



The Governance of Land Use

COUNTRY FACT SHEET UNITED STATES

The planning system

Levels of government and their responsibilities

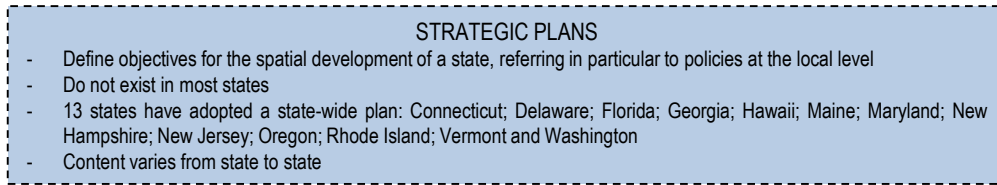
The United States is a federal country with 4 levels of government; the national level, 50 federated states, 3 031 governments at an intermediate level (e.g. counties) and 35 879 local authorities (not including special purpose entities such as school districts). Generally, decisions concerning land use are highly decentralised. Constitutionally, land-use planning is among the powers retained by the states, but all states delegate large parts of their authority to local governments through state constitutions and statutes.

Despite its lack of direct powers regarding land-use planning on non-federal lands, the federal government exercises considerable influence over land use. First, it has enacted environmental legislation that influences land-use decision making. Second, it owns large parts of the land especially in western states. The five states with the largest share of federal land are: Nevada (85%); Utah (65%); Alaska (61%); Idaho (61%); and Oregon (53%) (Vincent, Hanson and Bjelopera, 2014). Third, it owns and may decommission military lands for private development in important urban areas. Fourth, it has signed treaties that influence or govern land use on Native American tribal land. Fifth, it constructs and funds federal roads. Sixth, it provides fiscal incentives to state and local governments for specific projects. Seventh, it provides tax incentives to individuals, for example to encourage single-family homeownership through tax deductions on mortgage interests. Eighth, it provides limited housing support for low income households. Ninth, it pursues agricultural policies using fiscal and regulatory tools that influence land use especially in rural areas. Tenth, US constitutional principles such as due process, equal protection, and takings limitations impose restrictions on land-use planning.

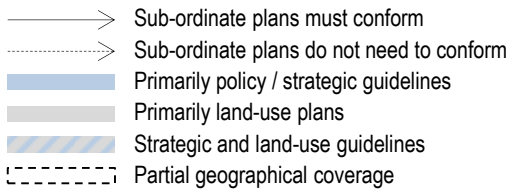
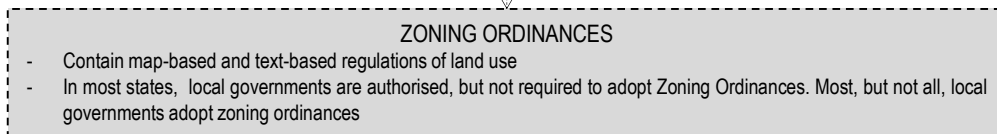
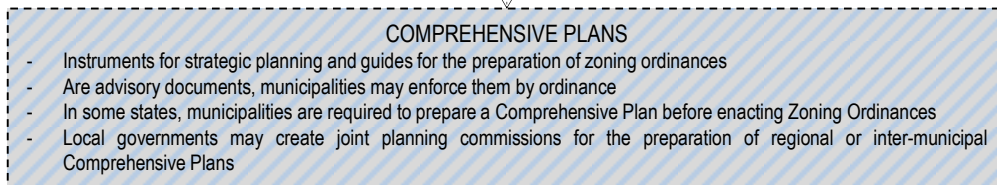
States have the authority to regulate land use, but all states have, to a large degree, delegated this authority to local governments through state constitutions and statutes. However, just as with the federal government, states also have considerable indirect influence. First, state constitutions determine the delegation of powers to the local governments, and states also pass the framework legislation that defines the tools that local governments can use for land-use planning and control. Second, they specify how local governments can finance themselves. For example, these financing provisions can prevent local governments from using specific fiscal instruments that would allow them to finance urban redevelopment projects. Thus, they limit local control over land use. Third, judicial review of land-use permits, as well as rules for how local governments must conduct administrative hearings on land-use permits, are frequently determined by states. Fourth, 15 states require an environmental review before building permissions can be issued. Fifth, all states adopt building codes, which generally follow the model provided by the *International Building Code*. Sixth, states may own land themselves. The five states with the largest share of state owned land are: New York (37%); Alaska (29%); New Jersey (16%); Florida (14%); and Pennsylvania (13%). Seventh, states provide voluntary guidelines and support to local governments to assist them in the planning process.

Organisation of spatial and land-use planning in the United States

General framework State



Local



Note:
The planning system in the United States is under the authority of the federated states. While a general characteristic in all states is a high degree of decentralisation to local governments, the details of the planning system may vary from state to state. The diagram shows a typical case, which represents the situation in many states.

Generally, local governments have a large degree of autonomy to control land use within their jurisdictions. States typically grant them the authority to pass ordinances and regulations as long as they do not conflict with other laws. Furthermore, all states give municipalities the power to enact zoning regulations. In 15 states, state legislation also requires municipalities to adopt a *Comprehensive Plan*. Similarly, in 8 states local governments are required to adopt *Local Zoning Ordinances*.

Spatial and land-use plans

No national level spatial plans exist in the United States. At the state level, 12 states have adopted state-wide plans, typically *Strategic Plans*. The plans vary with respect to their specificity and their focus. In some cases, they guide primarily state policies, but often they aim at guiding decisions at the local level. In seven states, the plans are legally binding documents and local governments must comply with them. In the remaining six states, they provide only guidelines, but compliance may be required for projects funded by state grants.

Comprehensive Plans are local government instruments for strategic planning. Their content and role varies from state to state. In most states, they do not create binding restrictions for land owners, but local governments use them as a guide for the development of zoning ordinances as well as for other strategic planning purposes. In most states, no legal requirement for local governments to enact a *Comprehensive Plan* exists. However, adopting a *Comprehensive Plan* is a legal requirement for enacting *Zoning Ordinances* in many other states, and some states make financial support for municipal investment projects dependent on the existence of a *Comprehensive Plan*. If a local government has adopted a *Comprehensive Plan*, some, but not all, states require *Zoning Ordinances* to be in accordance with the *Comprehensive Plan*.

Zoning Ordinances are the main instrument to restrict and steer the development of land within the jurisdiction of a local government. Typically, they contain text-based and map-based parts that indicate permitted and conditional uses for lots. Only a few states require local governments to adopt *Zoning Ordinances*, but they are common in most parts of the United States.

Major laws and regulations

Several federal laws affect land-use planning across the United States. Among the most important ones are the *National Flood Insurance Programme*, the *Endangered Species Act*, the *Energy Policy Act*, the *Clean Water Act*, the *National Environmental Policy Act*, the *Federal Highway Act* and, on federal lands, the *Federal Land Policy and Management Act*.

Co-ordination mechanisms

Few formal co-ordination mechanisms between levels of government exist in most states. Establishing a *Metropolitan Planning Organization (MPO)* is a prerequisite for urban areas with more than 50 000 inhabitants to obtain federal transportation funds. Generally, *MPOs* have an advisory role to local and state governments and focus on the co-ordination of policies between them, in particular with respect to transport planning. In most cases, the recommendations of *MPOs* are non-binding, but some states and metropolitan areas have expanded their role and given them regulatory functions.

Expropriations

Expropriation of land is possible for “public use” if the land owner is compensated in accordance with constitutional requirements. In 2005, a US Supreme Court decision clarified that this could include cases in which expropriated land is transferred to private developers for economic development purposes. In response, several states passed legislation that either restricts expropriation for private use or make it completely impossible.

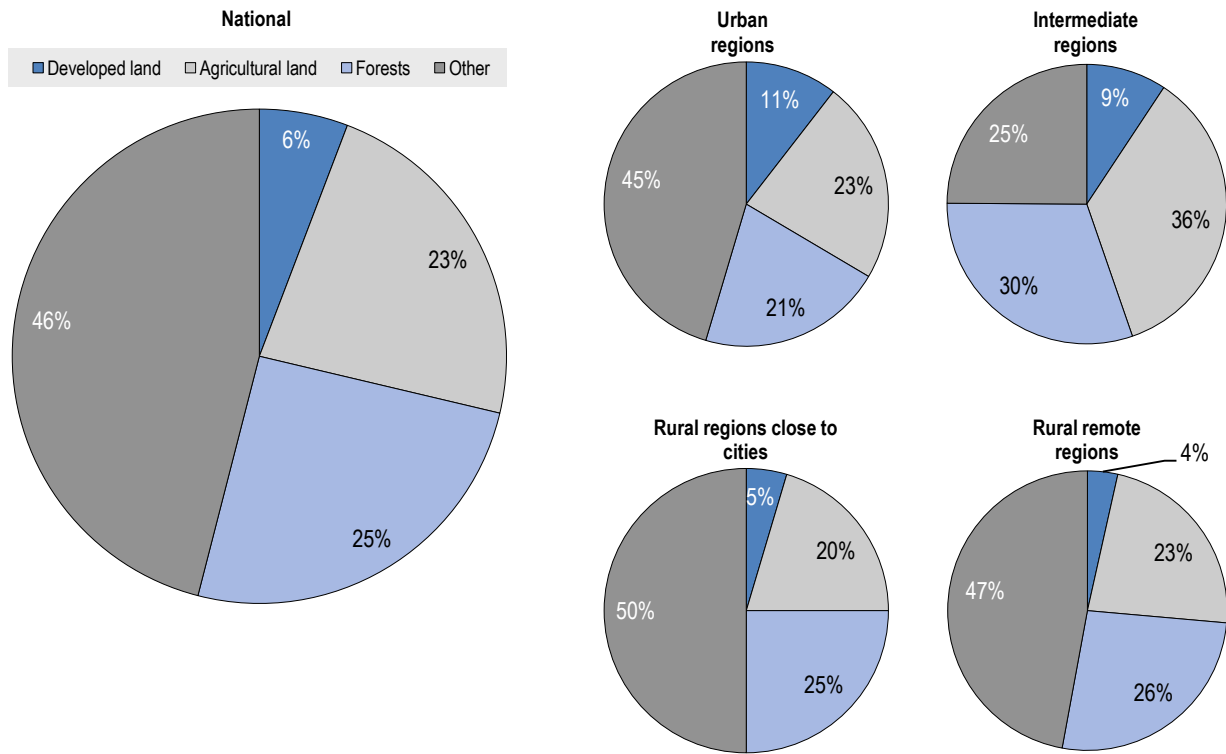
Recent and planned reforms to the system of land-use planning

The first comprehensive zoning code in the United States was enacted in 1916 in New York City and zoning ordinances were held constitutional by the US Supreme Court in 1926. Afterwards, zoning spread rapidly across the country, in large part due to the *Standard State Zoning Enabling Act*, which was drafted by the US Department of Commerce and forms the basis of most states’ zoning enabling laws. Zoning remains the dominant form of development control. On federal lands, a major reform was the enactment of the *Federal Land Policy and Management Act* in 1976, which established a uniform approach to

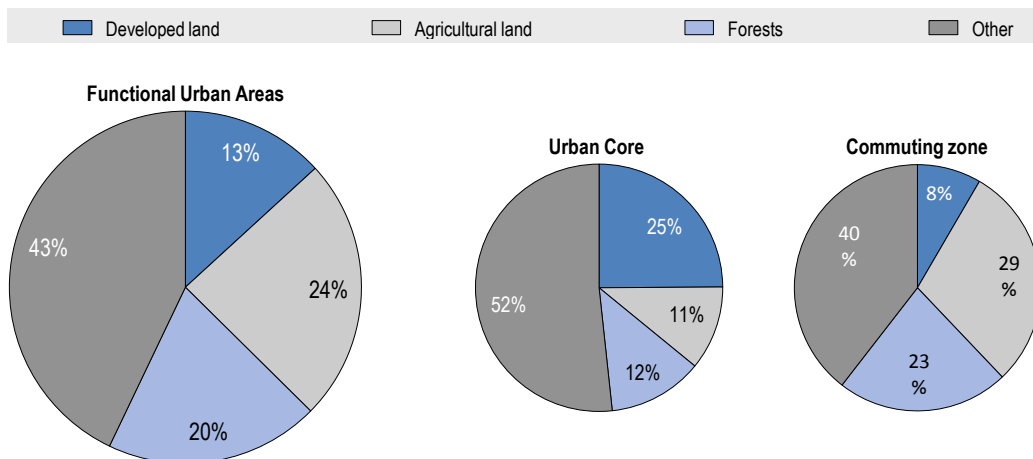
managing those lands. At the state level, reforms and policy changes occurred at varying points in time since the emergence of zoning.

Land cover in the United States

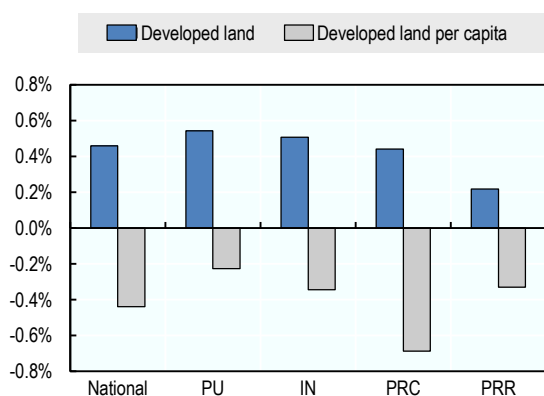
Land cover at the national level



Land cover in functional urban areas (FUAs)

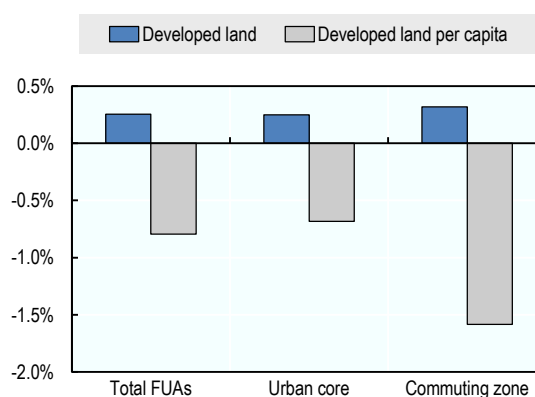


Annual change in developed land from 2001 to 2011



Note: PU: urban regions, IN: intermediate regions, PRC: rural regions close to cities, PRR: rural remote regions

Annual change in developed land in functional urban areas from 2001 to 2011



Note: Values for urban cores and commuting zones refer only to FUAs with more than 500 000 inhabitants.

Land-use trends in the United States

Comparisons between the United States and other countries are difficult, because of differences in the methodology to compute land cover information. If the existing data is taken at face value, the United States has by far the highest per capita land consumption of all analysed countries. With 1456 square metres it is three times as high as the OECD average. However, since 2001 the growth in developed land has been lower than population growth and per capita land-use efficiency has increased. This trend has been especially pronounced in large urban areas, where developed land grew much slower than population.

Source: OECD calculations based on Homer et al. (2015), *National Land Cover Database*.

Land cover at the national level in the United States

Land cover (km ²)	National	Urban regions	Intermediate regions	Rural regions close to cities	Rural remote regions
Total area	7807 628	1175 342	894 899	4481 283	1256 105
Total developed land	454 033	122 879	83 172	204 250	43 733
Percentage of total	5.8%	10.5%	9.3%	4.6%	3.5%
Annual change in developed land, 2001-11	2 029.2	646.1	410.2	878.6	94.3
Annual percentage change in developed land, 2001-11	0.46%	0.54%	0.51%	0.44%	0.22%
Agricultural land	1790 479	270 777	317 211	914 767	287 725
Percentage of total	22.9%	23.0%	35.4%	20.4%	22.9%
Annual change in agricultural land, 2001-11	-1 132.7	-267.5	-304.6	-512.2	-48.4
Annual percentage change in agricultural land, 2001-11	-0.06%	-0.10%	-0.10%	-0.06%	-0.02%
Forests	1971 842	248 044	272 474	1118 719	332 606
Percentage of total	25.3%	21.1%	30.4%	25.0%	26.5%
Annual change in forests, 2001-11	-6 662.9	-746.8	-1 052.5	-3 827.9	-1 035.6
Annual percentage change in forests, 2001-11	-0.33%	-0.30%	-0.38%	-0.34%	-0.31%
Land cover per capita (m²)					
Total developed land per capita	1 457	935	1 327	1 930	3 733
Annual percentage change in developed land per capita, 2001-11	-0.44%	-0.23%	-0.34%	-0.69%	-0.33%
Agricultural land per capita	5 744	2 060	5 060	8 642	24 562
Annual percentage change in agricultural land per capita, 2001-11	-0.96%	-0.86%	-0.94%	-1.18%	-0.56%
Forests per capita	6 326	1 887	4 346	10 569	28 393
Annual change in forest per capita, 2001-11	-1.22%	-1.06%	-1.22%	-1.46%	-0.85%

Land cover in functional urban areas (FUAs)

Land cover in FUAs (km ²)	FUAs	Urban core	Commuting zone
Total area	1399 377	404 837	994 540
Total developed land	184 095	100 623	83 472
Percentage of total	13.2%	24.9%	8.4%
Annual change in developed land, 2001-11	462.2	233.2	229.1
Annual percentage change in developed land, 2001-11	0.25%	0.23%	0.28%
Agricultural land	338 178	44 732	293 446
Percentage of total	24.2%	11.0%	29.5%
Annual change in agricultural land, 2001-11	-213.3	-95.0	-118.2
Annual percentage change in agricultural land, 2001-11	-0.06%	-0.21%	-0.04%
Forests	275 204	50 378	224 826
Percentage of total	19.7%	12.4%	22.6%
Annual change in forests from 2001-11	-495.9	-98.1	-397.8
Annual percentage change in forests, 2001-11	-0.18%	-0.19%	-0.18%
Land cover per capita in FUAs (m²)			
	FUAs (50 000+ inhabitants)	Urban core (only FUAs 500 000+)	Commuting zone (only FUAs 500 000+)
Total developed land per capita	866	590	1 889
Annual percentage change in developed land per capita, 2001-11	-0.79%	-0.68%	-1.58%
Agricultural land per capita	1 591	287	5 409
Annual percentage change in agricultural land per capita, 2001-11	-1.11%	-1.13%	-1.95%
Forests per capita	1 295	329	4 745
Annual percentage change in forests per capita, 2001-11	-1.22%	-1.12%	-2.06%

Source: All land cover statistics for the United States are based on OECD calculations based on National Land Cover Data.

Bibliography

- European Environment Agency (2012), *Corine Land Cover (CLC) 2012, Version 18.5.1* (database).
- Homer, C.G., J.A. Dewitz, L. Yang, S. Jin, P. Danielson, G. Xian, J. Coulston, N.D. Herold, J.D. Wickham and K. Megown (2015), "Completion of the 2011 National Land Cover Database for the conterminous United States-Representing a decade of land cover change information", *Photogrammetric Engineering and Remote Sensing*, Vol. 81(5), pp. 345-354, www.asprs.org/a/publications/pers/2015journals/PERS_May_2015/HTML/index.html#345/z (accessed 9 December 2016).
- Vincent, C.H., L.A. Hanson and J.P. Bjelopera (2014), "Federal land ownership: Overview and data", *Congressional Research Service Report*, (R42346).