

## **PRINCIPLES OF LAND DISTRIBUTION (REDISTRIBUTION) IN PLANNING THE SPATIAL DEVELOPMENT OF TERRITORIAL COMMUNITIES**

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***Abstract.** In order to harmonize the existing documentation on land management and documentation, which is both urban planning and land management, proposed by the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning”, the main features of state, communal and private land use were analyzed. , their assignment to one or another category of lands, determination of the purpose and type of use within the functional zoning of the territory when planning spatial development.*

*The basic principles of distribution (redistribution) of lands by types of use are offered taking into account requirements of the complex plan of spatial development of territories of territorial communities and the plan of zoning of the territory (zoning). The main features of these principles are taking into account restrictions on land use within certain functional zones, certain categories of land of the formed land plots, functional purpose of the territory and characteristics of the territory.*

*The relevance of developing a classifier of types of land use, types of functional purpose of territories and the relationship between them, as well as the rules of its application with the definition of land categories and types of land use, which can be established within the relevant functional area.*

***Keywords:** type of land use, category of lands, restrictions on land use, spatial planning, territorial communities, functional zones, purpose*

**Formulation of the problem.** Functional features of land are the unique basis that determines the special legal regulation and requires theoretical and legal

justification for the use of land as a condition of human life. Proper use of land should take into account their functions, which is crucial for achieving sustainable use of nature. On the one hand, the land is an independent object of economic use, and on the other - is part of the environment, which contributes to the formation of complex natural formations.

The modern division into categories of land is made depending on the available natural and anthropogenic resources, and on the other hand - the properties of the land that create the conditions for the emergence of such resources.

Ensuring the appropriate functional purpose is not possible without a combination of soil properties. Without the properties of a unique natural resource, land can not be either a territorial basis or a means of production in agriculture or forestry, and therefore can not ensure its social function as a place of life. This also applies to other functions of land, which are united by the basic principle of land legislation - a combination of features of land use as a territorial basis, natural resource and main means of production.

**Analysis of recent research and publications.** Issues of community formation and planning have been discussed by scholars and practitioners in recent years. To a greater extent, they concern the development and improvement of domestic legislation, as well as narrower issues related to the activities and planning of socio-economic development.

In domestic science, the problems of legal regulation of relations in the field of spatial planning have been studied by such scientists as: O. Dorosh, Sh. Ibatulin, M. Stupen, A. Tretiak, Y. Dorosh, A. Martyn and others. Also, the works of such scientists as D. Dobriak, M. Khvesyk, P. Borshchevskyi, T. Kovalchuk, T. Kovalenko and other scientists are of significant scientific interest.

**The purpose of the article** to analyze the basic principles of distribution (redistribution) of land by type of purpose in the development of comprehensive plans for spatial development of territorial communities and propose measures to improve them.

**Presentation of the main material.** Given the above properties of land (as a territorial basis, natural resource and main means of production), domestic scientists identify certain principles of land use formation, which should be the basis for the formation of land management in the transformation of land relations and market land use, including:

1. The principle of diversity and equality of all forms of ownership, ownership and use of land;
2. The principle of priority to protect the vital interests of the individual, society and the state;
3. The principle of priority of rights and obligations defined by the Constitution of Ukraine;
4. The principle of state support for measures for the rational use, improvement of quality and protection of land;
5. The principle of availability of information on the state of lands;
6. The principle of state management of land resources;
7. The principle of rational land use;
8. The principle of land use for the intended use;
9. The principle of payment for land use.

It should be emphasized that in a market economy, namely the adoption of the Law of Ukraine of March 31, 2020 № 552-XI “On Amendments to Certain Legislative Acts of Ukraine on the Conditions of Circulation of Agricultural Land”, land management should be comprehensive, which will have direct impact on land use efficiency.

Returning to the division of land into categories and main purposes, domestic scientists have studied the positions of the Land Code of Ukraine, illustrated in Table 1 [1], which currently differ from the current Classification of land use, approved by the Order of the State Committee of Ukraine for Land Resources from 23.07.2010 № 548.

*Table 1*

**Distribution of land categories by purpose in accordance with the Land Code  
of Ukraine and proposals for the allocation of main purposes**

№	Category of lands	The main purpose of land use
1	Agricultural land	- land for agricultural production; - land for agricultural research and educational activities; - land to house the relevant production infrastructure .
2	Land for housing and public buildings	- land for housing; - lands of public buildings and structures; - lands of other public facilities.
3	Lands of nature reserve fund and other nature protection purpose	- natural territories and objects of the nature reserve fund; - artificially created territories and objects of the nature reserve fund.
4	Health-improving lands	- lands that have natural healing properties; - land for disease prevention and treatment of people.
5	Recreational lands	- land for recreation - land for tourism; - land for sports events.
6	Lands of historical and cultural purpose	- monuments of cultural heritage, their complexes (ensembles); - historical and cultural reserves; - historical and cultural protected areas; - protected archaeological sites; - open-air museums; - memorial museums-estates.
7	Forestry lands	- lands covered with forest vegetation; - lands not covered with forest vegetation; - non-forest lands that are provided and used for forestry needs .
8	Land water fund	- lands occupied by seas, rivers, lakes, reservoirs, other bodies of water, swamps, as well as islands not occupied by forests; - lands occupied by coastal protection strips along seas, rivers and around water bodies, except for lands occupied by forests; - lands occupied by hydraulic, other water management structures and canals, as well as lands allocated for drainage strips for them; - lands occupied by coastal waterways; - lands occupied by artificially created land plots within the waters of seaports.
9	Land for industry, transport, communications, energy, defense and other purposes	- industrial lands; - lands of transport; - communication lands; - energy lands; - defense lands; - lands of other purpose .

*Source - [1].*

As mentioned earlier, today the issue of updating the classification of land use and determining the role of land use, which is enshrined in the Land Code of Ukraine, as well as creating an integrated classifier of land use restrictions.

With the adoption of the Law of Ukraine № 711-IX of 17.06.2020 “On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning” introduces the concept of the type of functional purpose of the territory [2] within which both categories of land and types of their purpose are defined .

According to this Law, “the classifier of types of land use, types of functional purpose of territories and the relationship between them, as well as the rules of its application with the definition of land categories and types of land use that may be established within the relevant functional zone are approved by the Cabinet of Ministers . These classifiers and rules are used to maintain the State Land Cadastre and Urban Cadastre [2].

This normative legal act actually stipulates that a functional zone is a territory within which only a limited list of types of land use is possible. However, “the inclusion of land with a certain type of purpose in the functional zone does not entail the obligation to change the type of its purpose, regardless of whether this type belongs to the list of types of purpose, the definition of which is possible within such a zone” [ 2]. At the same time, the change of purpose within the functional zone is envisaged and can be carried out by landowners.

It should be emphasized that the concept of “functional zone”, which is used in the newly adopted law, is currently identical to the requirements for the development of certain areas [3] according to the Law of Ukraine of 17.02.2011 № 3038-VI “On regulation of urban planning”. However, from July 24, 2021, this term will have the following statutory definition: “functional area - defined by a comprehensive plan of spatial development of the territorial community, general plan of the settlement, zoning plan part of the territorial community, for which a certain set of permitted (preferred (main) and related) types of purpose of land plots and in accordance with the legislation restrictions on the use of land in the field of construction” [2].

Under such conditions, the distribution (redistribution) of land in the spatial planning of the territory, namely within the functional zones, should occur not only by category of land and type of purpose, but also by type of use.

In this case, the type of use should be determined depending on the purpose of the land, the characteristics of state and municipal enterprises and restrictions on use, which apply to the land or part thereof, ie be derived from these three conditions (Fig. 1).

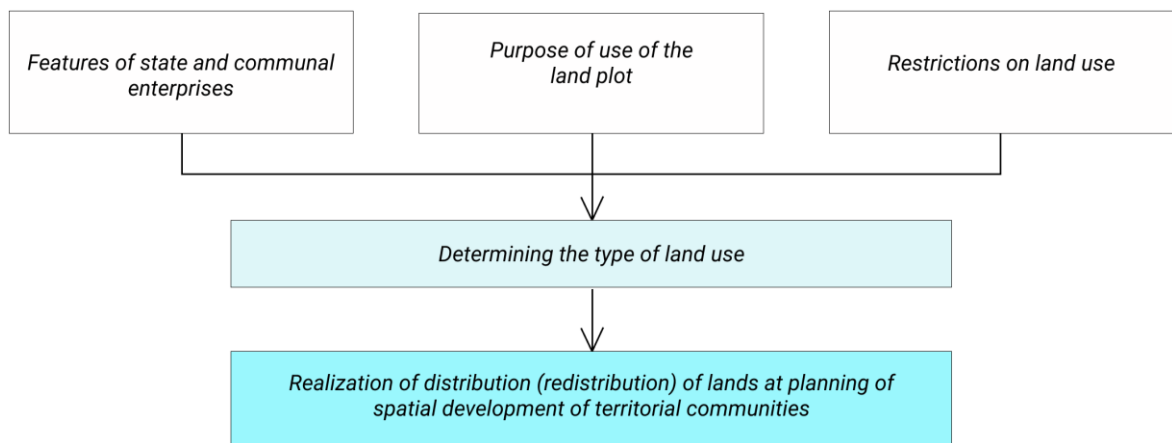


Fig. 1. Principles of distribution (redistribution) of lands by types of use in planning the spatial development of territorial communities

The implementation of such principles of distribution (redistribution) of land by type of their use has been blocked by the same Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning”, as according to it the concept of “type of land use” is abolished by adopting changes to Art. 116 of the Land Code of Ukraine, in which it is replaced by the concept of “purpose of land”.

Thus, today the issue of developing not only the classifier of restrictions on land use, which will be integrated with the State Land Cadastre and Urban Cadastre, but also especially updating the classification of land use, which should be based on the principles of distribution (redistribution) of land types of use within certain functional areas.

In addition, the ratio and conditions of integration of the List of Territorial Zones (groups of objects of the State Land Cadastre) (Annex 2 to the Procedure for

maintaining the State Land Cadastre) [4] and the newly introduced functional zones, which, at first glance, have similar functions and task.

**Conclusion.** Examining the changes in land legislation on the peculiarities of use, distribution and redistribution of state, communal and private lands within territorial communities, it should be emphasized that with the adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning" appointments will be determined by local governments by approving a comprehensive plan of spatial development of territorial communities and a detailed plan of the territory. At the same time, part 2 of the new wording of Article 20 of the Land Code of Ukraine stipulates that "the purpose of the land plot is determined by the land owner independently within the relevant type of functional purpose of the territory defined by the approved comprehensive community spatial development plan. territory or a detailed plan of the territory ". This provision is not consistent with paragraph 1 of part 1 of Article 19 of the Civil Code of Ukraine, according to which "the lands of Ukraine for the main purpose are divided into... categories:...". That is, the purpose of land is determined within the categories of land, not within the functional purpose of the territory. In this regard, we propose to make appropriate changes to the Land Code of Ukraine.

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## **ПРИНЦИПОВ РАСПРЕДЕЛЕНИЯ (ПЕРЕРАСПРЕДЕЛЕНИЕ) ЗЕМЕЛЬ ПРИ ПЛАНИРОВАНИИ ПРОСТРАНСТВЕННОГО РАЗВИТИЯ ТЕРРИТОРИАЛЬНЫХ ОБЩИН**

*Аннотация. С целью согласования существующей документации по землеустройству и документации, которая одновременно является градостроительной на местном уровне и землеустроительной, предложенной Законом Украины «О внесении изменений в некоторые законодательные акты Украины относительно планирования использования земель», были проанализированы основные особенности использования земель государственной, коммунальной и частной собственности, отнесение их к той или иной категории земель, определение целевого назначения и вида использования в пределах функционального зонирования территории при планировании пространственного развития.*

*Предложены основные принципы распределения (перераспределения) земель по видам использования с учетом требований комплексного плана пространственного развития территорий территориальных общин и плана*



зонирования территории (зонинга). Главными особенностями указанных принципов является учет ограничений в использовании земель в пределах определенных функциональных зон, определены категории земель сформированных земельных участков, функциональное назначение территории и характеристика территории.

Также проанализированы актуальность разработки классификатора видов целевого назначения земельных участков, видов функционального назначения территорий и соотношение между ними, а также правила его применения с определением категорий земель и видов целевого назначения земельных участков, которые могут устанавливаться в пределах соответствующей функциональной зоны.

**Ключевые слова:** вид использования земель, категория земель, ограничения в использовании земель, пространственное планирование, территориальные общины, функциональные зоны, целевое назначение

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## **ЗАСАДИ РОЗПОДІЛУ (ПЕРЕРОЗПОДІЛУ) ЗЕМЕЛЬ ПРИ ПЛАНУВАННІ ПРОСТОРОВОГО РОЗВИТКУ ТЕРИТОРІАЛЬНИХ ГРОМАД**

*З метою узгодження існуючої документації із землеустрою та документації, яка одночасно є містобудівною на місцевому рівні та землевпорядною, запропонованої Законом України «Про внесення змін до деяких законодавчих актів України щодо планування використання земель», було проаналізовано основні особливості використання земель державної, комунальної та приватної власності, віднесення їх до тієї чи іншої категорії земель, визначення цільового призначення та виду використання в межах функціонального зонування території при плануванні просторового розвитку.*

*Запропоновано основні засади розподілу (перерозподілу) земель за видами використання з урахуванням вимог комплексного плану просторового*

*розвитку територій територіальних громад та плану зонування території (зонінгу). Головними особливостями вказаних засад є врахування обмежень у використанні земель в межах визначених функціональних зон, визначені категорії земель сформованих земельних ділянок, функціональне призначення території та характеристика території.*

*Також проаналізовано актуальність розроблення класифікатора видів цільового призначення земельних ділянок, видів функціонального призначення територій та співвідношення між ними, а також правила його застосування з визначенням категорій земель та видів цільового призначення земельних ділянок, які можуть встановлюватися в межах відповідної функціональної зони.*

**Ключові слова:** *вид використання земель, категорія земель, обмеження у використанні земель, просторове планування, територіальні громади, функціональні зони, цільове призначення*