

Environmental and Legal Requirements For Zoning of Urban Areas

Guzal Uzakova Sharipovna

Professor of the Environmental Law Department of Tashkent State University of Law

***Correspondence :** Guzal Uzakova Sharipovna
guzalsharipovna@gmail.com

Received: 12-05-2025

Accepted: 24-06-2025

Published: 31-07-2025

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Abstract

The article analyzes the organizational and legal issues of zoning of settlements in the Republic of Uzbekistan on the basis of current urban planning and land legislation. Also, the ecological and legal requirements for the zoning of settlements are analyzed comparatively on the basis of the legislation of developed foreign countries. In this article, the author scientifically and theoretically analyzes the process of zoning based on the types of settlements and the specifics of the regions, based on this analysis, expressed his independent approach, as well as developed proposals to improve existing legislation

Keywords

Zoning, Settlements, Environment, Environmental Requirements, Green Areas, Anthropogenically Modified Territories

Introduction

Currently, the right of citizens in our country to enjoy a favorable natural environment largely depends on the extent to which environmental requirements are observed in the areas where they reside. In this regard, the existing legislation of the Republic of Uzbekistan provides for the zoning of settlements based on the type and purpose of land use. Zoning plays a key role in ensuring the rational and effective use of land plots and ultimately contributes to improving the well-being of the population. Compliance with environmental standards is particularly important in the zoning process of residential areas.

It is worth noting that legal scholarship has yet to establish a unified approach to the concept of “ecological zoning.” Some authors define it as a system of legally prescribed measures aimed at the clear delineation of territories, water zones, airspace, natural objects, and resources. This zoning, in their view, is intended to ensure both the rational use of these areas and their protection.

According to O.I. Krassov, ecological zoning represents one of the legal mechanisms for restricting land use rights. In line with this view, N.N. Melnikov emphasizes that landowners whose plots fall within a designated zone may be subject to specific rights and obligations that differ from those applicable to individuals whose land is located outside such zones.

According to L.N. Choltyan, the essence of zoning generally lies in the imposition of stricter restrictions on activities within a designated zone compared to neighboring areas. As a result of ecological zoning, it becomes possible to identify cases of degradation or deterioration of environmental objects and subjects within a given territory, caused by anthropogenic or natural factors — including landscape elements, water bodies, and the lower layers of the atmosphere.

Based on the above, we believe that ecological zoning should be understood as a set of administrative, economic, legal, and environmental measures established by the state with the aim of protecting all components of the natural environment and ensuring citizens' rights to ecological safety. These measures are designed to prevent harm to public health and well-being, while promoting the realization of environmental rights.

From this perspective, ecological zoning serves as a comprehensive legal approach to determining the regulatory regime for elements that constitute natural ecological systems. It entails the application of various tools and mechanisms to protect and preserve all components of the ecosystem.

As noted in the legal literature, zoning is often used to introduce differentiated legal regimes for participants who are otherwise subject to a unified legal framework. It should be emphasized that such differentiation typically applies to an indefinite group of persons and is reflected in restrictions or prohibitions imposed on economic or other activities intended for repeated use.

Prohibitions associated with ecological zoning may concern various types of facilities and operations, such as fuel stations, storage facilities for petroleum products, service stations, specialized warehouses for pesticides and agrochemicals, water protection zones, or capital construction projects located on forest fund lands.

Prohibitions are established with respect to specific types of activities, particularly within designated areas such as water protection zones, coastal strips, sanitary protection zones surrounding water bodies and groundwater extraction sites, as defined in Articles 17, 35, 49, and 100 of the Law of the Republic of Uzbekistan "On Water and Water Use," as well as in Cabinet of Ministers Resolution No. 981 dated 11 December 2019, On the Procedure for Designating Water Protection and Sanitary Protection Zones around Water Bodies. Similar restrictions apply to protected natural territories and their buffer zones, resort and recreational areas, and fishery zones, in accordance with Articles 10 and 17 of the Law of the Republic of Uzbekistan "On Protected Natural Areas."

As for the restrictions imposed on land rights within ecological zones, they are typically derived from natural factors. The significance of a land plot as a natural object that is functionally interconnected with other elements of the environment must be taken into account when determining its legal regime.

According to A.A. Borisov, protected natural areas — including national and nature parks — may serve as objects of ecological zoning [8]. However, this approach remains subject to debate and requires clarification. Indeed, in addition to zoning of specific natural objects and complexes, the legislation also allows for the establishment of ecological zones in other types of territories — for example, areas affected by radioactive or chemical contamination, natural disasters, or man-made accidents.

Methods

This article as a doctrinal study includes an analysis of legislation and scientific and theoretical sources. This article examines the scientific concepts related to the field, the views, conclusions and opinions of theoretical scholars. Also, comparatively analyzed the legislation in the field of zoning. The article began with a study of the basic concepts of the topic, continued with the development of these concepts, and ended with the conclusion that the improvement of existing mechanisms, showing ways to solve the problems. The implementation of these conclusions will help to organize the correct zoning of territories in terms of ecology and urban planning, to implement the construction process based on environmental requirements, and, most importantly, to achieve the goals of ensuring the right of citizens to a favorable natural environment.

Results and Discussion

Based on the above, ecological zoning can be classified into two main types:

1. zones intended to ensure the protection of natural objects and ecosystems;
2. zones established to guarantee safety in ecologically adverse areas.

The first category includes, among others, water protection zones, shoreline protection areas, sanitary protection zones around water bodies, as well as fish protection and fishery conservation zones. These types of zones may be designated on various categories of land. The second category encompasses territories affected by ecological disasters, emergency environmental situations, as well as areas prone to flooding and waterlogging.

One form of ecological zoning is the functional zoning of nature parks. This involves the delineation of specific functional zones within the park boundaries — such as strictly protected zones, recreational zones, areas designated for economic use, and others — in order to establish a differentiated regime of special environmental protection and to define the purpose of each zone. This principle is reflected in Articles 24 and 25 of the Law of the Republic of Uzbekistan “On Protected Natural Areas.”

Researchers have also reasonably pointed out that, in the process of implementing ecological zoning, it is often the case that zones are identified which are not directly related to the protection of natural areas.

An example of such a zone is the recreational zone, which permits activities aimed at supporting economic functions within the park boundaries. These may include the development of recreational activities, the promotion of physical culture and sports, the placement of tourism infrastructure, museums, and information centers, as well as ensuring the livelihood of residents living within the park and the operation of the state institution responsible for managing the park.

Article 24 of the Law of the Republic of Uzbekistan “On Protected Natural Areas” stipulates that, upon the establishment of nature parks, their territory shall be divided into zones. These include strictly protected zones, recreational zones, zones for economic use, and other designated

use zones. The law also provides that, where conditions are favorable for public health improvement, resort zones — operating under the regime established for natural resort territories — may be designated within nature parks. Any changes to the size or boundaries of nature park zones shall be carried out by the state authority responsible for the respective territory, taking into account the conclusions of the state environmental expertise.

In addition, scholars have proposed the introduction of ecological zones within settlement lands, along with the development of principles and methods for ecological zoning of such territories. A number of foreign countries have accumulated positive experience in identifying and regulating ecological zones.

For example, in Germany, certain urban areas — particularly in city centers — are designated as low-emission environmental zones where vehicles that do not meet specific pollutant emission standards are prohibited from entering. Introducing a similar approach into the legislation of Uzbekistan appears justified. It would be advisable to incorporate provisions on the establishment of such ecological zones within settlement lands into the existing norms of land and urban planning legislation.

As noted by E.A. Savelieva, the institution of ecological zoning serves as a legal mechanism for protecting and ensuring the safety of all components of the natural environment, functioning as a unified and interconnected system aimed at restoring ecological balance.

Zoning of territories may be viewed as a complex legal institution, a method for determining the legal regime of land (a set of legal instruments), and as a legal procedure. As a set of legal instruments, territorial zoning regulates relations involving the use of land both as a natural resource and as immovable property (including land plots and construction objects), while simultaneously ensuring its protection as a natural object — that is, a vital component of the environment. It thus provides a basis for economic, agricultural, and forestry activities, while maintaining the ecological integrity of the land.

As a method for determining the legal regime of land, territorial zoning is assessed based on the following criteria: the division of territory into zones; the establishment of permitted land uses that strengthen the rights of landowners, land users, landholders, and tenants to make choices without the need for additional permits or approvals.

When understood as a legal procedure grounded in legislative acts, territorial zoning provides for the designation of permitted types of use for land plots and other immovable property within specific zones. The final documented outcome of this process is a normative legal act that serves as the basis for establishing the legal regime applicable to the respective land plots and immovable assets.

Zoning also plays a critical role in the urban planning dimension of territorial development. It entails the functional division of territory according to intended use and sets forth both the categories of land use and the applicable restrictions for each use category in accordance with

urban planning norms.

According to Article 41 of the Urban Planning Code of the Republic of Uzbekistan, adopted on 4 April 2002, the zoning of territories is aimed at ensuring a favorable environment for living and working, protecting areas from the impact of natural and man-made emergencies, preventing excessive population and industrial density, reducing environmental pollution, and safeguarding protected natural areas, cultural heritage sites, agricultural lands, and forests, as well as ensuring their rational use.

Information on territorial zoning and the urban planning regulations applicable to individual zones is included in the State Urban Planning Cadastre and is also reflected in consolidated territorial development schemes and spatial planning documents. These include the master plans of the Republic of Uzbekistan, the Republic of Karakalpakstan, and the regions; planning schemes for districts or groups of districts; general plans of settlements; and detailed planning projects, in accordance with Articles 28, 30, 31, 33, 34, and 37 of the Urban Planning Code.

In the process of territorial zoning, authorized bodies divide a specific territory into separate parts in accordance with the procedure established by normative legal acts. Zoning implies the subdivision of a given area into distinct components — that is, into various types of zones. As a result, the territory comes to represent a collection of zones with differing legal characteristics.

Undoubtedly, the legal significance of zoning lies not merely in the establishment of such zones (which serves only as a means to an end), but in the regulation of legal relations that arise within and across the boundaries of these zones in accordance with applicable legal norms.

According to O.V. Shatrova, the purpose of urban zoning is, above all, to individualize land plots as objects of privatization and to determine how unallocated and undeveloped plots may be privatized. In the absence of established urban zoning within a settlement, the key criterion for determining the method of privatization of undeveloped plots is the legally permitted type of use for the land.

N. L. Lisina, analyzing the legal nature of territorial zoning, notes that its implementation defines the permitted types of use of land plots and other immovable property. On the one hand, zoning serves as an element of urban planning in the use of land within settlements; on the other hand, it functions as a legal mechanism for regulating the use of land plots as part of such territories. According to the author, territorial zoning is the process of dividing a settlement's territory into zones and establishing their legal regimes in urban planning documents and construction regulations. This process is aimed at coordinated legal regulation of land use, as well as the integrated organization and operation of buildings and structures within the respective zones.

Zoning implies the establishment of restrictions on the use of certain zonal territories for the purposes of urban development activities. In particular, Article 41 of the Urban Planning Code provides for restrictions on the use of the territories of nine types of zones: protected zones of

cultural heritage sites; nature reserve zones; zones of specially protected natural areas; sanitary zones; protection zones; sanitary protection zones; zones containing mineral deposits; zones affected by natural and man-made emergencies; ecological disaster zones and zones of emergency environmental conditions; and zones with extreme natural and climatic conditions.

Discussion

The functional purpose of territories and the intensity of their use are determined with due regard to these restrictions.

A. Yu. Alexandrova classifies zones within lands of settlements intended for construction based on two criteria: the purpose of delineating (designating) the zones and the means by which the respective objectives are achieved.

According to the author, zoning based on the purpose of delineation (designation) may be classified as follows:

1. Organizational and economic zones — zones whose primary purpose is to identify the types of construction permitted in accordance with the land categorization process;
2. Ecological zones — zones established with the primary goal of environmental protection and ensuring ecological safety.

Based on the method by which zoning objectives are achieved, zones are divided into two categories: “primary” zones, which establish a comprehensive list of rights and obligations for land users, and “additional” zones, which introduce only supplementary restrictions to the existing legal regime of land and land plots.

E. S. Bedova proposes classifying the existing types of territorial zones in legislation according to their functional purposes. In her view, social zones are intended for the placement of infrastructure serving social needs, such as residential zones, public and business areas, and engineering and transport infrastructure. Production zones are designated for accommodating facilities that serve industrial or agricultural purposes, including industrial zones and zones of agricultural land use. Ecological zones aim to protect the environment and include recreational areas and specially protected natural territories. Finally, special-purpose zones are established to meet specific societal needs, such as areas designated for military facilities and other special uses.

In the process of planning and developing settlements, one of the key urban planning measures to ensure their environmental safety is the functional zoning of settlement territories. Urban planning zoning involves dividing territories into zones during the urban planning stage of settlement development, whereby each zone is assigned specific types of permitted urban use and relevant usage restrictions.

S. A. Balashenko proposes the delineation of the following territorial zones within the boundaries of settlements: residential zones, which are intended for the construction of housing

and may include social, cultural, domestic service facilities, parking areas, industrial, utility, and warehouse facilities that do not require the establishment of sanitary protection zones and do not exert harmful effects on the environment (such as noise, vibration, magnetic fields, radiation, or soil, air, and water pollution); social and business zones, which are designated for business, financial, and social activity centers, administrative and other buildings, cultural institutions, educational and research institutions, commercial facilities, public catering venues, healthcare institutions, utilities, and parking areas; production zones, intended for the placement of industrial enterprises, transport and engineering infrastructure, utility and warehouse facilities that support such enterprises, including the sanitary protection zones of the industrial facilities themselves; transport and engineering infrastructure zones, intended for the placement and operation of transport, communication, and engineering facilities and utilities; recreational zones, designed for organizing leisure areas for the population, including parks, urban forests, forest parks, beaches, and other recreational and tourism facilities; agricultural zones, which are primarily intended for farming, livestock grazing, and haymaking until a decision is made to change the type of land use in accordance with the master plan and other urban planning documents; and special-purpose zones, including territories allocated for military and other facilities, which are subject to special regimes and usage procedures as defined by legislation, as well as other territorial zones.

According to the Urban Planning Code, nine types of territorial zones may be designated within the territory of settlements. These include: residential zones; social and functional zones; production zones; zones of engineering and transport infrastructure; recreational zones; zones used for agricultural purposes; special-purpose zones; zones for military facilities and other restricted-access areas; and peri-urban zones.

The boundaries of territorial zones within settlements are determined taking into account red lines, the natural borders of physical features, the boundaries of land plots, and other relevant delineations.

The legal regime established by urban planning regulations for each territorial zone is applied uniformly to all land plots, buildings, structures, and other facilities located within the respective zone.

In territorial zones where urban development activities are subject to special regulation, additional requirements may be imposed on the design and construction of certain buildings, structures, and other facilities located within those boundaries (Article 42 of the Urban Planning Code).

Based on the above, zoning can be divided into three types according to its purpose and functions.

The first type is “permissive-restrictive” zoning, which is primarily aimed at identifying the allowable types of use for land plots and other facilities located within a designated zone. Determining the types of permitted uses leads to the restriction of other activities not included in

the list of authorized uses. The term “permissive-restrictive” is intended to emphasize its similarity to regulatory practices in the field of natural objects, where permission typically implies the limitation of otherwise prohibited activities. Urban planning zoning is designed to determine the permitted uses of immovable property and the conditions for such use. This approach enables authorities to regulate development in a structured manner that aligns with long-term planning goals. The main objective of this type of zoning is to ensure a comprehensive approach to organizing the territory in order to promote the rational use of natural resources, protect the environment, and create favorable conditions for human life.

The second type is ecological zoning, which is applied to certain categories of specially protected natural areas. In particular, the Law of the Republic of Uzbekistan “On Specially Protected Natural Areas” No. 710-II of December 3, 2004, refers to such zones as water protection zones, sanitary protection zones of water bodies, recreational zones, resort natural area zones, fishery zones, buffer zones, zones of nature parks, functional zones within national parks, and others.

O. M. Kozyr emphasizes that the zoning of national parks and nature parks constitutes a formed legal institution within the legislation on protected natural territories. N. V. Kichigin, in turn, describes ecological zoning as a characteristic element of the legal regime governing protected natural areas and objects.

Ecological zoning is characterized by the establishment of a special regime of nature use within the relevant territory. Protected natural areas are defined as lands that are fully or partially withdrawn from economic use. The creation of such areas is aimed at preserving unique and typical natural complexes and objects, as well as studying natural processes within the biosphere, the plant and animal world, their genetic resources, and related phenomena. The protection of natural territories implies the prohibition of activities unrelated to the designated purposes of such areas.

The third type is “organizational and managerial” zoning, which is intended to address organizational and administrative issues within the scope of nature use. This type of zoning may include the delineation of functional zones in the course of territorial planning and other related measures. Thus, functional zoning of a territory is carried out to identify the long-term priorities of land use and is accompanied by detailed legal regimes established in land use and construction regulations.

In order to preserve natural resources and ensure their protection, specific requirements have been established for the conduct of economic or other activities, including additional prohibitions and special conditions for the use of land and other natural assets in certain areas. For this purpose, special zones may be designated within defined territories.

In global practice, for example in the United States, so-called “overlay zones” are applied. These zones are intended either to protect specific natural resources or to promote development

in selected sectors. Overlay zoning is typically used where public interest is involved, such as the preservation of historically significant sites, the protection of drinking water sources, and other similar cases.

Zoning is a procedure regulated by normative legal acts and has a territorial nature. In other words, zones constitute parts of a territory that must be described and defined in the relevant documents and represented on cartographic materials, with clear delineated boundaries. The approval of such boundaries affects the rights and legitimate interests of individuals who use, plan to use, or carry out certain types of economic activities within the boundaries of a given zone, including the use of natural resources.

All the general considerations mentioned above, which are characteristic of the activities under review, do not allow us to fully agree with the opinion of L. B. Sheynin, who argues that a territory can be considered zoned only if the entire area has been divided into defined zones. This is not always the case, as zoning may, in certain situations, be applied even to relatively small areas.

The application of a special zoning legal regime to a land plot may entail not only mandatory compliance with specific rules during construction, but also, in some cases, restrictions on the circulation of the land plot. This may include a prohibition on allocating the plot for construction purposes or preventing the privatization of buildings, structures, or facilities located on it by the owner.

Conclusion

In general, land zoning creates conditions for the realization of both public and private interests, guarantees the stability of land use, and promotes an environment conducive to investment. It also enables planning in the use of land, buildings, and structures in line with the interests of society. Moreover, in order to ensure the rational use and protection of land resources, zoning is implemented, and for this reason, legislation establishes a wide variety of zones that impose restrictions on the use of land plots.

It should be emphasized that public hearings must become an effective legal instrument for realizing environmental interests of the public and for ensuring every individual's right to a favorable environment within the framework of urban planning zoning.

In order to provide full and reliable information regarding the rules for land use and construction being planned or amended, it is necessary to improve the mechanism of public discussions from the perspective of timely and unobstructed access for the population. Authorities must ensure that the public is able to express and record its views, including objections, comments, and proposals regarding the substance and implications of such projects.

From this perspective, it would be appropriate to supplement Article 10 of the Urban Planning Code with a sixth paragraph as follows: "In order to conduct public discussions, land use and construction projects, including the necessary analytical, economic, and financial materials used to justify such projects, shall be published in mass media, except for materials classified as state

secrets.”

If participants in a public discussion express objections, comments, or proposals regarding a land use and development project, a record of disagreements is drawn up, and procedures for reconciliation are conducted.

The final conclusion on the results of the public discussion shall include the objections, comments, and proposals expressed by the participants of the public hearing, as well as the grounds for accepting or rejecting them, based on the record of disagreements.

In conclusion, land zoning serves the sustainable development of territories, the protection of citizens' health, the preservation of the cultural values of society and the state, the assurance of environmental safety, and the achievement of the society's economic well-being.

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