

NORTH CAROLINA ASSOCIATION OF ZONING OFFICIALS



Progress
Through
Zoning

2005 FALL EDITION

September
2005

Inside this Issue:

President's Message	1
President's Message (cont.)	2
New Members	2
Past Presidents	3
Bd. of Directors Meeting	4
Business Meeting	4
Certification Comm. News	4
Annual Conf. Wrap-Up	5
Officers/Bd. of Directors	6
Financial Report	6
Legislative Update	7
Award Winners	8
Calendar Notes	9
Committee Appointments	10
Cert. Comm. Members	11
Education	12
District Map	13



Got an Idea??

New Ordinance ??

New Enforcement Program ?

Unusual B.O.A. Case ???

Let Us Know.....

We can do an article in an upcoming newsletter and share it with fellow members.

Please contact the Newsletter Chair, Gary Ouellette by e-mail, gouellette@ci.jacksonville.nc.us or call (910) 938-5361.

MESSAGE FROM THE PRESIDENT

MICHAEL M. SANDY

I open this letter with a grateful and honored heart as you have bestowed upon me the leadership of this great organization. I am thankful for and to the members for their active involvement and for the support given to me as we begin this landmark year. I am most humbly indebted to Penny Tysinger for the many hours of hard work she gave this past year to accomplish innumerable great things for the organization that she so loves. My desire is to fill the shoes of this wonderful past president and I know that I can only accomplish that through a dedicated, hard working, passionate heart.



What an exciting time for the NCAZO. I am sure our 25th year celebration will be a time to reflect upon the achievements of our association and what we foresee for this amazing organization in the future. Twenty five years sounds like a very long time, but I believe that the NCAZO has only just begun on its journey towards its goal of zoning education, compliance, and recognition as an integral part of the planning process. This is a time to commemorate how far we have come so we surely have much to celebrate. Wilmington was wonderful. I am sure we all had a great time, so I would like to personally thank Joey Lea, 1st VP and past board member Sabrina Oliver for a remarkable annual conference. Our next annual conference will be a 25th year celebration at the Grove Park Inn www.groveparkinn.com July 30-August 2nd, 2006. It is sure to be a festive and educational occasion.

I would like to welcome Helen Bunch of Brunswick County and John Evans with the City of Asheboro to the Board of Directors. A welcome back to Larry Odom as he will serve as Treasurer. You have elected three hard working members who are ready to hit the floor running.

continued on page 2

MESSAGE FROM THE PRESIDENT, (CONT.)

One of the most important things of any organization is membership and membership involvement. In our session "Where do we go from here" it was stated that this is the members association and they should participate in all functions including board meetings. You have consistently elected strong Board of Directors who work hard for your association. The NCAZO is over 400 strong now, the largest we have ever been, so your elected body needs constant support from you to help our organization run smoothly and continue to grow. I and the other board members have an open door policy. We want to hear your ideas and/or workshop topics so we can implement them to benefit the overall association. We want to share any information with the general membership that will help our organization and zoning understanding grow.

The association has started a website, independent of the IOG to make it easier for the members to access information and share with others. The website is www.ncazo.org. It is still under construction as we speak but check it often for new information, job postings, list of past presidents, current and past newsletters, and that ever handy membership list. Please continue to visit the Zoning Discussion Forum which is a link on our web site.

In closing, I would like for us all to continue to keep Penny in our prayers. We love you Penny!! I also would like us to reflect upon the past 25 years and envision the next quarter century in zoning. I am looking forward to this exciting time and will appreciate your continued support and prayers as we go through this year. I will do my very best to serve with the highest regard the honor of being your President which you have bestowed upon my humble heart.

Your servant,
Michael M. Sandy

WELCOME NEW MEMBERS



<u>New Member</u>	<u>Title</u>	<u>Jurisdiction</u>
Tom Anderson	Compliance Officer	Vance County
Heather R. Gerrell	Planning Technician	Johnston County
Ravin N. Gore	Planner	Johnston County
Kevin A. Hales	Zoning Compliance Officer	Town of Cary
Jeff M. Huss	Zoning Inspector	Mecklenburg County
Chad McEwen	Planning Administrator	Town of Burgaw
Vicki Mercer	Town Clerk	Elm City
Betty Pearson	Inspections & Zoning Clerk	Town of Angier
Sherrie Pitts	Code Enforcement Officer	Town of Blowing Rock
Eric Rufa	Planning Director	Town of Fletcher
Rayn W. Simons	Planner	Dare County
Teresa Willaford	Zoning Officer	Elm City



If you have joined NCAZO within the past three months and are not on the above list, or if you know anyone that may benefit from membership, please contact: Joey Lea at (336) 222-5085 or email jlea@ci.burlington.nc.us

Notice to all members: we need your help! Please go to the membership list on our website www.ncazo.org (currently under construction) to check for complete and correct information (name, title, phone #s, email, etc.). The site will be updated quarterly when the newsletter is posted and will allow you to email any corrections.

PAST PRESIDENTS



This being the 25th Anniversary of the organization of the North Carolina Association of Zoning Officials, we would like to recognize those persons who led us through those first twenty-five years. Thank you to the following individuals for their dedication and leadership.

YEAR	NAME	JURISDICTION
1981-1982	Sam Liner	Mecklenburg County
1982-1983	Archie Andrews	(H) Greensboro
1983-1984	Kathy Tatum	
1984-1985	Gary McDaniels	City of Asheville
1985-1986	Dale Long	(H) Mecklenburg County
1986-1987	F. E. Icenhour	Cabarrus County
1987-1988	Davy Mitchell	City of Graham
1988-1989	Ron Milburn	Catawba County
1989-1990	Hardy Watkins	(H) City of Raleigh
1990-1991	Robert Brandon	Mecklenburg County
1991-1992	Jan Woodside	Amity Development Services
1992-1993	Linda V. Staab	Town of Morehead City
1993-1994	Michael Downs	Cabarrus County
1994-1995	John C. Marshall III	Mecklenburg County
1995-1996	Andy Thomas	City of Greenville
1996-1997	Sam Laughter	Henderson County
1997-1998	Joy Richards	Town of Southern Pines
1998-1999	Wendell Holland	City of Asheboro
1999-2000	Brent Graybeal	Watauga County
2000-2001	Bernard George	City of New Bern
2001-2002	Brownell Wright	City of Henderson
2002-2003	Larry Odom	Nash County
2003-2004	Fred Featherstone	Town of Manteo
2004-2005	Penny Tysinger	Cape Fear Council of Government



BOARD OF DIRECTORS MEETING



The Board of Directors held their quarterly meeting on August 3, 2005 immediately following the business meeting. A motion was made and received a unanimous vote to appoint Loray Averett as Secretary.

Committee Reports were presented by Larry Odom (Treasurer), Joey Lea (Membership), Geoffrey Pearson (Legislative), Gary Ouellette (Publicity/Education), Certification (Joey Lea), and Conference Summary (Joey Lea).

President Michael Sandy made committee appointments.

A brief discussion about the Web Site, Winter Workshop, and next year's Annual Conference were the last topics on the agenda.

BUSINESS MEETING



The Annual Business Meeting was conducted on August 3, 2005 following the Breakfast at the Annual Conference in Wilmington. Outgoing President Penny Tysinger thanked the Board and all of the members for their support throughout the past year.

Faith Christie, President of the Virginia Association of Zoning Officials (guest) addressed the attendees and encouraged partnering between our organizations in the future for the purpose of networking, education and camaraderie.

Awards were presented to Larry Gantenbein, "Zoning Official of the Year" from the Town of Highlands and Joey Lea "NCAZO Outstanding Member of the Year" from the City of Burlington. Sabrina Oliver and Gary Ouellette were presented Exemplary Service Awards for their work with the Board of Directors.

Penny Tysinger swore in new President Michael Sandy. Joey Lea was sworn in as 1st Vice President, Gary Ouellette was sworn in as 2nd Vice President, Larry Odom was sworn as Treasurer, and John Evans and Helen Bunch were sworn as new Board Members.

CERTIFICATION COMMITTEE NEWS



Mark your calendars!! The next certification course is set for November 15th thru the 18th and December 13th thru the 15th, 2005. Check the NCAZO web page for upcoming details. If you need further information you may contact Rich Ducker with the Institute of Government at (919)-966-4179 or ducker@iogmail.iog.unc.edu or Beverly Howarth at howarth@iogmail.iog.unc.edu.

ANNUAL CONFERENCE WRAP-UP

The 2005 Annual Summer Conference was held in Wilmington at the Wilmington Riverside Hilton on July 31st through August 3rd. There were a total of 103 members and 15 non-members giving us a total of 118 attendees. This was a great turn out for the Summer Conference.

We kicked off the conference with our traditional Cookout on Sunday evening that unfortunately, because of bad weather, became a cook-in. Although we had to be inside, the food was good, everyone had a great time and it provided a great opportunity for networking.

A special thank you goes out to all of our speakers for providing us with entertaining and informative sessions. Monday morning started off with Kimberly Vann, Planner with Henrico County Virginia Police Department giving an excellent presentation on Crime Prevention Through Environmental Design. She gave us ideas and information on how the make up of our ordinances has a direct effect on crime. She was very well received by those in attendance and we hope to have her speak to us again sometime in the future. Monday evening some of our members took a tour of the Wilmington Downtown area and businesses. The theme song for Spearmint Chewing Gum "Double your pleasure double your fun" could be heard all throughout the downtown area and it was reported that Elvis himself made an appearance. An unexpected visit was made by the Wilmington Fire Department (of which we had nothing to do with). The tour lasted well into the wee morning hours which were late for those of us who had to get up early Tuesday morning and try to function normally. I can assure you that a great time was had by all.

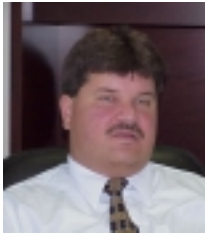
Tuesday was a day full of learning starting off with Rich Ducker and Dave Owens presenting the "Legal Corner". Our sincere gratitude goes out to these gentlemen for all they do for our association. Tuesday afternoon was made up of our concurrent sessions. Larry Odom and Joey Lea discussed "Working with the Board of Adjustment" and gave some practical information and advice on how to make your Board of Adjustment meetings successful. John Stephens with the Institute of Government discussed "Dealing with Stressful Situations-Conflict Resolutions" giving us insight on how to handle those situations that we encounter everyday. Bob Farb, also with the Institute of Government, discussed the "Legal Responsibilities of the Zoning Enforcement Officer" which enlightened us on how to protect ourselves and help us do our jobs more effectively. All of the speakers were rated highly on the evaluation forms and we thank them for the great job that they did. We wrapped up Tuesday with our "Where do we go from here?" session and the Board was given some great ideas and feedback for things to look for and accomplish for the future. Tuesday evening the members were treated to a dinner cruise aboard the Henrietta River Boat that included a play. The cruise was entitled "The Murder Mystery Tour". The play ensued throughout the dinner, with the characters giving clues to the audience to determine who "dunnit". Groups led by Michael Sandy and Andy Thomas put it all together and solved the crime. Great job guys. It was a beautiful evening for a cruise down the river.

We wrapped up the conference with our Breakfast and Business Meeting on Wednesday morning. We were honored to have a special guest throughout the conference. Faith Christie, President of the Virginia Association of Zoning Officials, addressed our association during the breakfast meeting and stated she was honored to have been invited to our conference and that she hopes we can work together on a joint project sometime in the future. We will keep you posted on that one. President Penny Tysinger announced the winners of the awards and presented them with a plaque in honor of their contributions. Larry Gatenbein with the Town of Highlands was awarded the Zoning Enforcement Official of the Year and Joey Lea was awarded the Outstanding NCAZO Member of the Year. Congratulations to these two members for their hard work and dedication. President Penny Tysinger then swore in Michael Sandy, Planning Director for Stanley County as the new President of The NCAZO for the 2005-2006 year. President Michael Sandy announced the election results and swore in the new officers and Board of directors. Joey Lea was sworn in as 1st Vice-President, Gary Ouellette as 2nd Vice-President, Larry Odom as treasurer, Helen Bunch, Board member from the Eastern district and John Evans, Board member from the Central District.

We would like to thank the sponsors: Benchmark CMR, Inc., Progress Energy, and Kimley-Horne and Associates, Inc., for their continued support of our organization. Our hats go off to chairpersons Joey Lea and Sabrina Oliver for an outstanding job of organizing and coordinating this Conference.

OFFICERS & BOARD OF DIRECTORS

2005-2006



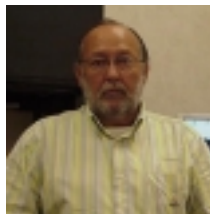
Michael M. Sandy, President
Stanly County
201 S. Second Street
Albemarle, NC 28001
Phone 704-986-3665
Fax 704-986-3617
msandy@co.stanly.nc.us

Joey Lea, 1st Vice-President
City of Burlington
P.O. Box 1358
Burlington, NC 27215
Phone 336-222-5085
Fax 336-222-5090
jlea@ci.burlington.nc.us



Gary M. Ouellette, 2nd Vice-President
City of Jacksonville
P.O. Box 128,
Jacksonville, NC 28541
Phone 910-938-5361
Fax 910-938-5031
gouellette@ci.jacksonville.nc.us

Loray Averett, Secretary, C-2007
City of Greensboro
P.O. Box 3136
Greensboro, NC 27402
Phone 336-373-2630
Fax 336-412-6315
loray.averett@greensboro-nc.gov



Larry Odom, Treasurer, 2008
Nash County
120 West Washington St., Suite 2110
Nashville, NC 27856
Phone 252-459-1212
Fax 252-459-1381
larry.odom@nashcountync.gov

Phyllis Hicks, Board Member, E-2006
Johnston County
309 E. Market Street
Smithfield, NC 27577
Phone 919-989-5150
Fax 919-989-5426
phyllis.hicks@johnstonnc.com



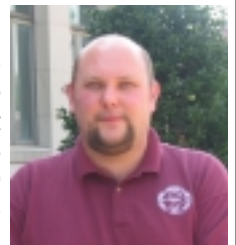
Lloyd Pace, Board Member,
W-2006
Rowan County
402 N. Main St.
Salisbury, NC 28144
Phone 704-638-3101
Fax 704-638-3130
pacel@co.rowan.nc.us

Helen Bunch, Board Member
E-2008
Brunswick County
P.O. Box 249
Bolivia, NC 28422
Phone 910-253-2035
Fax 910-253-2437
hbrunch@brunscoco.net



Geoffrey Pearson, Board Member,
W-2006
Charlotte-Mecklenburg
700 N. Tryon Street
Charlotte, NC 28202
Phone 704-336-4389
Fax 704-353-0196
pearsgm@co.mecklenburg.nc.us

John Evans, Board Member,
C-2008
City of Asheboro
146 North Church Street
Asheboro, NC 27203
Phone 336-626-1201, ext. 220
Fax 336-626-1218
jevans@ci.asheboro.nc.us



FINANCIAL REPORT

The following is a brief financial report from the Treasurer as of 8/1/2005:

Checking Account:	\$17,452.88
Money Market Account:	\$17,545.12
Ending Balance:	\$34,988.00

If you have any questions or would like additional information, contact Larry Odom at Larry.Odom@nashcountync.gov

LEGISLATIVE UPDATE

In the wee hours this morning, S.518 and S.814 passed the House and were concurred in the Senate, bringing to a close two days of last minute negotiations, legislator education, and a final race against the clock to pass the most comprehensive update to the North Carolina planning statutes since they were first enacted in 1923!

In the end, the bills were supported by the N.C. League of Municipalities, the N.C. Assoc. of County Commissioners, the N.C. Homebuilders Association, the N.C. Association of Realtors, and the National Association of Office and Industrial Parks, as well as NCAPA.

Below is a quick summary of the bills.

A key item of note is that any communities who are currently considering adopting a new moratorium on development approvals or extending an existing moratorium will have to do so under the provisions of S.814 (for cities, see G.S. 160A-381(e) as enacted in Section 5(a) of S.814; for counties, see G.S. 153A-340(h) as enacted in Section 5(b) of S.814). All moratoria adopted as of Sept. 1st of this year are grandfathered and subject to the pre-existing legal framework as established through case law. For technical assistance on this issue, please contact David Owens at the Institute of Government. The effective date of all other provisions in the bills is Jan. 1st, 2006. IOG, NCAPA, and others will be developing technical guidance and education on this in the weeks and months ahead.

The other provisions of the bills include the following.

S.B. 518 consists of technical clarifications. Among other things, it:

- * Provides explicit authorization for Unified Development Ordinances;
- * Clarifies the process regarding protest petitions;
- * Simplifies the public notice provisions;
- * Codifies existing case law that no change in permitted uses may be authorized through a variance; and
- * Clarifies procedures for planning boards and boards of adjustment.

S.B. 814 includes a number of technical clarifications, along with some policy updates to reflect changing issues at the local level. Among other things, it:

- * Clarifies performance guarantees to allow developers to select from options provided by local governments;
- * Allows developers to enter into pre-sale agreements with prospective buyers after preliminary plat approval, with certain caveats to provide consumer protection;
- * Extends the same routine enforcement options for zoning to subdivision regulations;
- * Explicitly allows local governments to provide expedited review of specified classes of subdivisions;
- * Codifies existing case law prohibiting financial conflicts of interest by elected boards;
- * Lays out clear ground rules for the use of temporary development moratoria;
- * Clarifies spot zoning analysis;
- * Provides clear authorization for conditional zoning;
- * Requires an explanation of zoning decisions that are inconsistent with adopted local plans; and
- * Authorizes infrastructure and development agreements between local governments and developers.

For hotlinks to the full bill language, see the following. Final bill language should be posted within 24 hours.

S.518: <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2005&BillID=s518>.

S.814: <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2005&BillID=s814>.

AWARD WINNERS

Special congratulations to the following persons for having been recognized by their superiors and peers as outstanding zoning officials and members of our organization.

OUTSTANDING NCAZO MEMBER OF THE YEAR

This award is given in recognition of an outstanding member of the NCAZO for the preceding year. The award is presented to the active NCAZO member who has distinguished himself/herself by loyalty and dedication to the Association affairs.



Joey Lea is this year's NCAZO Member of the Year. Joey is the Zoning Enforcement Officer for the City of Burlington. Joey joined the NCAZO in 1993 and became a CZO 1995. He became a member of the Board of Directors in 2001. During his tenure as a board member, he served on the Certification Committee, Nomination Committee, Audit Committee, and Membership Committee. Joey was co-chair of the Mid Winter Workshop held in Albemarle in February 2003. He was instrumental in coordinating one of our most successful, well attended events. He has worked tirelessly as Chairman of the Membership Committee to ensure timely, accurate record keeping, remittance of dues and a strong recruitment program. He recently coordinated our Annual Conference in Wilmington which was again a superb event. He currently serves as our 1st Vice President and his continued desire to serve will be an integral part of this organization growth. You can drop Joey a note of congratulations at: jlea@ci.burlington.nc.us

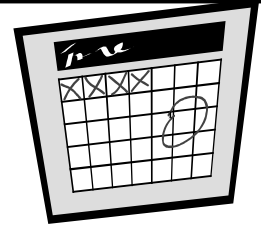
ZONING ENFORCEMENT OFFICAL OF THE YEAR



This award is to be presented annually to a zoning enforcement official, inspector, code enforcement officer, planner, building inspector, or other official responsible for the administration of zoning and who is an active member of the NCAZO. This person must have shown qualities of leadership and dedication to the job and have a thorough knowledge of the ordinance that he/she is responsible for enforcing. This person must have proven ability to handle difficult tasks in a manner that exemplifies the traits of professionalism sought by the NCAZO.

Larry Gantenbein has been the Town Planner/Zoning Administrator for the Town of Highlands since March of 2002. His responsibilities include enforcement of a comprehensive zoning ordinance, subdivision regulations, and impoundment drainage ordinance and locally enforced soil erosion regulations. In a town of 929, this position would be occupied by two or three staff members. Larry earned his J.D. degree with honors from Washburn University School of Law in Topeka, Kansas in 1985. He worked for many years as an attorney for Union Pacific Railroad and a business manager with Hawthorne University. His land use and arbitration background uniquely qualified him to deal with the difficult and often contentious land use issues that the Town of Highlands has faced. Although Highlands officially has a population of 929, the population of the resort, tourism and seasonal-home community can exceed 5,000 during the summer months. Larry has done an excellent job in finding that delicate balance in the struggle between commercial and residential growth and the need to protect precious resources and the natural environment. His leadership has been noteworthy, and he has been an invaluable resource to the town of Highlands. Larry's e-mail address is highplan@earthlink.net if you want to send him a congratulatory message.

2005 -2006 CALENDAR NOTES



UPCOMING MEETINGS AND WORKSHOPS

Board of Directors Meeting: The Board of Directors will meet on October 21, 2005 at the School of Government. The Mid-Winter Workshop, Annual Conference, Web Site and a myriad of other business will be discussed. Contact any of your board members if you have something you feel they need to discuss.

Certification Course: The next offering of the Zoning Official Certification Course (CZO) is tentatively scheduled for November 15-18, 2005 for the 1st session and December 13-15, 2005 for the review and exam. For more details, contact Rich Ducker at (919) 966-4179 or ducker@iogmail.iog.unc.edu or Beverly Howarth at howarth@iogmail.iog.unc.edu.

Newsletter Articles: The deadline for submission of articles for the next newsletter is December 15, 2005. If you have items of interest for the entire membership to be included in the newsletter or posted on our Web Site, let us know. We also have advertising space available. If you know of a Planning/Zoning related business that would like to advertise in our newsletter, let us know. Contact Gary Ouellette at: gouellette@ci.jacksonville.nc.us.

2006 Mid-Winter Workshop: The Mid-Winter Workshop is tentatively scheduled to be held in the City of Greensboro on February 19, 20th and 21st at the Embassy Suites. If you have recommendations for topics or would like to assist with the planning or logistics, please contact Phyllis Hicks at Phyllis.hicks@johnstonnc.com or Loray Averett at Loray.Averett@greensboro-nc.gov.

2006 Annual Conference: The 2006 Annual Conference will be held at the Grove Park Inn in Asheville July 30 – Aug 2, 2006. This is our 25th Anniversary and we plan to make it extra special. Start making budget and travel plans now..



COMMITTEE APPOINTMENTS

WE NEED YOUR HELP!!!!

Our president has made committee appointments for the upcoming year. If you have any questions, issues, or a desire to help on any of these committees, please feel free to contact those appointees.

Here is a list of the Board Members appointed:

Audit Committee	Michael Sandy Larry Odom Gary Ouellette Geoffrey Pearson	msandy@co.stanly.nc.us larry.odom@nashcountync.gov gouellette@ci.jacksonville.nc.us pearsgm@co.mecklenburg.nc.us
-----------------	---	--



Awards Committee	Loray Averett Phyllis Hicks Helen Bunch	loray.averett@greensboro-nc.gov phyllis.hicks@johnstonnc.com hbunch@brunscoco.net
------------------	---	--



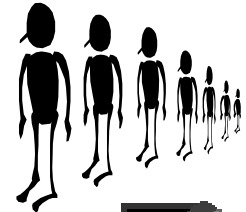
Certification Committee:	Gary Ouellette	gouellette@ci.jacksonville.nc.us
--------------------------	----------------	--

Education/Publicity: (Newsletter/Web Site)	Gary Ouellette	gouellette@ci.jacksonville.nc.us
---	----------------	--



Legislative Committee	Geoffrey Pearson Lloyd Pace John Evans	pearsgm@co.mecklenburg.nc.us pacel@co.rowan.nc.us jevans@ci.asheboro.nc.us
-----------------------	--	--

Membership Committee	Joey Lea	jlea@ci.burlington.nc.us
----------------------	----------	--



Nomination Committee	Michael Sandy Brent Graybeal Joey Lea Gary Ouellette	msandy@co.stanly.nc.us brent.graybeal@ncmail.net jlea@ci.burlington.nc.us gouellette@ci.jacksonville.nc.us
----------------------	---	--



Secretary	Loray Averett	loray.averett@greensboro-nc.gov
-----------	---------------	--

Winter Workshop:	Phyllis Hicks Lloyd Pace Loray Averett	phyllis.hicks@johnstonnc.com pacel@co.rowan.nc.us loray.averett@greensboro-nc.gov
------------------	--	--



Annual Conference:	Gary Ouellette Geoffrey Pearson	gouellette@ci.jacksonville.nc.us pearsgm@co.mecklenburg.nc.us
--------------------	------------------------------------	--



CERTIFICATION COMMITTEE MEMBERS

2005-2006

David Barley, CZO, Chairman, At Large, 2006,
Zoning Administrator, Town of Pineville
P.O. Box 249, Pineville N.C. 28134
Phone 704-889-3283 Fax 704-889-7329
dbarley@pinevilledsl.net

Larry Odom, CZO, Vice Chairman, At Large, 2007
Planner II, Nash County
120 West Washington Street, Suite 2110, Nashville, NC 27856
Phone: 252-459-1212 Fax: 252-459-1381
larry.odom@nashcountync.gov

Kevin Medeiros, CZO, Eastern District, 2007
Code Compliance Specialist, City of Wilson
P.O. Box 10, Wilson, NC 27894-0010
Phone: 252-206-5287 Fax: 252-399-2233
kmediros@wilsonnc.org

Greg McKoy, CZO, Eastern District, 2007
Zoning Enforcement Officer, City of New Bern
P.O. Box 1129, New Bern, NC 28563
Phone: 252-636-4126 Fax: 252-636-2146
mccoyg@newbern-nc.org

Grace Smith, CZO, Central District, 2006
Planning Supervisor, City of Durham
101 City Hall Plaza, Durham, NC 27701
Phone: 919-560-4137, Ext: 215 Fax: 919-5604641
grace.smith@durhamnc.gov

Larry Strickland, CZO, Central District, 2008
Zoning Enforcement Administrator, City of Raleigh
P.O. Box 590, Raleigh, NC 27602
Phone: 919-890-3747 Fax: 919-890-3016
larry.strickland@ci.raleigh.nc.us

Kam Merrell, CZO, Western District, 2006
Zoning Plans Examiner, Char- Meck. Eng. & Bldg. Stds.
700 North Tryon Street, Charlotte, NC 28202
Phone: 704-336-3813 Fax: 704-336-3839
MERREKA@co.mecklenburg.nc.us

Letha Mauldin, CZO, Western District, 2008, 1st Term
Planner, City of Concord
P.O. Box 308, Concord, NC 28026-0308
Phone: 704-920-5141 Fax: 704-786-1212
maudlin@ci.concord.nc.us

Gary Ouellette, CZO, Board Liaison
Zoning Enforcement Officer, City of Jacksonville
P.O. Box 128, Jacksonville, NC 28541-0128
Phone: 910-938-5361 Fax: 910-938-5031
gouellette@ci.jacksonville.nc.us



Richard Ducker, Faculty Adviser
Institute of Government
CB #3330, Knapp Building, U.N.C-Chapel Hill
Chapel Hill, N.C. 27514
Phone 919-966-4179 Fax 919-962-2706
ducker@iogmail.iog.unc.edu



David Owens, Faculty Adviser
Institute of Government
CB #3330, Knapp Building, U.N.C-Chapel Hill
Chapel Hill, N.C. 27514
Phone 919-966-4208 Fax 919-962-2706
owens@iogmail.iog.unc.edu

EDUCATION

LET'S GET EDUCATED (a continuing series)

“Legal Issues in Field Enforcement”



NOTE: This is a continuation of last quarters article on “Legal Issues in Field Enforcement” will continue in the next newsletter with:

“Plain View and Administrative Inspection Warrants”.

Plain View:

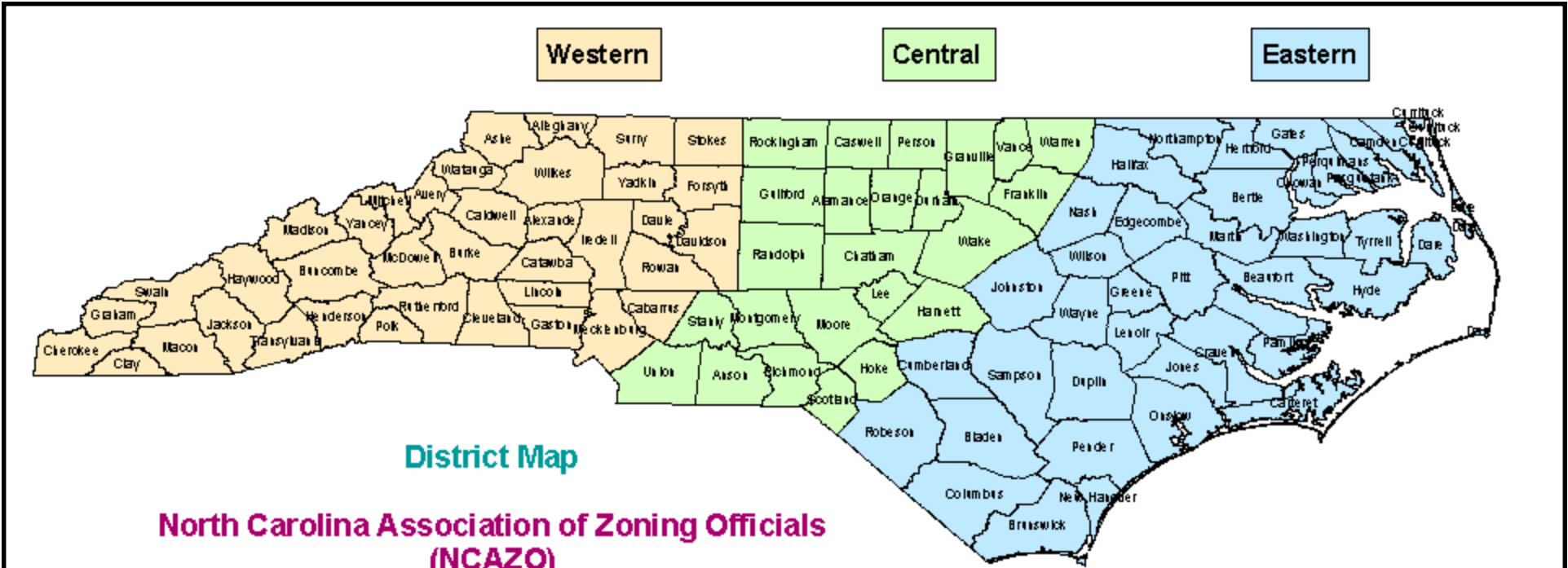
Whenever a government officer is lawfully located, what the officer sees, hears, or smells is not a search under the Fourth Amendment. For example, if a zoning officer is lawfully on property with the possessor’s consent and observes a condition that may be an ordinance violation (even though that violation was not the subject of the inspection), that observation is a plain view observation that does not require justification under the Fourth Amendment.

However, there is a statutory limitation on the plain view theory when an officer is executing an administrative inspection warrant. G.S. 15-27.2(f) provides that items discovered or obtained during the execution of such a warrant are inadmissible in any court proceeding or in obtaining any warrant (e.g., a search warrant) if the item was not the subject of the inspection or search under the warrant. For example, if a zoning officer (while executing an administrative inspection warrant) saw marijuana in a house, that marijuana - if seized then or later – would not be admissible in a criminal trial or be used to obtain a search warrant for the house.

Administrative Inspection Warrants:

- A. References: N.C. General Statute 15-27.2; Green, *Legal Responsibility of the Local Zoning Administrator in North Carolina* (2d ed. 1987), pp. 52-60; Farb, *Arrest, Search, and Investigation in North Carolina* (2d ed. 1992), pp. 182-86.
- B. Differences between search warrant under G.S. 15A-241 and administrative inspection warrant under G.S. 15-27.2. For example, a search warrant may be issued only when there is probable cause to search for evidence of a criminal violation. Such evidence is unnecessary to issue an administrative inspection warrant.
- C. Probable cause means a “fair probability.” It is more than “reasonable suspicion,” but less than “beyond a reasonable doubt,” “clear and convincing evidence,” or “preponderance of evidence.”
- D. Who issues an administrative inspection warrant? Magistrates, clerks of superior court and assistant and deputy clerks may issue a warrant to inspect places within their respective counties. District court judges may issue a warrant for places within their districts. Superior court judges may issue a warrant for any place within the state.
- E. Preprinted AOC (Administrative Office of the Courts) forms are available for copying from the office of the clerk of superior courts. They are in the *Judicial Department Forms Manual*.
- F. Completing the forms. Decide whether to use the form for periodic inspection (AOC-CR-914M) or for inspection of particular condition or activity (AOC-CR-913M). Consult the publications listed in A. above and local government attorney, Institute of Government, etc.
- G. Warrant is valid for only 24 hours from time it is issued and must be executed between 8:00 a.m. and 8:00 p.m.
- H. Warrant may be executed without the owner or possessor of the property being present if reasonable efforts to locate the owner or possessor have been made and have failed. In such a case, a copy of the warrant may be affixed to the property and serves as the substitute for personal service of the warrant.
- I. For safety and other reasons, a zoning officer may want a law enforcement officer to accompany the zoning officer when executing the warrant.

“BE SMART, BE SAFE, DO THE PAPERWORK”



District Map

North Carolina Association of Zoning Officials (NCAZO)

Western		Central		Eastern	
Alexander	Alleghany	Alamance	Anson	Beaufort	Bertie
Ashe	Avery	Caswell	Chatham	Bladen	Brunswick
Buncombe	Burke	Durham	Franklin	Camden	Carteret
Cabarrus	Caldwell	Granville	Guilford	Chowan	Columbus
Catawba	Cherokee	Harnett	Hoke	Craven	Cumberland
Clay	Cleveland	Lee	Montgomery	Currituck	Dare
Davidson	Davie	Moore	Orange	Duplin	Edgecombe
Forsyth	Gaston	Person	Randolph	Gates	Greene
Graham	Haywood	Richmond	Rockingham	Halifax	Hertford
Henderson	Iredell	Scotland	Stanly	Hyde	Johnston
Jackson	Lincoln	Union	Vance	Jones	Lenoir
Macon	Madison	Wake	Warren	Martin	Nash
McDowell	Mecklenburg			New Hanover	Northampton
Mitchell	Polk			Onslow	Pamlico
Rowan	Rutherford			Pasquotank	Pender
Stokes	Surry			Perquimans	Pitt
Swain	Transylvania			Robeson	Sampson
Watauga	Wilkes			Tyrrell	Washington
Yadkin	Yancey			Wayne	Wilson