

Environment-Legal Requirements for the Zoning of Settlements

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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..

Today, the right of citizens in our country to have a comfortable natural environment largely depends on the level of compliance with environmental requirements in the areas where they live. In this sense, the current legislation of the Republic of Uzbekistan provides for the zoning of settlements according to the form of their use and purpose. The issues of zoning of settlements serve as an important factor in the organization of effective and correct use of land plots and ultimately serve to increase the well-being of citizens. It is especially important to comply with environmental requirements in the process of zoning the areas of settlements.

It should be noted that a single approach to the concept of "ecological zoning of territories" has not been developed in the legal literature. In particular, some authors define ecological zoning as a system of measures provided for by law to clearly and clearly define the boundaries of territories, water zones, airspace, natural objects and resources in order to ensure their rational use and protection at the necessary level. [1].

O.I. According to Krassov, ecological zoning represents one of the ways of limiting land rights [2] . In this regard, N.N. Melnikov also points out that the owners of land plots within a certain zone are given different rights and obligations on land, in contrast to persons whose land plots are outside these zones [3] .

L.N. According to Choltyan, the essence of zoning, as a rule, is to establish stricter restrictions on activities in the zone area than in neighboring areas of the land area [4] . As a result of ecological zoning, cases of destruction or deterioration of environmental objects and subjects under the influence of man-made or natural factors, including landscape elements, water bodies and atmospheric surface layers, are recorded in a certain area [5] .

Based on the above, in our opinion, ecological zoning is defined as an administrative, economic, legal and ecological feature aimed at ensuring the protection and protection of all components of the natural environment by the state, as well as the implementation of the rights of citizens to an ecologically safe life, to prevent harm to their health and well-being. based on a set of measures.

From this point of view, ecological zoning helps to implement a comprehensive approach to determining the legal regime of objects that make up natural ecological systems and includes the use of various tools and methods to protect and protect all components of the ecosystem.

is used to establish different legal regimes for participants with a single legal regime [6] . It should be added that this difference in legal regimes applies to an indefinite number of persons and is manifested in the establishment of prohibitions or restrictions on economic and other activities intended for repeated use.

Prohibitions related to ecological zoning may be related to the placement of any objects, such as gas stations, fuel and lubricants warehouses, service stations, specialized pesticide and agrochemical warehouses, water protection zones, capital construction projects on the lands of the forest fund.

Prohibitions are established on the implementation of certain actions, for example, water protection zones of water bodies, coastal regions and sanitary protection zones, sanitary protection zones of groundwater discharges (Articles 17, 35, 49, 100- articles, Resolution of the Cabinet of Ministers "On approval of the regulation on the procedure for determining water protection and sanitary protection zones of water bodies in the territory of the Republic of Uzbekistan" No. 981 of December 11, 2019), protected natural areas and their conservation zones, natural resort areas and recreation zones , fishing zones (Articles 10, 17 of the Law on Protected Natural Areas).

As for restrictions on the right to land in ecological zones, they are caused by natural factors, and its importance as a natural object inextricably linked with other natural objects should be taken into account when determining the legal status of a plot of land [7] .

A.A. According to Borisov, protected natural areas, including national and nature parks, are envisaged as objects of ecological zoning [8] . It should be noted that this approach is controversial and requires clarification. After all, along with the zoning of natural objects and complexes, the legislation provides for the possibility of establishing ecological zones in other areas, for example, in areas subject to radioactive and chemical pollution, natural disasters and man-made disasters.

Based on the above, two types of ecological zoning can be indicated: 1) zones that ensure the protection of natural objects and complexes; 2) zones that ensure the safety of ecologically unfavorable areas.

The first group includes water protection zones and coastal protection zones, sanitary protection zones of water bodies, fish protection and fishery protection zones, etc. These zones can be installed on

different types of land. The second group includes areas with environmental disasters, emergency environmental situations, as well as areas with floods and inundation.

One of the types of ecological zoning is the functional zoning of nature parks, which means establishing a differentiated regime of special protection by defining functional zones (zones converted into nature reserves, recreation, economic and other use zones) within their borders and determining the purpose of such zones ("Protected Articles 24, 25 of the Law on Natural Areas).

Researchers rightly pay attention to the fact that in the implementation of ecological zoning, there are often cases of identifying zones that are not related to the protection of natural areas [9] .

This includes ensuring the implementation of recreational activities, developing physical education and sports, as well as providing for the placement of tourism objects, museums and information centers, or activities aimed at ensuring the life of citizens living in the territory of the nature park and the operation of the state institution managing the nature park within its borders. a zone intended for economic purposes can be an example of a recreational zone.

At the same time, Article 24 of the Law "On Protected Natural Areas" stipulates that when nature parks are being established, their territory should be divided into zones, zones converted into nature reserves, recreation, economic and other use zones should be set aside in the territory of nature parks. Also, according to it, if there are conditions for the health of the population, spa zones with the regime provided for spa natural areas will be set aside in nature parks. Changing the size and boundaries of the zones of nature parks, which are under the jurisdiction of the state bodies, is carried out by these bodies, taking into account the conclusion of the state ecological expertise.

In addition, in the literature, there are suggestions on establishing ecological zones on the lands of settlements, on determining the principles and methods of ecological zoning of such lands [10] . A number of foreign countries have developed positive experience in determining ecological zones.

In particular, in the central areas of some cities in Germany, there are ecological zones - urban areas, which are closed to the entry of vehicles that do not meet the requirements for limiting the emission of pollutants into the environment [11] . It is expedient to apply such experience in the legislation of Uzbekistan, and it is expedient to include the provisions on the establishment of such ecological zones in the land areas of settlements into the norms of land and urban planning legislation.

In this regard, E.A. As noted by Saveleva, the institution of ecological zoning, as a single interdependent system that restores the natural balance, is a legal mechanism for the protection and safety of all components of the natural environment [12] .

Zoning of territories can be considered as a complex legal institution, a method of determining the legal status of land (a set of legal instruments) and a legal practice . Zoning of territories as a set of legal instruments includes land (the means of production in agriculture and forestry, as well as the basis for economic and other activities), real estate (land plots and other real estate , including construction objects) It is a means of regulating relations regarding the use of land as a natural resource while simultaneously protecting it as a natural object (the most important component of nature) .

As a method of determining the legal regime of land, the criteria for evaluating the zoning of territories are as follows: dividing the territory into zones; strengthening the choice of land owners (owners of land plots , land users, land owners and tenants of land plots) without additional permits and approval procedures , determining the types of permitted use .

Zoning of territories, as a legal act based on legal documents, provides for the determination of permitted types of use of land plots and other real estate objects in separate areas of the zones, the final documented result of which is a regulatory legal document that strengthens the basis for the legal regime of land plots and other real estate objects.

Zoning is the division of the territory according to its functional purpose, determining the types of use of urban development and restrictions on the use of these types of urban planning.

the Urban Development Code of the Republic of Uzbekistan, adopted on April 4, 2002, zoning of territories is aimed at providing a comfortable environment for living and working, protecting territories from the effects of natural and man-made emergency situations, preventing overcrowding of population and production, and environmental pollution . , is aimed at the protection and use of protected natural areas, as well as objects of cultural heritage, agricultural lands and forests (Article 41).

Information about the zoning of territories and urban planning regulations of territorial zones is included in the state urban planning cadastre and is determined in the annexed plans of planning in terms of urban development, planning plans of the territory of the Republic of Uzbekistan, the Republic of Karakalpakstan and regions, planning projects of the district (groups of districts), the master plan of the settlement and detailed planning projects (Articles 28, 30, 31, 33, 34 and 37 of the Urban Planning Code).

In the zoning of territories, the competent authorities divide a certain territory into parts for zoning according to the procedure established by normative legal documents [13] . Zoning involves dividing a certain area into separate parts - different types of zones. As a result, the area represents a collection of different zones. Undoubtedly, the legal significance of zoning is not actually in the establishment of certain zones (it is a means to achieve the goal), but also in ensuring that the relations that arise within the boundaries of the zones are within the framework of certain legal norms [14] .

According to O. V. Shatrova, urban zoning mainly determines the individualization of land plots as objects of privatization, as well as how to privatize undeveloped undeveloped land plots. In the absence of urban development zoning in the settlement, the decisive factor in choosing the method of privatization of undeveloped land plots is its permitted use [15] .

N.L. Lisina touched on the legal nature of territorial zoning, as a result of its implementation, the permitted types of use of land plots and their other immovable property are determined, and on the one hand, it is an element of urban development planning in the use of land in settlements, and on the other hand, land plots are included in the composition of lands of settlements serves as a method of legal regulation of use, he writes. According to the author, territorial zoning is the division of the territory of a settlement into zones and the establishment of their legal regime in urban planning documents and construction rules, the use of land plots by relevant bodies in the field of urban planning, the organization of buildings and structures in them as a single complex, and the agreed legal regulation of their use [16] .

Zoning implies the establishment of restrictions on the use of the territories of certain zones for the implementation of urban development activities. In particular, Article 41 of the Urban Development Code stipulates restrictions on the use of territories of 9 zones: protection zones of cultural heritage objects, reserve zones; in the zones of protected natural areas; in sanitary zones; in protection zones; in sanitary protection zones; in areas where minerals are located; in zones affected by natural and man-made emergency situations; in emergency environmental situations and ecological disaster zones; in extreme natural-climatic zones.

The functional purpose of the areas and the speed of their use are determined taking into account these restrictions on the use of the areas.

A.Yu. Aleksandrova classifies the zones to be determined according to two criteria: according to the goals of zoning (designation) and the way to achieve these goals.

According to the author, according to the purposes of allocation (marking), zones are divided into the following: 1) organizational-economic zones - zones whose main purpose of establishment is to determine the possible types of construction identified in the process of land categorization; 2) ecological zones - zones whose main purpose of organization is to protect the environment and ensure ecological safety.

According to the method of achieving the goals of zoning, it is divided into the following zones: "main" zones, which establish a complete list of rights and obligations of land users; "additional" zones that impose only additional restrictions on the current legal regime of land and land plots [17] .

E.S.Bedova proposes to classify the types of existing territorial zones according to their functional purpose in legal documents as follows: social zones intended for the placement of social infrastructure objects (residential zones, public and business zones, engineering-transport infrastructure zones, etc.); production zones for the purpose of locating objects that meet production needs (production zones, agricultural use zones, etc.); ecological zones whose purpose is environmental protection (recreational zones, zones of specially protected areas, etc.); special purpose zones designed to meet the special needs of the population (special purpose zones, zones for deployment of military facilities, etc.) [18] .

In the process of planning and construction of settlements, the main urban planning measures that ensure their ecological safety are functional zoning of settlement areas. Urban planning zoning, zoning refers to the division of areas into zones during urban planning for the development of settlements, specifying the types of urban planning uses and limiting their use.

S.A. Balashenko proposes to divide the following territorial zones within the boundaries (outskirts) of settlements: 1) residential zones - intended for the construction of residential buildings, social-cultural, cultural purpose, household service facilities, motor transport parking lots, industrial, communal and warehouses are areas where sanitary protection zones are not required, their activities do not have a harmful effect on the environment (noise, vibration, magnetic fields, radiation effects, soil, air, water pollution and other harmful effects); 2) socio-business zones - areas intended for the placement of business, financial and social activity centers, administrative and other buildings and structures, cultural, educational institutions, scientific and research institutions, cultural objects, trade organizations, public catering places, health care , providing public utility services, as well as parking lots; 3) production zones - areas intended for the placement of industrial enterprises, transport, engineering infrastructure, utility and warehouse facilities that ensure the operation of these enterprises, including sanitary protection zones of industrial enterprises and facilities serving them; 4) transport, engineering infrastructure zones - areas intended for the location and operation of transport, communication and engineering equipment facilities and communications; 5) recreational zones - areas intended for the organization of public recreation areas, including recreational parks, urban forests, forest parks, beaches and other recreational and tourism facilities; 6) agricultural zones - the areas of priority agricultural objects intended for farming, raising cattle and mowing hay until a decision is made to change the type of use of these areas in accordance with the master plan and other urban development documents ; 7) special purpose zones - territories and other territorial zones intended for the placement of military and other facilities, in respect of which a special regime and the procedure for their use are established by legal documents [19] .

Based on the urban development code, 9 types of territorial zones can be defined in the territories of settlements: residential zones; socio-practical zones; production zones; engineering and transport infrastructure zones; recreational zones; zones used for agricultural purposes; special purpose zones; zones of military facilities and other regime areas; suburban areas.

The boundaries of the territorial zones of settlements are determined taking into account red lines, natural boundaries of natural objects, boundaries of land plots and other boundaries.

The legal regime established by the regulation of urban development for each territorial zone applies equally to all land plots, buildings, structures and other objects located in it.

Additional requirements for the design and construction of certain buildings, structures and other objects may be established in the territorial zones, within the boundaries of which urban planning activities must be separately regulated (Article 42 of the Urban Planning Code).

Based on the above, depending on the purpose and tasks, zoning can be divided into three types:

1) "permissive-restrictive" zoning - its main purpose is to determine the possible types of use of land plots and other objects located on the border of the allocated zone. Determining the types of objects that can be used leads to the restriction of the implementation of other types of activities that are not included in the list of permitted types. The name of this type of zoning is intended to emphasize that permission in the field of natural objects is usually compared to the restriction of unauthorized activities [20]. Urban planning zoning is designed to determine the permitted types of use of real estate, the conditions of such use. The purpose of this type of zoning is to provide a comprehensive approach to the organization of the territory for the rational use of natural resources, environmental protection and the creation of favorable conditions for human life.

2) ecological zoning - provided for certain types of protected natural areas. In particular, the Law of the Republic of Uzbekistan No. 710-II "On Protected Natural Areas" dated December 3, 2004 establishes water protection zones, sanitary protection zones of water bodies, recreation zones, spa natural areas zones, fisheries zones, conservation zones, nature park zones. , functional zones in national parks, etc.

O.M. Kozyr states that the zoning of the territories of national and natural parks is a legal institution of protected natural areas [21]. Protected natural areas and objects of N.V. Small ecological zoning [22] writes that it is a feature of the regime.

Ecological zoning is characterized by the establishment of a special regime of nature use in the relevant area. Protected natural areas are defined as lands that are completely or partially withdrawn from economic use. The creation of protected natural areas is aimed at the preservation of unique and typical natural complexes and objects, the study of natural processes in the biosphere, objects of flora and fauna, their genetic background, etc. [23]. Protecting natural areas means prohibiting activities that are not related to their purpose;

3) "organizational-administrative" zoning - the area of organization and management within the framework of nature use is designed to solve problems. This type of zoning can include separation of functional zones in regional planning and others. Thus, the functional zoning of the territory is carried out to determine the prospective priority of the territory, which has a detailed legal regime in land use and construction regulations.

In order to ensure the preservation and protection of natural resources, specific requirements for the implementation of economic or other activities, additional prohibitions and special conditions for the use of land resources and other objects, special zones have been allocated in some regions [24].

If we pay attention to the world practice in this regard, for example, the establishment of "cover zones" in the USA, which protect a certain natural resource or provide incentives for development in some areas, stand out. Compensatory zoning is used when there is a public interest - preservation of historically significant objects, protection of drinking water, etc. [25].

Zoning as a procedure regulated by regulatory legal documents has a territorial nature, that is, zones are part of the territory, which must be described and described in documents, must be shown in cartographic materials, and must have boundaries. Approval of the boundaries of the respective zones affects the rights and legal interests of the persons who use (plan to use) the objects located on the boundaries of the zone, use nature, and carry out certain types of economic activities in the respective area.

All the common things that are characteristic of the considered activities and mentioned above L.B. Schein's, only the whole area is divided into certain zones [26], does not allow us to agree with the opinion that the territory should be understood as zoned when divided. Because, in some cases, zoning can be implemented in small areas [27].

The application of the legal regime of a special zone to a plot of land causes not only the mandatory observance of special rules for the construction of the object, but also in some cases - restriction of the circulation of the plot of land, the impossibility of giving it for construction or the prohibition of the owner to privatize the building, structure, object located on the plot.

In general, land zoning creates conditions for the implementation of public and private interests, guarantees the stability of land use, and creates conditions for investment in it. Community interests are provided by the possibility of planning the use of land, buildings and structures. In addition, in order to ensure the rational use and protection of land, zoning of areas is carried out, therefore, the legislation defines many types of zones that limit the use of land plots [28].

At this point, it should be noted that public hearings should become an effective legal tool as a means of realizing the environmental interests of the public and ensuring the right of everyone to have a comfortable environment in urban development zoning.

In order to have complete and reliable information about the proposed or changed rules of land use and construction, the relevant state bodies should improve the mechanism of public discussions in terms of timely and unhindered access to the population, and express public opinion about their content (objections, comments, suggestions). and it is necessary to ensure the possibility of recording.

In this regard, it is appropriate to supplement Article 10 of the Urban Development Code with the sixth part in the following version: "Projects for the use of land and the implementation of construction on it for public discussions, including the necessary analytical, economic and financial materials for the justification of this project, are published in the mass media. except for materials related to state secrets.

If the participants of the public hearing express objections, comments, and suggestions regarding the land use and construction implementation project, a statement of disagreements on the project will be drawn up and agreement discussions will be held.

In the conclusion on the results of the public discussion, the objections, opinions, and suggestions expressed by the participants of the public discussion, with the reasons for their acceptance or rejection according to the statement of disagreements, are shown."

In short, land zoning serves the sustainable development of regions, the protection of citizens' health, the cultural values of society and the state, environmental security, and economic well-being of society.

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