

# Planning and Zoning

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Feb. 2018



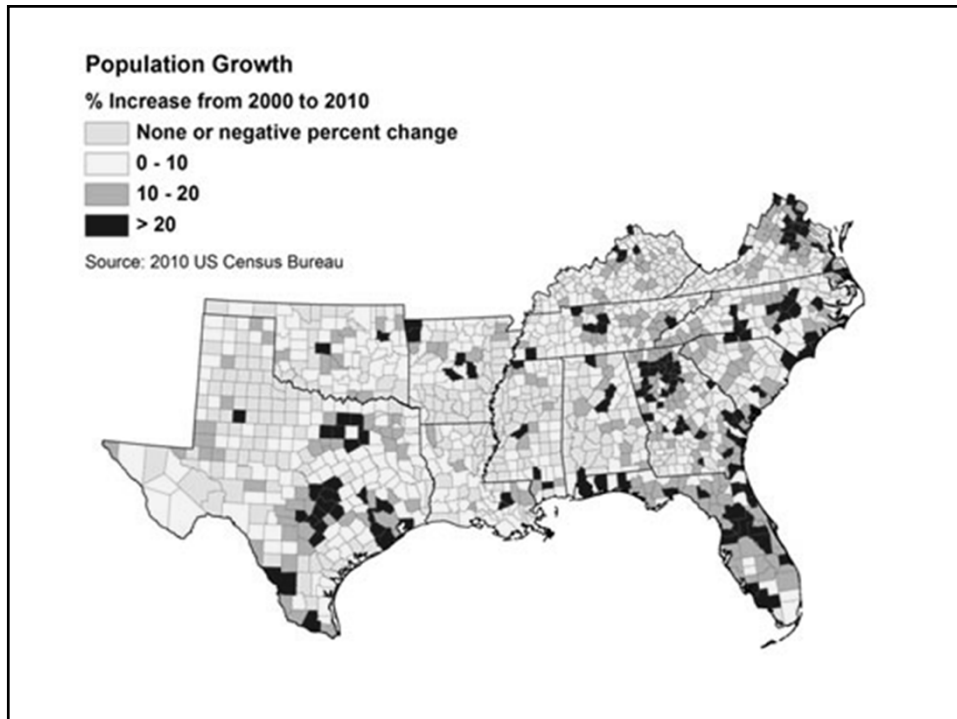
[www.sog.unc.edu](http://www.sog.unc.edu)

## SOME CONTEXT



## Population Growth in the South 1950 to 2010

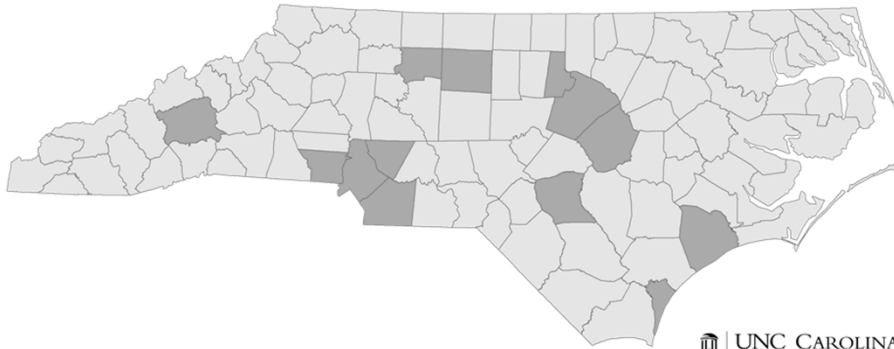
State	% Change
Virginia	245%
North Carolina	235%
South Carolina	218%
Georgia	280%
Alabama	156%
Mississippi	136%



## N.C. Population

1900	1.9 million
1950	4.1 million
2000	8.0 million
2017	10.25 million

**13 Counties with Half of NC Population, 2013**

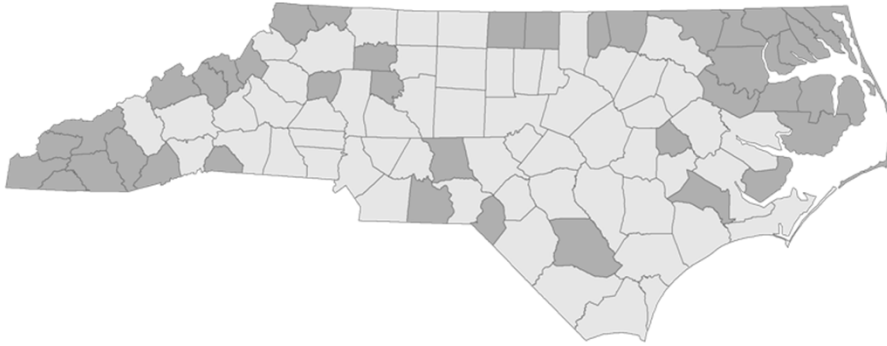


Source: U.S. Census Bureau Population Estimates

UNC CAROLINA  
POPULATION  
CENTER  
DEMOCRACY



**42 Counties with 10% of NC Population, 2013**



Source: U.S. Census Bureau Population Estimates

UNC CAROLINA  
POPULATION  
CENTER DEMOGRAPHY

**N.C. Hispanic Population**

1990	1.2%
2000	4.7%
2016	9.2%

# PLANNING



Is additional growth good or bad for the community?





Would a new big-box center on the edge of town be good for your city?

What about a new 600 lot subdivision on the edge of town?



Is a small downtown worth saving?  
If so, how?



Should the residential growth pattern of the 1950's continue?



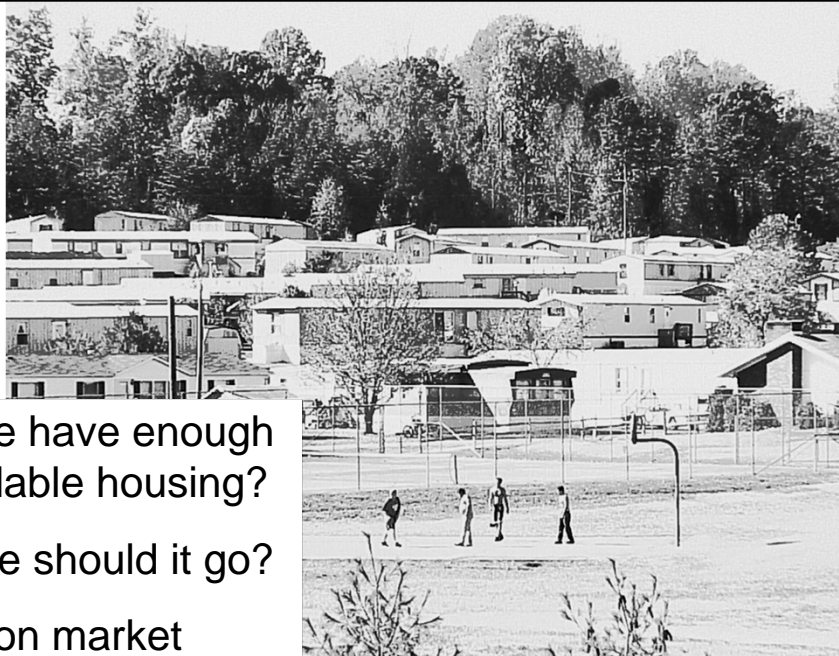
Aerial View of Suburban Housing Tract, Levittown, PA , c. 1950's



Should we encourage large mixed use developments?



Do we have enough affordable housing?  
Where should it go?  
Rely on market forces?





How best to minimize future natural hazard losses?



Address aesthetic impacts of outdoor advertising?



## Planning Requirements

- Generally Voluntary
- Requirements
  - Coastal Area Management Act
  - Hazard Mitigation Planning
  - Local Water Supply Planning
  - Transportation Planning

## Types of Plans

- Comprehensive Plan
- Land Use Plan
- Small Area Plan
- Specialized/Functional Plans
- Strategic Plans



# DEVELOPMENT REGULATION



## Local Development Regulation

Principally Used:

- Zoning
- Subdivision
- State building code
- Housing code



## Local Development Regulation

### Others Commonly Used:

- Historic Preservation
- Community Appearance
- Soil and Erosion Control
- Flood hazard
- Mobile home parks
- Signs
- Landscaping
- Adult Business
- Telecommunication tower

## Your Ordinance is Unique

- Statute authorizes framework
- Local governments adopt ordinances unique to that locality
- Exception is building code – state standards, local implementation



# SUBDIVISION

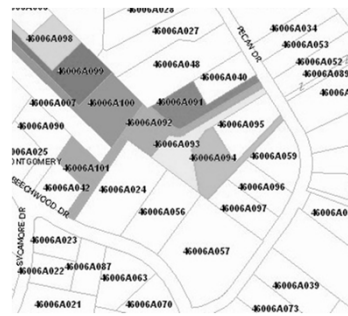
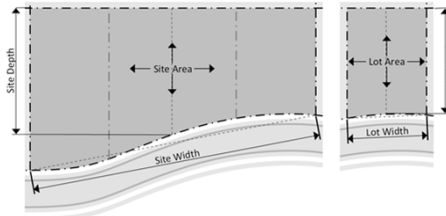


## Purposes of Subdivision Regulation

- Orderly Growth
- Adequate Infrastructure
  - Roads, water & sewer (or well & septic)
- Public Health and Safety
  - Stormwater, water & sewer, access and connectivity
- Land Records

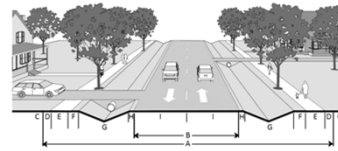
## Lot Design

- Lot size and dimensions
- Frontage requirements
- Flag lot limitations



# Street Design

- Street Dimensions
- Construction Standards



# Utilities

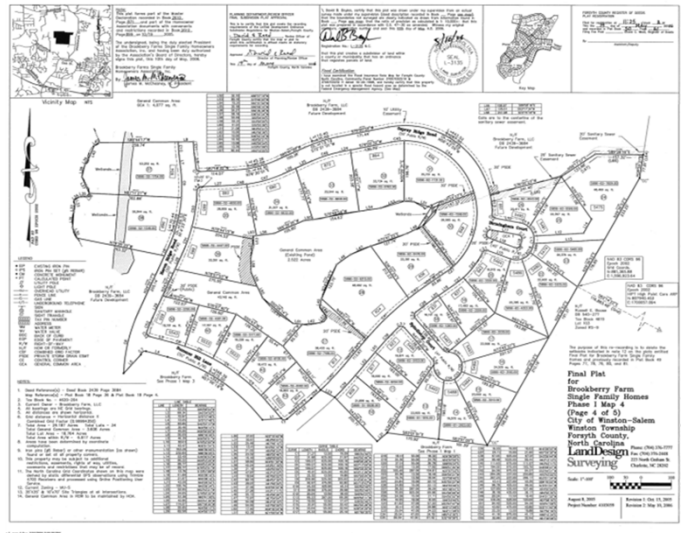


# Subdivision Approval Process

- Sketch Plan
- Preliminary Plat Review
- Final Plat Approval



# The Plat





# ZONING

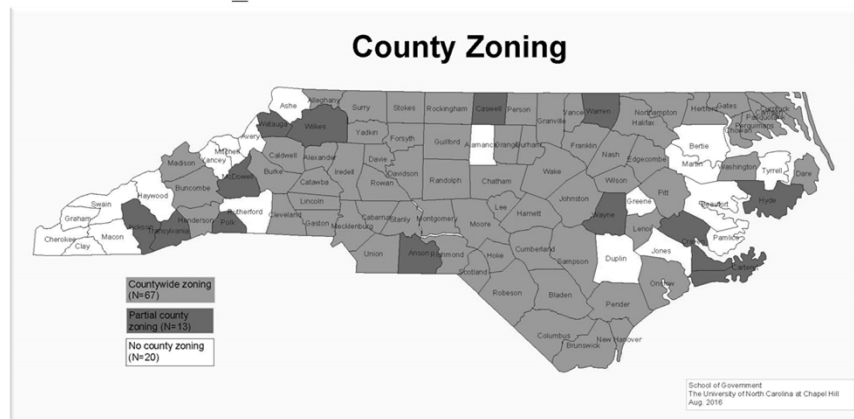
## Why Regulate Land Use?

- Implement community goals
- Prevent negative impacts from neighbors
- Make land use patterns predictable
- Ensure cost-effective public services
- Establish economic development areas
- Minimize negative environmental impacts
- Set minimum aesthetic and functional standards for development

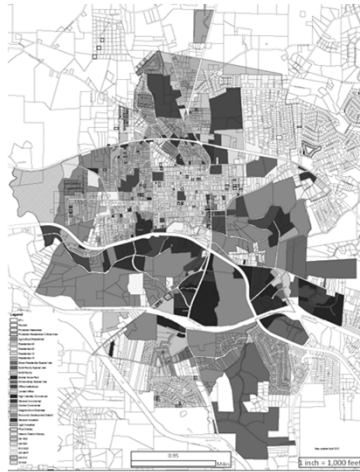
# Municipal Zoning

Municipality Population	% with Zoning
1 - 999	71%
1,000 - 4,999	96%
5,000 – 9,999	100%
10,000 or more	100%

2012 SOG Survey  
% of responding jurisdictions



# What is Zoning?



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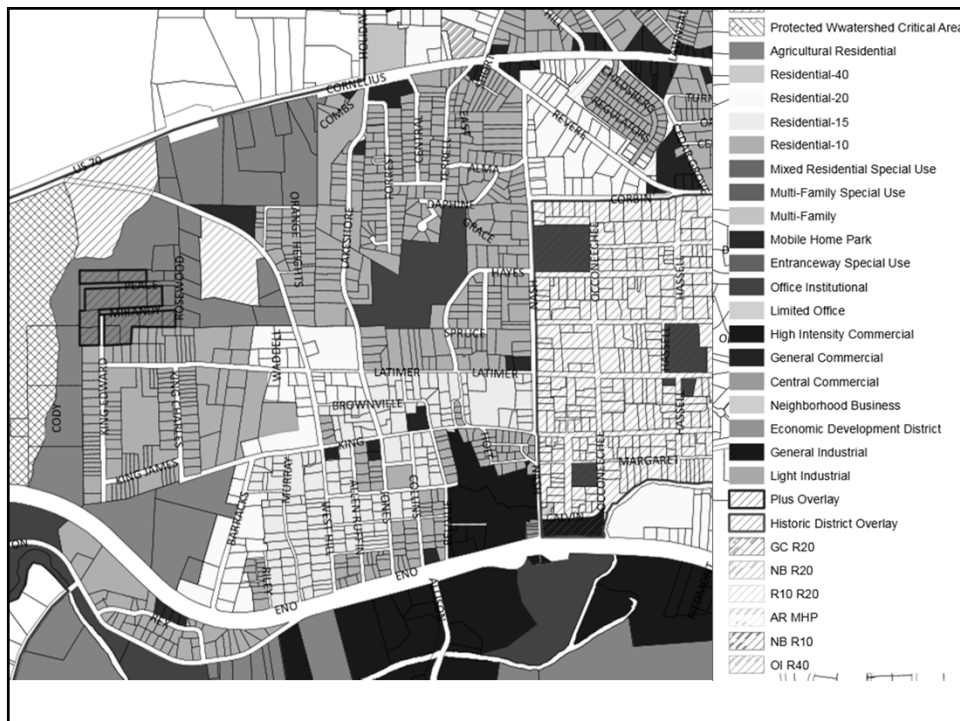
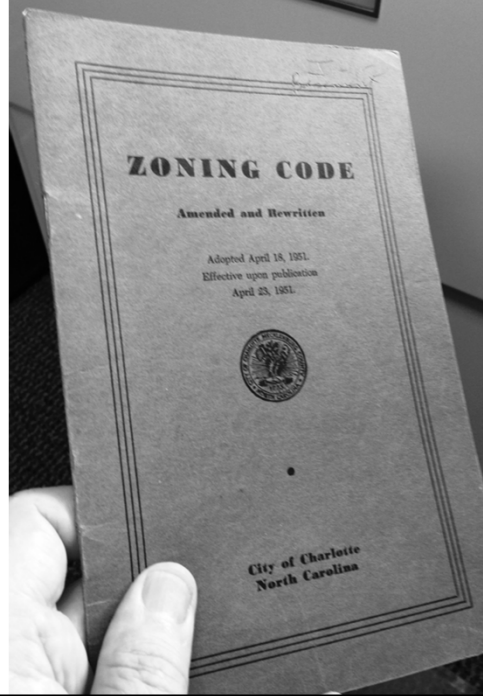
# Statutory Authority

- Zoning ordinance may regulate:
  - Building height, stories and size
  - the percentage of lots that may be occupied,
  - the size of yards and open space, courts and other open spaces
  - the density of population
  - the location and use of buildings

*G.S. § 160A-381 and 153A-340*

Charlotte  
Zoning Code  
1951

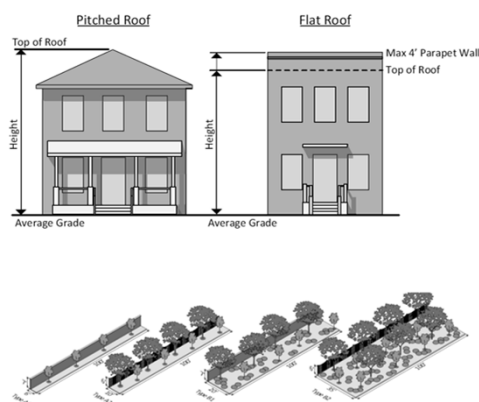
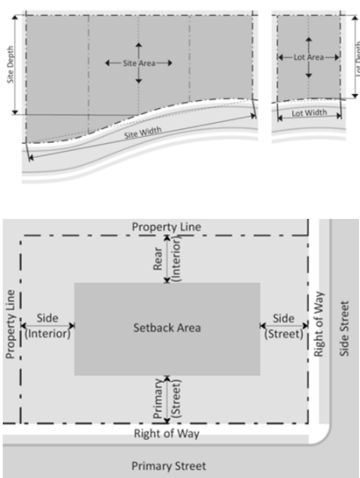
14 pages  
6 districts



## Zoning...Use

- YES - Permitted Uses
- NO - Prohibited Uses
- MAYBE - Conditional Use, Special Use, Special Exception

## Typical Zoning Requirements



Raleigh Unified Dev. Ordinance, Adopted Feb. 18, 2013

## Use Restrictions

- Residential
  - Single Family
  - Townhome
  - Multifamily
- Commercial
- Industrial
- Institutional
- Density
- Intensity

## Types of Zoning Decisions

Type	Typical Decision-Maker	Example
Legislative	Governing Body	Adopting or amending zoning ordinance
Quasi-Judicial	Board of Adjustment (sometimes planning board or governing board)	Variances, special use permits, historic preservation certificates
Advisory	Planning Board	Recommendation on Rezoning
Administrative	Staff	Routine decision on individual permits and ordinance enforcement



## Administrative Decisions

- Examples
  - Zoning Permit
  - Enforcement
- Staff implementation of ordinance
- Based on clear standards set by governing board  
(setbacks, height requirements, permitted use, etc.)

## PROCESS TO ADOPT OR AMEND

## Legislative Zoning Decisions

Some rules apply to both text and map amendments:

- public hearing
- notice of hearing
- planning board review
- governing board statement

## Planning Board Review

Planning board referral is mandatory

Planning board must comment in writing on plan consistency

Planning board may comment on any other issues

If no comment within 30 days of referral, governing board can proceed





## Notice for All Zoning Amendment Hearings

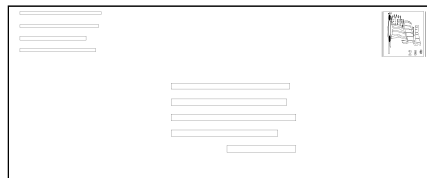
### Published

- Same for map and text amendment
- Two legal ads
- First 10 to 25 days before hearing
- Second in separate week
- Must be in newspaper
- Enough detail to alert average person as to nature of what is being considered

## Notice for Hearing on Rezoning

### Mailed:

- First class to all affected and abutting
- Records on mail list, dates, content
- Certification helpful



## Notice for Hearing on Rezoning

### Alternative to mailed notice

Available if more than 50 affected properties

#### Newspaper:

- 2 half page ads

#### Mailed:

- First class to those outside newspaper circulation

## Notice for Hearing on Rezoning

Posted –  
Required for all  
map amendments

Actual –  
Required if third  
party initiated



You discover the day before the council meeting that the newspaper mistakenly ran only one ad for a proposed rezoning.

## Conducting the Hearing

Hearing is legislative, not evidentiary

Reasonable, fair rules may be applied



## Conflicts of Interest on Zoning Amendments

Prohibit financial conflicts of interest for both council/board of commissioners and planning board

- “Direct, substantial, and readily-identifiable financial interest” mandates not voting

## Governing Board Statement

Written statement by council required with action on all zoning amendment proposals

Statement must:

- Describe plan consistency and
- Explain why decision is reasonable and in the public interest

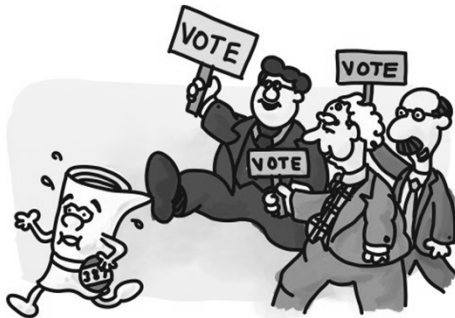


# Voting

Need simple majority affirmative vote of entire governing board eligible to vote (do not count abstention as a positive vote)

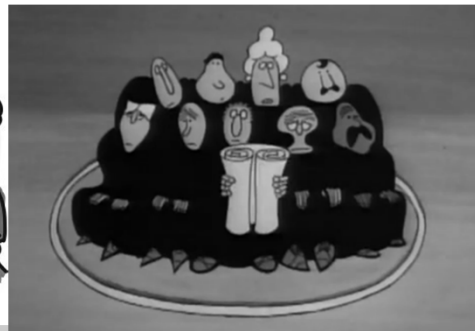
## Legislative

- Ordinance Adoption and Rezoning

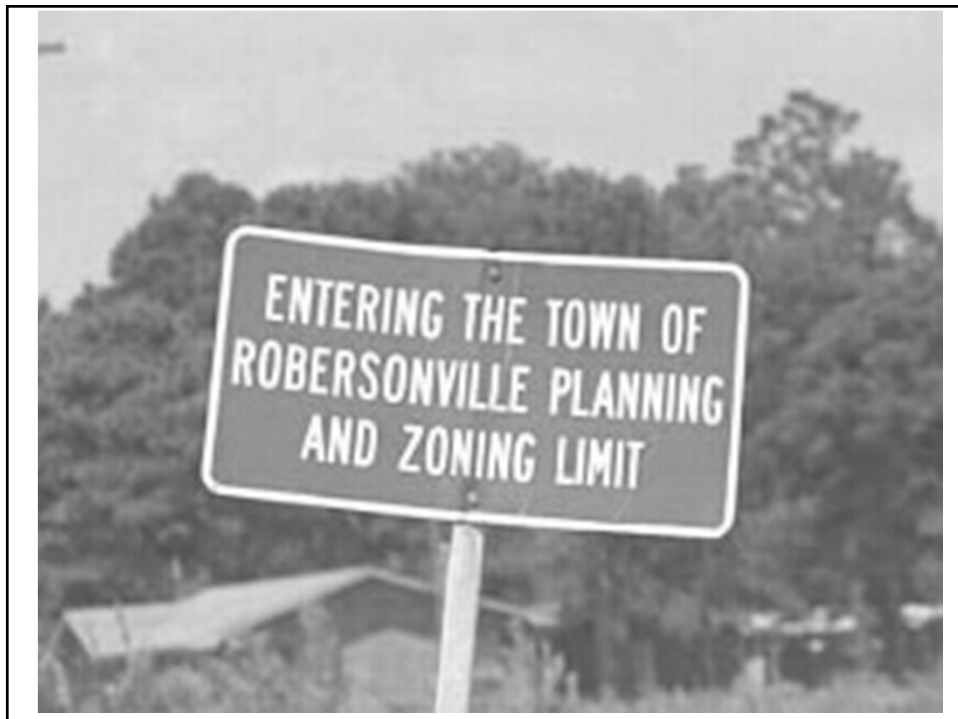


## Quasi-Judicial

- Special and Conditional Use Permits



# JURISDICTION



## Jurisdiction

### Cities

- Inside primary corporate limits
- Inside satellite annexed areas
- On city owned land
- Extraterritorial area adjacent to primary corporate limits (ETJ)

### Counties

- Everything else

## EXTRATERRITORIAL JURISDICTION

<u>Population</u>	<u>Maximum Area</u>
Up to 10,000	1 mile
10,000 to 25,000	2 miles
Over 25,000	3 miles



## Powers Available to City in ETJ

- Zoning
- Subdivision regs
- Enforcement of State Building Code
- Community development projects
- Acquisition of open space
- Minimum housing code
- Soil erosion and sedimentation control ordinance
- Floodway regulation
- Historic preservation programs

## ETJ PROCESS

- Newspaper and Mailed Notice of Hearing
- Public Hearing on Boundary Ordinance
- County approval if:
  - a. Beyond one mile
  - b. In first mile if county exercising:
    - Zoning
    - Subdivision
    - Building code
- File with Clerk and Register of Deeds on adoption
- Appoint ETJ members of Planning Board and Board of Adjustment

