clinic.
11. Cemeteries.
12. Public center of the zone:
 - public and business offices;
 - research and development organizations and information-providing offices;
 - specialized secondary educational establishments;
 - professional re-training and personnel training establishments;
 - first-aid sub-centers;
 - outpatient clinics;
 - drugstores;
 - retail trading stores for periodical-demand commodities;
 - cafes;
 - procurement enterprises;
 - technical libraries;
 - leisure centers, clubs;
 - exhibition halls;
 - post-offices;
 - bank branches (affiliations);
 - hotels;
 - sports facilities;

- customer-service facilities;
- fire stations;
- laundries;
- temporary pavilions and kiosks for all types of retail trading and services;
- public toilets;
- gardens and other territories with planted greenery

13. Planted greenery of sanitary-protection zone.

Territory should be used and buildings and constructions should be placed in accordance with ДБН 360-92*.

П2 - INDUSTRIAL ZONE WITH IV-V CLASSES ENTERPRISES ACCORDING TO SANITARY CLASSIFICATION OF PRODUCTION

The following types of land use and development

- 1. IV-V class production enterprises in accordance with state sanitary norms;*
- 2. All enterprises, offices and organizations permitted in П1 zone.*

100 m -wide sanitary-protection zone is designed for planting greenery and locating units in accordance with state sanitary norms.

The zone territory should be equipped with railway tracks.

Territory should be used and buildings and constructions should be placed in accordance with ДБН 360-92*.

П3 - INDUSTRIAL ZONE WITH II-III CLASSES ENTERPRISES ACCORDING TO SANITARY CLASSIFICATION OF PRODUCTION

The following types of territory use and development are permitted:

- 1. II-III classes production enterprises in accordance with state sanitary norms;*
- 2. Enterprises with special production conditions (highly explosive, etc.) including oil plants (on a special permit).*
- 3. Communication-operating plants (including purification facilities) for domestic and industrial sewage (on a special permit).*
- 4. Garbage-processing plants.*
- 5. Controlled unimproved dumping sites for sewage, liquid organic, domestic waste and solid rotting waste.*
- 6. Improved dump sites for solid waste (on a special permit).*
- 7. Railway passenger and freight stations (on a special permit).*
- 8. Ports and river transportation facilities (on a special permit).*
- 9. All enterprises, offices and establishments permitted in П2 zone.*

500 m-wide sanitary protection zone is designed for greenery planting and locating units in accordance with state sanitary norms.

The territory should be equipped with railway tracks.

The zone territory should be used and enterprises and offices should be located in accordance with ДБН 360-92*

IV

P1 - RESORT ZONE

The following types of land use and development are permitted:

- 1. Sanatoriums of various types (for children, adults, parents with children).*

2. Preventive clinics.
 3. Sanatorium-type vacation camps for schoolchildren.
 4. Holiday hotels for adults.
 5. Holiday hotels for families.
 6. Motels.
 7. Resort inns.
 8. Tourist inns.
 9. Holiday centers belonging to enterprises and establishments.
 10. Youth camps.
 11. Pre-schools's holiday centers.
 12. Hiking centers for adults.
 13. Hiking centers for families with children.
 14. Camping-sites.
 15. Hotels.
 16. Health care centers for senior schoolchildren.
 17. Beaches.
 18. Public centers with general resort units and establishments:
 - treatment service (resort outpatient clinics, water-cure centers, curative swimming-pools);
 - culture and arts, leisure facilities (halls, movie theaters, libraries, reading-rooms, dance halls and grounds, casinos, attractions, etc);
 - physical training and sports facilities (gyms, outdoor and indoor swimming-pools, skating-rink with artificial ice, boat stations, yacht-club, etc.);
 - commercial and public catering facilities (food and commodity stores, restaurants, cafes, etc.);
 - customer-servicing (clothes, footwear, leather goods, household appliances, clocks and watches repair center, dry cleaner's, hire centers for resort equipment, photo studios, hair dresser's and barber's shops, saunas, bath-houses, etc);
 - management and communication (post-office, telegraph, telephone exchange, operation and technical management, tourism and excursion agency, etc);
 - saving-banks, bank branches;
 - gas stations (on a special permit);
 - greenery planting (common use resort parks, rest zone parks, walking-paths, gardens, boulevards, forest-parks and forests, parks attached to sanatoriums and holiday centers).
- The zone territory should be used and enterprises and offices should be located in accordance with ДБН 360-92**

P2 - DACHA AND RECREATION ZONE

The following types of use and development are permitted:

1. *Dacha 1-2 story houses.*
2. *Household buildings.*
3. *Conservatories and hothouses.*
4. *Outhouses*

It is permitted to grow flowers and agricultural products on the plots, to store compost, to keep poultry and rabbits, to be engaged in individual activities on condition that these do not violate good-neighborly relations.

The following construction is permitted on the zone territory:

1. *Non-capital buildings for small-scale enterprises for seasonal processing of orchard's produce.*
2. *Pavilions and counters for the sale of grown agricultural products, agricultural instruments and equipments, with actual space of not more than ... sq. meters.*
3. *Cafes, snack-bars.*
4. *Small stores with actual space of not more than... sq. meters.*
5. *Parking lots (on a special permit).*
6. *Gas stations (on a special permit).*

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If the norms are observed, it is possible to transfer the dacha-houses into housing stock category.

P3 - CITY LANDSCAPE AND RECREATION ZONE

The following types of territory use and development are permitted:

1. *Planting the greenery (parks including specialized ones).*
2. *Landscapes under protection.*
3. *Rest zones, recreational establishments.*
4. *Water stretches and beaches.*
5. *Temporary pavilions and kiosks for any types of retail trading and services.*
6. *Isolated administration and utilities buildings.*
7. *Fountains and small water reservoirs.*
8. *Small decorative forms.*
9. *Animal menageries, conservatories.*
10. *Parking lots for holiday-makers and gas stations (on a special permit).*

The construction and improvement should comply with the standards set in items 5.1 -5.13, ДБН 360-92*.

P4 - ZONE OF STATE CULTURAL AND HISTORIC PRESERVE

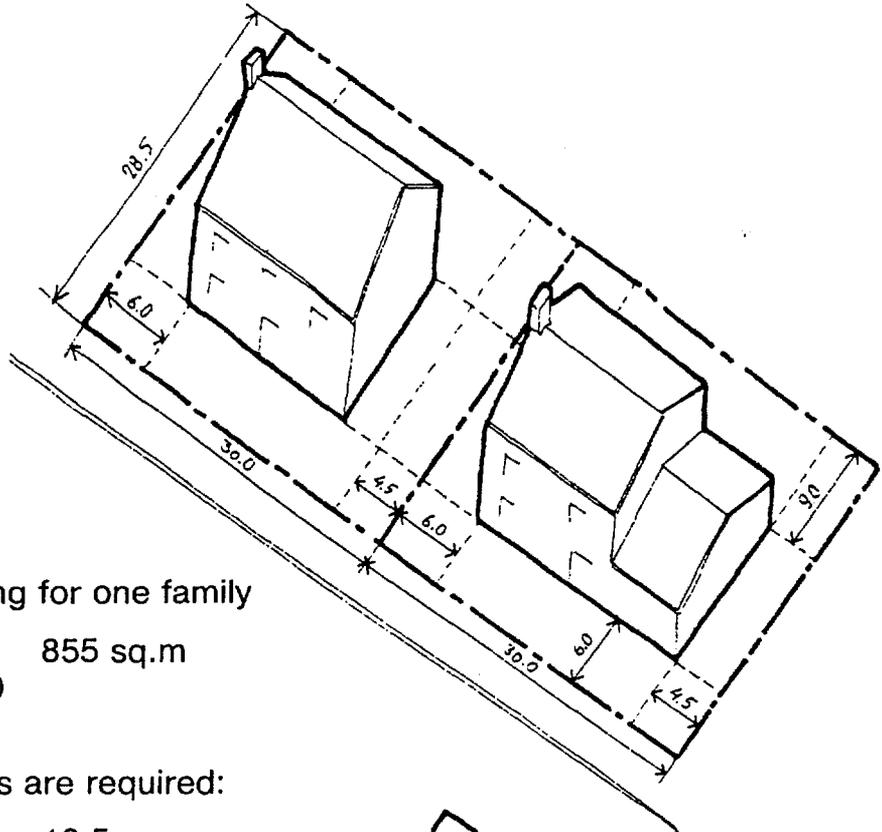
It is permitted to use the territory in accordance with the Regulations on State Historic and Cultural Preserve.

P5 - ZONE OF STATE NATURAL PRESERVE

It is permitted to use the territory in accordance with the Regulations on State Natural Preserve.

**APPENDIX II. SKETCHES FOR ESTABLISHING STANDARDS
FOR LAND PARCEL PLANNING
AND DEVELOPMENT IN A ZONE**

**SKETCHES FOR ESTABLISHING STANDARDS FOR LAND PARCEL PLANNING
AND DEVELOPMENT IN A ZONE**
(Instances from foreign practice. Dimensions are given in meters).

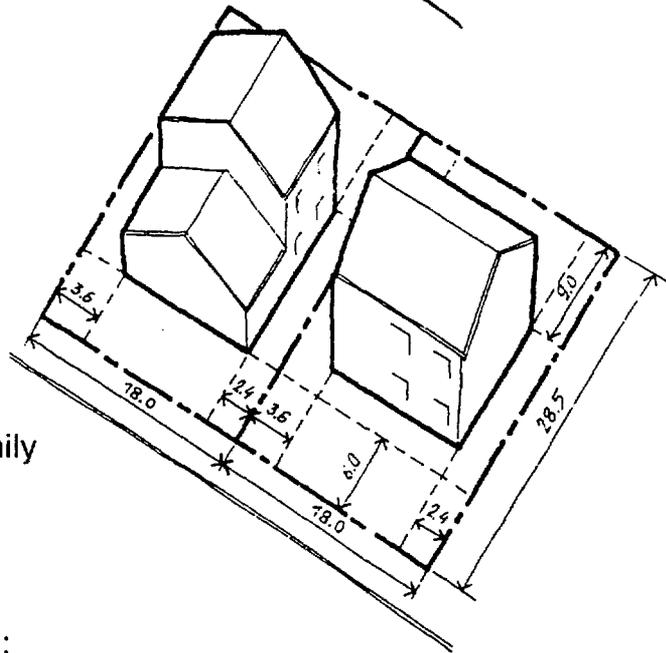


R1-1 A building for one family

Plot area 855 sq.m
Plot width 30
Front yard 6

Two side yards are required:

total area 10.5
minimum area 4.5



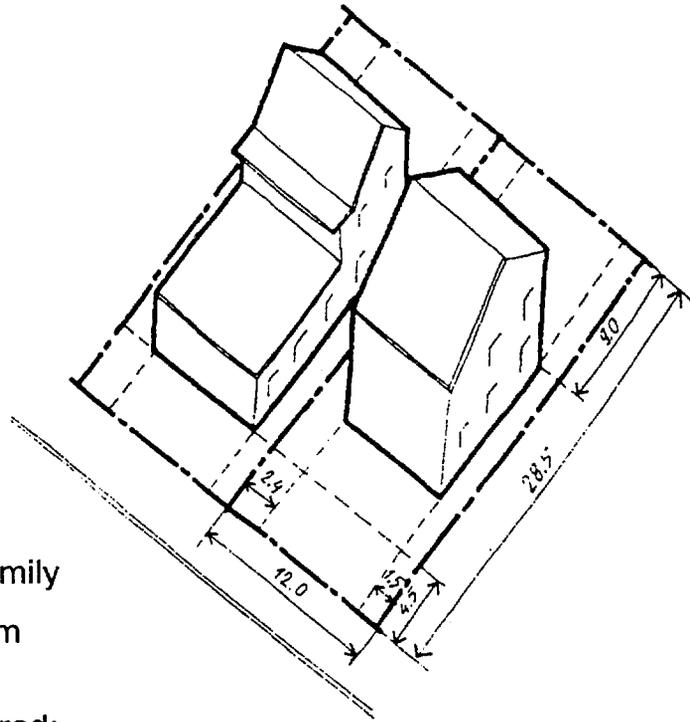
R1-2 A building for one family

Plot area 855 sq.m
Plot width 30
Front yard 6

Two side yards are required:

total area 10.5
minimum area 4.5

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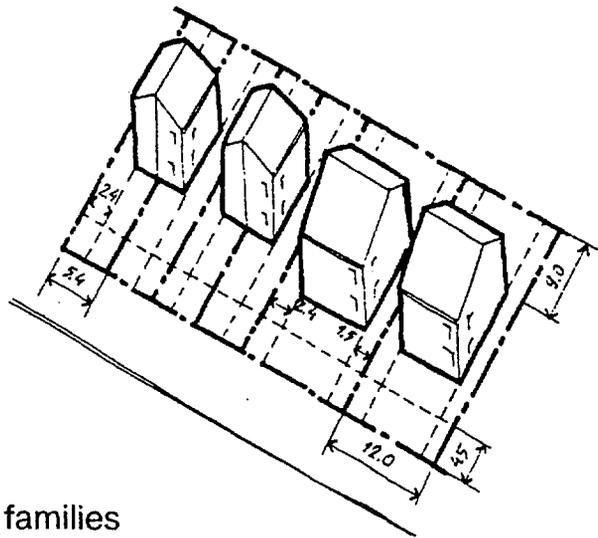


R2 A building for one family

Plot area 432 sq.m
 Plot width 12

Two side yards are required:

total area 3.9
 minimum area 1.5

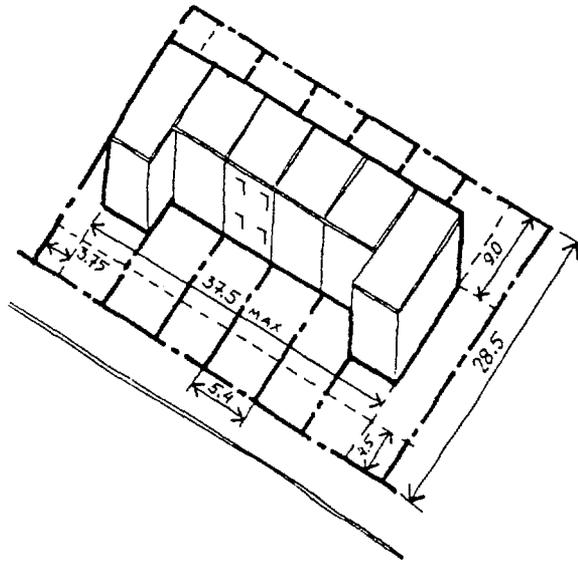


R3-1 Buildings for one or two families

Minimum plot area 513 sq.m
 Minimum plot width 18
 Front yard 4.5

Two side yards are required for two plots:

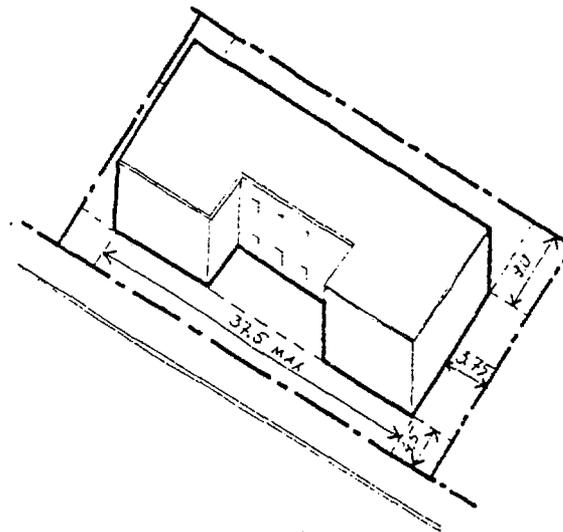
total area 3.9
 minimum area 1.5



Blocked building

R3-2 Multi-unit building

One yard is envisaged, its length making 100% of the building's length



Whole (one-piece) building

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**APPENDIX III. ESTABLISHING
PLANNING RESTRICTIONS**

ESTABLISHING PLANNING RESTRICTIONS

№	Territories covered by restrictions	Legal and normative grounds for establishing planning restrictions
1	Normative sanitary-protection zones of industrial, agricultural, transport, municipal, storage objects and enterprises and emanating constructions of TV and radio broadcasting lines	Articles 68, 69 of the Land Code Article 25 of the Law "On Protection of Atmospheric Air" Article 27 of "Ukrainian Legislation on Health Protection" Code of norms 245-271 "Sanitary norms for planning industrial enterprises" State Construction Norms 360-92, is.10 Boundaries are defined by approved projects of sanitary-protection zones, urban development documents.
2	Second district zone of resort sanitary protection	Article 73 of the Land Code is.10,15 of the "Regulations on Resorts" approved by the USSR Cabinet of Minister's Decree #654 on 05.09.73 Boundaries are defined by the projects of the resort sanitary protection districts.
3	Where main and engineering networks are located (water, gas, heat supply, drainage systems, overflow pipes, cable lines)	Article 40 of the Land Code
4	Protection zones of territories and objects of natural preserves and historic and cultural protection, zones of regulated construction	Article 72 of the Land Code Articles 11, 12, 39, 40 of the Law of Ukraine "On Natural Preserve Stocks of Ukraine" Articles 7, 29 of the Law of Ukrainian SSR "On Protection And Use Of Historic And Cultural Monuments" Boundaries are defined by approved projects for territories and objects of natural preserve stocks, historic and cultural monuments, urban development documents
5	Water protection zones including coastal strips of small and major rivers and reservoirs	Article 72 of the Land Code "Regulations on Water Protection Zones Of Small Rivers and Reservoirs" approved by the UkrSSR Cabinet of Ministers' Decree # 462 of 06.09.77, "Provisional Regulations On Establishing Water Protection Zones And Coastal Strips of Rivers And Reservoirs in Ukrainian SSR And Regimen Of Economic Activities On Its Territory" approved by the Ministry of Melioration and Water Resources of Ukrainian SSR in 1984

№	Territories covered by restrictions	Legal and normative grounds for establishing planning restrictions
6	Unfavorable for construction because of engineering and geologic factors (relief, state of soils, flooding with subsoil waters, karsts, displacements, ravines, subsidence, excess of peat, mud-torrents, high seismic properties)	State Construction Norms ДБН 360-92, is. 9.1 Boundaries of the territory are defined by urban development documents, materials of mining and geological substantiation, hydrotechnical charts, charts of dangerous geologic processes
7	Normative protection zones of pipe-lines and storage facilities for oil products, inflammatory substances, quarries where explosions and other dangerous works are performed	СНП (Code of Norms and Regulations) 2.04.08-87 "Planning of new, expansion and reconstruction of gas supply systems located at the populated area territory" СНП 2.05.13-90 "Oil pipe lines which are being constructed on the urban and other populated area territories" "Safety rules for gas facilities" approved by the USSR State Committee of Atomic Supervision on 26.10.90 "Rules for technical operation of main oil pipe lines" approved by the USSR Ministry of Oil Industry on 14.07.84 "Rules for technical operation of main oil pipe lines" approved by the USSR State Committee on Oil Products on 23.07.84 "Rules for operating main pipe lines for liquid ammonium hydrate transportation (main ammonia pipe lines)" approved by the USSR Ministry of Fertilizers in 1988 "Rules of technical safety and industrial sanitary used in operation of oil reservoirs and gas stations" approved by the USSR State Committee on Oil Products on 16.11.87 "Rules for technical operation of oil reservoirs" approved by the USSR State Committee on Oil Products on 28.12.84 "Common safety rules observed during blasting operations" approved by the State Committee of Ukraine on mining works supervision on 25.03.1992 Boundaries are defined by approved projects of engineering constructions and objects.

**APPENDIX IV. SAMPLES OF INFORMATION PROVIDED
BY THE LOCAL MASS MEDIA**

**ON STARTING WORK ON DRAWING UP THE REGULATIONS
ON TERRITORY USE AND DEVELOPMENT**

**Notice to the residents of....., owners and users of land parcels, buildings
and other real estate, developers and investors**

In order to fulfil decision of the local Rada of People's Deputies and in accordance with the Law of Ukraine "On Urban Development Principles", Land Code of Ukraine and Law of Ukraine "On Local Radas Of People's Deputies And Local And Regional Self-Government" City Executive Committee has started work on drawing up the Regulations of use and development of the city territory.

The Regulations envisage the division of the city territory into zones (districts) in accordance with type of uses which have been established already and taking into account the development perspectives proposed by the city Master Plan approved by decision of session of Rada of These Regulations will establish for each zone conditions of use and development standards for each land parcel in accordance with the existing legislation, state construction, nature protection, sanitary and other norms which should be observed by all physical and juridical entities involved in urban development of the territory.

These Regulations will improve administrating the use and development of the city territory and help in solving issues on transfer into ownership, allocation for use, withdrawal of land parcels for public and state needs, location and realization of all types of urban development, reconstruction and repairs of buildings and constructions, improvement and engineering equipment of the territory and other issues.

The Regulations imply public participation, that of owners and users of land parcels and other real estate when solving the most important issues of urban development and improvement of its financial situation. Application of the Regulations on land use and development will favor for simplified procedure of administrative solutions, making investments to the city development, prevention of land- and property-related conflicts as well as prevention of aggravation of engineering and technical , ecologic and esthetic state of land and buildings.

The work on drawing up the draft Regulations will last

Detailed information on the task and contents of the Regulations is available at the State Board on Urban Development and Architecture of the City Executive Committee (zip code, address, telephone number, office hours), Department (Board) of Land Planning (zip code, address, telephone number, office hours), Department of Law (Board) (zip code, address, telephone number, office hours).

All persons and juridical entities having any remarks and propositions regarding drawing up the Regulations on use and development of the city territory, may submit them personally or by mail to the above mentioned addresses before The City Executive Committee guarantees that each remark and proposition will be considered and taken into account when drawing up the Regulations.

ON PUBLIC DISCUSSION

Notice to the residents of (district, street)

Public discussion on granting a SPECIAL PERMIT to locate (name of construction) in accordance with the decision of the Planning Council of the city of will be held ... (date, address).

Public discussion will be held according to the requirements of the Regulations on use and development of the territory of the city approved by decision.... of the City Rada of ... N... .

All physical and juridical entities concerned, all wishing to participate, are invited.

The information regarding the location of the constructing site ... (name of the object) and its construction, ecologic and other characteristics may be obtained at the Board of Urban Development and Architecture of the city (zip code, address, telephone number, office hours).

Physical and juridical entities being the owners or users of land parcels situated in the said district and having remarks and propositions on the proposed location of the construction, may submit them orally or in written form to the City Board on Urban Development and Architecture prior to public discussion or directly during the discussion which will be held at the mentioned address.

On the Planning Council decision, the conclusion of public discussion will be taken into account when drafting resolution of the City Executive Committee on granting a SPECIAL PERMIT to locate the construction of ... (name of the object).

MAP OF TERRITORY ZONING



Conventional Signs

- Ж1 - residential zone with cottage constructions
- Ж2 - residential zone with 2-4 storeyed constructions
- Ж3 - residential zone with 4-5 storeyed block constructions
- Ж4 - residential zone with multistoreyed (9 storeys and more) constructions
- Ж5 - residential zone with 5-storeyed microrayon constructions
- К1 - central commercial and business zone
- К2 - secondary commercial and business zone
- П1 - industrial zone with the enterprises of the II-III classes according to sanitary classification of production
- П2 - industrial zone with the enterprises of the IV-V classes according to sanitary classification of production
- П3 - utilities and storage zone
- Р1 - city landscape and recreation zone
- Р2 - dacha and recreation zone
- Т1 - outward transport zone

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SCHEME OF PLANNING RESTRICTIONS



Conventional Signs	
	territory of architectural monuments
	boundary of the architectural monuments protection zone
boundaries of the zones with limited construction height	
	not higher than 10 meters
	not higher than 15 meters
	not higher than 30 meters
	boundary of the zone of strict development regulation (protection of the valuable historic zone)
	boundary of sanitary-protective zone of an enterprise
	boundary of the flooded zone

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