

# CHANGES TO THE DPO [CHAPTER 160D TEXT AMENDMENTS]

## PUBLIC HEARING



College Town. Lake Town. *Your Town.*

Board of Commissioners Public Hearing  
Jason Burdette, Planning Director  
Changes to the DPO – 160D Alignment  
May 11, 2021

# BACKGROUND

- In 2019, the North Carolina General Assembly adopted a *complete reorganization* of the state’s planning and development regulations, creating a new statute chapter, “160D.”
- This is the first wholesale reorganization of state development statutes since 1905.
- 160D consolidates development standards for cities (153A) and county (160A) into a single, unified chapter.
- 160D places these statutes into a more logical, coherent organization.
- 160D *does not make any major policy changes or shifts in authority granted to local government*, but does provide clarifying amendments and consensus reforms that will need to be incorporated into local ordinances.
- 160D is effective now, but all towns in the state have until July 1, 2021 to make the necessary changes to their planning ordinances.
- The BOC already adopted one section of 160D (appeals/variances) in December 2020.
- Three miscellaneous text amendments unrelated to 160D; clarify/clean up

# SUMMARY OF 160D AMENDMENTS

## Terminology & Citations

- Update all old references to 153A to 160D.
- Update all terminology to consistent definitions per 160D; new terms/definitions

## Geographic Jurisdictions

- Provide clarification for parcels located in two jurisdictions

## Governing Boards

- Adopt conflict-of-interest standards for governing and advisory boards
- Required oaths for governing and advisory boards
- Update ETJ population estimates and ensure proportional representation on HPC

# SUMMARY OF 160D AMENDMENTS

## Land Use Administration

- Require staff conflict-of-interest standards into ordinance/policy.
- Issue NOVs in compliance with statutes

## Substance of Zoning Ordinance & Other Ordinances

- Clerk must maintain current and historical zoning maps
- Eliminate Conditional Use Zoning; Convert to Conditional Zoning
- Subdivision performance guarantees to comply with statute
- Standardize process for housing code enforcement
- Any development agreement approved as a legislative decision with local government as a party to the agreement
- Must adopt Comprehensive Plan by 2022

# SUMMARY OF 160D AMENDMENTS

## Legislative Decisions

- Statutory requirements for legislative decisions
- Statutory noticing requirements for map amendments (rezonings)
- Consistency statements and statements of reasonableness for map amendments
- Planning Board consistency statements
- Applicant's written consent required for Conditional zoning

## Quasi-Judicial Decisions (DRB, HPC, BOA)

- Must follow statutory procedures including evidentiary hearings and findings of fact
- Evidence, standing, and appeals specific to Q-J proceedings

# SUMMARY OF 160D AMENDMENTS

## Administrative Approvals & Determinations

- Approvals in writing required (electronic)
- Applications for development made by person with property interest or contract
- Approvals run with the land
- Determinations and required delivery
- Appeals/fines and statutory compliance

## Vested Rights

- Statutory limits for vested rights re: building permits/development approvals
- Vesting specific to multi-phase development

## Judicial Review

- Appeals process for COAs and landmarks; timing

# SUMMARY OF MISCELANEOUS AMENDMENTS

## Remove Outdated Reference

- Remove references to *minor subdivision*

## Vested Rights

- Extend Certificate of Appropriateness sunset from 180 days to 18 months (same as DRB approval)

## Design Review Board

- Remove Design Review Board review requirement for residential accessory structures (*NCGS prohibits regulation of structures reviewed under Building Code for One- and Two-Family Dwellings*)

# PROCESS

1. Planning staff/town attorney attended UNC School of Government Training in early 2020.
2. Planning staff developing draft DPO changes in accordance with 160D.
3. Planning staff using UNC SOG resources (i.e. *Chapter 160D: A New Land Use Law for North Carolina*, SOG 160D checklists, SOG Coates Canons blogs, and SOG staff) to develop DPO amendments
4. Verification with town attorney part of the process.
5. UNC SOG providing a “Code Scan” in mid-May to verify text amendments accuracy/compliance



# PROCESS / NEXT STEPS

**All DPO text amendments will follow Section 14.19.3 re: amending the DPO.**

1. Board of Commissioners Public Hearing (***Sched. May 11***)
2. Planning Board Recommendation (***Tentative May 24<sup>th</sup>***)
3. Board of Commissioners Decision (***Tentative June work session or regular meeting***)

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