



160D – Code of Ordinances Integration

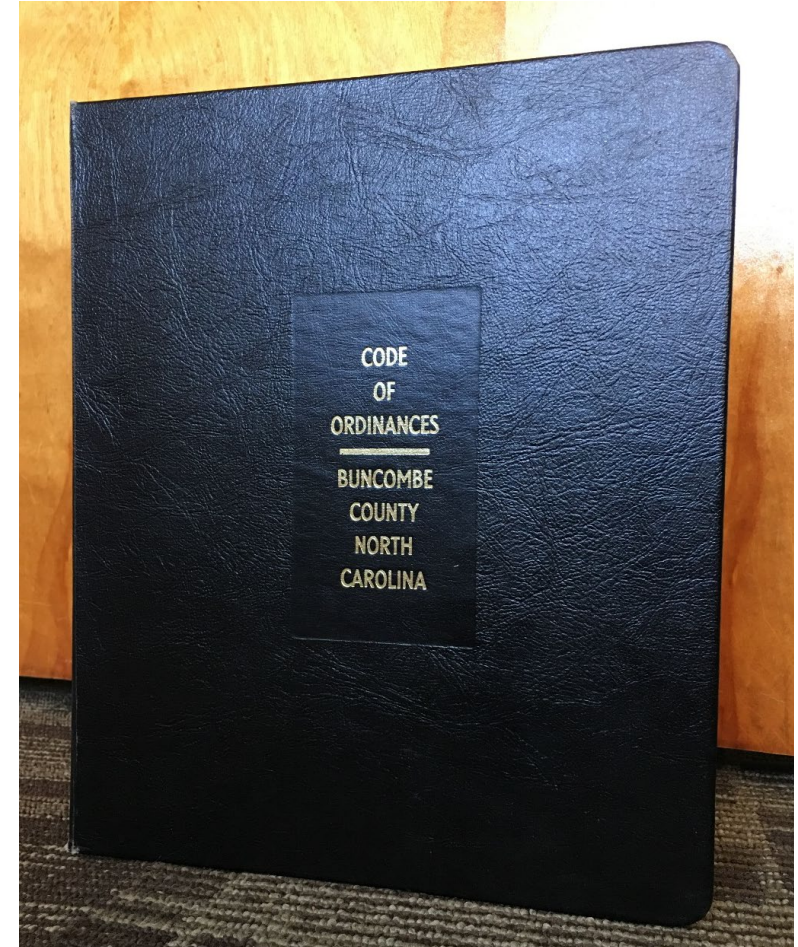
Presented by

Nathan L. Pennington, CFM, Planning Director



Chapters Most Affected

- Chp. 1 General Provisions
- Chp. 10 Buildings and Building Regulations
- Chp. 26 Environment
- Chp. 58 Planning and Development
- Chp. 70 Subdivisions
- Chp. 78 Zoning



What 160D Does and Does Not Do

Does

- Unifies enabling legislation for cities and counties into one chapter.
- Reorganizes development regulation statutes into a more logical, coherent organization.
- Remove archaic and confusing language, makes a number of clarifications (i.e. Conditional Use Permits become Special Use Permits).

Does Not

- The intent was not to make major policy changes
- Shift the scope of authority granted to local governments.



Sample Actions

(3) *Conditional Special uses.* The board of adjustment shall grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional special uses as authorized in division 6 of this article set forth as conditional special uses under the various use districts. The board of adjustment shall follow the requirements and procedures outlined in division 6 prior to issuance of a ~~conditional use permit~~ special use permit.

Special Replaces Conditional

Numerous Statutory Updates

- (b) *Procedure for filing appeals.* All statute of limitations and procedures for filing an appeal to the board of adjustment are set forth in G.S. ~~153A-345.1~~ 160D-406 or as amended.
- (c) *Hearings.* All board of adjustment hearings shall be conducted in accordance with G.S. 160D-406 ~~153A-345.1~~ or as amended.

(a) *Board of County Commissioners.* – A member of the Buncombe County Board of Commissioners shall not vote on any legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(b) *Appointed Boards.* – Members of appointed boards shall not vote on any advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) *Administrative Staff.* – No staff member shall make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest, the decision shall be assigned to the supervisor of the staff person. No staff member shall be financially interested or employed by a business that is financially interested in an undertaking subject to regulation under this Code of Ordinances, unless the staff member is the owner property involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(d) *Quasi-Judicial Decisions.* – A member of any board exercising quasi-judicial functions pursuant to this Code of ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

Significant Addition of Ethics Standards in Chp. 1/160D



Additional Text Amendment Items

- ✓ Transfer duties for variance review and administrative appeals and any other quasi-judicial functions to the Board of Adjustment – legislative/quasi-judicial separation.
- ✓ Clean up references to departments that do not currently function in ordinance administration capacities (i.e. Multiple General Services references should be Permits and Inspections and Planning).
- ✓ Correct references to administration of junk vehicles 26-278 and coordination of receptacle placement in manufactured home parks 46-66.



Action By the Planning Board

- Reviewed on March 22nd, and voted to forward a recommendation to the BOC to approve the changes on April 5, 2021

