

CITY OF HIGH POINT

AGENDA ITEM



Title: Text Amendment 21-01
(Planning and Development Department)

From: Lee Burnette, Planning & Development
Director

Meeting Date: May 17, 2021

Public Hearing: Yes

Advertising Date: May 5, 2021 and
May 12, 2021

Attachments: A. Staff Report
B. Text Amendment Ordinance

Advertised By: Planning & Development

PURPOSE:

A request by the Planning and Development Department to amend and update various sections of the City of High Point Development Ordinance as related to 160D, a new chapter of the North Carolina General Statutes that revises and combines city and county planning laws.

BACKGROUND:

The Planning and Zoning Commission reviewed this request at their April 27, 2021 regular meeting and took final action when the meeting was reconvened on April 29, 2021. On the date of final action, all members of the Commission were present except for Mr. Mark Walsh. Mr. Chris Andrews, Development Administrator, presented the case and recommended approval of the request as outlined in the staff report.

Speaking on the request:

There were no speakers or comments in regards to this request.

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

A. Staff Recommendation

Staff recommended **approval** of this request as outlined in the attached staff report.

B. Planning and Zoning Commission Action

1. The Planning and Zoning Commission recommended **approval** of this request, as recommended by staff, by a vote of 8-0.

2. Consistency and Reasonableness Statements

The Planning and Zoning Commission voted 8-0 to approve the following statement:

That Text Amendment 21-01 is consistent with the City's adopted policy guidance because the proposed amendments are generally technical and legal in nature, and they are neither consistent or inconsistent with the City's adopted policy guidance. Furthermore, the request is reasonable and in the public interest because the amendments are required to implement changes in the State's planning legislation.

**CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
TEXT AMENDMENT CASE TA-21-01
April 27, 2021**

Request	
Applicant: City of High Point Planning & Development Department	Affected Ordinance Sections: Section 1.2., <i>Authority</i> Section 1.4., <i>Applicability</i> ; Section 1.10., <i>Vested Rights</i> ; Section 2.1., <i>Summary Development Review Table</i> ; Section 2.2., <i>Review Authorities</i> ; Section 2.3., <i>Standard Review Procedures</i> ; Section 2.4., <i>Review Procedures Subject to Decision-Making Body Review and Decision</i> ; Section 3.1., <i>General Provisions</i> ; Section 3.8., <i>Overlay Zoning Districts</i> ; Section 9.5., <i>Enforcement</i> ; Section 10.1., <i>General Rules for Interpretation</i> ; Section 10.4., <i>Definitions</i> ; and various other sections of the Ordinance
Proposal: Amend and update various sections of the City of High Point Development Ordinance as related to 160D, a new chapter of the North Carolina General Statutes that revises and combines city and county planning laws.	

Background

This proposed amendment responds to changes in State legislation through the creation of Chapter 160D, a new chapter of the North Carolina General Statutes that revises and combines city and county planning laws. It is the first major recodification and reorganization of city and county land development regulations since many of the state's planning and development regulations were formed. Chapter 160D combines previously separate county and city enabling statutes and centralizes other development-related legislation that was scattered in other sections of the state's General Statutes.

The City of High Point had anticipated many of the proposed changes required by Chapter 160D and has made a variety of text amendments in previous years. Those previous amendments have included the substantive changes that would otherwise now be required. Most of the amendments included within this request are associated with the changing of terms or specific statute references. While Chapter 160D is effective now, local governments have until July 1, 2021 to adopt amendments to their development regulations and make them effective.

Details of Proposal

The following is a summary of the proposed amendments.

- **Section 1.** Updates specific Development Ordinance references to the North Carolina General Statutes.
- **Section 2.** Exempts bona fide farm uses in the City of High Point's Extraterritorial Jurisdictional (ETJ) from the zoning regulations, as required by State statutes.
- **Section 3.** Amends the conflict of interest standards for the City Council, Planning and Zoning Commission, Board of Adjustment and Historic Preservation Commission, as required by State statutes.
- **Section 4.** Establishes conflict of interest standards for the City staff, including the Technical Review Committee (TRC), Urban Forestry Committee (UFC), Planning and Development Director, Engineering Services Director, Public Services Director and Transportation Director, as required by State statutes.
- **Section 5.** Provides consistency with State statutes regarding quasi-judicial hearings by removing the term "public" in front of "hearing" for quasi-judicial actions and by adding the Historic Preservation Commission within the Quasi-Judicial Hearing definition.
- **Section 6.** Amends Section 2.3.10., Conditions of Approval, to give clarity to allowable conditions of approval, consistent with State statutes.
- **Section 7.** Amends Section 2.4.6. Conditional Zoning, to give clarity to the limits of minor changes within a conditional zoning ordinance, as required by State statutes.
- **Section 8.** Amends Section 3.1.5., Official Zoning Map, regarding the maintenance and display of the City's zoning maps, consistent with State statutes.
- **Section 9.** Amends Section 3.8.8., Local Historic Overlay (LHO), to replace the term "guidelines" with "standards", related to historic district design standards, as required by State statutes.
- **Section 10.** Amends Section 9.5., Enforcement, to revise responsibilities and procedures of City staff related to investigations and inspections, as required by State statutes.
- **Section 11.** Amends Section 10.1.7., Delegation of Authority, to allow the City Manager to reassign specific powers or duties assigned to staff by the Ordinance to

other City department directors, either permanently or temporarily, such as in the case of a conflict of interest.

Analysis

This proposed amendment responds to changes in State legislation through the creation of Chapter 160D, a new chapter of the North Carolina General Statutes that revises and combines city and county planning laws. Most of the amendments included within this request are associated with the changing of terms or specific statute references.

Section 1 updates Development Ordinance references to the North Carolina General Statutes due to the renumbering and reorganization of specific statute references. Section 2 establishes an exemption for bona fide farm uses in the city's ETJ from the zoning regulations, as required by State statutes.

Sections 3 and 4 are arguably the most substantive changes within this application and are related to conflict of interest standards for City Council, advisory boards and City staff. In Section 3, additional language, to mirror the specific state statute language, is proposed to be added to the Development Ordinance to better clarify a potential conflict of interest that would result from close familial, business, or other associational relationships. State statutes now give further definition as to what relationships are considered "close familial", including a spouse, parent, child, brother, sister, grandparent, or grandchild, whether immediate or step, half, and in-law relationships.

Section 4 establishes conflict of interest standards for City staff, including the Technical Review Committee (TRC), Urban Forestry Committee (UFC), Planning and Development Director, Engineering Services Director, Public Services Director and Transportation Director, as required by State statutes. These standards are being inserted into the rules and procedures sections for staff review authorities. The standards apply to any staff member whose administrative decisions are governed by Chapter 160D.

The amendments within Section 5 give consistency with State statutes regarding quasi-judicial hearings by removing the term "public" in front of "hearing" for quasi-judicial actions and by also adding the Historic Preservation Commission within the *Quasi-Judicial Hearing* definition in Chapter 10 of the Development Ordinance. Section 6 provides clarity as to the limitation of conditions that may be imposed as part of conditions of approval for any development application.

Section 7 gives clarity to the limits of minor changes within a conditional zoning ordinance, while Section 8 provides consistency with State statutes regarding the maintenance and display of the City's zoning maps.

Section 9 replaces the term "guidelines" with "standards" regarding the Architectural and Historic Guidelines for the City's Local Historic Overlay districts. Section 10 provides revision to the responsibilities and procedures of City staff conducting investigations and inspections, and

Section 11 amends the authority of the City Manager to assign specific powers or duties of a director within the Development Ordinance to another City director.

Consistency with Adopted Plans:

The proposed text amendments are appropriate and are consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans.

The proposed amendments are generally technical and legal in nature, and they are neither consistent or inconsistent with the City's adopted policy guidance.

Reasonableness/Public Interest:

An approval of the proposed text amendments is considered reasonable and in the public interest.

The amendments are required to implement changes in the State's planning legislation.

Recommendation

Staff recommends approval.

The Planning and Development Department recommends approval of this text amendment to amend and update various sections of the City of High Point Development Ordinance as related to Chapter 160D of the North Carolina General Statutes.

Required Action

Planning and Zoning Commission:

The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

City Council:

The NC General Statutes require that the City Council place in the official record a statement of consistency with the City's adopted plans, and also explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Chris Andrews, AICP, and reviewed by Lee Burnette, AICP, Director.

AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE

WHEREAS, the City of High Point adopted the "City of High Point Development Ordinance" on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on April 27, 2021 and before the City Council on May 17, 2021 regarding Text Amendment 21-01; and

WHEREAS, notice of the public hearings was published in the High Point Enterprise on April 18, 2021 for the Planning and Zoning Commission public hearing, and on May 5, 2021 and May 12, 2021 for the City Council public hearing pursuant to Chapter 160D-601 of the General Statutes of North Carolina.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

SECTION 1.

(Regarding updated references to state statutes or state laws within Development Ordinance language)

PART A.

That Section 1.2.1.B., *The North Carolina Statutes*, regarding the general authority of the Development Ordinance, is hereby amended as follows:

- A. (unchanged)
- B. **The North Carolina Statutes** The North Carolina General Statutes, including:
 1. *(unchanged)*
 2. ~~Chapter 160A, Article 19 (Planning and Regulation of Development)~~
Chapter 160D, Local Planning and Development Regulation;
 3. *(unchanged)*
 4. *(unchanged)*

PART B.

That Section 1.4.3.B., *Local and State Government*, is hereby amended as follows:

- B. **Local and State Government** Development of buildings by state or city agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in Section ~~160A-392~~ **160D-913** of the North Carolina General Statutes; and

PART C.

That Section 1.10.1., *Development Permit*, regarding vested rights, is hereby amended as follows:

The issuance of a development permit, as defined by this Ordinance, establishes a vested right to development in accordance with Sections ~~160A-385~~ **160D-108** of the North Carolina General Statutes, as long as the development complies with the terms and conditions of approval of that permit and the permit remains valid pursuant to law.

PART D.

That Section 2.2.3., *Planning and Zoning Commission (P&Z)*, is hereby amended as follows:

The P&Z is hereby established in accordance with Section ~~160A-361~~ **160D-301** of the North Carolina General Statutes. Table 2.2.3, Planning and Zoning Commission (P&Z), sets out the P&Z's powers and duties, composition, and rules of procedure.

PART E.

That Section 2.2.4., *Board of Adjustment (BOA)* is hereby amended as follows:

The BOA is hereby established in accordance with Section ~~160A-388~~ **160D-302** of the North Carolina General Statutes. Table 2.2.4, Board of Adjustment (BOA), sets out the BOA's powers and duties, composition, and rules of procedure.

PART F.

That Section 2.2.5., *Historic Preservation Commission (HPC)* is hereby amended as follows:

The HPC is hereby established in accordance with ~~Chapter 160A-400.8~~ **Section 160D-303** of the North Carolina General Statutes. Table 2.2.5, Historic Preservation Commission (HPC), sets out the HPC's powers and duties, composition, and rules of procedure.

PART G.

That Section 2.2.7., *Technical Review Committee (TRC)* is hereby amended as follows:

The TRC is hereby established in accordance with Section ~~160A-361~~ **160D-301** of the North Carolina General Statutes. Table 2.2.7, Technical Review Committee (TRC), sets out the TRC's powers and duties, composition, and rules of procedure.

PART H.

That Section 2.2.8., *Urban Forestry Committee (UFC)* is hereby amended as follows:

The Urban Forestry Committee (UFC) is established to oversee the implementation of the City's urban forestry program, in accordance with the provisions of this Ordinance and Section ~~160A-361~~ **160D-301** of the North Carolina General Statutes. Table 2.2.8, Urban Forestry Committee (UFC), sets out the Urban Forestry Committee's powers and duties, composition, and rules of procedure.

PART I.

That Section 2.4.7.A., *Applicability*, regarding development agreements, is hereby amended as follows:

- A. Applicability In order to provide more regulatory certainty, establish a schedule for development, coordinate the provision of public facilities, and improve management of environmentally sensitive lands, the City Council may enter into a development agreement with a developer, subject to ~~Section 160A-400~~ **160D-1001** of the North Carolina General Statutes, and the provisions of this section. In entering into a development agreement, the City may not exercise any authority or make any commitment that is unauthorized by general or local act, and may not impose any unauthorized tax or fee.

PART J.

That Section 2.4.7.D.5., *Application of Subsequently Adopted Laws*, regarding development agreements, is hereby amended as follows:

5. Application of Subsequently Adopted Laws Except for grounds specified in Sections ~~160A-385.1(e)~~ **160D-108.1(f)** of the North Carolina General Statutes, the City may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

PART K.

That Section 2.4.7.D.7., *Vested Rights*, regarding development agreements, is hereby amended as follows:

7. Vested Rights This Ordinance does not abrogate any rights preserved by Sections ~~160A-385 or 160A-385.1~~ **160D-108 or 160D-108.1** of the North Carolina General Statutes, or that may vest pursuant to common law or otherwise in the absence of a development agreement.

PART L.

That Section 2.4.17.A., *Applicability*, regarding development agreements, is hereby amended as follows:

1. A vested right may be established, in accordance with Sections ~~160A-385.1~~ **160D-108.1** of the North Carolina General Statutes and this section, for the following permits and development approvals:
 - (a) through (c) (*unchanged*)

PART M.

That Section 2.4.18.B.2., *Application Submittal and Acceptance*, regarding applications for voluntary annexation, is hereby amended as follows:

2. Application Submittal and Acceptance
 - (a) through (c) (*unchanged*)
 - (d) The voluntary annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under Section ~~160A-385.1 or 153A-344.1~~ **160D-108.1** of the North Carolina General Statutes.

PART N.

That Section 2.5.3.G., *Appeal*, regarding appeals of decisions on a building permit, is hereby amended as follows:

- G. **Appeal** An appeal of a decision on a building permit may be filed with the North Carolina Commissioner of Insurance, in accordance with Section ~~160A-434~~ **160D-1127** of the North Carolina General Statutes.

PART O.

That Section 2.5.6.A., *Applicability*, regarding exclusion maps, is hereby amended as follows:

- A. **Applicability** This section provides a procedure, in accordance with Section ~~160A-376~~ **160D-802** of the North Carolina General Statutes, for exclusion of the following divisions of land from the subdivision requirements of this Ordinance:

PART P.

That Section 2.5.6.C., *Exclusion Map Review Standards*, is hereby amended as follows:

- C. **Exclusion Map Review Standards** A division of land shall be certified as an exclusion map if it:

1. Is excluded from the definition of a subdivision in accordance with Section ~~160A-376~~ **160D-802** of the North Carolina General Statutes; and
2. through 4. (unchanged)

PART Q.

That Section 3.8.9.B., *Establishment*, regarding manufactured housing overlay districts, is hereby amended as follows:

1. Manufactured Housing Overlay (MHO) districts shall be established in accordance with Section ~~160A-383.1~~ **160D-910** of the North Carolina General Statutes and Section 2.4.20, Zoning Map Amendment.

PART R.

That Section 7.1.6.C.1., *Dedication of Right of Way*, regarding manufactured housing overlay districts, is hereby amended as follows:

1. **Dedication of Right-of-Way** Right-of-way for public streets shall be dedicated to the City in accordance with North Carolina General Statutes Section ~~160A, Article 19, Part 2,~~ **160D, Article 8** and other applicable State law. When dedication cannot be required, future street right-of-way indicated on the City's Comprehensive Transportation Plan shall be shown on the plat.

PART S.

That Section 7.5.2.A., *Identification on Plat or Plan*, regarding reservation of public land, is hereby amended as follows:

- A. **Identification on ~~Plat or Plan~~ Plan** If the appropriate government agency decides it wishes the site to be reserved, then the preliminary plan or group development shall provide for the reservation of the site for a period of not more than 1 year from the date of approval, except as otherwise provided in Section ~~160A-372~~ **160D-804** of the North Carolina General Statutes.

PART T.

That Section 9.7.4.C. *In Accordance with State Statutes or Building Code*, regarding stop work orders, is hereby amended as follows:

- C. **In Accordance with State Statutes or Building Code** Such action shall be in accordance with Section ~~160A-424~~ **160D-404(b)** of the North Carolina General Statutes or the State Building Code.

SECTION 2.

That Section 1.4.6., *Bona Fide Farms Exempt in ETJ*, is hereby established as follows:

1.4.6. - Bona Fide Farms Exempt in ETJ

In accordance with 160D-903, property that is located within the City's ETJ and used for bona fide farm purposes is exempt from the zoning regulations of this Ordinance.

SECTION 3.

(Regarding conflict of interest standards for governing and advisory boards as required by State statutes.)

PART A.

That Section B. *Conflict of Interest* within Table 2.2.2., *City Council*, is hereby amended as follows:

TABLE 2.2.2: CITY COUNCIL	
B. CONFLICT OF INTEREST	1. PRACTICE
	(a) A member shall not participate in or vote on any <u>development application</u> <u>where the outcome of the</u> matter that has a direct, substantial, and readily identifiable financial impact on the member.
	(b) <u>A member shall not participate in or vote any development application if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.</u>
	(b) (c) (unchanged)

PART B.

That Table 2.2.3., *Planning and Zoning Commission (P&Z)*, regarding commission composition and rules of procedure, is hereby amended as follows:

TABLE 2.2.3: PLANNING AND ZONING COMMISSION (P&Z)	
B. COMPOSITION	2. RESIDENCE LOCATION AND APPOINTMENT:
	(b) 1 member shall be a resident of the ETJ and shall be appointed by the Guilford County Board of Commissioners, in accordance with Section 160A-362 <u>160D-307</u> of the North Carolina General Statutes.

C. RULES OF PROCEDURE	11. CONFLICT OF INTEREST:
	(a) A member shall not participate in or vote on any <u>development application where the outcome of the</u> matter that has a direct, substantial, and readily identifiable financial impact on the member.
	(b) <u>A member shall not participate in or vote any development application if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.</u>
	(b) (c) (unchanged)

PART C.

That Table 2.2.4., *Board of Adjustment (BOA)*, regarding commission composition and rules of procedure, is hereby amended as follows:

TABLE 2.2.4: BOARD OF ADJUSTMENT (BOA)	
B. COMPOSITION	2. RESIDENCE LOCATION AND APPOINTMENT:
	(b) At least 1 member shall be a resident of the ETJ and shall be appointed by the Guilford County Board of Commissioners, in accordance with Section 160A-362 <u>160D-307</u> of the North Carolina General Statutes.

PART D.
That Section C. *Rules of Procedure* within Table 2.2.5., *Historic Preservation Commission (HPC)*, is hereby amended as follows:

TABLE 2.2.5: HISTORIC PRESERVATION COMMISSION (HPC)	
C. RULES OF PROCEDURE	11. CONFLICT OF INTEREST <u>VIOLATION OF DUE PROCESS:</u>
	(a) A member shall not participate in or vote on any <u>quasi-judicial</u> matter that has a direct, substantial, and readily identifiable financial impact on the member that would violate an affected persons' constitutional rights to an impartial decision-maker. <u>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.</u>
	(b) If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall by majority vote rule on the objection.

SECTION 4.

(Regarding conflict of interest standards for staff as required by State legislation.)

PART A.

That Section C. *Rules of Procedure* within Table 2.2.7., *Technical Review Committee (TRC)*, is hereby amended as follows:

TABLE 2.2.7: TECHNICAL REVIEW COMMITTEE (TRC)	
C. RULES OF PROCEDURE	1. MEETINGS
	(a) <i>(unchanged)</i>
	(b) <i>(unchanged)</i>
	<u>2. CONFLICT OF INTEREST:</u>
	<u>(a) No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	<u>(b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

PART B.

That Section C. *Rules of Procedure* within Table 2.2.8., *Urban Forestry Committee (UFC)*, is hereby amended as follows:

TABLE 2.2.8: URBAN FORESTRY COMMITTEE (UFC)	
C. RULES OF PROCEDURE	1. MEETINGS
	(a) <i>(unchanged)</i>
	(b) <i>(unchanged)</i>
	<u>2. CONFLICT OF INTEREST:</u>
	<u>(a) No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	<u>(b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

PART C.

That Section B. *Conflict of Interest* within Table 2.2.10., *Planning and Development Director*, is hereby established as follows:

TABLE 2.2.10: PLANNING AND DEVELOPMENT DIRECTOR	
B. CONFLICT OF INTEREST	1. PRACTICE
	(a) <u>No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	(b) <u>No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

PART D.

That Section B. *Conflict of Interest* within Table 2.2.11., *Engineering Services Director*, is hereby established as follows:

TABLE 2.2.11: ENGINEERING SERVICES DIRECTOR	
B. CONFLICT OF INTEREST	1. PRACTICE
	(a) <u>No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	(b) <u>No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

PART E.

That Section B. *Conflict of Interest* within Table 2.2.12., *Public Services Director*, is hereby established as follows:

TABLE 2.2.12: PUBLIC SERVICES DIRECTOR	
B. CONFLICT OF INTEREST	1. PRACTICE
	(a) <u>No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	(b) <u>No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

PART F.

That Section B. *Conflict of Interest* within Table 2.2.13., *Transportation Director*, is hereby established as follows:

TABLE 2.2.13: TRANSPORTATION DIRECTOR	
B. CONFLICT OF INTEREST	<u>1. PRACTICE</u>
	<u>(a) No staff member shall make a final decision on an administrative decision required by NCGS 160D 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 as described in NCGS, the decision shall be assigned to the supervisor of the staff person or another staff person as specified in this Ordinance.</u>
	<u>(b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City.</u>

SECTION 5.

(Regarding the term “quasi-judicial hearing”).

PART A.

That Section 2.1.1. – *Table Contents* is hereby amended as follows:

- A. through D. *(unchanged)*
- E. If a required **public** hearing is conducted as a quasi-judicial **public** hearing.

PART B.
That the legend within Table 2.1.2., *Summary Development Table* is hereby amended to delete the word “public” as follows:

TABLE 2.1.2: SUMMARY DEVELOPMENT REVIEW TABLE	
Pre-application Conference & Citizen Information Meeting: M = Mandatory O = Optional	
Type of Action: C = Comment R = Recommendation D = Decision A = Appeal	
Type of Hearing: { } = Public Hearing [] = Quasi-Judicial <u>Public</u> Hearing	
Table symbols: "." = not applicable / / = see notes	

PART C.
That Table 2.2.4. *Board of Adjustment (BOA)*, regarding rules of procedure, is hereby amended to delete the word “public” as follows:

TABLE 2.2.4: BOARD OF ADJUSTMENT (BOA)	
C. RULES OF PROCEDURE	8. CONTINUANCE:
	(a) The BOA may continue a public hearing or delay voting on any matter to a subsequent meeting, upon a showing of good cause, in accordance with Section 2.3.13, Deferral and Continuance.

PART D.

That Table 2.2.5. *Historic Preservation Commission (HPC)*, regarding rules of procedure, is hereby amended to delete the word “public” as follows:

TABLE 2.2.5: HISTORIC PRESERVATION COMMISSION (HPC)	
C. RULES OF PROCEDURE	7. CONTINUANCE:
	(a) The HPC may continue a public hearing or delay voting on any matter to a subsequent meeting upon a showing of good cause, in accordance with Section 2.3.13, Deferral and Continuance.

PART E.

That Section 2.3.7. *Quasi-Judicial Public Hearing Procedures* is hereby amended to delete the word “public” as follows:

2.3.7. - Quasi-Judicial ~~Public~~ Hearing Procedures

If the development application is subject to a quasi-judicial ~~public~~ hearing by a decision-making body, the decision-making body shall hold a quasi-judicial ~~public~~ hearing in accordance with the following procedures.

A. *(unchanged)*

B. **Rules of Evidence** The body conducting a quasi-judicial ~~public~~ hearing is not bound by the rules of evidence, nor is it limited to consideration of evidence that is admissible in a court of law. The body may consider all testimony and evidence it deems competent and material to the application under consideration if the evidence was admitted without objection, or the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making body to rely upon it. Competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

1. *(unchanged)*
2. *(unchanged)*
3. *(unchanged)*

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C. **Cross Examination** Any inquiry under cross-examination shall be limited to matters raised in the direct examination of the person testifying. No re-direct or re-cross shall be allowed unless requested by the applicant, an affected party, or the City—who shall state the desired area of inquiry. The request shall be approved by the person chairing the body conducting the quasi-judicial ~~public~~ hearing. If re-direct or re-cross is allowed, it shall be limited to questions of the witness on issues raised in the cross-examination or re-direct examination.

D. **Ex Parte Communication** Ex parte communications between an applicant or an affected party and a member of the decision-making body is prohibited. If it occurs, it shall be disclosed during the quasi-judicial ~~public~~ hearing.

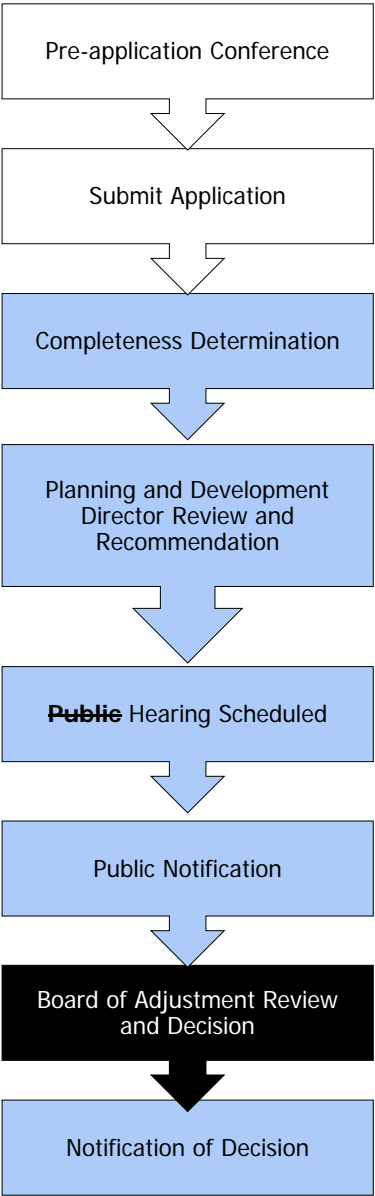
PART F.

That Section 2.4.2.B.5., *BOA Review and Decision, (including the process flowchart)*, regarding an alternate design, is hereby amended to delete the word “public” as follows:

5. BOA Review and Decision

- (a) Applicable (see Section 2.3.9, Action by Decision-Making Body, and Section 2.3.7, Quasi-Judicial **Public** Hearing Procedures).
- (b) The BOA, after the conclusion of a quasi-judicial **public** hearing, shall decide the application for an alternate design.
- (c) through (g) *(unchanged)*

ALTERNATE DESIGN



PART G.

That Section 2.4.3.C.5., *BOA Review and Decision*, regarding appeals, is hereby amended to delete the word "public" as follows:

5. BOA Review and Decision

- (a) Applicable (see Section 2.3.9, Action by Decision-Making Body, and 2.3.7, Quasi-Judicial ~~Public~~ Hearing Procedures).
- (b) The BOA, at the conclusion of a quasi-judicial ~~public~~ hearing, shall decide the application for the appeal.
- (c) through (h) (*unchanged*)

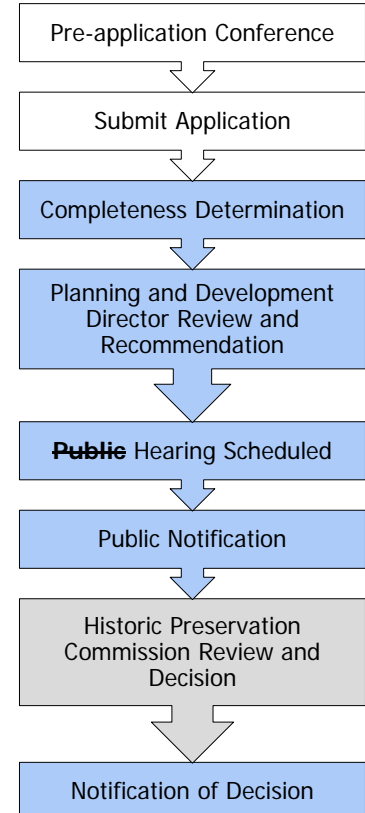
PART H.

That Section 2.4.5.C.5., *HPC Review and Decision, (including the process flowchart)*, regarding certificates of appropriateness, is hereby amended to delete the word "public" as follows:

5. HPC Review and Decision

- (a) Applicable (See Section 2.3.9, Action by Decision-Making Body, and Section 2.3.7, Quasi-Judicial ~~Public~~ Hearing Procedures).
- (b) The HPC, after the conclusion of a quasi-judicial ~~public~~ hearing, shall decide the application for a certificate of appropriateness.
- (c) through (g) (*unchanged*)

CERTIFICATE OF APPROPRIATENESS

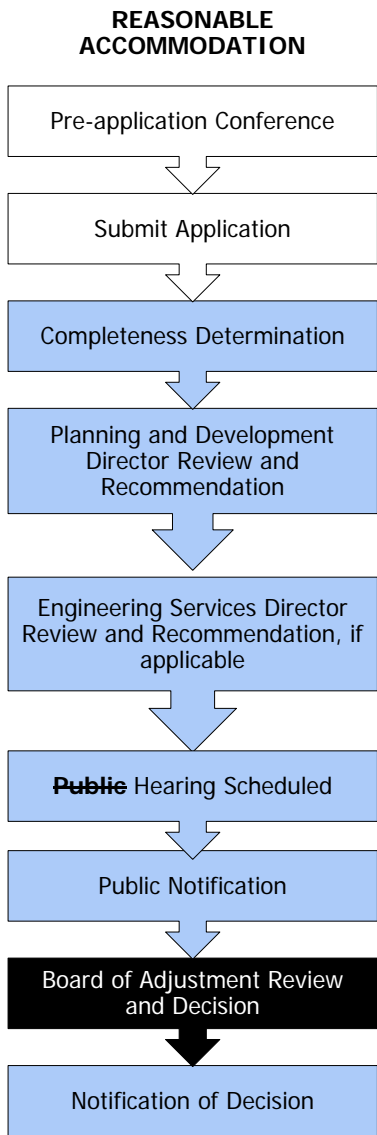


PART I.

That Section 2.4.10.C.5., *BOA Review and Decision*, (including the process flowchart), regarding reasonable accommodations, is hereby amended to delete the word “public” as follows:

5. BOA Review and Decision

- (a) Applicable (see Section 2.3.9, Action by Decision-Making Body, and Section 2.3.7, Quasi-Judicial ~~Public~~ Hearing Procedures).
- (b) The BOA, after the conclusion of a quasi-judicial ~~public~~ hearing, shall decide the application.



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PART J.

That Section 2.4.12.B.6., *City Council Review and Decision*, (including the process flowchart), regarding special use permits, is hereby amended to delete the word "public" as follows:

6. City Council Review and Decision

(a) Applicable (see Section 2.3.9, Action by Decision-Making Body, and 2.3.7, Quasi-Judicial ~~Public~~ Hearing Procedures).

(b) The City Council, after the conclusion of a quasi-judicial ~~public~~ hearing, shall decide the application in accordance with Section 2.4.12 C, Special Use Review Standards. The decision shall be the one of the following:

(1) through (4) (*unchanged*)

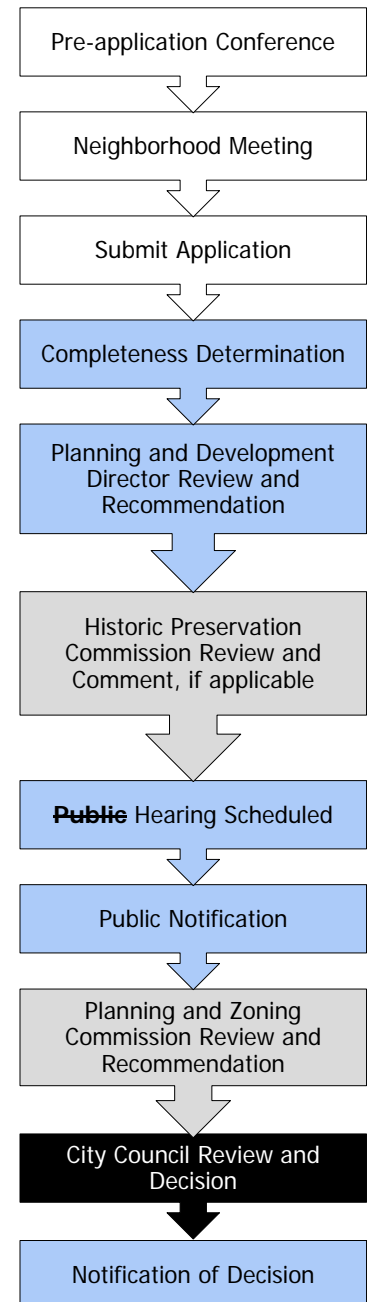
PART K.

That Section 2.4.12.F.1., *Minor Changes*, regarding minor changes to a special use permit, is hereby amended to delete the word "public" as follows:

1. Minor Changes

(a) The City Council may approve a minor change to a special use requested by the applicant without a ~~public~~ hearing, upon receipt of a report from the Planning and Development Director on the proposed minor change.

SPECIAL USE



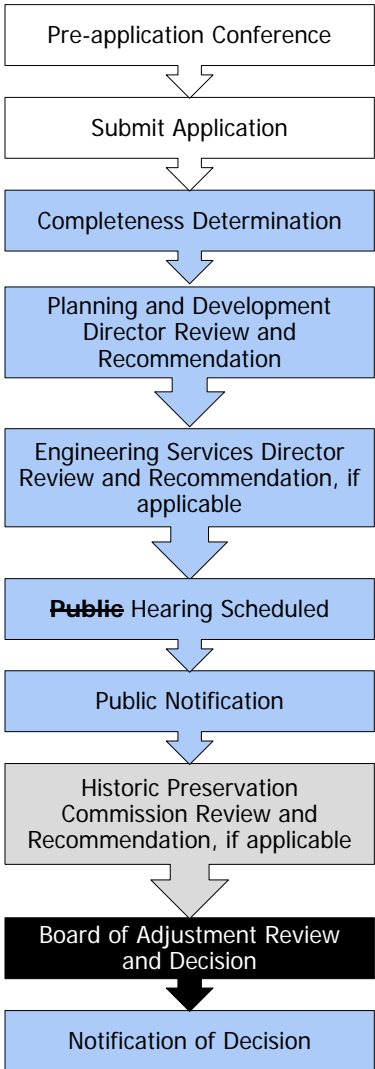
PART L.

That Section 2.4.16.C.6., *BOA Review and Decision*, (including the process flowchart), regarding variances, is hereby amended to delete the word “public” as follows:

6. BOA Review and Decision

- (a) Applicable (see Section 2.3.9, Action by Decision-Making Body, and Section 2.3.7, Quasi-Judicial **Public** Hearing Procedures).
- (b) The BOA, after the conclusion of a quasi-judicial **public** hearing, shall decide the application for a variance.

VARIANCE

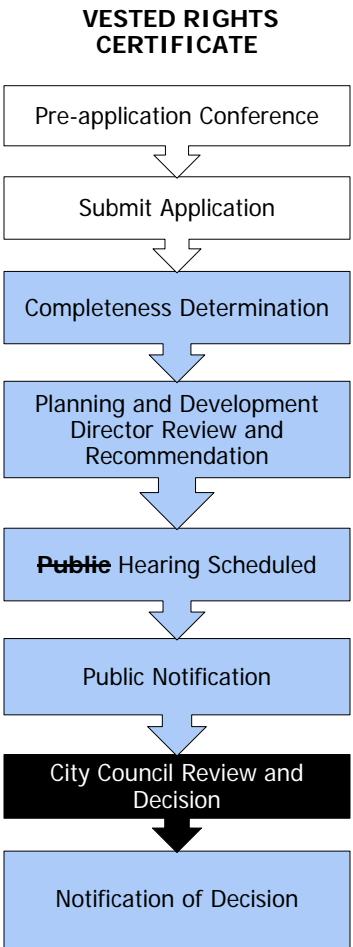


PART M.

That Section 2.4.17.B.5., *City Council Review and Decision*, (including the process flowchart), regarding vested rights certificates, is hereby amended to delete the word “public” as follows:

5. City Council Review and Decision

- (a) ~~Applicable~~ (See Section 2.3.9, Action by Decision-Making Body, and 2.3.7, Quasi-Judicial ~~Public~~ Hearing Procedures).
- (b) The City Council, after the conclusion of a quasi-judicial ~~public~~ hearing, shall decide the application in accordance with Section 2.4.17 C, Vested Rights Certificate Review Standards.



PART N.

That the definition of *Public Hearing, Quasi-Judicial* within Section 10.4., *Definitions*, is hereby amended as follows:

PUBLIC HEARING, QUASI- JUDICIAL	A formal public hearing involving the legal rights of specific parties conducted by the City Council, or the Board of Adjustment or the Historic Preservation Commission based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and typically involve findings of fact made by the decision-making body.
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SECTION 6.

That Section 2.3.10., *Conditions of Approval*, is hereby amended as follows:

D. No condition shall be made part of an approval that:

1. through 4. (*unchanged*)
5. Contains a requirement that the City is not legally authorized to impose, **including, without limitation, taxes, impact fees, building design elements prohibited by State law, driveway-related improvements in excess of those allowed by State law**; or
6. (*unchanged*)

SECTION 7.

That Section 2.4.6.F.1., *Minor Changes*, regarding amendments to conditional zoning districts, is hereby amended as follows:

1. Minor Changes Unless expressly prohibited by City Council in approval of a conditional zoning district, subsequent plans and permits for development within a conditional zoning district may include minor changes from the approved conditions, provided the development continues to meet the minimum requirements of this Ordinance. Minor changes are limited to changes that ~~will result in equal or better compliance with the conditions of approval~~ **have no material effect on the character of the development or its conditions** or that address technical considerations that could not reasonably be anticipated at the time of the conditional zoning approval. The following minor changes may be approved by the Planning and Development Director:

(a) through (h) (*unchanged*)

SECTION 8.

That Section 3.1.5.A. *General*, regarding maintenance of the Official Zoning Map, is hereby amended as follows:

A. General

1. The Official Zoning Map designates the location and boundaries of the various zoning districts established in this Ordinance. ~~The Official Zoning Map shall be kept on file in the Planning and Development Department and is available for public inspection during normal business hours.~~ It is maintained solely in digital form. It shall be the final authority as to the status of the current zoning district classification of land in the City's planning jurisdiction, and shall only be amended in accordance with Section 2.4.6., Conditional Zoning, Section 2.4.9., Planned Development, and Section 2.4.20., Zoning Map Amendment.
2. The Planning and Development Director shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.
3. The Official Zoning Map, as well as maps incorporated by reference, shall be kept on file in the Planning and Development Department and is available for public inspection during normal business hours.

SECTION 9.

(Regarding the term "historic guidelines".)

PART A.

That Section 3.8.8.B.4., *Architectural and Historic Guidelines*, is hereby amended as follows:

- (a) **Purpose** Architectural and historic ~~guidelines standards~~ provide a framework from which recommendations may be offered about the appropriateness of exterior treatment in an LHO.
- (b) **Adoption** Following the adoption of an LHO by City Council and prior to the effective date of the LHO, the HPC shall adopt detailed architectural and historic ~~guidelines standards~~ applicable to proposals within a designated LHO. Review and comment by City Council shall be required before the HPC adopts any such ~~guidelines standards~~.

(c) **Contents**

- (1) These ~~guidelines~~ **standards** shall take into account the historic, architectural, and visual elements of the district.
- (2) The ~~guidelines~~ **standards** should give consideration to exterior form and appearance including, but not limited to:

(i) through (xi) (*unchanged*)

- (d) **Amendments** The ~~guidelines~~ **standards** may be amended in accordance with the procedures and standards established for their original approval

PART B.

That Section 3.8.8.D., *Dimensional Standards and Exceptions*, is hereby amended as follows:

- C. **Dimensional Standards and Exceptions** Buildings and structures within a LHO district shall comply with all requirements of the underlying zoning district, except as follows:
1. (*unchanged*)
 2. Variances shall be decided following a recommendation from the HPC and may be granted only if it is found that the request complies with the intent of the architectural and historic ~~guidelines~~ **standards** of the LHO District.
 3. Where the HPC, in considering an application for a certificate of appropriateness, finds the number of off-street parking spaces and/or design standards for parking specified by this Ordinance would render the site incompatible with the historic district design ~~guidelines~~ **standards** and the historic character of the LHO District, it may provide a recommendation for an Administrative Adjustment in accordance with Section 2.5.2, Administrative Adjustment.

SECTION 10.

(Regarding enforcement, investigations and inspections as required by State statutes.)

PART A.

That Section 9.5.2. *Investigations*, is hereby amended as follows:

As appropriate, any of the directors listed in Section 9.5.1 above has the power to conduct such investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance, and for this purpose **the right upon presentation of proper credentials** to enter at **any** reasonable ~~times~~ **hour** upon any property, ~~public or private,~~ **within the jurisdiction** for the purpose of investigating any

complaints or alleged violations of this Ordinance; **provided that the appropriate consent has been given for areas not open to the public or that an appropriate inspection warrant has been secured.**

PART B.

That Section 9.5.3. *Inspections*, is hereby amended as follows:

As appropriate, any of the directors listed in Section 9.5.1 above has the right upon presentation of proper credentials, ~~or inspection warrant if necessary,~~ to enter on any ~~premises property~~ within the jurisdiction at any reasonable hour for the purposes of inspecting the sites of any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance; **provided that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.**

SECTION 11.

That Section 10.1.7., *Delegation of Authority*, is hereby amended as follows:

Any act authorized by this Ordinance to be carried out by a director may be delegated by the appropriate director to a subordinate of that department. **Upon authorization of the City Manager, any specific power or duty of a director may be assigned to another City director.**

SECTION 12.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 13.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 14.

This ordinance shall become effective on July 1, 2021.

Adopted by the City Council
City of High Point, North Carolina
The **XX** day of **MONTH, 2021**
Lisa B. Vierling, City Clerk

TEXT AMENDMENT 21-01

Ordinance #XXXX/XX-XX

Applicant: City of High Point

By: _____

Jay W. Wagner, Mayor

ATTEST:

Lisa B. Vierling, City Clerk