

Plan Commissions: formation, role, responsibilities

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Point*

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Establishing the commission

	Town	City/Village	County committee	County commission
Authority	60.22(3)	61.35 62.23(1)	59.69	
Creation	Village powers By ordinance	City council Village board	County board	
Membership	7 if >2,500; 5 or 7 if <2,500	7; must include 3 citizen members	Number not specified	
Appointment	Board chair	Mayor Village president	Board chair or county executive	
Terms	3 years	3 years	2 years	3 years, staggered
Chair appointment	Board chair	Mayor Village president	Elected by members for 2-year term	

Ordinance establishing:

- 1) General authority
- 2) Appointment & membership criteria
- 3) Terms of office, alternates & vacancies
- 4) Removal for cause
 - unethical behavior
 - failure to perform duties
- 5) Compensation & expenses
- 6) Staff & experts
- 7) Conduct of meetings & records
- 8) Officers & conduct of commissioners

Ordinance specifies role/duties

Planning

- 1) Comprehensive community planning (prepare plan & amendments)
- 2) Issue-based planning (ordinances & programs to implement plan)
- 3) Site planning (review specific projects or promote new projects)

Plan implementation

Discretionary assignment by governing body

- 1) Specified zoning decisions
- 2) Plat approval
- 3) Develop & convey town position on county zoning decisions

Referral for advisory report

- 1) Mandatory referrals to commission under 62.23(5), Wis. Stats.
- 2) Mandatory referrals under other statutes
- 3) Referrals under local ordinance
- 4) Referrals on a case-by-case basis

Selection of commissioners

- 1) Develop and circulate a description of responsibilities
- 2) Require a letter of interest/application
 - a) publish in newspaper/press release
 - b) announce at board meeting
 - c) actively search out candidates
 - d) announce on radio

Qualifications for commissioners

- 1) Ability to make fair, balanced, sound decisions
- 2) Open minded
- 3) Patience
- 4) Team player
- 5) Diversity
 - a) Geographic
 - b) Economic
 - c) Gender
 - d) Age
 - e) Professional background/affiliation

Qualifications, continued...

- 6) Commitment to community
- 7) Commitment to continuing education
- 8) Understanding of planning process, land use issues, etc.
- 9) Team player
- 10) Ability to read plans, maps, reports
- 11) Detail-oriented but with ability to see larger picture

Legal Requirements

Plan commissions must abide by:

- 1) Open meetings law
- 2) Open records law
- 3) Voting requirements
- 4) Conflict of interest laws
- 5) Public notification requirements for meetings & hearings

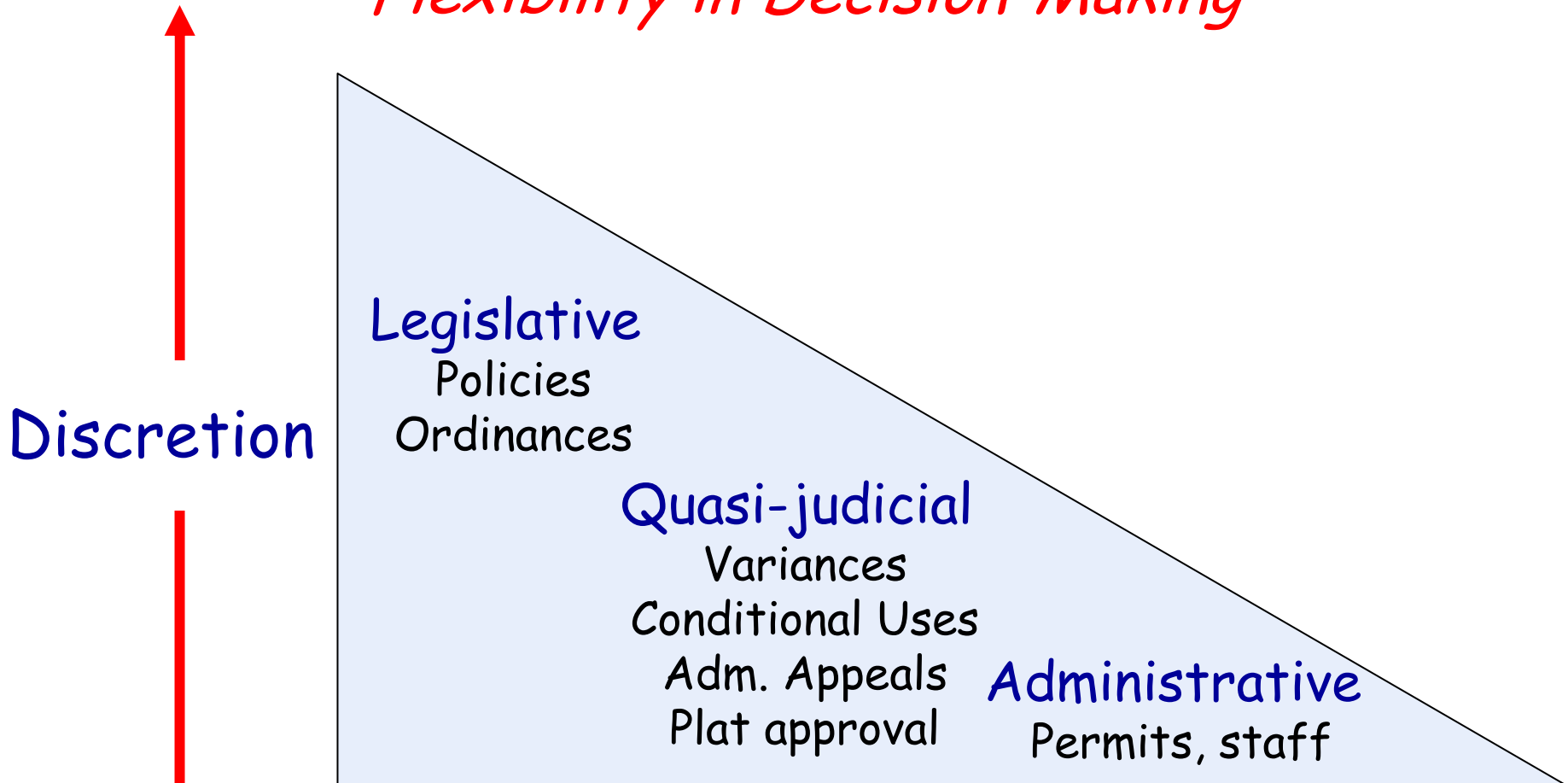
3 roles...

3 standards of conduct

- 1) *Legislative - policy-making*
- 2) *Quasi-judicial - application of laws*
- 3) *Administrative - ministerial duties*

Discretion

Flexibility in Decision-Making



Quasi-judicial decisions

Due process rules of fair play apply:

- 1) Notice of pending decision to affected parties
- 2) Opportunity for hearing
- 3) Opportunity to present evidence & examine witnesses
- 4) Decisions based on established standards
- 5) Written decisions based on facts in a reviewable record
- 6) Unbiased decision-makers
- 7) Opportunity for appeal

Quasi-judicial decisions, cont.

Ex parte communication =
communication regarding a
pending decision not included in
the record on the matter

1. Not to be considered in decision-making
2. Discourage it
3. Disclose it
4. Encourage interested parties to attend hearings (necessary for witness examination)

Ethics for local public officials

By statute, no local public official may:

- Take official action on a matter in which the official, an immediate family member, or an associated organization has a substantial financial interest.
- Use an official position to produce a substantial benefit, for the official, immediate family members, or an associated organization.

Avoid the appearance of impropriety as well.

Recuse yourself from decisions that present a conflict of interest.

Conduct of meetings & hearings

- Efficient & effective meetings require significant preparation.
- Review the public hearing checklist.
- Practice good meeting management:
 - Begin & end on time.
 - Manage public participation
 - Choose an appropriate participation technique.
 - Provide a clear description of the issue or proposal.
 - "Register" & qualify those offering testimony.
 - Respond to citizen concerns.

Commission decisions

- A majority of a quorum is usually sufficient to adopt a measure. Consensus or supermajority approaches may be advisable in some cases.
- Adopt & publicize general criteria for good decisions:
 - 1) Consistent with adopted objectives
 - 2) Based on facts & science
 - 3) Consistent with related policy/decisions
 - 4) Technically & administratively feasible
 - 5) Politically acceptable
 - 6) Simple & understandable

Door County's zoning administration relationships

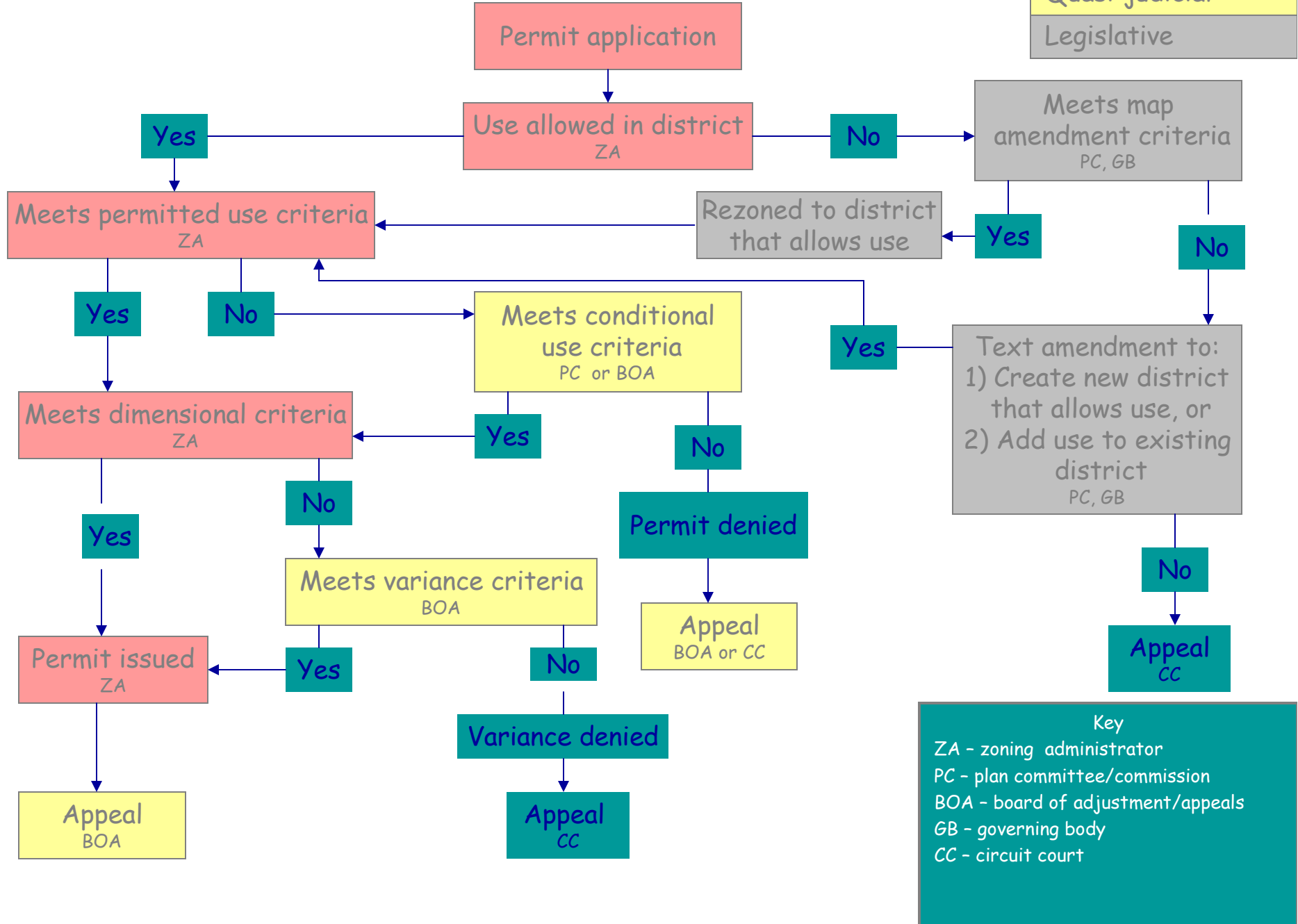
- **Towns**
 - Additional review procedure offered by county.
 - Plan commission makes recommendation to town board, which makes final recommendation to county.
- **County**
 - 9 towns and shoreland areas of all 14 under zoning
 - Variances and appeals: Board of Adjustment
 - Conditional uses and zoning amendments: RPC
- **Two towns administer their own zoning**
 - Ordinance & amendments require county approval.
 - County still has jurisdiction in shoreland areas.

A balance of power between county & towns

- Towns have an effective veto over most zoning map & text amendments.
- Towns have no authority to approve/disapprove county shoreland & floodplain provisions.
- Towns may adopt shoreland provisions that are at least as restrictive as their county standards (with village powers & county approval).

Zoning permit decision process

Administrative
Quasi-judicial
Legislative



Key

- ZA - zoning administrator
- PC - plan committee/commission
- BOA - board of adjustment/appeals
- GB - governing body
- CC - circuit court