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Chapter 160D Update

May 15, 2020
Part of the
Planning in a Pandemic Series

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A NEW LAND USE LAW FOR NORTH CAROLINA

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Planning in a Pandemic

Remote Planning and Zoning Hearings

Friday, May 8, 10:30-noon (AICP #9199832)

160D Update

Friday, May 15, 10:30-noon (AICP #9199834)

Permits & Inspections from Afar

Friday, May 22, 10:30-noon (AICP #9199837)

Adjusting to a New Normal

Friday, June 5, 10:30-noon (AICP #9199839)

Speakers

Ben Hitchings

Adjunct Teaching Assistant Professor, UNC School of Government
Principal, Green Heron Planning, LLC

David Owens

Professor, UNC School of Government

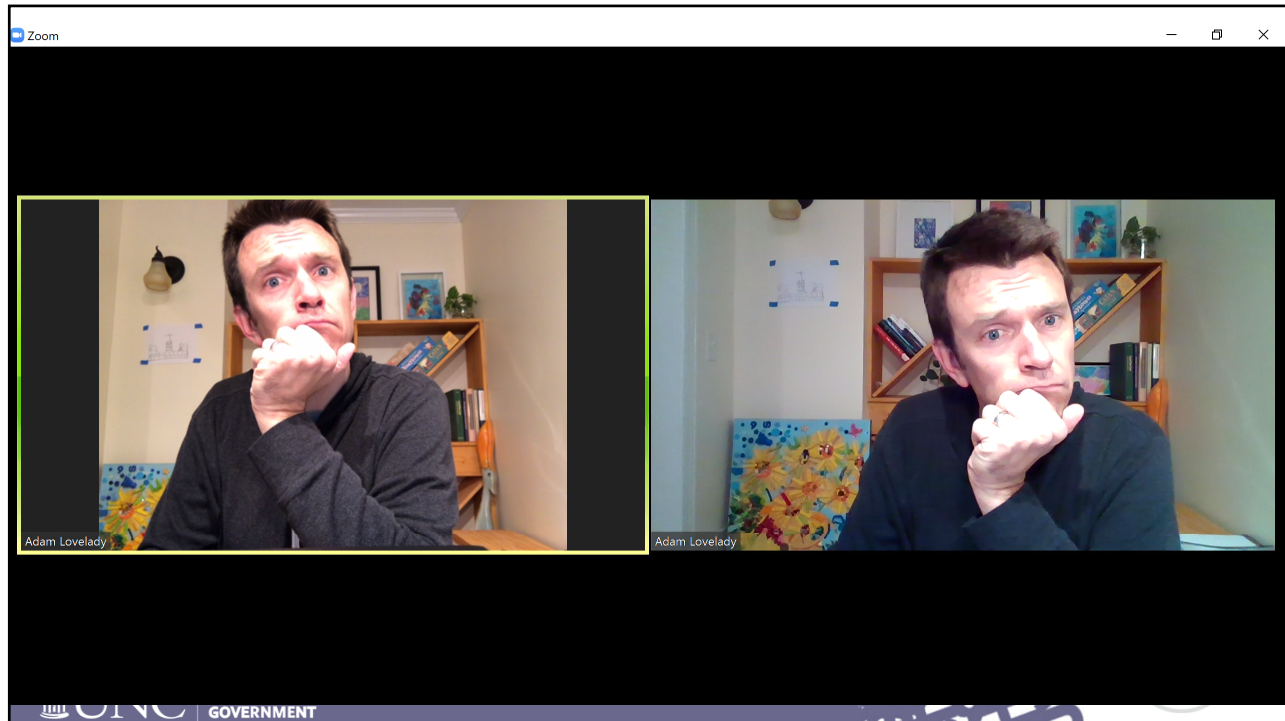
Adam Lovelady

Associate Professor, UNC School of Government

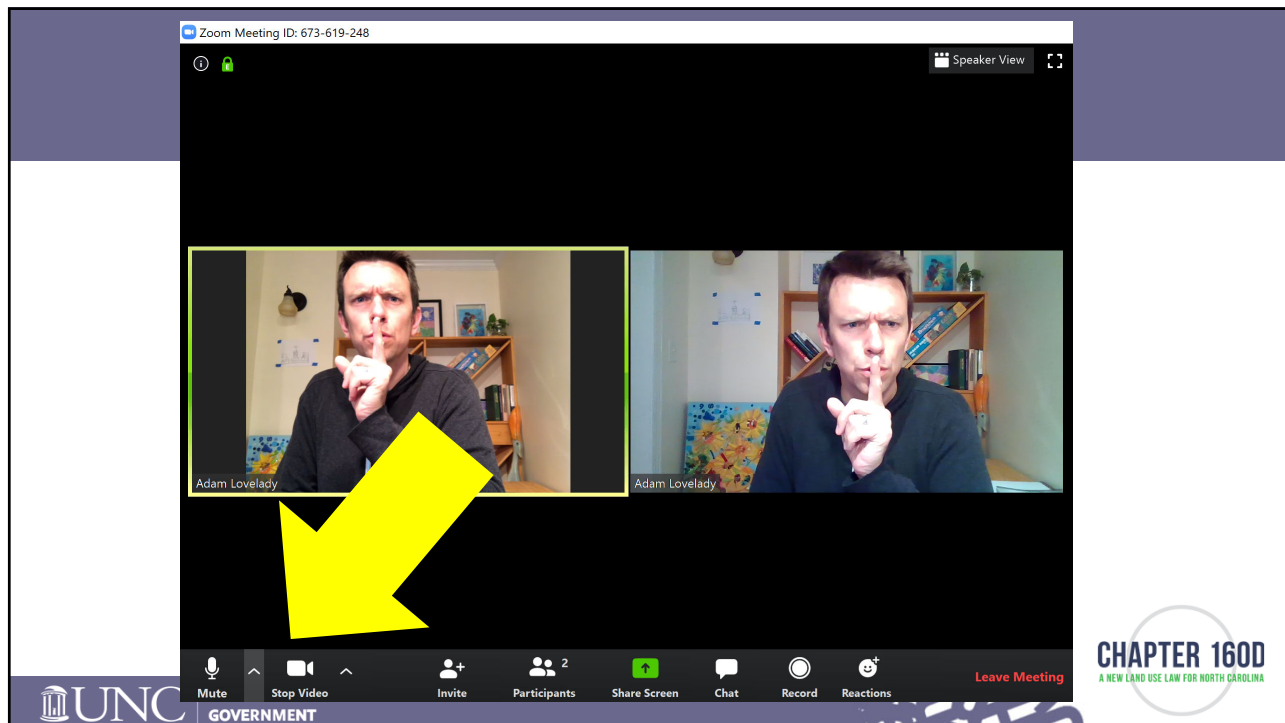
Agenda

- Intros
- 160D Overview and Resources
- Discussion Break Outs
- 160D Legislative Update
- Discussion Break Outs
- Q&A

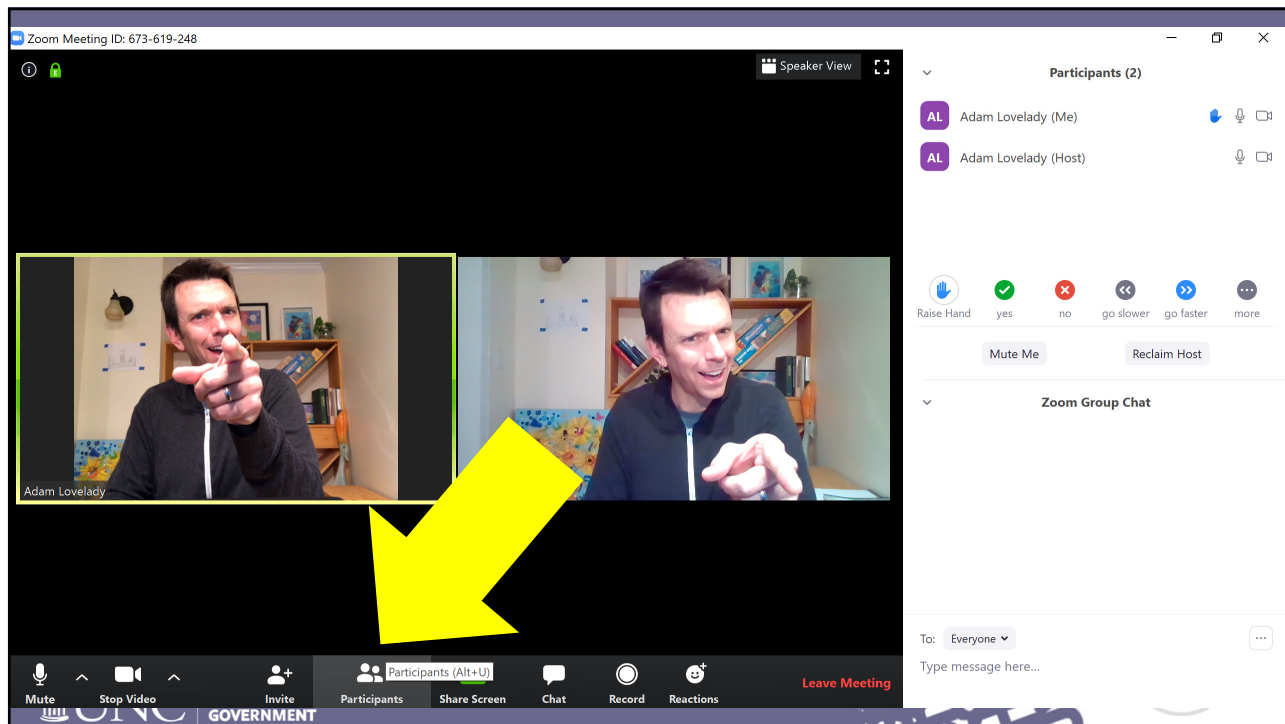
Welcome to Zoom



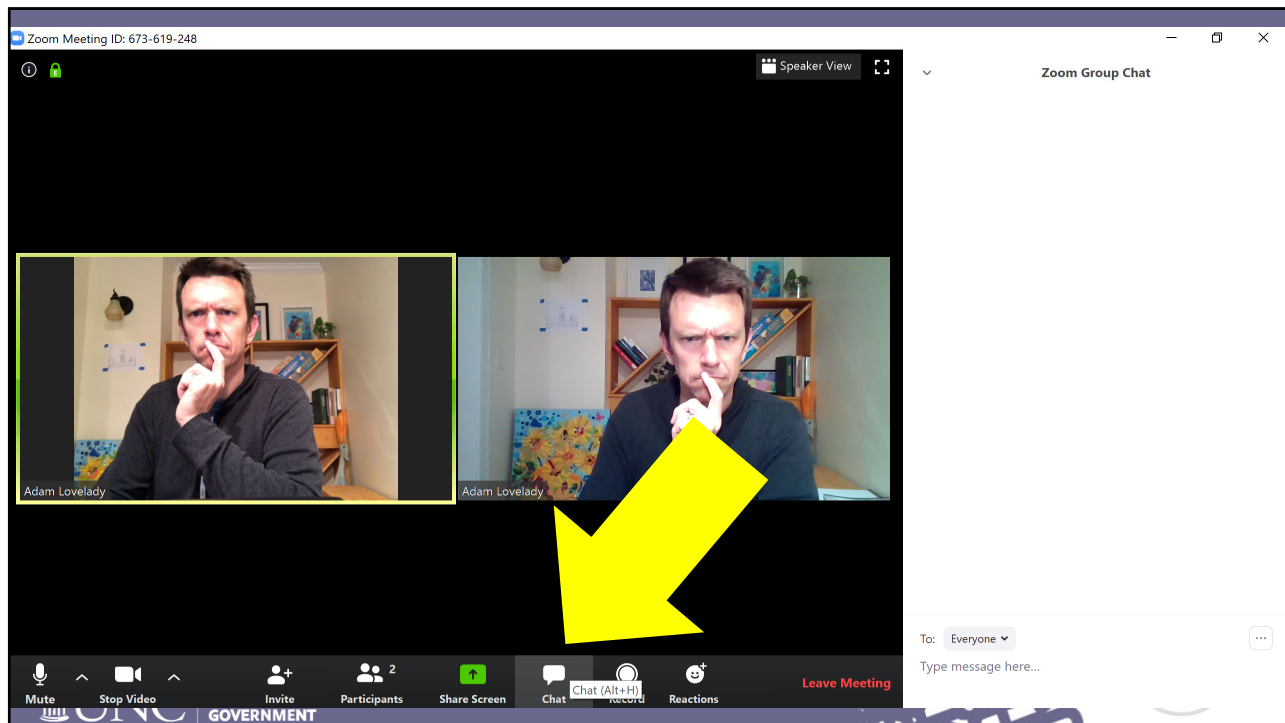
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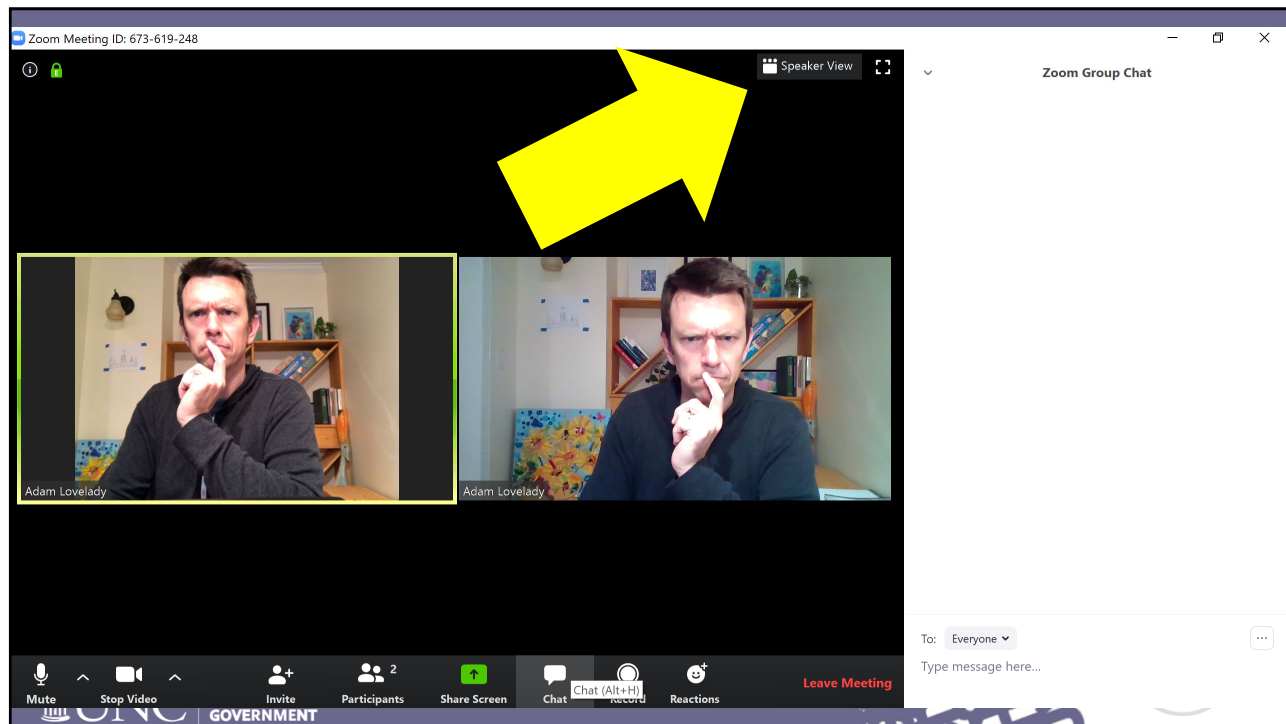
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Breakout Rooms

- Click to accept
- Assign a Facilitator and a Reporter
- Discuss the prompt
- Instructor will close the rooms
- Reporter post a brief summary in the general chat box when you return

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When poll is active, respond at Pollev.com/adamlovelady

What is your jurisdiction?

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What is the status of 160D updates for your jurisdiction?

Have not yet started.	Reviewed materials, but still a long way to go.	Made significant progress, but still substantial work to do.	Staff work is done or nearly done, but need approval from governing board.	We are done.
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What individual or office is the lead for 160D updates in your jurisdiction?

Planning Department Attorney's Office Clerk's Office Consultant Other

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How are you implementing Chapter 160D?

Stand-alone 160D ordinance update, all at once Stand-alone 160D ordinance updates, done in batches Part of a larger ordinance update (along with other policy changes) Not sure yet.

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160D Overview and Resources

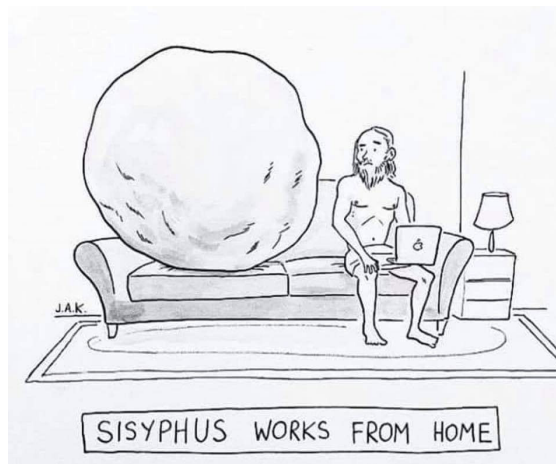


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Chapter 160D



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Types of 160D Statutory Provisions

1. Musts
2. Mays
3. Be aware
4. Not yet available

Sample Provisions

- | | | |
|----------------------------------|---|---|
| 1. Terminology and Citations | → | Align definitions with state bldg. code |
| 2. Geographic Jurisdiction | → | Mailed notice for ETJ extensions |
| 3. Boards | → | Update conflict of interest standards |
| 4. Land Use Administration | → | Maintain current and prior zoning maps |
| 5. Substance of Zoning Ordinance | → | Eliminate Cond. Use District Zoning |
| 6. Substance of Other Dev. Ords. | → | Exempt farm use in muni ETJs |

Sample Provisions

- | | | |
|---|---|--|
| 7. Comprehensive Plan |  | Adopt/reasonably maintain by 7/1/22 |
| 8. Legislative Decisions |  | Posted notice 10-25 days before hearing |
| 9. Quasi-Judicial Decisions |  | Have chair rule on admin materials |
| 10. Administrative Decisions |  | Provide written notice of determinations |
| 11. Vested Rights, Permit Choice |  | Can't make applicant await rule change |
| 12. Judicial Review |  | Local govts. subject to attorneys' fees |

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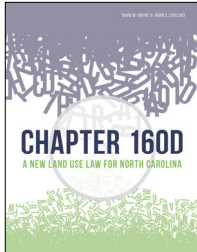
Scoping Your Local Ordinance

Identify which measures are:

1. Required
2. Applicable
3. Appropriate to include
4. Opportunities to improve code
5. Affected by updated statutory timeline

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SOG 160D Resources



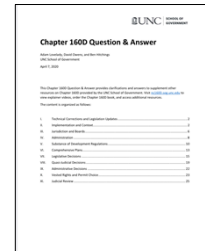
Book



Video Modules



Intro Workshops



FAQs

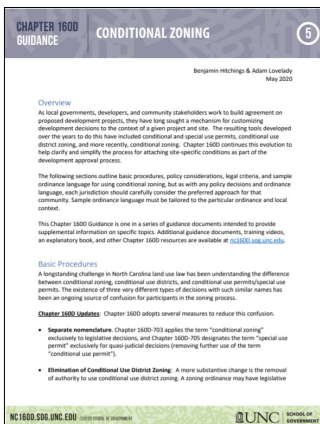


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160D Guidance Documents



1. Administrative Modifications
2. Incorporating Maps by Reference
3. Conflicts of Interest
4. Plan Consistency Statements
5. Conditional Zoning
6. Permit Choice
7. Vested Rights

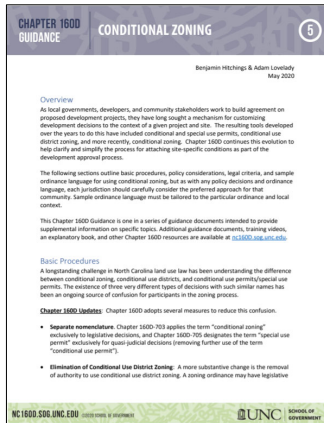


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160D Guidance Documents



Sections:

1. Overview
2. Basic Procedures
3. Key Considerations
4. Statutory Authorization
5. Sample Ordinance Language
6. Example Ordinance Provisions

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160D Intermediate Workshops



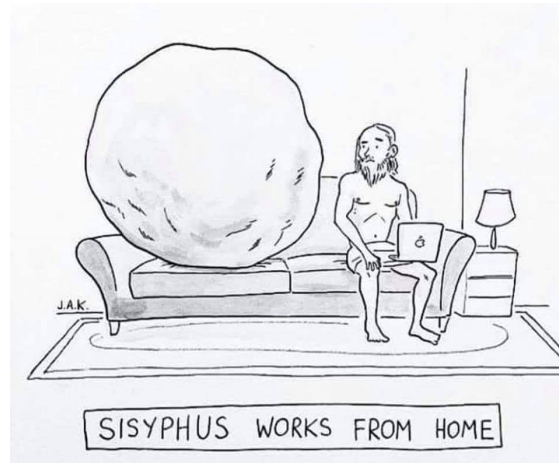
- Focused on code drafting
- To be held:
 - June 9 (PM)
 - June 11 (AM)
 - June 16 (PM)
 - June 18 (AM)
- Look for more details shortly

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Chapter 160D Compliance



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Discussion Break Outs

How are you approaching implementation?
(What's your timeframe? Who is responsible? Etc.)

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160D Legislative Update



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Legislative Update

July 2019 Enactment of Ch. 160D

Effective date delayed to Jan. 1, 2020

General Statutes Commission directed to study and report to 2020 General Assembly legislation to make necessary adjustments prior to effective date:

- 1) Incorporate other 2019 amendments to affected statutes
- 2) Integrate Part I into Part II
- 3) Make other technical, clarifying, corrective amendments

Allow time for conforming local ordinance amendments



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Legislative Update

General Statutes Commission

- Held monthly meetings in 2020 to review report and bill drafts
- Final report and bill approved in May
- Implementing bill introduced May 13: **S. 720**
- Anticipated action in 2020 session, but COVID-based uncertainty re legislative schedule



GENERAL STATUTES COMMISSION

REPORT TO THE
2020 REGULAR SESSION
of the
2019 GENERAL ASSEMBLY
OF NORTH CAROLINA
ON
INCORPORATING LAND-USE LAWS ADOPTED IN 2019
INTO CHAPTER 160D OF THE GENERAL STATUTES AS
REQUIRED BY S.L. 2019-111

MAY 7, 2020

Legislative Update

COVID Stop-gap/Insurance Bill

Problem: If GSC bill not adopted, Ch. 160D is effective 1/1/20 without other 2019 amendments incorporated

S.L. 2020-3 (S. 704) enacted on May 4, 2020

- 1) Delays Ch. 160D effective date to 8/1/21 to allow time for adoption of GSC bill in 2021 session
- 2) Immediate use of incorporation of state/federal maps by reference
- 3) Change in effective date to be repealed if GSC bill adopted in 2020

Legislative Update

GSC Bill – S. 720

Integrates other 2019 enacted legislation

- H. 675 – No regulation of minimum house size, limit on mandates for power line burial, building code amendments
- H. 131 – Official map act repeal
- S. 313 – Clarify performance guarantees



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Legislative Update

GSC Bill – S. 720

Integrates Part I into Part II of original bill

- No third party down-zoning
- Conditions on conditional zoning/SUPs
- Permit choice amendments – multiple permits, permits on hold, definitions (most in GS 143-755)
- Vested rights refinements – rewrite of 160D-108, add 160D-108.1



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Legislative Update

GSC Bill – S. 720

Other technical, clarifying, correcting amendments

- Allow LUP as well as comprehensive plan to qualify for zoning authority
- Reinsert inadvertently omitted statutes – county receive funds for streets in ETJ; receivership for dilapidated houses; 10 year enforcement for nonconformities; no restrictive covenants for family care homes
- City zoning must be citywide, county partial zoning still allowed
- Local permit approvals may last longer than one year
- Specify type of hearings required
- Correct cross-references

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Legislative Update

GSC Bill – S. 720

Change effective dates

- Ch. 160D effective immediately upon adoption of GSC bill
- Add six months for local conforming amendments
Can be done upon effective date, but must be done by 7/1/21
- No change in date for LUP or comp plan to retain zoning authority (7/1/22)
- Repeals delay in COVID stopgap bill

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Discussion Break Outs

What is your biggest barrier to implementation?

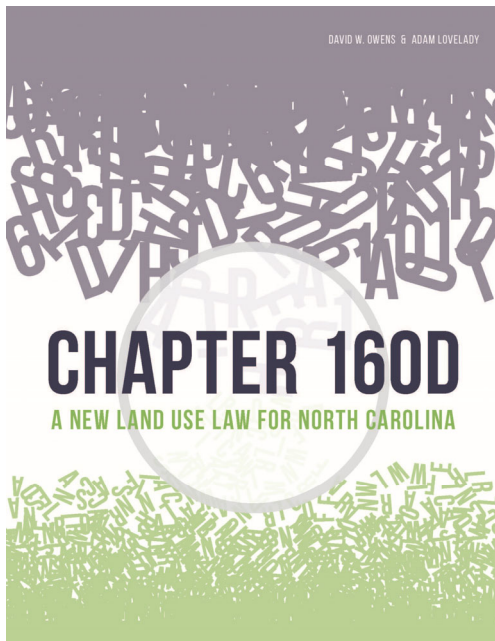
What are your top three questions related to 160D?



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Additional Resources

Website

nc160D.sog.unc.edu



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