

BOARD OF ADJUSTMENT WORKSHOP

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Basic Structure of Zoning Ordinances

Text and map. Zoning ordinances have a text that defines the various zoning districts, describes the rules that apply to development, and establishes the administrative structure for implementing zoning. The ordinance also includes a zoning map that applies the districts to the zoned area. The map is a part of the ordinance.

Districts and uniformity. A key aspect of zoning is that different rules for development apply to different zoning districts. Within each district, all development is treated alike. There are no state standards on the number or type of zoning districts allowed—each local government can craft a unique set of districts tailored to their local needs.

Use regulation. A key aspect of zoning is regulation of land uses. The ordinance specifies, for each district, what types of land uses are allowed (permitted uses), which are not allowed (prohibited uses), and which may be allowed if specified standards are met (conditional uses, special uses).

Other standards. In addition to regulating land uses, zoning ordinances usually set minimum criteria for dimensions of lots, setbacks for buildings, and maximum building sizes. Many zoning ordinances also include standards on landscaping, buffering, parking, and signs.

Various zoning approaches

Cumulative districts—This is an approach where the zoning of more intensive districts also allows all of the uses permitted in less intensive districts. An example would be a business district that automatically allows all uses permitted in a residential district.

Special purpose districts—This is an approach where only a narrow range of permitted uses is allowed, such as zoning an industrial park area so that only specific types of industries are allowed there.

Performance standards—With performance standards, zoning sets standards rather than focusing on uses, such as a provision that allows any commercial or industrial use of a parcel so long as it does not generate more than a specified amount of traffic or noise.

Overlay and floating districts—Overlay zones are special districts that create special requirements that are in addition to the basic zoning requirements, such as a highway corridor overlay district that imposes special landscaping requirements along a major entryway to town; floating districts are those that are defined in the ordinance but not applied to property unless the owner requests it, such as manufactured home park district.

Planned unit development (PUD's)—These are a special district that can be applied to a large parcel, usually with mixed land uses being developed according to an overall plan. An example would be a large site with some office uses, a shopping area, some multi-family housing, and some single family housing, all being developed under a pre-approved overall development scheme.

Special and conditional use districts (SUD's and CUD's)—These are zoning districts with no permitted uses at all; all development is subject to acquiring a special or conditional use permit. These can only be established at the landowner's request.

Statutory Provisions for the Board of Adjustment

[GS 160A-388, 153A-345]

One or more bodies may be designated as “board of adjustment.” This allows various functions to be assigned to different boards, such as having a board of adjustment handle appeals and variances, the planning board handle special use permits, and the governing board handle conditional use permits.

Membership. There are several specific statutory mandates regarding membership on the board of adjustment. A board of adjustment must have at least five members. Appointments must be for three year terms (except when filling the remaining term of a vacancy). Members may not be removed during their term except for cause (e.g., excessive absences, misconduct in office). A board may have alternate members (though alternates should only participate in a hearing if they are voting on that matter). Cities must have extraterritorial members if the city has extraterritorial zoning. Members are likely “officers,” thus all members should take an oath of office upon their appointment. Also, the limits on dual office holding apply; a member may not hold more than one other public office.

Formal duties. Among the duties that may be assigned to a board of adjustment are these: Hearing appeals of zoning officer decisions; deciding on request for special exceptions (another term for special and conditional use permits); making interpretations of the zoning map; and deciding on petitions for variances.

Governmental Roles in Planning

There are four types of zoning decisions, with a different process and set of rules for each. It is critical that a board member know at all times which type of decision is being made in order to know which rules to apply. The four types of decisions are:

- *Legislative*—These include final, binding decisions on general policies that apply throughout a community. Examples include adoption, amendment, or repeal of land use regulations, adoption of the budget, and so forth. These are almost always assigned to the governing board.
- *Advisory*—These include recommendations on plans, policies, ordinance changes, and the like. A key difference between these and legislative decisions are that these are not final decisions, but are recommendations only. They are often handled less formally than other decisions and have fewer state rules about how they are made.
- *Quasi-judicial*—These are formal decisions that determine the rights of individuals affected by government policies. They include variances, special and conditional use permits, and appeals of administrative decisions. They do not involve setting new policies, but the application of previously adopted policies to the parties involved. These involve fact-finding and the application of some discretion. The zoning board of adjustment makes most of these decisions, but planning boards and governing board may also be assigned quasi-judicial decisions.
- *Administrative*—These are the routine, day-to-day decisions, such as making individual permit and enforcement decisions. They are usually handled by the professional staff.

LOCAL GOVERNMENT PLANNING FUNCTIONS

<u>Agency</u>	<u>Primary role</u>	<u>Other possibilities</u>
GOVERNING BOARD: (city council, county board of commissioners)	Legislative decisions: adopts ordinances, amendments, policy statements, budgets; approves acquisitions; makes appointments to other bodies	May also serve as planning agency; may approve plats and special use permits
PLANNING AGENCY: (planning board; planning commission; planning committee of governing board)	Advisory decisions: sponsors planning studies; recommends policies, advises governing board; coordinates public participation; must recommend initial zoning ordinance	May also serve as board of adjustment; may approve or review plats
BOARD OF ADJUSTMENT:	Quasi-judicial decisions: hears zoning appeals, variances, special and conditional use permits	
STAFF: (planning department, inspections department, community development department)	Administrative decisions: issues permits, conducts technical studies, initiates enforcement; advises manager	

SOME KEY DIFFERENCES BETWEEN LEGISLATIVE AND QUASI-JUDICIAL ZONING DECISIONS

	<u>Legislative</u>	<u>Quasi-judicial</u>
Decision-maker	Only governing board can decide (others may advise)	Can be board of adjustment, planning board, or governing board
Notice of hearing	Newspaper and mailed notice to owners and neighbors required	Only notice to parties required unless ordinance mandates otherwise
Type of hearing	Legislative	Evidentiary
Speakers at hearings	Can reasonably limit number of speakers, time for speakers	Witnesses are presenting testimony, can limit to relevant evidence that is not repetitious
Evidence	None required; members free to discuss issue outside of hearing	Must have substantial, competent, material evidence in record; witnesses under oath, subject to cross-examination; no ex parte communication allowed
Findings	None required	Written findings of fact required
Voting	Simple majority, but 3/4 required if protest petition filed on rezoning	4/5 to decide in favor of applicant, but if special/conditional use permit is issued by governing board, only a simple majority required
Standard for decision	Creates standard	Can only apply standards previously set in ordinance
Conditions	Not allowed	Allowed if based on standard in ordinance
Time to initiate judicial review	Two months to file challenge	30 days to file challenge
Conflict of interest	Requires direct financial interest to disqualify	Any financial interest or personal bias disqualifies
Creation of vested right	None	Yes, if substantial expenditures are made in reliance on it

Rules for Quasi-judicial Decisions

Special rules apply to all decisions where there is fact-finding and the application of discretionary standards. This includes appeals, variances, special use permits, and conditional use permits. While these decisions are typically made by boards of adjustment, they may also be assigned to the planning board or governing board. These special rules apply to whoever decides—planning board, board of adjustment or governing board.

Quorum and voting. The statutes do not set a special *quorum* for boards of adjustment. Some ordinances specify a majority of board, others use a higher four-fifths requirement. Many decisions of the board require a *four-fifths majority*—such as granting a variance, a special or conditional use permit, or overruling a determination of the zoning administrator. A few local governments have local legislation that change the required majority.

Hearings. An *evidentiary hearing* is required for each decision. The purpose of the hearing is to establish the facts, not to gather opinions about the desirability or popularity of the project. Witnesses present testimony under oath, cross-examination must be allowed, board members are not allowed to gather evidence outside of the hearing, and written findings of fact are required.

Notice of hearings. A local government must give due *notice* of its hearings to all parties to the case. Individual mail notice is the usual method of doing this. The zoning statutes impose no special published notice requirements for quasi-judicial decisions (unlike proposed zoning amendments). If a zoning ordinance itself requires additional notice, such as publication in the newspaper or a sign on the site, that additional notice is mandatory. The open meetings law also has requirements for meeting notices that apply to boards of adjustment. Once a hearing has been opened, it may be *continued* to a latter date if that is necessary to receive additional evidence. Additional notice of the continued hearing is not required by law, but many boards provide it.

Witnesses. Persons presenting testimony to a board of adjustment are subject to several requirements. Everyone presenting evidence should do so *under oath*. Oaths may be waived, but it is best to use oaths or affirmations for everyone. This applies to anyone offering evidence, including staff and attorneys. *Cross-examination* of witnesses must be allowed. Municipal boards have authority to issue subpoenas.

Evidence. Quality evidence must be in the hearing record to support all of a board's key conclusions. The legal standard is that *substantial, competent, material evidence* is required to be in the record for each key fact. While strict legal rules of evidence do not apply, they are a general guideline for boards. Hearsay and non-expert opinion should be avoided. Determining how much *weight* should be given to the evidence that is offered is a key job of boards of adjustment (how persuasive and how reliable is the evidence offered). No *ex parte* communication should be allowed—only evidence in the record at the hearing may be considered. Site visits prior to the hearing are permissible, but care should be taken to avoid conversation with applicant/neighbors and any critical information obtained on site must be disclosed at the hearing. Persons have the right to present and inspect documents and records.

The board must maintain a *detailed record* of its hearing—keep all exhibits and prepare either detailed minutes or a verbatim transcript.

Findings. *Written findings of fact* are required. The board must specify what it determines the facts to be and must document the basis for the decision. Simply repeating the standards for the ordinance and noting each is met is generally not sufficient, especially where there is conflicting evidence. It is useful for the staff and board to have a clear and common set of terminology relative to “standards,” “findings,” “findings of fact,” “decisions,” and “orders.”

Some Practical Issues Relative to Findings of Fact

1. What format is used for the written findings of fact?
 - Separate document
 - Part of minutes
2. Who prepares the proposed findings?
 - Zoning staff
 - Applicant
 - BOA’s attorney
 - BOA members
 - Clerk to board
3. When are draft findings prepared?
 - Prior to the hearing
 - At the conclusion of the hearing
 - After the hearing
4. When are the findings approved by the Board?
 - At the conclusion of the hearing
 - When the chair signs after the meeting
 - When the board approves its minutes at a subsequent meeting

Rehearings. As a general rule, a board of adjustment may not hear a case a second time. The applicant and other affected parties must present their evidence at the initial hearing. Appeals of the initial decision may be made to the courts, not back to the board. If there is a substantially different application, or there has been a significant change of conditions on the site or in the ordinance, a new hearing may be held. Some boards allow a case to be *withdrawn* without a formal decision anytime up to a vote; others do not allow withdrawal after the hearing begins and some limit withdrawal after publication of notice of the hearing.

Precedents. Prior decisions are not legally binding on a board of adjustment. Each case must be decided on its own individual merits. Subtle differences in individual facts and situations can lead to differing results. However, a board should be aware of previous decisions and, as a general rule, similar cases should usually produce similar results.

Conflicts of interest. The Constitution gives parties to a quasi-judicial decision a legal right to an *impartial decision-maker*. Thus boards of adjustment must avoid conflicts of interest. North Carolina courts have held that a direct and substantial financial impact disqualifies a member from participating. In addition to financial impact, bias (defined as a predetermined opinion that is not susceptible to change) and close family or business ties also disqualify members from participating. Nonparticipation includes the discussion as well as voting.

Open meetings law. Boards of adjustment are subject to the state open meetings law [G.S. 143-318.9 to 143-318.18]. All meetings of a majority of the board, or any committees of the board, for the purpose of conducting business must be open to the public. Closed sessions may be held only for seven narrow purposes set forth by statute (e.g., receiving legal advice regarding pending litigation). A board may not retire to a private session to deliberate a case. Public notice must be provided for all meetings (regular schedule filed with clerk, special meetings notice posted and mailed to media).

Liability. Board of adjustment members are “public officers” and, as such, have limited exposure to personal liability as a result of board actions. Members do have exposure to liability for intentional torts (such as assaulting someone during a board meeting) and for willful misconduct (such as intentionally denying a permit that should have been issued because of a personal vendetta against the applicant). Good faith mistakes or errors in judgment do not expose members to personal liability.

Specific Types of Board Decisions

Appeals and Interpretations

Real controversies. Boards of adjustment may not issue binding advisory opinions. Before a matter comes to the board of adjustment, there must have been an official initial staff determination.

Standards. The key question in interpreting the ordinance is how to carry out the intent of the zoning ordinance. The board is not to address the question of what the ordinance should be; rather the question is what was the intent of the governing board when the provision in question was adopted.

Precedents. While each case is unique and must be decided on its own merits, fairness requires the board to treat similar situations alike. While strict uniformity and slavish adherence to precedent is not required, the board should be aware of previous rulings in similar situations and should generally follow *precedence* unless there is a good reason for deviation.

Special and Conditional Use Permits/Special Exceptions

Standards. A board must apply the standards that are already in the zoning ordinance. The board does not have unlimited discretion. These cases are not the appropriate place to make policy; rather the board is applying previously set policies to an individual case. The standards can be general (e.g., the activity not have a significant adverse effect on neighboring property values and the activity be compatible with the surrounding neighborhood), specific (e.g., the use be located on a lot of at least 40,000 sq. ft.), or a combination of general and specific standards.

Burden of proof. The burden of proof in these cases is allocated as follows: The applicant must present evidence that standards in ordinance are met. It is not the staff's responsibility to produce this basic information. Often application forms are required that will elicit most of this information. If the applicant presents sufficient evidence that the standards are met, the applicant is legally entitled to a permit. If contradictory evidence is presented; the board must make findings and then apply the standards.

Conditions may be applied and enforced, but a board may only impose conditions related to the standards in the ordinance.

Variances

Purpose. A zoning variance gives an owner permission to do something that is contrary to the requirements of the zoning ordinance. Variances are a safety-valve in zoning that allow adjustment of the rules to fit individual unanticipated situations. The standards for obtaining a variance are very strict, as this is one of the most powerful tools available to boards of adjustment and can be subject to substantial abuse if not carefully administered. Variances must not be used as a substitute for amendments to the zoning ordinance. Members of boards of

adjustment must be careful not to substitute their judgment for what the zoning ordinance should be for that of the elected officials who are responsible for adoption of the ordinance.

Standards. A variance may be granted only if *all* three of these general standards are met. Meeting one of the standards, but not the others, is insufficient.

1. To qualify for a variance, the applicant must show that strict application of the rules would create *practical difficulties and unnecessary hardships*. Tests used to determine unnecessary hardship include:
 - No reasonable use of the property without variance
 - Hardship results from application of ordinance
 - Hardship is suffered by the property
 - Hardship is not self-created
 - Hardship is peculiar to the property
2. The applicant must also show that the variance would be consistent with *intent and purpose* of ordinance. This means:
 - No “use variances” can be allowed
 - Non conformities may not extend beyond what the ordinance allows
3. Finally, the applicant must show that the variance would be consistent with the overall *public welfare* and that substantial justice will be done. The variance must not create nuisance or violation of other laws.

Conditions may be applied to variances and the conditions may be enforced, but only conditions related to variance standards may be imposed.

Appeals of Quasi-judicial Decisions

Quasi-judicial zoning decisions can be appealed to *superior court* (not to the governing board). Court review is based on entirely on the record developed at the board’s hearing. An inadequate record will usually result in a remand to the board for a new hearing.

There are limited *grounds* for judicial reversal of a board’s decision: Errors in law; procedures mandated by statute or ordinance were not followed; due process requirements for the hearing were not met; there is inadequate competent, substantial, material evidence in the whole record to support decision; or there was an arbitrary and capricious decision.

Other Zoning Issues

Constitutional limits. There are constitutional limits to zoning authority. Failure to observe these limits can lead to invalidation of the ordinance and monetary damages to those harmed. There are several specific provisions critical for land-use regulation:

- Due process—requires legitimate objectives, appropriate means, and fair procedures;
- Equal protection—distinctions are permissible, but must treat similarly situated persons similarly;

- Takings—do not have to allow most profitable use, but must leave some practical use/reasonable value;
- Others—freedom of speech, religion, assembly, association, movement, privacy can all come into play in certain circumstances.

Vested rights. This is the legal right to continue or complete a use even if the regulations have changed. To qualify, the use must have been legal when started. There are three ways vested rights can be established in North Carolina:

- Common law—The owner must have made substantial expenditures in good faith reliance on a valid specific approval and suffer some harm if required to comply with the current standards.
- Valid building permit—The owner has a vested right only as long as the building permit remains valid and only for the work approved by the building permit. Building permits expire in six months if work is not commenced. They also expire if work is stopped for a twelve-month period after it has started.
- Site specific development plans—This is a special provision mandated by state law that allows plans defined by each local ordinance to get a two year vested right. The plan must have been approved by the local government after a public hearing. Local governments have an option of allowing up to a five-year vested right for more general phased development plans

Nonconformities. These are land uses, lots, or structures that were legal when started, but which no longer conform to current ordinance requirements. Immediate compliance with new rules can be required if necessary to protect public health or safety. Most zoning ordinances allow them to be continued, but subject to restrictions set by the ordinance. The most common restrictions are that the nonconformity not be expanded or enlarged, it not be changed to another use, and that it not be reestablished if abandoned or discontinued. Many ordinances include an *amortization* requirement for some nonconformities; this requires the nonconformity be phased out over time. This is legal if a reasonable time is allowed.

Statutory limits on zoning discretion

Family and group care homes

If a family care home has six or fewer handicapped persons, it is not exempt from zoning but it must be treated the same as a single-family residence. State law allows minimum separation requirements between family care homes of up to one-half mile. G.S. 168-21, -22. Federal law prohibits discrimination against the handicapped and requires reasonable accommodation; there is uncertainty as to impact of federal law on zoning separation requirements and limits on number of persons in a dwelling.

Manufactured housing

Zoning can regulate the location, dimensions and appearance of manufacture homes, but can not completely prohibit them from a jurisdiction. Many ordinances distinguish “manufactured housing” (factory built using national HUD building code) from “modular housing” (factory built using N.C. building code). There are also frequently private restrictive covenants that prohibit location of “mobile homes,” “trailers,” or the like from particular subdivisions. Enforcement of restrictive covenants is a private matter between the landowners; they are not enforced by cities and counties.

Alcohol sale

State ABC permit preempts local zoning restrictions on the location and operation of facilities that have ABC permits. It is important therefore for the locality to comment on consistency with land use regulations during the ABC permitting process. Once a facility obtains an ABC permit, local zoning may not restrict the availability of alcohol, limit business hours, or otherwise prohibit what would be lawful under the state ABC laws.

Agricultural uses

Bona fide farms are exempt from county (but not city) zoning ordinances. As of 1997, particularly large scale hog farms may be subjected to county zoning so long as the county does not totally exclude these from its entire zoning jurisdiction.

Watershed areas

State law sets minimum standards for land use regulations covering water supply watersheds. Local governments with surface water supply watersheds located within their jurisdiction are required to adopt regulations to protect the quality of the water, even if it is not their water supply source.

Constitutional limitations on zoning discretion

Sexually oriented businesses

A local government can not totally prohibit a business that offers non-obscene but sexually explicit books, films, or dance. Obscenity can be prohibited. Regulations to prevent adverse secondary impacts are also permitted. This can include minimum separation requirements, limits on advertising and noise, operational requirements (e.g., open booths, dancers separated from patrons, etc.), and licensing requirements for owners and employees.

Signs

These can be regulated either through zoning or with a separate sign ordinance. Zoning can have reasonable regulations on the time, place, and manner of speech (e.g., no billboards in residential areas) but great care is needed when regulating political speech. All private signs can be prohibited within the public right of way. Nonconforming signs can be required to be removed or brought into compliance after a reasonable period. Federal highway law limits the ability to remove billboards on federally funded highways.

Informal Considerations for Board of Adjustment Effectiveness

Try to assure that all board members, parties, and those attending meetings and hearing *understand the role* of the board and its legal responsibilities.

Put key items in *writing*. Among these are:

- By-laws or rules of procedure, including the board's policies on avoiding conflicts of interest;
- Minutes of each meeting; and
- Findings and conclusions on each individual quasi-judicial decision.

Conduct *effective meetings and hearings*. The board should generally have and follow a regular meeting schedule. Each meeting should have a clear agenda and should be conducted following the board's rules of procedure. It is helpful to include an explanation of rules and purposes of sessions to public at the beginning of each session. A brochure or handout on board procedures is also very helpful.

Reserve time for *training* and planning. Consider work sessions, retreats, outside speakers and continuing education for key issues.

Problems for Discussion

1. A variance petition is scheduled to come before your board of adjustment next week. Are any of the following contacts improper?

a. The applicant is a casual acquaintance of yours. She sees you at a social gathering and tells you a little bit about her case.

b. The applicant's attorney calls you the week before the hearing and gives you "strictly factual" background information about the case.

c. You stop by town hall the day before the hearing to get a quick briefing on the cases that are coming up from the staff.

d. You drive by the site the morning of the hearing to get a first hand view of the property.

e. You drive by the site and stop to get a closer look. A neighbor comes over and talks to you about conditions at the site.

2. Your board is considering a variance petition. A representative of the neighbors appears at the hearing and presents you with a petition signed by 50 neighbors opposing the variance. Can you consider the petition?

3. A special use permit comes before your board of adjustment. Is it permissible for you to participate in the board's decision in the following instances?

a. You are a Realtor who has listed the property for sale and this permit would likely double the asking price of the property.

b. The applicant is your father-in-law.

c. The applicant is your church.

d. In a case where you have a conflict of interest, can you abstain from voting but participate in the debate and discussion prior to the vote being called?

4. Your board is considering a special use permit application. At the hearing you become convinced that the proposed project would be harmful to the community and is a bad idea. However, it seems to meet all of the specific requirements in the ordinance. Can the board properly deny the permit?

5. Your board is considering a variance petition. Are any of the following factors sufficient to qualify the applicant for a variance?

a. It will cost an extra \$3,000 in construction cost in order to get a driveway in, avoid some wetlands on the site, and still meet the setback requirements, so a setback variance is requested that would reduce those costs to \$1,000.

b. The applicant is physically incapacitated and asks for relief from the elevation requirement in a flood hazard area.

c. The ordinance does not allow off-premise advertising. The applicant has a commercial building site that is not visible from the road. They ask for a variance to put a sign up on the adjoining lot, which is visible from the road.

Sample Findings of Fact for a Simple Variance

1. Mary Smith is the owner of a parcel located at 575 E. Front St. in Owensboro, N.C.
2. The lot at 575 E. Front St. has the following dimensions: 150 feet frontage on E. Front St. and a depth of 250 feet, as is shown on Attachment 1, the applicant's site plan.
3. The lot at 575 E. Front St. is currently vacant.
4. The lot at 575 E. Front St. is currently zoned R-1, which is a single family residential zoning district with required side yard setbacks of fifteen feet.
5. There are wetlands along the east and rear portions of the lot, extending some 60 feet from the east property line. The wetlands are accurately depicted on Attachment 1.
6. On June 1, 1997, Mary Smith applied for a certificate of zoning compliance and building permit for a single family residence at 575 E. Front St.
7. On June 7, 1997 Bernard Simmons, town zoning inspector, denied the permit application of Mary Smith on the basis that the proposed structure would violate the side yard setbacks on the west side of the property.
8. On June 15, 1997 Mary Smith submitted a complete petition for a variance of five feet from the side yard setback requirement in order to locate a residence as depicted in Attachment 2, Smith petition for a variance.
9. On July 15, 1997, the Owensboro Board of Adjustment conducted a duly advertised and noticed hearing on the Smith variance petition.
10. State and federal permit requirements prevent location of any residential structure on or over the wetlands depicted in Attachment 1. [assume no general permit or exemption is available.]
11. There is insufficient space on the lot to construct a residence of the size required by restrictive covenants and in a manner compatible with the surrounding property while avoiding the wetland area and meeting the side yard setback.
12. If no residence can be constructed on the lot, there is no other practical use of the lot that has reasonable value.
13. Construction of a residence ten feet from the west-side property line will not have a negative impact on the adjoining property.
14. Construction of a residence ten feet from the west property line will not impair emergency vehicle access, create a fire hazard, or otherwise be contrary to public health and safety.

Additional IOG Resources on North Carolina Zoning Law

Brough, Michael B. and Green, Philip P., Jr., **THE ZONING BOARD OF ADJUSTMENT IN NORTH CAROLINA** (Chapel Hill: Institute of Government, 2d ed. 1984)

128 pages, \$9.50. This is a basic text on the board of adjustment. It covers functions of the board, how it conducts meetings and makes decisions, and the types of findings required for various decisions. It includes suggested forms and rules of procedure.

Ducker, Richard D., **SUBDIVISION REGULATIONS IN NORTH CAROLINA: AN INTRODUCTION** (Chapel Hill: Institute of Government, 1980)

16 pages, \$4.50. A concise overview of the land subdivision process.

Green, Philip P., Jr., **LEGAL RESPONSIBILITIES OF THE LOCAL ZONING ADMINISTRATOR IN NORTH CAROLINA** (Chapel Hill: Institute of Government, 2d ed., 1987)

124 pages, \$11.00. This is a basic text for zoning administrators. It includes coverage of the duties of a zoning officer, and discussion of record keeping, permitting, inspection, and enforcement.

Owens, David W., **CONFLICTS OF INTEREST IN LAND-USE MANAGEMENT DECISIONS** (Chapel Hill: Institute of Government, 1990)

105 pages, \$10.00. This book covers potential conflicts of interest faced by members of citizen boards dealing with land use issues--governing boards, planning boards, and boards of adjustment. It includes discussion of bias, financial conflicts, and personal relationships with the parties. A model ordinance provision on conflict avoidance is included.

Owens, David W., **INTRODUCTION TO ZONING** (Chapel Hill: Institute of Government, 1995)

120 pages, \$15.00. This is an overview of zoning for citizen board members and the public. It includes discussion of zoning jurisdiction, rezoning, spot and contract zoning, special and conditional use permits, variances, vested rights, nonconformities, enforcement, and constitutional limitations on zoning.

Owens, David W., **LAND USE REGULATION OF RELIGIOUS USES** (Chapel Hill: Institute of Government, *PLANNING AND ZONING BULLETIN* No. 8, October 1997)

14 pages., \$9.50. This is a detailed review of the legal aspects of regulating the location and operation of religious land uses (such as places of worship, day care and schools, homeless shelters, and other uses operated by or for religious groups). It addresses Constitutional limitations on regulation imposed by the Free Exercise and Establishment Clauses and analyzes court cases interpreting those limits, including the Religious Freedom Restoration Act and the *Boerne* case.

Owens, David W., **LEGISLATIVE ZONING DECISIONS: LEGAL ASPECTS** (Chapel Hill: Institute of Government, 1993)

294 pages, \$18.00 paperback, \$21.00 hard cover. This is a detailed review of the law on adoption and amendment of zoning ordinances. It includes coverage of zoning hearings, notice, protest petitions, spot and contract zoning, vested rights, nonconformities, and constitutional limitations. It includes digests of all North Carolina appellate court decisions on zoning.

Owens, David W., **PLANNING LEGISLATION IN NORTH CAROLINA** (Chapel Hill: Institute of Government, 1996)

386 pages, \$30.00. This is the eighteenth edition of a compilation of North Carolina statutes on planning, land use regulation, building, and environmental protection. It includes annotations and cross-references.

Owens, David W., **REGULATING SEXUALLY ORIENTED BUSINESSES** (Chapel Hill: Institute of Government, SPECIAL SERIES No. 15, January 1997)

30 pages., \$15.00. This is a detailed review of the legal aspects of regulating the location and operation of sexually oriented businesses (such as topless bars, adult bookstores, and massage parlors). It includes discussion of what activity can be banned entirely and the legal foundation that must be established for restrictions.

Popular Government Articles

Ducker, Richard D., *Using Impact Fees for Public Schools*, SCHOOL LAW BULLETIN 1 (Spring, 1994)

Owens, David W., *Amortization: An Old Land-Use Controversy Heats Up*, 57 POPULAR GOV'T 20 (Fall 1991)

Owens, David W., *Bias and Conflicts of Interest in Land-Use Management Decisions*, 55 POPULAR GOV'T 29 (Winter 1990)

Owens, David W., *Land Use and Development Moratoria*, 56 POPULAR GOV'T 31 (Fall 1990)

Owens, David W., *Zoning Hearings: Knowing Which Rules to Apply*, 58 POPULAR GOV'T 26 (SPRING, 1993)

Note: Copies of any of the above additional resources may be obtained from the Publications Office, Institute of Government, CB #3330 Knapp Building, UNC-CH, Chapel Hill, N.C. 27599-3330. Phone: 919-966-4119. Fax: 919-962-2707.
