Cities incorporate to control land use
  – How do they use this power

Cities affect land use with:
  – Taxing and spending
  – Zoning and eminent domain

Cities regulate public health, safety, and welfare with police powers
  – Regulation of building design and food quality in restaurants
Local Land Use Plans as Exclusionary?

• **Zoning**
  – Innovation from the Progressive Era
  – Prevents incompatible land uses
  – *Village of Euclid v. Ambler Realty Co* *(1926)*—zoning is a logical extension of city’s police powers
  – Allows city to plan development
Local Land Use Plans as Exclusionary?

• Zoning
  – Some view it as regulatory taking
    • how far can local govt go in using ‘police powers’?
  – 5th Amendment protections
    • Property rights movement
      – Oregon, WA, ID Compensation initiatives
Local Land Use Plans as Exclusionary?

• **Zoning**
  – How far can local govt go in using ‘police powers’?
  
  • Land use designations = value of land
    – if designation changes, value changes
  
  • Designate **type of use**
    – Ag, residential, type of residences, commercial, industrial, forestry, mining, recreational, etc.
  
  • Designate **density of use**
    – 10 homes p/ ac, 1 home p/ 20 ac.....
Eminent Domain

- State and local government may take property for public use
- Based on 5th Amendment
- Kelo v. City of New London

Conflict can be high

- take private land for higher value private use?
Exclusionary Zoning

- Zoning can disadvantage poor and minorities
- Does that make it illegal?
  - Euclid = ‘hierarchy of land use’, segregate incompatible uses
- Incentives to exclude:
  - Multi-family, lower income housing = ltd tax revenues, high demands for services
Exclusionary Zoning

• Might a place have an incentive to adopt regs that only allow large, expensive single-family homes?
  • lots size minimums
  • set back requirements
  • design review standards
  • 100% zoned SF
Legal challenges to exclusionary zoning

Black Jack, MO (1970)
  - Incorporated to block 108 unit MF project

Arlington Heights, IL (1977)
  - No MF, no evidence of intent

Mt Laurel, NJ (1975, 1982)
  - led to state legislation

Summary
  - must show effect, intent, and blatant
Exclusionary Zoning

• Ballot Box Zoning
• Power of local vote varies by state
• What is subject to direct democracy?
  • Set density?
  • define allowed land use?
  • adopt/reject general plan?
  • grant/block rezone?
  • grant/block variances to plan?
Exclusionary Zoning

- Ballot Box Zoning
  - Utah
    - Rezone not subject to referendum; what else?
  - Oregon
    - Fassano case; map amendments, ‘general ordinances’ subject to referendum, not actions on specific property
Exclusionary Zoning

- Ballot Box Zoning
  - Washington
    - *Leonard v. City of Bothell* (1975); rezone land to retail; opposed by citizens
      - General plan had land as agricultural
    - WA Court: referendums and initiatives can be held on “legislative matters”, NOT “administrative matters”
      - “amendments to zoning and rezone decisions require an intelligent choice by individuals who posses the expertise to consider total economic, social and physical character of community”
Exclusionary Zoning

- Ballot Box Zoning
  - California
    - Citizens can use initiative and referendum to fight anything; a re-zone for a single property
    - **legitimate use of direct democracy**, since it sees the rezone not as an administrative procedure, but a change affecting lifestyle of city residents.
    - So, developers in CA must make voters happy
Population growth has occurred in highly fragmented metropolitan areas.

Areas are fragmented into cities, counties, towns, school districts, and special districts.

Central city is often surrounded by suburbs.
Fragmentation

• New cities vs. traditional cities
• The Lakewood Plan
  – Newer cities starting in the 1950s provided fewer services
  – Privatization and contracting for services
• Cities can be strategic
  – for better or worse....
    • specialized cities (Vernon, Industry...)  
    • Is this fair?
The Consequences of Metropolitan Fragmentation

- Winners and losers
- **Efficiency gains**—providing services at a lower per unit cost
- **Inter-municipal inequality**—differences in social status and wealth
- Isolation of poor in major cities
- poor suburbs
Are we Better of Without Zoning?

• Market forces will lead to competition and lower prices
• Market might not deal with true cost of growth and development
• The Local Land Use Dilemma
  – Consider what level of government should regulate land use
Cities and counties may share some local powers with regional governments. Progressive reformers wanted consolidation of local governments to create more efficient economies of scale. May not increase efficiency. Competition does.
State and Regional Planning Alternatives

- State growth management laws
  - May require urban growth areas (UGAs)

- Regional revenue sharing
  - Plan to attract businesses and residences
Federal and local policies have shaped development of metro areas.

What equity issues?

“Central” cities making a comeback – gentrification