

McMinn County Libertarian Party
Position Paper
Countywide Zoning

Summary: The McMinn County Libertarian Party is for a zoning free McMinn County.

There have been a few residents of McMinn County who have continuously sought zoning ordinances for our county. A referendum has been taken on the matter and the voters were adamantly opposed to zoning. It was defeated by a large margin.

There are several points we know about zoning from areas where it does exist. A federal report from the Kemp Commission reported in 1991 that zoning and other restrictions add up to 35% to the price of a new home. Zoning hurts communities and families by banning convenience stores, offices, and social services from residential areas, thereby forcing citizens to spend more money and time because of the necessity of driving further. It hurts those who cannot afford or prefer not to live in a single family residence by limiting areas where multifamily dwellings can be built. Zoning can hurt the poor by prohibiting them from operating businesses out of their residences, and by limiting the number of units which may be built on each lot it reduces the opportunity for home ownership.

Once zoning has its foot in the door it tends to grow in power and scope. Flosmoor, Ill., banned pickup trucks from its streets. Coral Gables, Fl., charges residents \$35 to get a permit to paint their bathroom. Los Angeles prohibits freelance writers from working out of their homes in areas not zoned commercial. Guilford, Connecticut, has outlawed takeout windows at restaurants and fast-food establishments. Pasadena, California, outlawed weeds in residents' yards - sometimes referred to as "crabgrass fascism." Zoning was used in a suburb of Washington D.C. in 1988 to evict up to a thousand renters primarily to boost the value of a minority of the homeowners.

Newtown Borough, Pennsylvania, demands residents pay a \$10,000 non-refundable fee before they may challenge the constitutionality of the local zoning ordinance.¹ This exemplifies the effects a zoning bureaucracy can have on the rights of a property owner.

While reducing the power of the landowner, zoning gives power to bureaucrats to manipulate the choices of property owners. Zoning does not preserve the right of the property owner, it restricts the rights of the property owner; It essentially lets the government be part owner of the property without having to pay for any part of it. The American Planning Association suggests the following language in zoning ordinances to intimidate citizens: "As a matter of legislative drafting, it is good practice to include a general 'violations' section in zoning regulations that, in part, says, It shall be a violation of this ordinance to make any use of property not expressly permitted by this ordinance or a permit or other approval granted hereunder."²

For those who doubt that a growing community cannot manage itself without zoning Houston is an excellent example of the benefits of remaining zoning-free. Free markets and deed restrictions enabled Houston, the fourth largest city in the U.S., to go quite rapidly and efficiently without the expense and bureaucratic regulation of a formal zoning plan.³

The proponents of zoning generally give two reasons why they believe McMinn County needs zoning. The first reason is to stop unwanted businesses such as landfills. It is somewhat ironic that zoning proponents want a county which owns and operates a landfill to make it illegal for landfills to exist. Why aren't these proponents attempting to shut down the "people's" landfill? History has given us an example of the sorry saga of landfills and government in McMinn County. In the late nineties, a group of residents formed an association and incorporated it under the title "Residents Against Industrial Landfill Expansion" (RAILE). They spent thousands of dollars of private money documenting how one of the present landfills was damaging the environment of property owned by residents of McMinn County. Our County Commission did absolutely nothing to protect the property rights of those who were polluted by that landfill. If our local government was unwilling to stand up to a landfill then, why should we believe that it would not "amend" any zoning rules to permit a new landfill in the county after zoning became law?

The second reason given as the need for zoning is that often someone builds a beautiful home and another person moves in next door with a trailer. It is as if they are saying "those people aren't good enough to live next door to me." Do the advocates of zoning think people **who** live in mobile homes don't live in an expensive, 4,000 square foot home with a two car garage and a swimming pool just because they don't want to? People who can't afford the best life has to offer have just as much right to live where they wish as do the wealthiest among us. As libertarians, we feel if the proponents of zoning feel they are better than others, that is their right, but they have no right to use the force of government to deny others a place to live. Do they wish to zone the poor and middle income out of the county entirely, or just restrict them to ghetto areas so that we might have economic segregation?

Too often we hear the complaint that if someone builds a lesser quality dwelling next door it will lower the value of my home. This may be true, but are we to not allow someone to build a nicer home next to ours because it would raise our property taxes?

There are alternatives to zoning which do not require the force of government to be used against the residents who are not concerned about what their neighbor does. Restrictive deed covenants work quite well to assure property owners that the future use of the surrounding area will remain the same. It is becoming common practice in McMinn County to place deed restrictions on property when large parcels are sold off in sections at auctions.

The most effective thing government can do to make zoning unnecessary is to be a staunch defender of property. If a neighbor pollutes the air, ground, or water the County Government should prosecute the offender just as diligently as it would if the offender had broken into the house and stolen property.

In conclusion, the damage which would be done to the rights of property owners and the ill effects on the affordable housing market make it necessary to say no to zoning. The bureaucracy which will develop from zoning will cost not only in terms of dollars to support it, but more importantly will substitute the rule of law by the rule of regulators.

1. Bovard, James. FREEDOM DAILY August 1996 "Zoning: The New Tyranny" pp24-29
2. Kelly, "Enforcing Zoning and Land-Use Controls," p 18
3.
[Http://www.libertyhaven.com/personalfreedomissues/freespeechorcivilliberties/houstonzoning.html](http://www.libertyhaven.com/personalfreedomissues/freespeechorcivilliberties/houstonzoning.html)