

2018 Survey Report: Adoption and Administration of Local Development Regulations, Conditional Zoning, and Subdivision Administration

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CONTENTS

Overview	2	Subdivision-Regulation Administration	24
Adoption of Development Regulations	4	Decision-Maker	24
Zoning	4	Use of Quasi-judicial Standards	25
Subdivision Regulation	5	Application to Nonresidential Development	25
Unified Development Ordinances	6	Private Streets	26
Form-Based Codes	6	Survey Methods and Response Rate	27
Development Moratoria	7	Appendix A. Responding Jurisdictions	29
Use of Municipal Extraterritorial Jurisdiction	8	Municipalities	29
Activity Levels and Approval Rates	9	Counties	30
Legislative Decisions	9	Appendix B. Detailed Data Tables	31
Quasi-judicial Decisions	11	Appendix C. Survey Instrument	40
Administrative Decisions	14		
Litigation	15		
Conditional Zoning	17		
Use of Conditional Zoning	17		
Types of Development	18		
Conditions Imposed	19		
Decision-Making Process	20		
Length of Decision-Making Process	21		
Special Administrative Provisions	22		

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Overview

The School of Government completed a survey of cities and counties in North Carolina. The survey gathered information about the adoption and administration of local development regulations. In addition, we gathered more-detailed information about plan-consistency statements, use of conditional zoning, and administration of subdivision regulations.

An initial report of the survey results regarding adoption of plans and plan-consistency statements was issued in November 2018 (and is available [here](#)).¹ The adoption of Chapter 160D in mid-2019 and the COVID-19 pandemic in 2020 delayed publication of the remaining information gathered until this report.

For the most part, these survey results are in line with information reported in prior surveys. Several general trends and recent developments are notable.

The modest expansion of zoning adoption by counties continues. The use of special use permits, zoning variances, and development moratoria continues a gradual decline. Cities are increasingly incorporating form-based standards into their zoning regulations. The use of conditional zoning continues to expand (likely replacing the use of special use permits for review of sensitive project proposals). A quarter of responding cities and a third of responding counties now incorporate some discretionary standards into their subdivision regulations. There has been little change in the use of municipal extraterritorial-development regulation.

The number of applications for most forms of development approvals were similar to those reported in 2012 but lower than those reported in 2004. The rate at which judicial review of development-regulation decisions was sought remained relatively constant.

The survey described in this report was distributed in October 2017 to all North Carolina cities and counties, with responses collected through April 2018. A copy of the online survey instrument is included in the appendices.

Survey responses provided a good representation of counties and cities of every size. Overall, 356 jurisdictions responded to the survey, a response rate of 54 percent. Completed surveys were submitted by 274 municipalities and 82 counties. Additional local governments submitted incomplete surveys; those are not included in this analysis. Survey responses were particularly strong for larger-population jurisdictions, with about 85 percent of the cities with populations over 10,000 responding. The total population of responding jurisdictions was 8.43 million people, 83 percent of the state's population. The last section of this report describes the survey methodology and response rates in more detail. The appendices include a list of jurisdictions that submitted completed surveys.

The data in this report represent only those jurisdictions responding to the survey. Where percentages of jurisdictions are reported, the percentages are of responding jurisdictions rather than all jurisdictions with zoning or all jurisdictions in the state. Where data is reported by population categories, the official July 1, 2017, population figures provided by the State Office of Budget and Management were used to reflect the population of the jurisdictions at the time of the survey. While the data is summarized in the body of this report, the appendices include detailed tables for the responses to many of our questions, often broken down by city/county respondents and by the population size of the responding jurisdictions.

1. David W. Owens, *Plan-Consistency Statements*, PLAN. & ZONING L. BULL. No. 27 (UNC School of Government, Nov. 2018), http://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/20180809_PZLB27_2018-11-30_0.pdf.

The 2018 survey is the sixth periodic survey of all North Carolina cities and counties regarding development regulations. The initial survey in 2002–3 examined experiences with zoning variances.² The 2004–5 survey examined special use permits, extraterritorial jurisdiction, and an inventory of ordinances adopted.³ The 2006–7 survey examined zoning amendments and design standards.⁴ The 2008–9 survey examined comprehensive planning, moratoria, and development agreements.⁵ The 2011–12 survey examined zoning adoption, zoning administration, and provisions for design standards and alternative-energy facilities.⁶ Information and analysis of all the previous surveys are included in ten previous School publications. All of those reports are available online, with a list of the reports and links to them posted [here](#).⁷

2. See DAVID W. OWENS & ADAM BRUEGGEMANN, A SURVEY OF EXPERIENCE WITH ZONING VARIANCES (UNC School of Government, Special Series No. 18, Feb. 2004) [hereinafter VARIANCES].

3. See DAVID W. OWENS, SPECIAL USE PERMITS IN NORTH CAROLINA ZONING (Special Series No. 22, Apr. 2007) [hereinafter SPECIAL USE PERMITS]; DAVID W. OWENS, THE NORTH CAROLINA EXPERIENCE WITH MUNICIPAL EXTRATERRITORIAL PLANNING JURISDICTION (Special Series No. 20, Jan. 2006) [hereinafter EXTRATERRITORIAL JURISDICTION]; DAVID W. OWENS & NATHAN BRANSCOME, AN INVENTORY OF LOCAL GOVERNMENT LAND USE ORDINANCES IN NORTH CAROLINA (Special Series No. 21, May 2006) [hereinafter ORDINANCES].

4. See DAVID W. OWENS, ZONING AMENDMENTS IN NORTH CAROLINA (UNC School of Government, Special Series No. 24, Feb. 2008) [hereinafter AMENDMENTS]; DAVID W. OWENS & ANDREW STEVENSON, AN OVERVIEW OF ZONING DISTRICTS, DESIGN STANDARDS, AND TRADITIONAL NEIGHBORHOOD DESIGN IN NORTH CAROLINA ZONING ORDINANCES [hereinafter ZONING DISTRICTS] (Special Series No. 23, Oct. 2007).

5. See DAVID W. OWENS, DEVELOPMENT MORATORIA: THE LAW AND PRACTICE IN NORTH CAROLINA (UNC School of Government, Special Series No. 26, Dec. 2009) [hereinafter MORATORIA]; DAVID W. OWENS, THE USE OF DEVELOPMENT AGREEMENTS TO MANAGE LARGE-SCALE DEVELOPMENT: THE LAW AND PRACTICE IN NORTH CAROLINA (Special Series No. 25, Oct. 2009) [hereinafter DEVELOPMENT AGREEMENTS].

6. See David W. Owens & Dayne Batten, *2012 Zoning Survey Report: Zoning Adoption, Administration, and Provisions for Design Standards and Alternative Energy Facilities*, PLAN. & ZONING L. BULL. No. 20 (UNC School of Government, July 2012) [hereinafter *2012 Survey Report*].

7. *Reports on Surveys of North Carolina Zoning Practices*, PLANNING AND DEVELOPMENT REGULATION, <http://www.sog.unc.edu/resources/microsites/planning-and-development-regulation/reports-surveys-north-carolina-zoning-practices>.

Adoption of Development Regulations

Zoning

The authority to enact zoning regulations was granted to cities in 1923. By 1950 virtually every city in the state with a population over 10,000 had adopted zoning. County zoning in North Carolina came later. Several of the state's more urbanized counties undertook zoning shortly after World War II. However, general enabling authority for county zoning was not adopted until 1959. Use of county zoning in North Carolina began to expand as population growth in unincorporated areas took off in the 1970s. As of 2012, we determined that 559 North Carolina cities and counties had adopted a zoning ordinance—87 percent of the state's cities and 79 percent of the counties. An additional thirty-one cities elected to be covered by county zoning in 2012.⁸

The 2018 survey confirmed that this level of use of city and county zoning continues. Ninety-two percent of the responding cities reported adoption of zoning regulations. For more-populous cities, use of zoning is nearly universal. Over 98 percent of the cities with populations over 1000 have zoning regulations. Five percent of the responding cities, mostly with populations under 1000, have county zoning applied within the city. Only 2 percent of the cities (all with populations under 1000) reported that no zoning is applied within the city. Table 1 depicts the adoption rate for zoning and subdivision regulations in cities. Table B1 in Appendix B shows the detailed municipal adoption rate.

Counties also continued the trend to increased use of zoning. While only 76 counties responded to the survey question regarding zoning adoption, we contacted all 100 counties to determine the status of their adoption of zoning. As of February 2019, sixty-nine counties had adopted zoning for their entire unincorporated area, twelve zoned part of this area, and nineteen counties did not zone their unincorporated area. Table 2 shows the trend in expansion of the use of county zoning over time. Figure 1 depicts the counties with countywide, partial, or no county zoning.

Table 1. Percentage of Municipalities Adopting Zoning and Subdivision Regulation

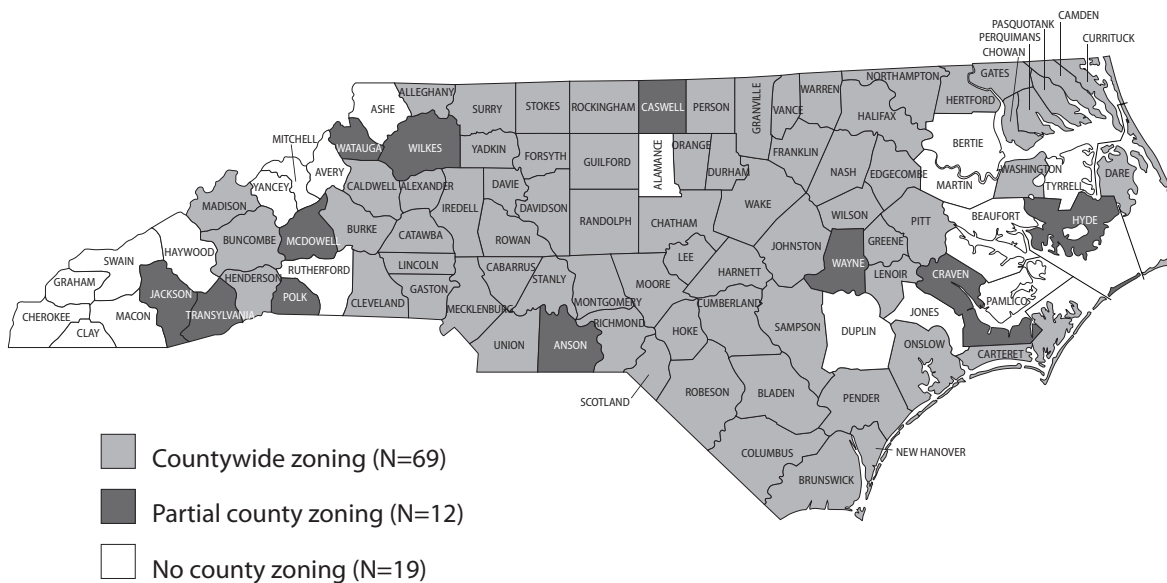
	Adopted by municipality	County regulation within municipality	Not applied
Zoning	91	7	2
Subdivision	85	9	6

8. *2012 Survey Report*, *supra* note 6, at 3.

Table 2. No. of Counties Zoning Unincorporated Area over Time

Year	Countywide zoning	Partial county zoning	No county zoning
1979	25	19	56
1992	37	27	36
1996	40	27	33
2003	56	18	26
2006	60	16	24
2012	64	15	21
2018	69	12	19

Figure 1. County Zoning, 2019



Subdivision Regulation

Subdivision ordinances regulate the creation of new lots or separate parcels of land. Subdivision ordinances typically address new residential developments but can also be applied to commercial, industrial, and mixed-use developments. North Carolina cities were first authorized to adopt subdivision ordinances in 1929. This authority was extended to counties in 1959.

Subdivision ordinances serve a variety of purposes. First, they facilitate record keeping regarding land ownership by setting clear standards for surveying lots, marking them on the ground, and recording plat maps with the register of deeds. Second, subdivision ordinances usually include standards on the size and shape of new lots and the layout of public facilities (such as street location, intersection design, and the like). Third, most subdivision ordinances require the provision of essential infrastructure (such as roads, utilities, recreational lands and open space) and how the required infrastructure is to be laid out and constructed. These

ordinances often require dedication of land and improvements for this infrastructure to the public agency that will be responsible for its operation (or the provision of fees in lieu of provision of these improvements), based on the jurisdiction’s needs to accommodate the proposed subdivision.

As shown in Table 1, 85 percent of responding cities have adopted a subdivision regulation, and an additional 9 percent have county subdivision regulation applied within the city. Ninety-four percent of the responding counties reported adoption of a subdivision regulation. (Detailed data on adoption of subdivision regulations is set forth in Table B2 in Appendix B.) Both city and county adoption rates are modest increases above the adoption rates reported in 2004.

Unified Development Ordinances

Local governments have the option of merging their development-related regulations into a single unified development ordinance (often referred to as a UDO). The statutes were amended in 2005 to explicitly authorize the combination of development ordinances with common definitions, procedures, and institutional arrangements. Our 2004 survey indicated that about a quarter of the state’s jurisdictions had exercised this option at that time.

The use of UDOs has substantially increased in the ensuing years. Nearly half of all responding jurisdictions had consolidated their land development regulations into a UDO as of 2018. This is more commonly done by cities than by counties. Nearly three-fourths of the cities with populations over 10,000 have adopted a UDO. These survey results are set out in detail in Table B4 in Appendix B.

Counties without UDOs typically adopt a variety of development regulations beyond zoning and subdivision regulation. The most common of these other ordinances are regulations for manufactured-home parks (adoption by 88 percent of respondents) and signs (adoption by 80 percent of respondents). These responses are summarized in Table 3.

Table 3. Percentage of Counties Adopting Other Regulations

Type of regulation	Countywide	Partial	Not applied
Manufactured housing	88	0	12
Signs	75	5	20
Solar farms	56	6	39
High-impact land uses	44	11	44
Other	56	22	22

The “Other” category included regulations on wireless towers, adult businesses, wind energy, erosion and sedimentation control, floodplains, structure heights, water-supply watersheds, airports, and abandoned or junk vehicles.

Form-Based Codes

Some local governments have amended their development regulations to focus on physical design features—particularly the dimensions and locations of buildings and streets—rather than on the land uses. These “form-based” codes focus on regulating the form and mass of buildings, the scale and types of streets and blocks, and other details such as building placement, the

design of building fronts, and the relation of buildings to streets, sidewalks, and public open space. This is in contrast to traditional zoning regulation, which focuses on the use of land and buildings.

G.S. 160D-703(a)(3) specifically allows zoning regulations to include form-based districts or development-form controls.

While a local government may completely replace its use-based zoning regulations with a form-based code, it is also possible to incorporate elements of a form-based code into a more traditional zoning ordinance. An example would be establishing form-based regulations for a particular area, such as a central business district, where there is an interest in both the form and design of structures and the uses to which they are put (for example, including a requirement for ground-floor commercial use as well as design standards).

Replacement of traditional zoning regulations with a form-based code is still rare in North Carolina. Less than one percent of responding jurisdictions have done so. However, a growing number of cities, particularly those with higher populations, are incorporating form-based districts within a zoning ordinance. Eleven percent of responding cities, and 29 percent of those with populations over 25,000, reported adoption of some form-based zoning districts. Even more responding cities (23 percent overall and 42 percent of cities with populations over 25,000) reported incorporation of some elements of form-based controls into their zoning regulations. Use of this approach is much less common in the less densely developed areas covered by county zoning. The detailed data on adoption of form-based codes are in Table B5 in Appendix B.

Development Moratoria

It was long assumed that local governments had the implied authority to adopt development moratoria, and explicit authority to do so was added to the statutes in 2005. G.S. 160D-107 authorizes cities and counties to adopt temporary moratoria on any approval. That statute also added procedural requirements that must be followed in the adoption of development moratoria.

The statute contains several exemptions from the coverage of moratoria. Absent an imminent threat to public health and safety, moratoria may not be applied to projects with legally established vested rights. A moratorium does not apply to certain projects for which complete applications have been accepted by the city or county prior to the call for a public hearing to adopt the moratorium. Renewal or extensions of moratoria are also limited. A moratorium adopted for the purpose of updating a plan or development regulation may not be applied to residential land uses.

Our 2008 survey found that 25 percent of responding jurisdictions had adopted a development moratorium before September 2005, when the statutes were amended to make their authority to do so explicit. Counties were twice as likely as cities to have adopted a moratorium before 2005. A smaller number of jurisdictions—17 percent—adopted moratoria in the 2005–8 period after the General Assembly provided explicit statutory authorization.⁹ Most of the moratoria reported in the 2008 survey were of relatively short duration, 69 percent being six months or shorter.¹⁰ Most of the moratoria were focused to address the particular issues that led to their imposition. Only a single jurisdiction reported a moratorium that applied to all land uses, while over half of the jurisdictions reported application of a moratorium to permits for specified uses.¹¹

9. *MORATORIA, supra* note 5, at 8–9.

10. *MORATORIA, supra* note 5, at 10.

11. *MORATORIA, supra* note 5, at 11.

Our 2018 survey indicates that the use of development moratoria continues to decline in North Carolina. Only 3 percent of the responding jurisdictions reported adoption of a development moratorium in the previous twelve months. Another 4 percent considered a moratorium but did not adopt it.

Several factors may contribute to this decline in use. These include the 2011 statutory amendment prohibiting the use of moratoria on residential uses if the purpose of the moratorium is to preserve the status quo while regulations or plans are being developed. (Our 2008 survey indicated that the need to develop new regulations was cited as the purpose for 62 percent of adopted moratoria, with 27 percent having the purpose of updating a plan.)¹² Another reason may be the 2015 statutory amendment that applied the permit-choice rule to zoning approvals. This allows a permit applicant to choose to have the rules in effect at the time of a permit application applied at the conclusion of a moratorium, thus delaying a permit decision but not allowing application of newly adopted rules.

Use of Municipal Extraterritorial Jurisdiction

Since 1959, cities in North Carolina have had the statutory authority, now provided in G.S. 160D-202, to apply their development regulations to certain unincorporated land adjacent to them. This is known as municipal extraterritorial jurisdiction (often referred to as ETJ). When a city adopts an extraterritorial boundary ordinance, the city acquires jurisdiction in that area for all the development regulations that may be adopted under Chapter 160D of the General Statutes. The city does not acquire jurisdiction for regulations adopted under the general ordinance-making power, such as a nuisance-lot, junked-car, or noise ordinance.

Most North Carolina cities, particularly those with populations greater than 2500, have taken advantage of the statutory authority to exercise extraterritorial land use regulation. A 1995 North Carolina League of Municipalities survey indicated that 64.5 percent of all municipalities responding to the survey had adopted extraterritorial zoning.¹³ Our 2004 survey indicated little change in the following decade, as 62 percent of responding municipalities had adopted extraterritorial zoning.¹⁴ Both surveys indicated that larger cities were far more likely to exercise extraterritorial jurisdiction. Our 2012 survey results were similar, with 65 percent of the responding municipalities reporting use of extraterritorial development regulation.¹⁵

Our 2018 survey indicates that little has changed regarding adoption of extraterritorial planning jurisdiction. Given statutory limits on cities' involuntary annexation of unincorporated area, adopted in 2011 and 2012, we anticipated a potential reduction in use of ETJ. This was not the case, as the overall use of ETJ remained constant. Sixty-six percent of the responding cities indicated they were exercising ETJ for development regulations. As before, this authority is primarily exercised by larger-population cities, as only 34 percent of cities with populations under 1000 have ETJ as compared to 84 percent of those with populations over 25,000. Although most cities that had ETJ in the past have retained it, only a handful of cities reported any expansion of their ETJ area in the previous five years.

12. *MORATORIA*, *supra* note 5, at 13 tbl.10.

13. Ngoc Nguyen & Lee N. Mandel, Results of the 1995 Municipal Ordinance Survey (June 1995) (based on a survey of 327 of the state's 524 cities).

14. *EXTRATERRITORIAL JURISDICTION*, *supra* note 32, at 9.

15. *2012 Survey Report*, *supra* note 6, at 7 tbl.5, 8.

Activity Levels and Approval Rates

We periodically ask cities and counties to provide information on the number of various types of development approvals that they considered in the previous year. This includes legislative decisions (amending the texts of development regulations, rezonings, and development agreements), quasi-judicial decisions (special use permits, variances, appeals, and certificates of appropriateness), and administrative decisions (most subdivision plats and site plans).

A direct comparison of these reported activity levels with those reported in prior surveys is not possible, as each of our surveys had different response levels and individual jurisdictions responding. However, given the similar overall response rates and the substantial consistency of responses from many jurisdictions (especially those with populations over 10,000), these results are at least roughly comparable to the prior survey responses.

A summary of the reported volume of development decisions and the approval rates for them is set out in Table 4.

Table 4. Volume and Approval Rates for Development-Regulation Decisions

	No. of decisions	Approval rate (%)
Rezonings	1619	80
Zoning-text amendments	824	92
Development agreements	53	92
Special use permits	972	88
Zoning variances	679	80
Appeals of staff determinations	91	21
Certificates of appropriateness	1,954	92
Site plans	4,423	88
Major subdivision plats	1,379	66
Minor subdivision plats	4,701	95
Exempt subdivision certifications	4,598	n/a
Litigation	60	n/a

Legislative Decisions

Rezonings

Responding jurisdictions reported that they considered 1619 rezoning petitions in the previous year. This 2018 figure is higher than the number of rezoning requests reported in 2012 (1377), when the economy was still emerging from the recession, but still only about half the number of rezoning requests reported in 2004 (3029).¹⁶

Of the rezoning requests reported to have been considered in this survey, 80 percent were adopted. The approval rates were modestly higher in counties compared to approvals in cities,

16. [AMENDMENTS](#), *supra* note 4, at 4.

particularly those cities with smaller populations. The detailed responses for rezonings and approval rates are set out in Table B6 in Appendix B.

In 2017, proposals had been made to amend the zoning statute to limit the ability of persons other than the landowner or the local government itself to initiate rezoning proposals. Petitions by these other persons are often referred to as “third party” rezoning proposals. Because of this legislative interest in third-party rezoning, we asked how many jurisdictions had been presented with a third-party rezoning request in the previous year. For those who had received such a request, we asked for an estimate of how many of these requests were made.

The vast majority of responding jurisdictions had no third-party rezoning petitions. Only a small number of jurisdictions—15 percent of those responding—reported that any third-party rezoning requests had been made in the previous year. While third-party requests were slightly more likely to have been made in cities rather than counties, the most notable difference in the incidence of these requests related to the population of the city. The survey confirmed that most third-party requests were made in large-population cities. Only four percent of the cities with populations under 1000 reported receiving a third-party request, while 30 percent of the cities with populations over 25,000 had received such applications. These detailed results regarding third-party rezonings are shown in Table B7 in Appendix B.

For those jurisdictions that received third-party zoning requests, most received only a small number. Ninety-one percent of the jurisdictions that received any requests only received one to five requests in the previous year. Only a single jurisdiction (Indian Trail) reported receiving more than ten requests in the previous year.

Despite the relatively small number of third-party rezoning requests, the zoning statutes were amended in 2019 to limit but not eliminate third-party rezoning petitions. Now codified as G.S. 160D-601(c), the statute provides that a request to “down zone” property can only be initiated by the property owner or the local government. For the purposes of this limitation, *down zoning* is defined as an amendment to the zoning text or zoning map that decreases the density of development allowed or reduces the range of permitted uses on the property.

Zoning-Text Amendments

The number of zoning-text amendments reported to have been considered in our 2018 survey was more similar to the number reported in 2012 than in 2004. Responding jurisdictions reported consideration of 824 text amendments, as compared to 838 in 2012 and 1520 in 2004.¹⁷ Of the text amendments reported to have been considered in this survey, 92 percent were adopted. The approval rates were similar for cities and counties, regardless of population size. The detailed responses regarding text amendments are set out in Table B8 in Appendix B.

Development Agreements

Development agreements are formal contractual agreements between a city or county and the landowners requesting the agreement that lock in existing local ordinances affecting a project for an extended period. In addition to vesting development approvals for a negotiated period, they often are also used to formalize agreements regarding cost-sharing for provision of needed infrastructure. In 2005 the General Assembly added authorization for development agreements to the North Carolina statutes. The development-agreement statutory provisions are codified at G.S. 160D-1001 to -1012.

17. [AMENDMENTS](#), *supra* note 4, at 4.

Development agreements closely resemble negotiated contracts in both form and substance. Each individual development agreement must be approved by ordinance of the governing board. In adopting that ordinance, the local government must first hold a legislative hearing with the same hearing notices that are required for zoning-map amendments. The statutes specify certain mandatory components of a development agreement. The agreement must also specify the types of public facilities required to support the development and any cost sharing agreed upon to pay for those facilities.

Our 2008 survey examined early use of development agreements in the state. At that time, just three years after these agreements were authorized, 10 percent of the responding jurisdictions reported adoption of a development agreement. These jurisdictions had approved thirty-two separate agreements at that time.¹⁸ With the recession of 2008, the use of these agreements dramatically decreased and their use has only reemerged with the economic recovery in recent years.

In 2018, only 7 percent of responding jurisdictions reported they had an application for a development agreement. This included twenty cities and two counties. Of the fifty-three total applications for development agreements reported, forty-nine were adopted (a 92 percent approval rate). A majority of local governments reporting development-agreement applications (68 percent) only had a single application. Only Asheville reported approval of more than ten development agreements in the previous year.

Quasi-judicial Decisions

Special Use Permits

Zoning ordinances list uses that are automatically permitted in a particular zoning district. These permitted uses are often referred to as *uses by right*. Many zoning ordinances also allow additional uses in each district that are permitted only if specified standards are met. These are known as special uses (prior to the adoption of Chapter 160D, they were also known as *conditional uses* or *special exceptions*).

Special use permits are authorized by G.S. 160D-705(c). The standards for approval of a special use permit application, such as the requirements that the use not cause significant adverse impacts on neighboring property values and that it be harmonious with the surrounding neighborhood, require application of judgment and discretion, as opposed to permitted uses where only objective standards are applied. Decisions on special use permits are quasi-judicial, require a formal evidentiary hearing for each application, and must be made by a board rather than by a zoning official. In our 2004 survey, 93 percent of North Carolina cities and counties with zoning reported use of special use permits.¹⁹

As with legislative decisions, the number of special use permit applications reported in the 2018 survey continues to decline. Our 2004 survey indicated that in the previous year, responding cities and counties received 2207 applications for special use permits.²⁰ That number dropped to 900 applications reported in 2012. We speculated that this drop-off reflected reduced economic activity following the 2008 recession.²¹

However, our 2018 survey indicates that the level of applications for special use permits continues at these lower levels even though there has been a substantial economic recovery.

18. [DEVELOPMENT AGREEMENTS](#), *supra* note 6, at 16–17.

19. [SPECIAL USE PERMITS](#), *supra* note 3, at 8.

20. [SPECIAL USE PERMITS](#), *supra* note 3, at 16.

21. [2012 Survey Report](#), *supra* note 6, at 10.

In 2018, responding cities and counties reported that 972 special use permit applications were considered in the previous year. The approval rate for these applications was reported at 88 percent. The detailed results regarding special use permits are set out in Table B9.

Given the demands and complexity of quasi-judicial decision-making, some local governments have discussed shifting to more use of legislative or administrative decisions to determine approval of projects now considered through special use permit applications. We asked cities and counties whether there was a trend in their jurisdictions toward requiring more or fewer types of land uses to receive special use permits. Overall, the response from two-thirds of the jurisdictions was that there was no trend one way or the other, while 19 percent said the trend was for more projects to go through this process and 16 percent said fewer. Interestingly, while this overall response was relatively similar for cities and counties, there was a divergence for cities with higher populations. For those cities with populations over 25,000, 30 percent reported a trend to more use of special use permits, 33 percent reported a trend to less use, and only 37 percent reported no trend either way.

VariANCES

G.S. 160D-705(d) requires zoning regulations to allow for requests for variances from the strict application of zoning rules. Other development regulations may allow for variance requests but are not required to do so. The statute requires a showing that unnecessary hardship would result from carrying out the strict letter of a zoning ordinance to qualify for a variance. The hardship must be peculiar to the property and must not result from actions taken by the applicant. The requested variance must be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. Decisions on variances are quasi-judicial, require a formal evidentiary hearing for each application, and must be made by a board rather than by a zoning official. No change in permitted uses may be authorized by variance.

Our survey shows some decline in the number of zoning variances over the past two decades. Survey respondents reported applications for 1806 variances in 2001, 519 in 2012, and 679 in 2018. As noted in our 2012 report, this suggests that factors beyond the recession and development levels may be affecting the demand for variances, such as adding flexibility to ordinances or updating development standards to reduce the need for variances.²²

The reported approval rate for variances has not, however, substantially changed over time. Our survey indicated that 72 percent of variance requests were approved in 2002,²³ while respondents to our 2018 survey reported that 80 percent of variance requests were approved. As with our prior survey, variances are less likely to be approved in municipalities and counties with smaller populations. Cities with populations under 1000 and counties with an unincorporated area population under 25,000 had variance-approval rates of 63 percent and 67 percent respectively, well below the overall average of 80 percent approval. The detailed survey results regarding variances are shown in Table B10.

22. *VARIANCES*, *supra* note 2, at 16; *2012 Survey Report*, *supra* note 6, at 10.

23. *VARIANCES*, *supra* note 2, at 17.

Appeals of Staff Determinations

Final administrative decisions on land use–regulatory matters made by city or county staff members are subject to an administrative appeal under G.S. 160D-405. For example, a decision by a zoning administrator that a particular land use is not permitted on a site, a ruling on how a setback is measured, or a determination that a zoning violation exists may be appealed to the board of adjustment.

The number of appeals of staff decisions to the board of adjustment also continues to decline. Respondents to our 2012 survey reported 166 appeals to boards of adjustment in the previous year. Most of those appeals (88 percent) were brought by the owner of the affected property.²⁴ In our 2018 survey, respondents reported that only 91 appeals of staff interpretations of development regulations were made in the previous year.

For the most part, boards of adjustment upheld the staff determinations, as respondents report that the appeal was successful in only 21 percent of the cases. Applicant appeals were modestly more likely to be approved by counties than by cities. The detailed survey responses regarding appeals of staff decisions are shown in Table B11.

Certificates of Appropriateness

Many North Carolina zoning ordinances provide special protections for historic neighborhoods and for important individual historic-landmark structures. This authority is provided by Article 9, Part 4 of Chapter 160D (Sections 940 to 951). A historic-district designation is generally incorporated within a zoning ordinance, often as an overlay zoning district, but may also be adopted as a separate ordinance. While such districts are relatively uncommon in small towns, respondents to our 2004 survey reported that a substantial number of cities with populations over 10,000 had adopted historic-preservation regulations.²⁵

The requirement to secure a certificate of appropriateness is set by G.S. 160D-947. Any new construction, exterior alteration, or demolition of structures within a designated historic district must receive a certificate of appropriateness prior to the issuance of a building permit for the work. The proposed work is required to be congruent with the historic character of the district to receive a certificate of appropriateness. Similar protections can be established for individual buildings designated as historic landmarks. The historic-preservation commission is required to have rules of procedure and standards for the review of applications. The standards for securing a certificate of appropriateness must be set out in the regulation and must generally relate to maintenance of the particular character of that individual historic neighborhood. G.S. 160D-949 provides that without a certificate of appropriateness, the proposed relocation or demolition of a landmark or structure within a historic district can be delayed for a year (and a demolition denied altogether if the structure has been identified by the State Historic Preservation Officer as having “statewide significance”). Decisions on certificates of appropriateness are quasi-judicial, require a formal evidentiary hearing for each application, and must be made by the historic-district commission.

Survey respondents reported consideration of 1953 certificates of appropriateness in the prior year. Three-quarters of these applications were made in cities with populations over 25,000. Overall, 92 percent of the applications were approved. The detailed survey results regarding certificates of appropriateness are shown in Table B12.

24. *2012 Survey, supra note 6, at 9 tbl.8, 14.*

25. *ORDINANCES, supra note 3, at 7.*

Administrative Decisions

There are certain development approvals that can be approved by an administrator or staff member without going through the entire public-hearing process. G.S. 160D-102(1) defines “administrative decisions” as those made in the implementation, administration, or enforcement of development regulations that involve “the determination of facts and the application of objective standards.” These administrative development approvals may include zoning permits, site-plan approvals, plat approvals, and building permits. A local development regulation may designate a staff person to make determinations under each development regulation. Development approvals must be written but may be in print or electronic form.

Site Plans

One of the most common types of administrative approval is site-plan approval. G.S. 160D-102(29) defines a site plan as:

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Since most site-plan approvals that are not part of a rezoning or a special use permit are based on objective standards, they are typically administrative decisions rather than legislative or quasi-judicial.

Respondents to our 2012 survey reported review of 5520 site plans in the previous year.²⁶ The number of site-plan reviews reported in 2018 was moderately lower but had not declined as much as some of the other types of decisions noted above. Respondents reported review of 4423 site plans. Site-plan reviews are more frequently made in cities than in counties and, not surprisingly, the greater the population of the jurisdiction, the more site plans it reviews. Overall, 88 percent of the site plans reviewed were approved. The approval rate is higher in counties than in cities and higher in low-population cities than in high-population cities. The details on site-plan reviews are set out in Table B13.

Subdivision Plats

G.S. 160D-801 allows a subdivision regulation to provide for review and approval of sketch plans and preliminary plats as well as final plats. The statute also allows for differing review procedures for differing classes of subdivisions, such as procedures that distinguish “major subdivisions” from “minor subdivisions” and provide a separate process for each. G.S. 160D-802(b) allows expedited reviews for specified classes of subdivisions and requires an

26. *2012 Survey, supra* note 6, at 9 tbl.9.

expedited review of a specific class of subdivisions. Decisions on preliminary and final plats may be made by the governing board, the planning board, a technical-review committee, another designated body, or a designated staff person.

While most subdivision ordinances include only objective standards for approval and are thus administrative decisions, a subdivision regulation may also include discretionary standards. If those are included, the decision is quasi-judicial rather than administrative.

Unlike some of the other development approvals discussed earlier in this report, the number of “major subdivision” plat reviews reported has not declined in recent years. Respondents to our 2012 survey reported review of 1305 subdivision plats in the previous year.²⁷ Respondents to our 2018 survey reported review of 1379 major subdivision plats.

The reported approval rate for these major subdivision plats varied significantly between cities and counties and for jurisdictions of differing populations. Counties reported an approval rate of 94 percent as opposed to 59 percent in cities. This difference is largely related to the fact that cities with populations over 25,000 reported an approval rate of 52 percent, while lower-population cities had approval rates more comparable to counties. The details on responses regarding preliminary plat reviews for major subdivisions are shown in Table B14.

In addition to application and approval rates for these major subdivisions, we also asked about volume and approval rates for other types of subdivisions for those jurisdictions that make such distinctions. Responding cities and counties reported consideration of 4701 “minor subdivisions.” Ninety-five percent of these applications were approved. While the approval rate was lowest in high-population cities, the difference was not nearly as substantial as with major subdivisions. An approval rate of 86 percent for minor subdivisions was reported by cities with populations over 25,000.

We also asked how many exempt subdivision certifications were reviewed. Responding cities and counties reported review of 4598 of the certifications, 89 percent of which were approved.

The section below on subdivision-regulation administration provides more detail on the allocation of decision-making for plat approvals, the use of discretionary standards, the application of subdivision regulation to nonresidential-lot creation, and how the regulation handles use of private streets.

Litigation

Persons with standing may appeal decisions made under development regulations to the courts. Administrative decisions must first be appealed to the board of adjustment, and the decision of that board may then be taken to superior court. Final quasi-judicial and legislative decisions may be appealed directly to superior court.

Previous surveys have indicated that judicial appeals of land use regulatory decisions are relatively rare. We asked about judicial review of variance decisions in 2002, of special use permit decisions in 2004, and of rezoning decisions in 2006. In 2012 we asked about all types of litigation regarding development regulations.

The surveys conducted from 2002 to 2006 indicated that few local government decisions were appealed to the courts at that time. These reports were that only 2.5 percent of variance decisions were appealed in 2002, 1.6 percent of special use permit decisions in 2004, and 0.9 percent of rezoning decisions in 2006.²⁸ In each of these, the courts only infrequently

27. *2012 Survey, supra* note 6, at 9 tbl.9.

28. *AMENDMENTS, supra* note 4, at 18 tbl. 27.

overturned the decision that had been appealed. The local government decision was overturned in 25 percent of the variance cases, 21 percent of the special use permit cases, and 20 percent of the rezoning cases.

In our 2012 survey 16 percent of the responding cities and counties reported they had litigation regarding their development regulations, with a total of sixty cases filed. Most of the judicial appeals—62 percent—were initiated by the landowner, and 37 percent were brought by a neighbor or other third party with standing. The issue most frequently litigated in 2011 was staff interpretation of the ordinance, accounting for 30 percent of the litigation. Judicial review of special and conditional use permit decisions accounted for 24 percent of the litigation, while cases involving legislative rezoning decisions accounted for 13 percent.²⁹

Our 2018 survey produced a substantially similar result. Twelve percent of the responding cities and counties reported litigation challenging a development-regulation decision. Not surprisingly, cities with populations over 25,000 were twice as likely to report litigation in the previous year. No cities with populations under 1000 reported litigation in their jurisdiction. As in 2011, most challenges—56 percent—were brought by the landowner or permit application, with 29 percent by a neighbor or a third party with standing.

The issue reported as the most frequent subject of litigation in 2018 was appeal of staff interpretation of development regulations, accounting for 34 percent of the reported cases. The next group of decisions subject to litigation were special use permits, notice of violation, and site plans. The issues subject to litigation, in order of frequency, are shown in Table 5.

Table 5. Types of Decisions Litigated

	<u>No. of cases</u>
Staff interpretations of regulations	20
Special use permits	11
Notices of violation	8
Site plans	8
Rezoning	5
Variances	2
Certificates of appropriateness	2
Text amendments	1
Subdivision plats	1

²⁹. *2012 Survey Report*, *supra* note 6, at 14.

Conditional Zoning

Our 2018 survey included a set of detailed questions about experience with conditional zoning. We had a lower number of respondents for this set of questions than for the rest of the survey as, for the most part, only those jurisdictions with conditional-zoning experience responded to these questions. While 355 cities and counties responded to the survey, 283 responded to the conditional-zoning set of questions (230 municipalities and 53 counties). The percentages of respondents reported in this section are percentages of these 283 jurisdictions.

At the time of this survey, North Carolina cities and counties had the option of using purely legislative conditional zoning or the hybrid legislative/quasi-judicial conditional use district zoning. With the adoption of Chapter 160D, in the future local governments will be able to exercise legislative conditional zoning and quasi-judicial special use permits, but not the hybrid approach that uses both processes concurrently for an individual project.

In conditional zoning, the property is placed in a conditional zoning district that incorporates site-specific terms and conditions that apply only to the parcels included in that particular rezoning. G.S. 160D-703(b) authorizes these districts. Conditional rezoning can only be done at the request of the landowner. The conditions that may be imposed are limited to (1) those needed to bring the project into compliance with the ordinance and adopted plans and (2) those needed to address the impacts reasonably expected to be generated by the project. The decision to adopt a conditional rezoning is a legislative decision made by the governing board.

In conditional use district zoning, which will no longer be an option under Chapter 160D, a landowner requests that property be placed in a new zoning district that has no permitted uses, only special uses. While rezoning the property to a conditional use district is a legislative decision, the concurrent special use permit is a quasi-judicial decision. This tool was first used in North Carolina in the 1970s and was incorporated into the zoning statutes in 1985. At the time of this survey, conditional use districts could still be used. The responses discussed below were based on use of both conditional zoning and conditional use district zoning.

Under Chapter 160D all former conditional use districts will still be valid and enforceable, but by July 1, 2021, all conditional use zoning districts will by state law automatically convert to conditional zoning districts, and the concurrently issued special or conditional use permit will become a special use permit.

Use of Conditional Zoning

The use of conditional zoning is expanding in North Carolina. In our 2006 survey, 37 percent of the responding jurisdictions reported use of either conditional-use-district or conditional zoning.³⁰ In 2018 over half of the jurisdictions reported use of this tool.

Fifty-four percent of responding jurisdictions reported they had adopted a conditional zoning in the previous year. For both cities and counties, use was more common for more-populous jurisdictions, with the use of conditional zoning particularly notable in cities with high populations. While only 33 percent of the cities with populations under 1000 reported any use of conditional zoning, 77 percent of the cities with populations over 25,000 did so. The detailed survey responses on use of conditional zoning are shown in Table B15.

A similar but modestly smaller number of jurisdictions—46 percent—reported use of conditional use district zoning. Unlike conditional zoning, use of this tool did not substantially vary based on population size. Small-population jurisdictions were just as likely to have used

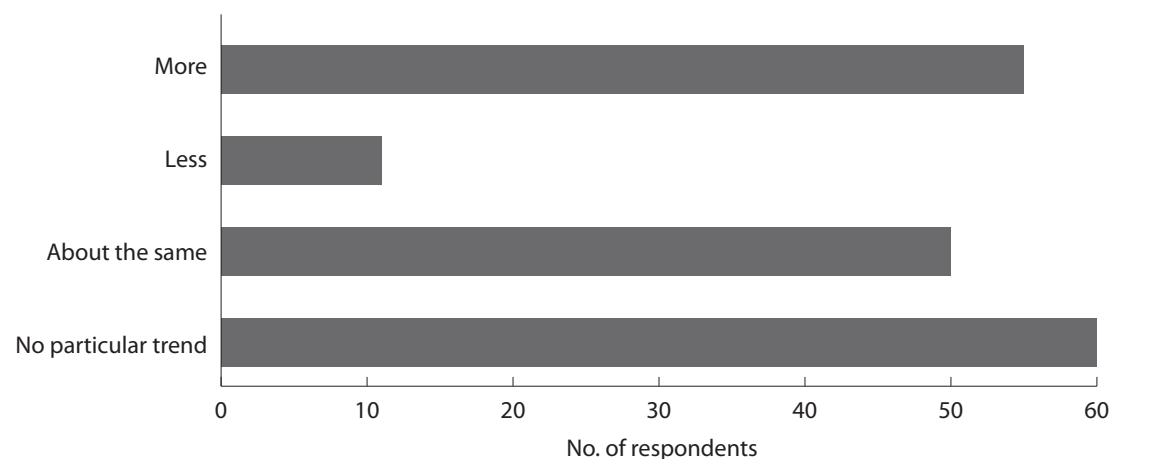
30. ZONING DISTRICTS, *supra* note 4, at 5.

conditional use district zoning as their more-populous counterparts. This is likely related to the fact that conditional use district zoning has been available for several more decades than has purely legislative conditional zoning. Interestingly, 27 percent of the jurisdictions reported that their zoning ordinances allowed for use of both conditional zoning and conditional use district zoning.

Not only do an increasing number of cities and counties use conditional zoning, these jurisdictions increasingly rezone properties to conditional zones as opposed to conventional zoning districts. Respondents to the conditional-zoning block of questions reported consideration of 1295 rezoning applications in the previous year. Of these, 55 percent of the requests were for conditional or conditional use districts, with 42 percent for conventional districts and 3 percent to other types of districts. For cities with populations over 25,000, 78 percent of the rezonings considered in the previous year were for conditional or conditional use districts.

We also asked whether there was a trend toward more use or less use of conditional zoning within the responding jurisdiction. About one-third of the respondents reported that the trend was for more rezonings to go through the conditional-rezoning process, while two-thirds reported the number to be about the same or no trend one way or the other. While higher-population cities were slightly more likely to report a trend toward more use, these numbers were substantially similar for cities and counties and all population ranges (with the exception of cities with populations under 1000, where use of conditional zoning remains uncommon). These results are illustrated in Figure 2.

Figure 2. Trends in Use of Conditional Zoning



Types of Development

We asked survey respondents to rank seven types of development in the order they were most frequently subject to conditional zoning in their jurisdiction (1 being most frequent and 7 being least frequent).

Survey respondents reported that commercial development was most often the subject of conditional zoning, with residential development the second most frequent use. The overall rankings are set out in Table 6. There were only two modest differences between cities and counties and jurisdictions of different population sizes in this ranking. Counties were slightly more likely than cities to use conditional zoning for industrial uses, and cities were slightly more likely than counties to use it for mixed-use developments.

Table 6. Types of Development Most Often Subject to Conditional Zoning (N=150)

	Relative frequency
Commercial	1.9
Residential	2.9
Industrial	3.7
Office and institutional	4.1
Mixed use	4.1
Multi-use	4.6
Other	6.8

Conditions Imposed

We also asked about the nature of conditions imposed when conditional rezonings were adopted.

The six conditions most often applied in conditional zoning were compliance with an incorporated site plan, a limit on the range of permitted uses, specific landscape and buffering requirements, additional setbacks, maximum-density limits, and access conditions. All of these were reported to be always or frequently imposed in conditional zoning by over half of the responding jurisdictions. Table 7 sets out the types of conditions imposed in the previous year by responding jurisdictions, ranked in the order that they were “always” and “frequently” imposed.

Table 7. Percentage of Jurisdictions Imposing Conditions, by Frequency (N=150)

Type of Condition	Always	Frequently	Sometimes	Rarely	Never
Site plan	58	15	8	5	14
Types of uses	52	21	13	5	13
Landscape and buffers	38	31	16	4	11
Setbacks	41	16	20	9	14
Maximum density	33	23	16	11	19
Access requirements	28	22	16	15	19
Lot dimensions	28	17	15	19	21
Design standards	15	20	24	16	25
Parking	29	14	19	16	22
Building height	23	11	16	22	29
Sign standards	22	11	23	19	28
Others	17	14	10	0	59

Conditions specified in the “Other” category included hours of operation (the most frequently cited additional condition), right-of-way dedication, transportation improvements, street connectivity, greenway dedication, funding for sidewalks, and restrictions on impermeable-surface coverage.

While the responses to this query were relatively similar for cities and counties, there were a few differences. Counties reported impositions of a broader range of conditions than cities, as they were more likely to report imposing site-plan requirements, limits to the range of uses permitted (particularly relative to large-population cities), setbacks, maximum-density limits, access requirements, sign restrictions, and parking limits. Cities more frequently imposed landscape requirements, buffer requirements, and design standards.

Decision-Making Process

When any zoning text or map amendment is proposed, G.S. 160D-601 requires that the governing board hold a legislative hearing on the proposal, with two newspaper-published notices of the hearing. When a zoning-map amendment is proposed, G.S. 160D-602 also requires the local government to post a notice of the hearing on the site and mail a notice of the hearing to the owners of the property to be rezoned and to the owners of the adjoining properties. G.S. 160D-604 requires all proposed zoning amendments to be submitted to the planning board for review and comment.

Some local governments require additional consultation with affected property owners and neighbors when conditional zoning is proposed. Since a conditional rezoning changes the uses allowed and includes site-specific conditions, consulting with affected persons about these conditions while developing the proposal can identify and resolve points of neighborhood concern before the formal governmental review of the proposal. When local legislation was adopted authorizing Charlotte to use purely legislative conditional zoning in 2000 (S.L. 2000-84), it required that the proponent of the rezoning conduct at least one community meeting with neighbors prior to the formal hearing by the governing board. This mandatory provision for Charlotte was subsequently used as a model by many other cities adopting conditional zoning.

G.S. 160D-602(e) now authorizes, but does not mandate, a local government to require communication with neighboring property owners and residents as part of a conditional-zoning application. That communication can take the form of mailings, neighborhood meetings, or other means. The zoning regulation can require a report of that communication to be submitted as part of the rezoning application.

We asked cities and counties whether their regulations mandated this extra neighborhood notice and consultation as part of the conditional-rezoning process. Fifty-four percent of the responding jurisdictions reported that they require some degree of extra neighborhood consultation for conditional rezonings. This required consultation most often takes the form of a mailed notice to the neighbors, setting out the proposed conditional zoning. Seventy-nine percent of the responding jurisdictions that required consultation require these preapplication notices. Seventy percent of these jurisdictions also require a meeting with the neighbors regarding the proposed project. Counties and more-populous cities were most likely to require a neighborhood meeting as part of the mandated application process. The detailed responses regarding the types of consultation that are mandated are set out in Table B16.

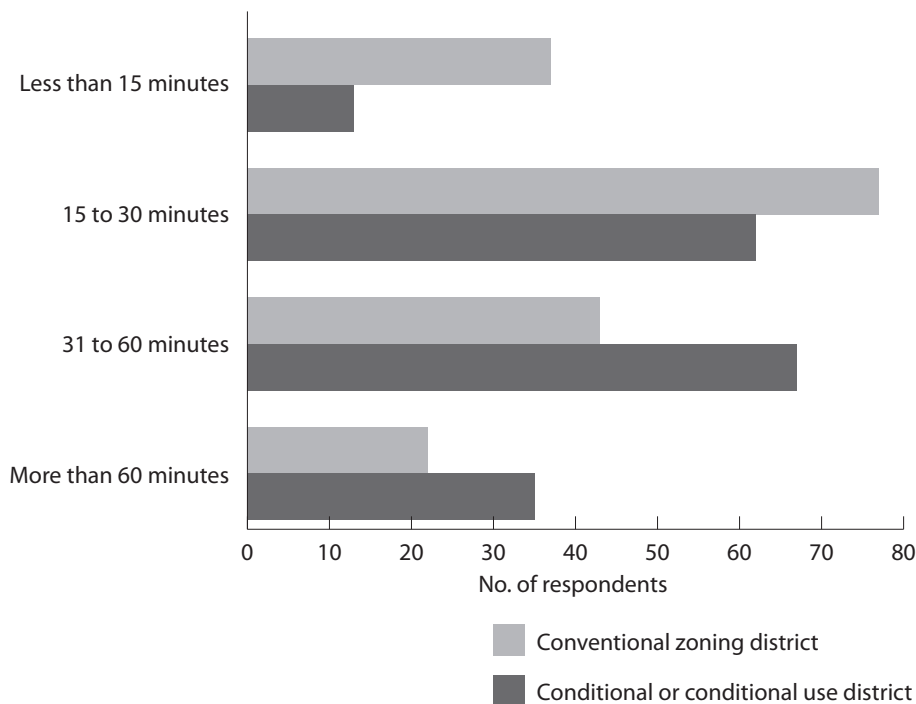
Length of Decision-Making Process

Since each conditional rezoning includes individualized site-specific conditions, it is reasonable to assume that more staff work and board deliberation are involved with their adoption and that the overall process may well take longer to complete than is the case with conventional rezonings. Our survey confirmed that this is the case, though only moderately so.

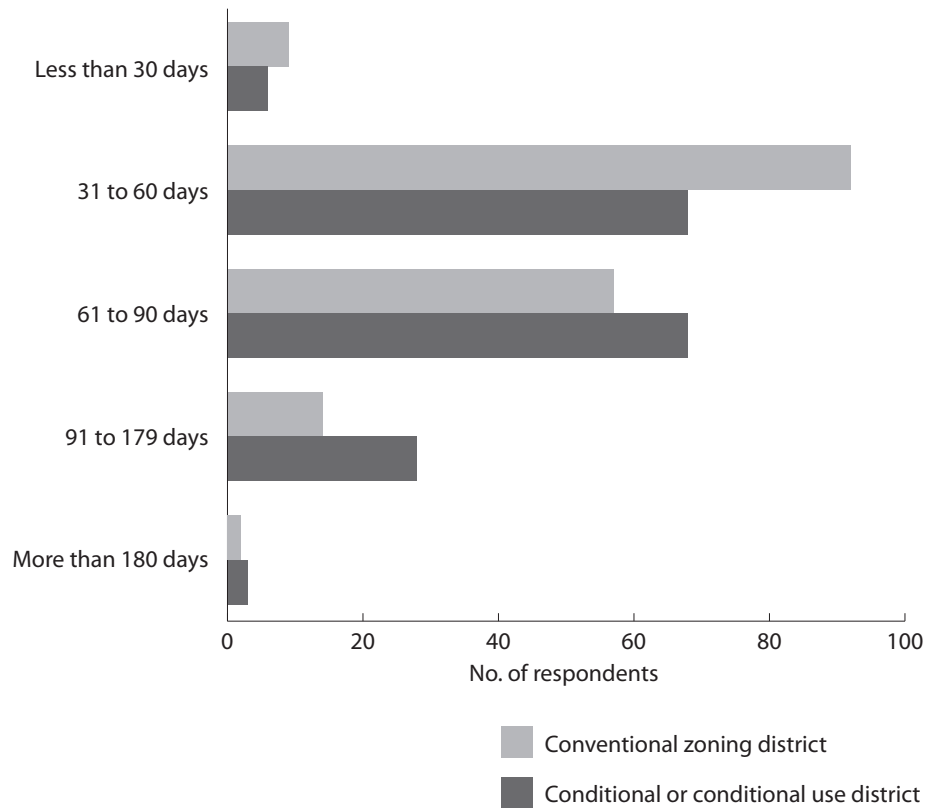
We asked how much time the governing board spends hearing, discussing, and voting on a typical conventional and a typical conditional rezoning request. The conditional rezonings include both purely legislative conditional zoning and the hybrid legislative/quasi-judicial conditional use districts that were still permissible at the time of the survey. The time spent includes the length of the public hearing, board deliberation, and voting.

For conventional rezonings, the most common time for consideration reported was 15 to 30 minutes, while the most common time for conditional rezonings was 31 to 60 minutes each. Sixty-three percent of responding jurisdictions reported spending 30 minutes or less to hear and decide a typical conventional rezoning request, while only 42 percent reported taking 30 minutes or less for a typical conditional rezoning. These responses are illustrated in Figure 3.

Figure 3. Time Taken by Governing Board to Consider Typical Rezoning



The overall time taken from time of application to time of decision was also moderately longer for conditional rezonings relative to conventional rezonings. Responding jurisdictions reported that the most common period from application to decision for a typical rezoning was 31 to 60 days for a conventional rezoning, while it was 61 to 90 days for a conditional rezoning. Only 11 percent of the jurisdictions reported that a typical case takes more than 90 days for a conventional rezoning, while 19 percent reported that this was the case for conditional rezonings. Larger-population cities and counties both reported longer periods for decision-making than their less populous counterparts. These results are illustrated in Figure 4.

Figure 4. Time from Application to Decision for Typical Rezoning

The overall approval rate reported for rezoning requests was not substantially different for rezonings to conventional or to conditional zoning districts. Eighty-six percent of the conventional rezonings were reported as adopted in the prior year, as were 83 percent of the conditional rezonings. Final actions to approve the now-obsolete conditional use district rezonings were lower at 65 percent, which may reflect the added complexity of also considering a concurrent special use permit.

Special Administrative Provisions

Adoption of conditional zoning poses administrative challenges for local governments. With a conventional rezoning, all the applicable zoning standards are set out in the ordinance, and the same standards apply to all the properties in that zoning district. However, the conditional zoning standards are unique for each property in a conditional district. It is important for future compliance that the landowner, the local government staff, and the public be able to readily access those standards. This is particularly important over time as the owners and occupants of property and the identity of local staffs and boards change.

To address this need, 31 percent of responding jurisdictions reported that they have special administrative or records-management provisions for conditional rezonings that do not apply to conventional rezonings. Only cities with populations under 1000 were significantly less likely to report having these requirements.

The most commonly reported administrative requirement was to inspect the site after construction to review compliance with the conditions that were imposed. The second most common requirement was to record the conditions with the register of deeds, thus assuring a permanent record of the conditions in the chain of title for the property (primarily for the benefit of subsequent purchasers of the property). A number of respondents also noted that the local government maintains a special administrative file to track all conditional zonings. Other requirements reported included use of bonding or other performance guarantees to ensure completion of mandated infrastructure provisions.

Subdivision-Regulation Administration

In our 2018 survey, we asked about four aspects of city and county administration of subdivision regulations:

1. The assignment of decision-making responsibility for subdivision plats,
2. the use of discretionary standards for plat approval,
3. the application of subdivision regulation to nonresidential development, and
4. the issues related to use of privately owned streets within subdivisions.

Decision-Maker

North Carolina statutes provide several options for city and county plat-approval processes. G.S. 160D-801 provides that a subdivision regulation may provide for review and approval of sketch plans and preliminary plats, as well as final plats. This statute allows for differing review procedures for differing classes of subdivisions. It further provides that expedited reviews may be set for specified classes of subdivisions and expedited review is mandated for some subdivisions.

The key decision in the subdivision-approval process is the preliminary plat. The preliminary plat application requires detailed survey plats of all the lots and engineering details on all the proposed and required improvements. Preliminary plat approval authorizes the owner to install the required public improvements and make other site improvements. After the required improvements are installed, the city or county inspects them for compliance with the regulations. If they meet the standards and are built as proposed, final plat approval is given. Submission of the final plat is an offer of dedication of indicated improvements. The city or county formally accepts the dedication of streets and utilities with final plat approval. After the review officer certifies that the plat either meets plat and subdivision standards or is exempt, the final plat may be recorded with the register of deeds.

G.S. 160D-803(c) allows the regulations to assign final decision-making on preliminary and final plats to the governing board, the planning board, a technical-review committee of local government staff, other designated boards, or a designated staff person. If the regulation includes discretionary standards for approval, the decision is quasi-judicial rather than administrative. If the decision is quasi-judicial, the statute requires that the decision be made by an elected or appointed board.

Our survey indicates that cities and counties have elected to use all these potential decision-making options. Although subdivision regulations primarily have detailed technical standards, and most have limited or no discretionary standards (use of discretionary standards is discussed below), over half of the responding jurisdictions assign decision-making responsibility to an elected or appointed board. For preliminary plats, 37 percent of the responding jurisdictions assign final decisions to the governing board and 23 percent to the planning board. Cities were more likely than counties to assign these decisions to the governing board.

Since final plat approval is a more ministerial decision, more local governments reported assigning this decision to staff, although many assign this to the governing board, likely reflecting the fact that this approval is often related to acceptance of ownership of completed infrastructure. Thirty-five percent of responding jurisdictions assign final plat approval to an individual staff person, while 36 percent assign this to the governing board. As with preliminary plats, cities were more likely than counties to leave this decision with the governing board.

Table 8 summarizes these allocations of decision-making responsibility for plat approvals. Detailed survey data on preliminary and final plat approval is shown in Tables B16 and B17.

Table 8. Decision-Maker on Plat Approvals

Type of plat	Total respondents	Individual staff person (%)	Technical-review committee (%)	Planning board (%)	Governing board (%)	Other (%)
Preliminary	281	19	13	23	37	8
Final	280	35	9	15	36	5

Use of Quasi-judicial Standards

G.S. 160D-102(28) confirms that if all the standards for subdivision approval are objective, the plat-approval decision is administrative. If the standards for decision include discretionary standards, the plat-approval decision is quasi-judicial. This requires an evidentiary hearing and a decision by an elected or appointed board. For example, if the subdivision regulation includes a standard that the subdivision must not cause a significant adverse impact on traffic flow in the area or that it must be harmonious with the surrounding neighborhood, the approval decision is quasi-judicial. While these discretionary standards are more commonly used for special use permit approval, they may also be included in the regulation as a standard for plat approval.

While most responding jurisdictions still use only objective standards, 28 percent reported that they now also include some discretionary standards. Counties were modestly more likely to do so than are cities. High-population cities were least likely to use discretionary standards in their subdivision regulations. The detailed survey results on use of discretionary standards are set out in Table B19.

Application to Nonresidential Development

G.S. 160D-802 defines the land divisions subject to coverage by local subdivision regulation. It provides that the division of a “tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future)” and all divisions involving the “dedication of a new street or a change in existing streets” are subdivisions subject to regulation. The statute includes exemptions for some land divisions, including the combination or recombination of portions of previously subdivided lots, the division of land into parcels greater than ten acres where no street right-of-way dedication is involved, the division of a tract whose entire area is no greater than two acres into no more than three lots, and the division of a tract to settle an estate.

Half of the responding jurisdictions applied subdivision regulations only to residential subdivision. The other half of the jurisdictions also applied their regulations to land divisions for other purposes. This includes land divisions for multibuilding developments by a single property owner, multifamily-housing projects, multibuilding office parks, and mobile-home parks. Somewhat surprisingly, cities were modestly more likely than counties to apply their subdivision regulations only to single-family residential developments. The detailed results of the survey responses regarding application of subdivision regulations to various types of development are shown in Table B20.

Private Streets

A subdivision regulation usually requires that streets be constructed within the subdivision to serve the newly created lots. The regulations generally require that the streets be designed and constructed to specified standards.

G.S. 160D-804(c) allows the regulation to require that the right-of-way to the street be dedicated to the city or to the state for streets within county jurisdiction. Alternatively, the regulation may allow the streets to remain in private ownership, with maintenance becoming the responsibility of the property owners or a homeowners' association.

We asked jurisdictions whether their subdivision regulations allowed for privately owned streets within a subdivision and, if so, what quality of experience the city or county had had with private streets.

Overall, two-thirds of the responding jurisdictions allowed private streets with a newly approved subdivision. Counties were more likely to report allowing private streets than was the case for cities; 86 percent of the responding counties allow private streets, while only 58 percent of the cities do. This likely reflects the fact that cities can own and maintain streets while counties cannot do so.

Even where a subdivision's regulation does not allow private streets, there are a substantial number of private streets that were created under prior rules. Nineteen percent of responding jurisdictions reported that they did not allow private streets in new subdivisions but had private streets in subdivisions approved under prior rules. The detailed survey results regarding private streets are shown in Table B21.

Maintenance and repair of private streets in subdivisions are the responsibility of the property owners. Homeowners' associations in many instances collect mandatory assessments dues to fund these repairs.

When private maintenance is inadequate, it is not uncommon for the residents to seek assistance from the local government. Forty-five percent of responding jurisdictions reported that residents served by private streets had sought assistance from the local government regarding the streets in the previous year. In a small number of jurisdictions, these requests were frequent. Five percent of the jurisdictions reported more than ten such requests in the previous year. These requests were less common in low-population cities and counties.

It is less common, but not unusual, that the unit of government initiates communication with the private owners regarding inadequate maintenance of private streets in subdivisions. Eighteen percent of the responding jurisdictions reported they had done so in the previous year, and 5 percent reported they had done so more than ten times. Counties were modestly more likely to have done so than cities.

Often the concerns about inadequate maintenance of private streets are addressed by these initial communications and private action. Only 8 percent of the responding jurisdictions reported that they had initiated enforcement actions in the previous year to compel maintenance of private streets. This step was most commonly taken by low-population counties. Ten percent of the reporting jurisdictions reported they had taken steps to assist with improving private streets so that they could then be accepted as a public street. Eleven percent of the respondents also reported that formerly private streets in their jurisdiction had been accepted as public streets by the N.C. Department of Transportation in the previous year.

Survey Methods and Response Rate

A respondent staff member was selected for each city and county in the state. The survey link was sent to the jurisdiction's zoning administrator or planner. If there was no such position in the jurisdiction, the survey went to the manager or administrator, clerk, or chief elected official (in that order). The appropriate contact email for the staff member was verified through the jurisdiction's website or through a phone call with the jurisdiction. A link to the survey was emailed in the fall of 2017 to the planning and zoning staff in all 100 counties and to the 529 municipalities for which an email contact was obtained (of the 553 municipalities in the state).

The survey was hosted on the Qualtrics online platform, which presented one question at a time to each respondent and used the respondent's answers to filter out inapplicable questions. The text of the online survey instrument is included in Appendix C. For those respondents who preferred a written questionnaire, a PDF of the complete survey was emailed, and their answers were received by mail or email. From December 2017 to February 2018, reminder emails were sent to encourage responses.

Responses to the survey provided a good representation of North Carolina's varying jurisdiction sizes and overall population. Overall, 356 jurisdictions completed the survey (a rate of 54 percent of all cities and counties). This was similar to our response rate in 2008. For municipalities, 274 responded (a rate of 50 percent). For counties, eighty-two completed the survey (a rate of 82 percent). Responses for the unincorporated areas of Durham, Forsyth, and Mecklenburg counties were combined with the city totals in the report analysis because a combined response was submitted by the joint city-county planning staff for these jurisdictions. Another twenty-one municipalities (primarily cities with populations under 2500) and five counties began the survey but did not complete it. These incomplete responses were disregarded, though they do indicate that a slightly larger number of jurisdictions were effectively reached.

As in past years, higher-population jurisdictions responded at a higher rate than those with lower populations. Of municipalities with a population greater than 10,000, the response rate was over 84 percent. For municipalities with populations between 1000 and 9999, the response rate was 50 percent, and for those with populations below 1000, the response rate was 35 percent. Similarly, for counties with populations of at least 25,000 in the unincorporated part of the county, the response rate was 87 percent, while for those with populations under 25,000, the response rate was 69 percent. The response rates are shown in Table 9. Appendix A lists the responding jurisdictions.

The total population of responding jurisdictions was 8,427,741, or 83 percent of the state's population. The population of responding jurisdictions is shown in Table 10. The population represented by responding municipalities constitutes 78 percent of the total municipal population in the state. The rate was slightly higher for counties, with 90 percent of the total unincorporated population represented by responses.

This response rate is generally consistent with prior surveys. The number of responding jurisdictions and the percentage of the state's population included within responding jurisdictions is shown in Table 11. While an exact comparison of the responses from survey to survey is not possible given modestly different jurisdictions responding, the similarity of response levels allows an assessment of general trends in local government practices and experience over time.

Martin Yeager, a second year MPA student, served as the research associate for the 2017–18 survey, handling much of the logistics of survey administration and the initial compilation of the data reported in this bulletin.

Table 9. Survey Response Rate

	No. in state	No. (%) responding
Municipalities	553	274 (50)
1–999	219	77 (35)
1000–9999	248	124 (50)
10,000–24,999	48	41 (85)
25,000+	38	32 (84)
Counties	100	82 (82)
1000–24,999	32	22 (69)
25,000+	68	60 (88)
All jurisdictions	653	356 (55)

Table 10. Population of Responding Jurisdictions

	Total population	Population (% of total) of responding jurisdictions
Municipalities	5,687,850	4,424,230 (78)
Counties	4,468,092	4,003,511 (90)
All jurisdictions	10,155,942	8,427,741 (83)

Table 11. Survey Responses

Year	No. of jurisdictions responding	State population within responding jurisdictions (%)
2002	441	91
2004	410	90
2006	358	90
2008	347	83
2012	296	77
2018	356	83

Appendix A. Responding Jurisdictions

Municipalities

Aberdeen	Chapel Hill	Fuquay-Varina	Lansing	Norwood
Albemarle	Charlotte	Garner	Lattimore	Oak City
Andrews	Cherryville	Gibson	Laurel Park	Oak Island
Angier	China Grove	Gibsonville	Leland	Oak Ridge
Apex	Clayton	Godwin	Lenoir	Ocean Isle Beach
Archdale	Clemmons	Goldsboro	Lewisville	Oriental
Archer Lodge	Cleveland	Goldston	Lexington	Orrum
Asheboro	Clinton	Graham	Lillington	Pantego
Asheville	Coats	Granite Falls	Linden	Parkton
Atlantic Beach	Colerain	Granite Quarry	Locust	Pembroke
Aurora	Como	Grantsboro	Lumberton	Pilot Mountain
Autryville	Concord	Greensboro	Madison	Pinebluff
Ayden	Conover	Greenville	Maggie Valley	Pinehurst
Bakersville	Conway	Grimesland	Magnolia	Pinetops
Bald Head Island	Cornelius	Hamlet	Maiden	Pittsboro
Banner Elk	Cramerton	Harrellsville	Manteo	Princeville
Bath	Creedmoor	Harrisburg	Marshall	Proctorville
Bayboro	Crossnore	Havelock	Marshville	Raeford
Beaufort	Dallas	Hayesville	Matthews	Raleigh
Belmont	Davidson	Hemby Bridge	Mayodan	Ramseur
Belwood	Dillsboro	Henderson	McDonald	Randleman
Bermuda Run	Dortches	Hendersonville	Mebane	Rich Square
Bessemer City	Drexel	Hickory	Micro	Richlands
Bethania	Duck	High Point	Middlesex	River Bend
Bethel	Durham	Hillsborough	Midland	Roanoke Rapids
Black Mountain	East Bend	Hoffman	Mills River	Robersonville
Bladenboro	East Spencer	Holly Ridge	Mineral Springs	Rockingham
Blowing Rock	Eastover	Holly Springs	Minnesott Beach	Rockwell
Bogue	Elizabeth City	Hope Mills	Mint Hill	Rocky Mount
Boiling Spring Lakes	Elkin	Huntersville	Mocksville	Rolesville
Bolivia	Ellenboro	Indian Trail	Momeyer	Rose Hill
Boone	Emerald Isle	Jacksonville	Monroe	Roxboro
Brevard	Enfield	Jamestown	Montreat	Ruth
Bridgeton	Erwin	Jonesville	Mooresville	Rutherfordton
Bunn	Falkland	Kannapolis	Morganton	Salemburg
Burlington	Fairmont	Kernersville	Morrisville	Saluda
Calabash	Fairview	Kill Devil Hills	Mount Airy	Sandyfield
Candor	Faith	Kings Mountain	Mount Gilead	Seven Devils
Carolina Beach	Falcon	Kinston	New Bern	Seven Springs
Carolina Shores	Fayetteville	Kitty Hawk	Newport	Shalotte
Carrboro	Fletcher	Kure Beach	Newton	Shelby
Carthage	Foxfire Village	La Grange	Newton Grove	Siler City
Caswell Beach	Franklin	Lake Waccamaw	North	Snow Hill
	Franklinville	Landis	Wilkesboro	Southern Pines

Southern Shores	Stonewall	Troutman	Waynesville	Wilson's Mills
Southport	Stovall	Turkey	Weddington	Windsor
St. Helena	Sugar Mountain	Valdese	Wendell	Winfall
St. Pauls	Summerfield	Vanceboro	Wentworth	Wingate
Staley	Sunset Beach	Varnamtown	Wesley Chapel	Winston-Salem
Stallings	Sylva	Waco	Whispering Pines	Winterville
Stanfield	Tar Heel	Wadesboro	White Lake	Woodland
Star	Tarboro	Wake Forest	Whiteville	Yanceyville
Statesville	Teachey	Walstonburg	Whitsett	
Stem	Thomasville	Washington	Williamston	
Stokesdale	Trent Woods	Washington Park	Wilmington	
Stoneville	Trinity	Waxhaw	Wilson	

Counties

Alamance	Cherokee	Granville	Nash	Stokes
Alexander	Chowan	Greene	New Hanover	Surry
Anson	Cleveland	Guilford	Onslow	Transylvania
Ashe	Columbus	Halifax	Orange	Tyrrell
Avery	Craven	Harnett	Pasquotank	Union
Beaufort	Cumberland	Henderson	Pender	Vance
Bertie	Currituck	Hoke	Perquimans	Wake
Bladen	Dare	Hyde	Person	Warren
Brunswick	Davidson	Iredell	Pitt	Washington
Buncombe	Davie	Jackson	Polk	Watauga
Burke	Duplin	Johnston	Richmond	Wayne
Cabarrus	Durham	Lincoln	Robeson	Wilkes
Camden	Forsyth	Macon	Rockingham	Yadkin
Carteret	Franklin	McDowell	Rowan	Yancey
Caswell	Gaston	Mecklenburg	Rutherford	
Catawba	Gates	Montgomery	Scotland	
Chatham	Graham	Moore	Stanly	

Appendix B. Detailed Data Tables

Table B1. Municipal Zoning-Regulation Adoption

Population size	Total respondents	Municipal zoning (%)	County zoning within municipality (%)	No zoning (%)
1-999	76	78	14	8
1000-9999	124	98	2	0
10,000-24,999	40	100	0	0
25,000+	31	97	3	0
Total	271	92	5	2

Table B2. Municipal Subdivision-Regulation Adoption

Population size	No. of respondents	Municipal subdivision (%)	County subdivision within municipality (%)	No subdivision regulation (%)
1-999	70	60	20	20
1000-9999	123	93	4	2
10,000-24,999	40	100	0	0
25,000+	30	97	3	0
Total	263	86	8	6

Table B3. County Subdivision-Regulation Adoption

Population size	No. of respondents	Countywide (%)	Partial county (%)	No subdivision regulation (%)
1000-24,999	21	86	10	5
25,000+	57	96	0	4
Total	78	94	3	4

Table B4. UDO Adoption

Population size	Total respondents	% with UDO
Municipalities	252	48
1–999	60	18
1000–9999	121	48
10,000–24,999	40	73
25,000+	31	74
Counties	73	36
1000–24,999	18	33
25,000+	55	36
All jurisdictions	325	45

Table B5. Adoption of Form-Based Code

Population size	Total respondents	No form-based code (%)	Discussed but not adopted (%)	Current zoning or UDO incorporates elements of form-based code (%)	Applied to specific districts (%)	Applied to entire jurisdiction (%)
Municipalities	261	62	10	23	11	1
1–999	71	85	4	8	6	0
1000–9999	122	66	11	23	8	0
10,000–24,999	37	38	16	38	14	3
25,000+	31	26	13	42	29	3
Counties	79	91	0	8	0	3
1000–24,999	21	90	0	5	0	5
25,000+	58	91	0	9	0	2
All jurisdictions	340	69	8	20	8	1

Table B6. Rezoning

Population size	Total respondents	No. of applications	% approved
Municipalities	252	1274	78
1-999	61	28	71
1000-9999	120	281	88
10,000-24,999	40	244	75
25,000+	31	721	76
Counties	73	345	87
1000-24,999	18	52	83
25,000+	55	293	88
All jurisdictions	325	1619	80

Table B7. Third-Party Rezoning Requests

Population size	Total respondents	% receiving request
Municipalities	261	16
1-999	74	4
1000-9999	120	18
10,000-24,999	37	27
25,000+	30	30
Counties	75	12
1000-24,999	21	14
25,000+	54	11
All jurisdictions	336	15

Table B8. Zoning-Text Amendments

Population size	Total respondents	No. of applications	% approved
Municipalities	252	688	92
1–999	61	49	92
1000–9999	120	316	96
10,000–24,999	40	131	88
25,000+	31	192	89
Counties	73	136	94
1000–24,999	18	37	95
25,000+	55	99	94
All jurisdictions	325	824	92

Table B9. Special Use Permits

Population size	Total respondents	No. of applications	% approved
Municipalities	252	594	87
1–999	61	58	93
1000–9999	120	181	93
10,000–24,999	40	132	88
25,000+	31	223	81
Counties	73	378	90
1000–24,999	18	94	74
25,000+	55	284	95
All jurisdictions	325	972	88

Table B10. Variances

Population size	Total respondents	No. of applications	% approved
Municipalities	252	522	80
1–999	61	16	63
1000–9999	120	133	83
10,000–24,999	40	70	80
25,000+	31	303	80
Counties	73	157	79
1000–24,999	18	64	67
25,000+	55	93	87
All jurisdictions	325	679	80

Table B11. Appeals of Staff Interpretations

Population size	Total respondents	No. of applications	% approved
Municipalities	251	58	19
1-999	61	1	0
1000-9999	120	19	21
10,000-24,999	39	8	13
25,000+	31	30	20
Counties	73	33	24
1000-24,999	18	12	17
25,000+	55	21	29
All jurisdictions	324	91	21

Table B12. Certificates of Appropriateness

Population size	Total respondents	No. of applications	% approved
Municipalities	252	1910	91
1-999	61	11	82
1000-9999	120	216	97
10,000-24,999	40	191	96
25,000+	31	1492	90
Counties	73	43	98
1000-24,999	18	0	n/a
25,000+	55	43	98
All jurisdictions	325	1953	92

Table B13. Site-Plan Reviews

Population size	Total respondents	No. of applications	% approved
Municipalities	251	3587	86
1-999	60	284	89
1000-9999	120	1325	97
10,000-24,999	40	586	89
25,000+	31	1392	73
Counties	73	836	98
1000-24,999	18	70	97
25,000+	55	766	98
All jurisdictions	324	4423	88

Table B14. Preliminary Plat Review for Major Subdivisions

Population size	Total respondents	No. of applications	% approved
Municipalities	252	1085	59
1–999	61	9	89
1000–9999	120	101	92
10,000–24,999	40	124	81
25,000+	31	851	52
Counties	73	294	94
1000–24,999	18	38	95
25,000+	55	256	93
All jurisdictions	325	1379	66

Table B15. Use of Conditional Rezoning

Population size	Total respondents	% reporting use
Municipalities	230	53
1–999	51	33
1000–9999	111	50
10,000–24,999	38	68
25,000+	30	77
Counties	53	57
1000–24,999	15	40
25,000+	38	63
All jurisdictions	283	54

Table B16. Type of Mandated Neighborhood Consultation for Conditional Rezoning

Population size	Total respondents	Mailed notice to neighbors regarding proposed project (%)	Meeting with neighbors regarding proposed project (%)	Other (%)
Municipalities	63	78	65	19
1-999	11	73	36	9
1000-9999	23	83	57	17
10,000-24,999	13	100	92	8
25,000+	16	56	75	38
Counties	13	85	92	15
1000-24,999	5	80	80	20
25,000+	8	88	100	13
All jurisdictions	76	79	70	18

Table B17. Decision-Maker for Preliminary Plats

Population size	Total respondents	Individual staff person (%)	Technical-review committee (%)	Planning board (%)	Governing board (%)	Other (%)
Municipalities	211	18	13	17	44	7
1-999	38	18	5	18	50	8
1000-9999	106	21	11	18	46	4
10,000-24,999	36	11	14	11	47	17
25,000+	31	16	29	16	26	6
Counties	70	20	11	44	14	10
1000-24,999	16	19	0	50	25	6
25,000+	54	20	15	43	11	11
All jurisdictions	281	19	13	23	37	8

Table B18. Decision-Maker for Final Plats

Population size	Total respondents	Individual staff person (%)	Technical-review committee (%)	Planning board (%)	Governing board (%)	Other (%)
Municipalities	211	32	10	10	44	4
1–999	38	11	3	18	66	3
1000–9999	106	26	8	11	54	1
10,000–24,999	36	47	11	6	25	11
25,000+	31	58	26	3	6	6
Counties	69	43	7	29	12	9
1000–24,999	16	44	0	38	13	6
25,000+	53	43	9	26	11	9
All jurisdictions	280	35	9	15	36	5

Table B19. Use of Discretionary Standards in Subdivision Regulations

Population size	Total respondents	Only objective standards (%)	Discretionary standards also included (%)
Municipalities	206	75	25
1–999	35	74	26
1000–9999	105	74	26
10,000–24,999	35	69	31
25,000+	31	84	16
Counties	69	65	35
1000–24,999	16	69	31
25,000+	53	64	36
All jurisdictions	275	72	28

Table B20. Application of Subdivision to Non-Single-Family Residential Development

Population size	Total respondents	Mobile-home parks (%)	Multibuilding apartment complexes (%)	Multibuilding office parks (%)	Other multibuilding, single-owner developments (%)	Single-family residential developments only (%)
Municipalities	185	43	45	44	42	54
1-999	32	41	31	25	41	50
1000-9999	95	44	44	43	35	56
10,000-24,999	31	55	71	77	74	48
25,000+	27	26	33	30	33	59
Counties	66	33	39	39	48	44
1000-24,999	16	19	19	19	25	56
25,000+	50	38	46	46	56	40
All jurisdictions	251	40	43	43	44	51

Table B21. Private Streets Allowed in Subdivisions

Population size	Total respondents	Yes (%)	Not for new subdivisions, but some allowed under prior rules (%)	No (%)
Municipalities	204	58	21	21
1-999	34	56	12	32
1,000-9,999	103	58	22	19
10,000-24,999	36	47	36	17
25,000+	31	74	10	16
Counties	70	86	11	3
1,000-24,999	16	81	19	0
25,000+	54	87	9	4
All jurisdictions	274	65	19	16

Appendix C. Survey Instrument

UNC School of Government 2017 Land Use Survey

Hello, and thank you for taking the time to fill out this survey. The UNC School of Government is collecting data from the following questions to generate a comprehensive overview of planning and zoning practices among North Carolina local governments.

The survey may be filled out over different sessions; however, when you finish a block of questions, your answers for that block are locked in. There will be a warning at the end of each block before you progress, and there you can use the “Back” button to navigate to questions in that block for editing. There are seven blocks total including this introductory and respondent information block.

If you exit from the survey before completing it, simply use the original link provided in the email sent to you to resume the survey from the last block of questions you were on. It is fine if different staff members collect the information for different parts of the survey, but one person will need to report the information through the survey link provided.

Some questions ask about your experience in the past year. Please use the most recent 12-month period for which you have readily available information. If you have compiled annual reports based on a calendar year or fiscal year, feel free to use that information.

As a heads up, two questions ask you to upload a PDF file (this is the file type Qualtrics requires).

Please click “Next” below to begin the survey. Please be sure to only click the “Submit” button at the end of the survey when you are finished and ready to submit your responses. Once submitted the survey is locked and you cannot navigate back to any questions.

If you have any trouble with the survey, or accidentally submit answers to a block and cannot change them, please reach out to my research assistant, Martin Yeager, at [email address].

Thank you!

Recipient Info. Please verify your contact information:

- Jurisdiction _____
- First Name _____
- Last Name _____
- Email _____
- Job Title _____

Q1 Your jurisdiction is a:

- Municipality
- County
- Combined City-County Planning Department

Q1.1 Please feel free to provide consolidated data for the combined city and county department. If you have disaggregated data, contact us and we can send a separate link for the county data.

Q2 For each of the following types of ordinance, please check the column that applies for your jurisdiction. Check in column 1 if your jurisdiction has adopted this type of regulation. Check in column 2 if your jurisdiction does not have this type of ordinance but the county applies that ordinance within your jurisdiction. Check column 3 if this ordinance is not applied at all within your jurisdiction.

	Municipality has adopted	County regulation of this applied within our municipality	Not applied in our municipality
Zoning	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Subdivision	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q2.1 Has your jurisdiction consolidated development regulations such as zoning and subdivision into a unified development ordinance (UDO)?

- Yes
- No

Q2.2 For municipalities without zoning or a UDO, does your jurisdiction have any of the following land use regulations:

	Municipality has adopted	County regulation of this applied within our municipality	Not applied in our municipality
Manufactured housing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Signs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High-impact	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Solar farm	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q3 For each of the following types of ordinance, please check the column that applies for your jurisdiction. Check in column 1 if your jurisdiction has adopted this type regulation and applies it countywide to all unincorporated areas. Check in column 2 if your jurisdiction applies this type ordinance in part of the county but not countywide. Check column 3 if this ordinance is not applied at all within the unincorporated areas in your jurisdiction.

	County has adopted and applied countywide to unincorporated areas	County has adopted and applied to part but not all unincorporated areas	Not applied in our unincorporated areas
Zoning	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Subdivision	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q3.1 Has your jurisdiction consolidated development regulations such as zoning and subdivision into a unified development ordinance (UDO)?

- Yes
- No

Q3.2 For counties without zoning or a UDO, does your jurisdiction have any of the following land use regulations:

	County has adopted and applied countywide to unincorporated areas	County has adopted and applied to part but not all unincorporated areas	Not applied in our unincorporated areas
Manufactured housing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Signs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High-impact industry	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Solar farm	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q4 In the most recent 12-month period for which you have record, please indicate the number of applications and the number of applications approved by your jurisdiction for each of the following types of actions:

	Number of Applications	Number Approved
Rezoning (including those initiated by the local government)	_____	_____
Zoning text amendments	_____	_____
Special or conditional use permits	_____	_____
Site plan approval	_____	_____
Variances	_____	_____
Appeals of staff interpretation of ordinance	_____	_____
Major subdivision (Preliminary plats)	_____	_____
Minor subdivision plats	_____	_____
Exempt subdivision certification	_____	_____
Certificates of appropriateness	_____	_____
Development agreements	_____	_____

- Q5** Is there a trend in your jurisdiction towards requiring more or fewer types of land uses to receive special or conditional use permits?
- More
 - Fewer
 - No Trend
- Q6** In the most recent 12-month period for which you have records, have any rezoning petitions been initiated by someone other than the landowner or the local government (often referred to as a third-party initiated zoning)?
- Yes
 - No
- Q7** If yes, how many? _____

[Q8 intentionally left blank.]

- Q9** In the most recent 12-month period, which of the following applies to your jurisdiction:
- No development moratoria have been proposed
 - Moratoria have been proposed or discussed, but not adopted
 - Moratoria have been adopted or previous moratoria extended
- Q10** In the most recent 12-month period, has litigation been initiated challenging a land use regulatory decision of your jurisdiction?
- Yes
 - No
- Q11** If yes, please indicate the number of cases initiated by:
- _____ The landowner, applicant, or developer
 - _____ A neighbor or other third party
 - _____ The municipality or county
 - _____ Other. Please specify: _____
 - _____ Not applicable
- Q12** If yes, please indicate the number of cases filed regarding each type of decision listed below:
- _____ Rezoning (zoning map amendment)
 - _____ Zoning text amendments
 - _____ Special or conditional use permits
 - _____ Site plan approvals
 - _____ Variances
 - _____ Appeals of staff interpretation of ordinance
 - _____ Notice of violation or other enforcement action
 - _____ Subdivision plats
 - _____ Certificates of appropriateness
 - _____ Not applicable

- Q13** A form based code is a type of zoning code that incorporates visual depictions of building and development standards, integrates streetscape standards, and typically encourages mixed-use and walkable urban places. Which of the following best describe your jurisdiction's experience with form based codes? Check all that apply:
- No form based code in our jurisdiction.
 - The governing board has discussed form based codes, but not adopted any.
 - The current conventional zoning ordinance or UDO incorporates elements of form based coding.
 - The jurisdiction currently has specific districts where form based codes apply.
 - The jurisdiction currently applies a form based code to the entire jurisdiction.
- Q14** Does your jurisdiction currently exercise extraterritorial planning jurisdiction?
- Yes
 - No
- Q15** If yes, what is the estimated population of your ETJ area? _____
- Q16** Has your municipality amended the extraterritorial planning jurisdiction boundary within the past five years? Check all that apply:
- Territory added through ETJ boundary amendment
 - Territory added through annexation
 - Territory deleted, area returned to county jurisdiction
 - Territory deleted, area transferred to another municipality
 - No change in extraterritorial jurisdiction area
 - All ETJ repealed
- Q17** Has your jurisdiction adopted a comprehensive plan?
- Yes
 - No
- Q18** If your jurisdiction has adopted a comprehensive plan, how long has it been since the plan was adopted or had a comprehensive update?
- Five years or less
 - Six to ten years ago
 - More than ten years ago
 - Not applicable
- Q19** Who typically prepares the first draft of the required statement addressing whether a proposed zoning amendment is consistent with the plan, is reasonable, and in the public interest?
- Petitioner
 - Local government planning or zoning staff
 - Local government attorney
 - Consultant for local government
 - Planning board member
 - Governing board member
 - Other. Please specify: _____

- Q20** Has the requirement for a plan consistency statement had an effect on your governing board's familiarity with the substance of plan provisions?
- More familiar with the plan
 - Less familiar with the plan
 - No noticeable impact
 - Don't know
- Q21** What impact has the plan consistency statement requirement had on how often a rezoning decision is consistent with adopted plans?
- More often consistent with plans
 - Less often consistent with plans
 - No noticeable impact
 - Don't know
- Q22** How often does the planning board amend or revise the staff draft statement on plan consistency?
- Never
 - Rarely
 - Occasionally
 - Frequently
 - Almost always
 - Always
- Q23** How often does the governing board amend or revise the staff draft statement on plan consistency?
- Never
 - Rarely
 - Occasionally
 - Frequently
 - Almost always
 - Always
- Q24** How often is the governing board's decision on rezoning consistent with officially adopted plans?
- Never
 - Rarely
 - Occasionally
 - Frequently
 - Almost always
 - Always
- Q25** If readily available, please upload a PDF file of a plan consistency statement from the 12-month period that would represent a fairly typical consistency statement for your jurisdiction.

- Q26** Some zoning ordinances allow for “conditional” or “conditional use” districts. Conditional rezoning is entirely legislative, while conditional use districts also require a quasi-judicial conditional use permit (or special use permit) to be issued along with the rezoning. These districts are requested by land owners and impose individualized site specific requirements as part of the rezoning process. Does your ordinance allow for either of these?

	Yes	No
Conditional rezonings	<input type="radio"/>	<input type="radio"/>
Conditional use district rezonings	<input type="radio"/>	<input type="radio"/>

- Q27** In the past 12 months, how many petitions for zoning map amendments of each of the following types were filed and adopted in this period?

	Filed	Adopted	Pending
Rezoning to a conventional district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rezoning to conditional use district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rezoning to conditional district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rezoning to any other district (such as an overlay district)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

- Q28** What types of development were most frequently the subject to conditional or conditional use zoning? Please order your choices from most frequent (1) to least frequent (8). Left-click and hold to drag-and-drop an option into order.

_____ Residential development
 _____ Commercial development
 _____ Industrial development
 _____ Office or institutional development
 _____ Mixed use development (incorporating multiple uses in a building or block)
 _____ Multi-use development (such as a planned unit development incorporating several uses across a large project)
 _____ Other. Please specify: _____

- Q29** Which of the following best describes the trend in your jurisdiction with regard to conditional or conditional use rezoning?

- More proposed rezonings receive conditional or conditional use rezoning than in the past
 Fewer receive conditional or conditional use rezoning
 About the same
 No particular trend
 Not applicable

Q30 What is the typical amount of time the decision-making board spends on an individual request for the following rezoning types (including the public hearing, debate, and making a decision)?

	Less than 15 minutes	15 to 30 minutes	31 to 60 minutes	More than 60 minutes
Conventional zoning district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Conditional or conditional use district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q31 What is the typical period from the time a completed petition is filed for rezoning districts to the time a decision is made?

	Less than 30 days	31 to 60 days	61 to 90 days	91 to 179 days	More than 180 days
Conventional zoning district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Conditional or conditional use zoning district	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q32 Individual, site specific conditions may be imposed with conditional zoning. With what frequency was each type of condition imposed in the most recent 12-month period?

	Always	Frequently	Sometimes	Rarely	Never
Site plan	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Type of uses permitted	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Landscaping and buffering requirements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Setbacks for structures (front, side, or rear yard)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Design standards for structures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Maximum density of development permitted (number of dwelling units, square footage of nonresidential development)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lot dimensions or size (frontage, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Building heights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sign standards (size, location, design)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parking requirements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access (drive location, size, number)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other. Please specify:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

- Q33** Prior to submitting a conditional or conditional use rezoning petition, is the applicant required to consult with neighboring property owners?
- Yes
 No
- Q34** If yes, check each that is required:
- Mailed notice to neighbors regarding proposed project
 Meeting with neighbors regarding proposed project
 Other. Please specify: _____
- Q35** Are there any special administrative or records management provisions required for conditional rezonings that do not apply to conventional rezonings?
- Yes
 No
- Q36** If yes, check each that applies:
- Conditions recorded with register of deeds
 Special administrative file maintained by staff
 Same filing and tracking as with conventional zoning
 Postconstruction site inspection for compliance with conditions
 Bonding or other performance guarantees required
 Other. Please specify: _____
- Q37** If readily available, please upload a PDF file of a conditional zoning and/or conditional use district approval from the 12-month period that would represent a fairly typical conditional zoning approval for your jurisdiction.
- Q38** For preliminary plats, which individual or board is the final decision-maker?
- Individual staff person
 Technical review committee
 Planning board
 Governing board
 Other. Please specify: _____
- Q39** For final plats, which individual or board is the final decision-maker?
- Individual staff person
 Technical review committee
 Planning board
 Governing board
 Other. Please specify: _____
- Q40** All subdivision ordinances have clear, objective standards (called administrative standards) such as minimum lot size, infrastructure specifications, and open space requirements. Some subdivision ordinances have, in addition to the administrative standards, quasi-judicial standards that require judgment. These quasi-judicial standards include standards such as “Is the development consistent with applicable plans?,” “Is there a unique hardship such that we should vary the ordinance requirements?,” or “Will the project harm the public safety and welfare?”
- All subdivision standards are administrative.
 In addition to the administrative standards the subdivision ordinance includes some quasi-judicial standards.

- Q41** State law allows subdivision regulations to apply to divisions of land for the purpose of sale or building development. Thus, even if a development will remain under single ownership, subdivision regulations may still apply. To which of the following does your jurisdiction's subdivision ordinance apply, if any? Check all that apply.
- Mobile home parks
 - Multi-building apartment complexes
 - Multi-building office parks
 - Other multi-building, single-owner development
 - Not applicable; the subdivision ordinance applies only to lots for sale
- Q42** Does your jurisdiction allow private streets in subdivisions?
- Yes
 - Not for new subdivisions, but there are some private streets because they were allowed under prior rules
 - No
- Q43** Please indicate the number of times the jurisdiction has taken the following actions concerning private subdivision streets over the last 12 months:
- _____ The jurisdiction has communicated with private owners regarding inadequate maintenance of private streets.
 - _____ The jurisdiction has initiated enforcement actions to force maintenance.
 - _____ Residents served by private streets have sought assistance from the jurisdiction.
 - _____ The local government has taken steps to assist with improving a private street so that it can be accepted as a public street.
 - _____ Formerly private streets have been accepted as public by the jurisdiction or the NC Department of Transportation
 - _____ No issues with private streets.
 - _____ Other. Please specify: _____

[Questions regarding use of SOG resources deleted]