

**ARTICLE 5
CODE OF CONDUCT**

In administering the zoning regulations, it is crucial that the decisions are made fairly and that they also have the *appearance* of fairness. The credibility of the Planning Commission, the Board of Zoning Appeals, the Governing Body and public support for zoning regulations in general will erode quickly if there is an appearance of unfairness or impropriety in members of these public bodies. For this reason, it is important that a code of conduct is established and followed as closely as possible.

Conflicts of Interest: In making zoning decisions, members of the Planning Commission, Board of Zoning Appeals, and the Governing Body should be acting in the best interest of the entire community. Whenever a member of any of these bodies is acting on an issue in which he or she also has a personal interest, an important element of fairness is lost. In general, a conflict of interest is any situation in which a member is in a position to act upon or influence a development request, which includes the potential for direct or indirect gain, financial or otherwise. In order to clarify this general rule, the following guidelines are recommended.

No member shall act on or influence any development request when:

1. The member has a potential for direct or indirect profit or financial gain from the development;
2. The member owns or is employed by any company which is an applicant, subdivider, developer or option holder;
3. The applicant, subdivider, developer or option holder is an established and regular client of the member or the member's place of employment;
4. One or more of a member's immediate family (parent, sibling, spouse or child) has a direct financial interest in the development or is an owner or officer of any company which is an applicant, subdivider, developer or option holder; or
5. The member has a potential for indirect financial gain or loss because of related property or business holdings.

Other situations not covered by these guidelines should be left to the judgment of the member involved. Again, the appearance of fairness and impartiality is as important as actual fairness and impartiality.

Ideally, citizens appointed to the Planning Commission and Board of Zoning Appeals should not include those who are likely to have repeated conflicts of interests. When a conflict of interest does occur, however, the following steps should be taken:

1. The member should declare and the record should show that a conflict of interest exists with respect to a particular issue and that the member will not participate in any discussion or action;
2. The member should step down from his or her regular seat and should not speak with any other members during the discussion of the issue at hand; and

3. The member should not represent or speak on behalf of the applicant, but may speak on this or her own behalf as a private citizen during the hearing.

Acknowledgment of Outside Information. During any public hearing, it is presumed that all sides will have the opportunity to hear the opposing side's information and arguments and to offer rebuttal. This right is lost when discussions are held or information is provided outside the public hearing. The possibility exists that a decision could be based on information that was never discussed publicly. To avoid this situation, Planning Commission and Board of Zoning Appeals members should not receive any information relating to a case or discuss a case with anyone who has an interest in the outcome. Where such a discussion or information is unavoidable, the member should declare during the hearing, and the record should show, the general nature and content of the discussion or information and the participants in the discussion or the source of the information.

These guidelines also apply to any personal knowledge which is relevant to the issue. If a member has any personal knowledge which will affect his or her decision, such information should be made public during the hearing and should be subject to rebuttal.

Informed Participation. All parties with an interest in a particular development issue have a right to a decision based on all of the available information. Any member who is not informed or aware of the available information should abstain from voting on that issue. This includes the following situations:

1. When a member has not reviewed the application or the information submitted with the application;
2. When a member has missed all or part of a public hearing and has not been able to review a transcript of the hearing; or
3. When a member has missed all or part of the discussion between members prior to the vote.

As a corollary to this policy, it is the duty of each member to attend normally scheduled meetings as regularly as possible. Without regular attendance, informed decision-making and full participation in the regulatory process is unlikely. The By Laws of the Planning Commission establish requirements and rules for attendance.