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CH14 8 .0 - Board of Zoning Appeals, Variances, Special Uses and Appeals

Preface

The purpose of this section is to explain the makeup of, jurisdiction of and procedures to be used by this Board. Subsection 8.1 describes the Board's membership, terms of office, area of jurisdiction and statutory basis. It also explains the Board's relationship to staff support. Subsection 8.2 sets forth the rules and procedures under which the Board shall function. Subsection 8.3 specifies how the Board must deal with requests for special uses. These are uses which may be permitted if they can meet restrictions and conditions in addition to those required under other provisions of the ordinance for the district in which they are to be located. The primary use table found in Section 4 establishes those uses which can be permitted in which specific districts through the grant of special use permits. Subsection 8.4 deals with the manner in which the Board may permit variances (deviations) from the strict interpretation of the ordinance in cases where a non-economic hardship exists with respect to a condition peculiar to a particular piece of property and not the result of any act of the owner. Subsection 8.5 describes the procedures for appealing decisions of the Board.

NOTE: Use variances are permitted by the State

Statute for Advisory Boards of Zoning Appeals, but permitting them is not recommended by this author. Use variances have virtually the same effect as rezoning but without benefit of legislative action. Permitting the Board to have this authority usurps the role of city and town councils and boards of county commissioners to regulate land use and leads to the destruction of the homogeneity of zoning districts and their property values. In most states such a delegation of legislative authority to an appointed board is unconstitutional.