



Code Enforcement Update

Presented by

Buncombe County Staff

(Planning, Permits, Env Health, Solid Waste, Legal, BCSO, Air Quality, Fire Marshal)



Complaints – Life Safety versus Aesthetics/Nuisance

“They built a house without permits.”

“Raw sewage is being pumped on the ground.”

“I don’t like my neighbor’s house siding and his fence is ugly.”

“This farm stinks, the rooster crows.”

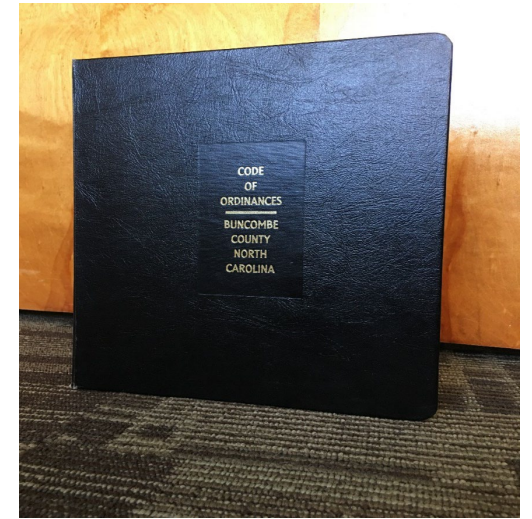
“That guy is burning mattresses and tires.”

“They dumped a truckload of dirt and rock in the river!”

“They are firing guns all day long. Where I’m from, you can’t do that!”



Every Year Hundreds of Complaints Received



- Animals - **BCSO**
- Buildings and Building Regulations - **Permits**
- Businesses – Adult Establishments, Pawnbrokers – **Planning/BCSO**
- Environment – **Air**, Junkyards, Noise, Erosion Control, Junk Vehicles, Stormwater
- ***Environmental Health** – via NC Dept. Health and Human Services
- Fire Prevention and Protection – **Fire Marshal**
- Flood - **Planning**
- Solid Waste – **Solid Waste**
- Zoning - **Planning**



Pandemic Exacerbated the Situation

- Increase in complaint cases
- Increase in complexity of cases involving various disciplines
- Poverty, substance abuse, homelessness and other social issues have compounded the problem
- Haves and Have Nots
- Working from home brought about more situational awareness of neighbors and surrounding issues in neighborhoods
- Increased litigation – neighbor -vs- neighbor
- Urbanization leading to increased interface between rural and urban development patterns

Public education is a key strategy for Staff to explain what the County can and cannot do to assist with complaints.



Creation of Code Enforcement Team

- Silo Deconstruction
- Case Management System Meant to Specifically Address Backlog
- Regular Meetings
- Discuss Mitigation Strategies, Assign Cases to Specific Disciplines
- Coordinate with Outside Agencies (DEQ, ACOE, NCDOT, MSD, etc.)
- Innovate Solutions



Planning

Erosion Control



Flood



Junk Vehicles, Solid Waste



Stormwater



Solutions

- Voluntary compliance is often our best strategy
- Process includes – receive complaint, allow for time to mitigate
- Notice Of Violation (NOV)
- While some enforcement issues are singularly similar, almost every multi-disciplinary case is unique
- Appeal process with various Boards
- Legal remedies – discussed later in presentation



Unsafe Buildings Condemned

GS 160D-1119 outlines the actions to be taken on buildings that are unsafe and in severe disrepair

- GS 160D-1119(a)- dangerous to life because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress



Permits

Unsafe Buildings Condemned

- GS 160D-1121, must give notice to the owner stating the following
 - Constitutes a fire hazard
 - Is dangerous to life, health, or other property
 - Causes or contributes to blight, disease, vagrancy, or danger to children
 - Has a tendency to attract persons intent of criminal activities or other activities that would constitute a public nuisance
 - That an administrative hearing will be held no later that 10 days after the date of the notice
 - Following the hearing the inspector shall issue an order to repair, close, vacate, or demolish
- GS 160D-1125, is for the final enforcement and (a) authorizing action (b) removal of buildings (c) additional liens (d) nonexclusive remedy



Unsafe Building Condemned

Timeline*

- Complaint and investigation- 2 days
- Documentation and owner discussions- 5 days (depending if legal is needed)
- Complaint and hearing establishment- 10 days
- Hearing – 1 day
- Notification of findings and order- 14 days
- Timeline to comply- 60 days
- Noncompliance removal potentially 60-120 days

This is a simple condemnation. Each can vary depending on ownership, building use and building occupancy.

*This timeline assumes no appeals are filed



Fire Prevention Code Standards

As enforced by the Buncombe County Fire Marshal's Office

- ✓ All commercial and multi family structures in Buncombe County.
- ✓ This includes assembly and event centers.
- ✓ Any licensed agriculture operation is exempt.
- ✓ There are over 5000 commercial structures in Buncombe County.
- ✓ A majority of these are semi-annual inspections.



Rural vs. Urban-Access Issues

- As commercial and multi-family developments cross into rural areas, access issues arise.
- Commercial access is much easier to negotiate and resolve.
- Single family access issues can cause much larger problems.
- Natural disasters can cut off access to entire communities.
- Do we solve this issue with ordinance updates?
- Do we solve the issues at the Building Permit level?



Solid Waste

GS 62-28 Duties and Responsibilities of Property Owners and Occupants

- (1) Maintain property in a clean, sanitary and orderly appearance
- (2) No open Dump
- (3) Remove and properly dispose of solid waste



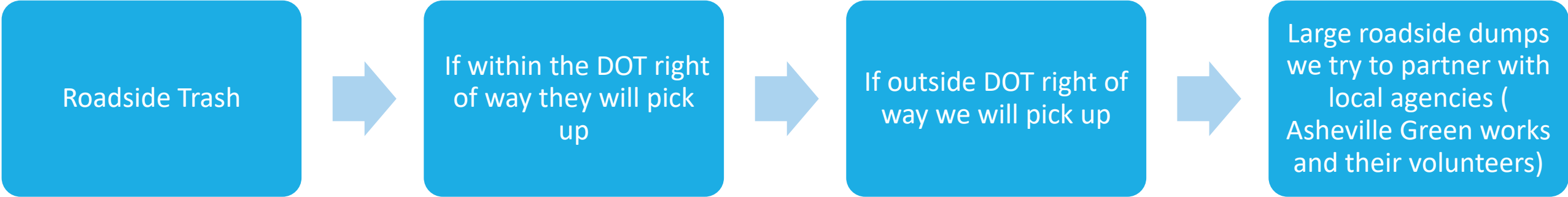
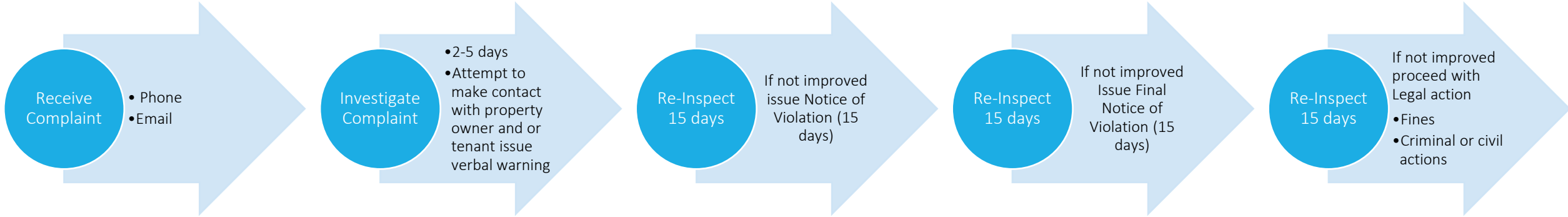
Solid Waste

Enforcement of Ordinances NCGS 62-28

- Investigate Complaint received
- Involve other county departments if warranted
- Issue up to 2 Notices of violations
- Legal actions



Solid Waste



Enforcement Options

- Provide Dumpster
- County Clean-up

Property owner, occupant of property sign off and agrees to reimburse the County the cost of clean-up

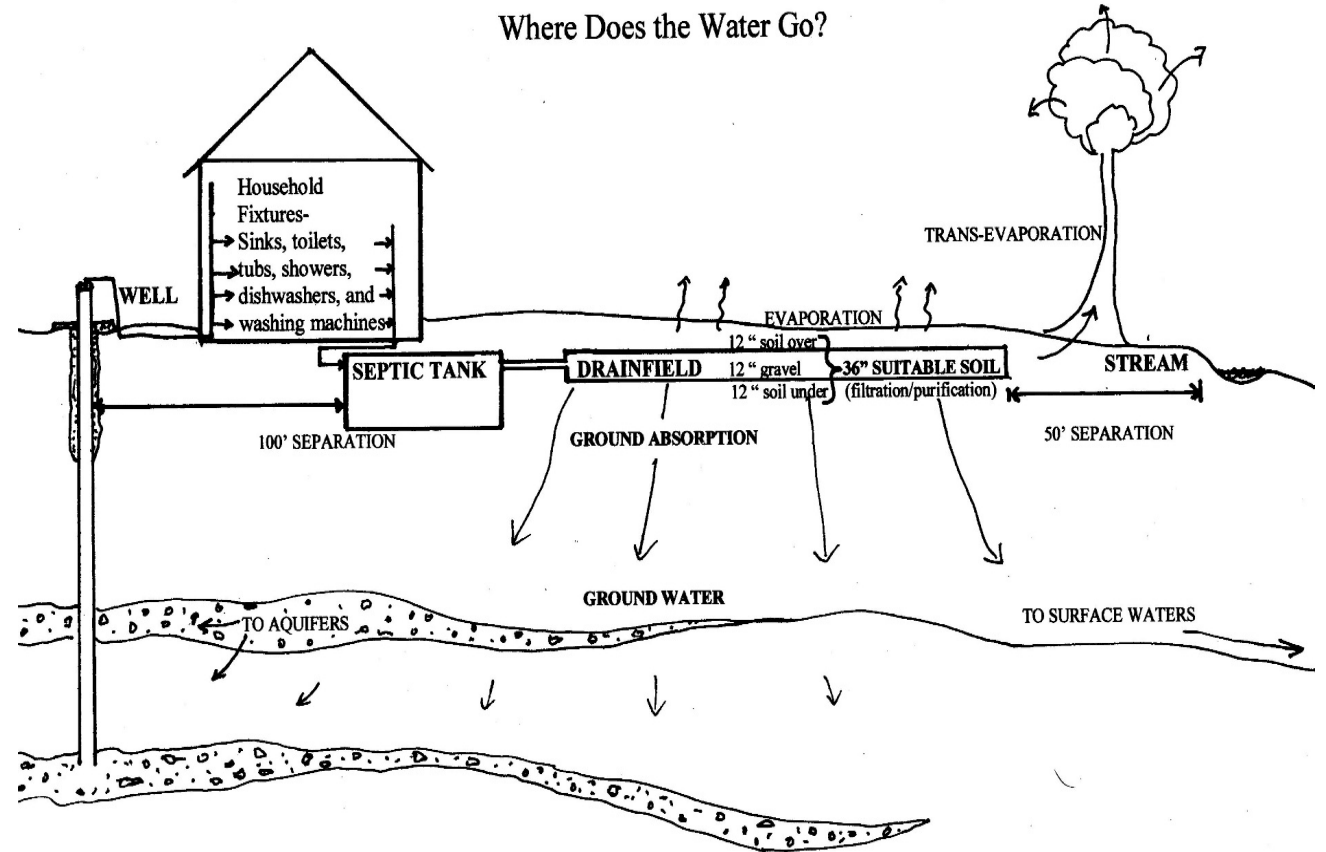
- Legal Action



Environmental Health

Environmental Health Delegation of Authority

- Environmental Health is essential service of Public Health (NCGS 130A-1.1(b))
- In NC all buildings with plumbing fixtures and no access to city sewer, must be connected to an approved wastewater system. (NCGS 130A-335)
 - Avoids the spread of disease by preventing human sewage from contaminating ground, surface, well water supplies & streams and creeks



Environmental Health

Septic System Failures or Complaints

- Sewage comes up on the ground surface, or goes into any stream, creek or lake, or contaminates the ground water (well water supply)
- Sewage backs up into the building
- Sewage straight piped/discharged on the ground



Septic System Complaint Process

- Complaint received and is verified by a visit to property
- Notice of Violation, NOV, is issued (Up to 90 days total)
- Legal options to correct failing systems, Local Health Director can:
 - Injunction NCGS 130A-18, court order instructs a person to stop violating public health laws
 - Abatement
 - Public Health Nuisance NCGS 130A-19, directs person to abate public health nuisance
 - Imminent Hazard NCGS 130A-20, Health Director can
 - Order owner to abate imminent hazard or
 - Health Director can abate imminent hazard
 - Misdemeanor NCGS 130A-25 for violating a public health law or rule



Permissible Open Burning

- Buncombe County residents can burn natural vegetation that originates from their own property on burning days between 8:00 a.m. and 6:00 p.m.
- Burning is not allowed where there is public pick up for yard waste (City of Asheville, Towns of Weaverville, Black Mountain, Woodfin, Montreat, and Biltmore Forest)
- Permits are no longer required by this Agency for the burning of machine piled brush, that is the result of land clearing. However, all land clearing must comply with the regulations: 500' from the nearest occupied structure, no logs or stumps over 12" diameter, and no dirt.
 - Set back requirement was changed by the NCGA from 1,000 feet to 500 feet in 2011.
 - Land clearing is related to construction of buildings, right of way maintenance, residential, commercial, or industrial development.



Illegal Open Burning

Open Burning Regulations:

- Open burning is regulated under Asheville Buncombe Air Quality Code Chapter 4 Section 1900
- Burning of household trash, construction materials, asphaltic materials, card board, processed wood, and papers are prohibited at any time
- More toxic air pollution is emitted by one burn barrel of trash than a municipal solid waste incinerator!
- Civil penalties-\$25,000 Maximum



BUNCOMBE COUNTY SHERIFF'S OFFICE, ANIMAL SERVICES DIVISION

- **Rabies:** Document incidents of animal bites. Implementation of rabies quarantines and rabies testing. Issuance of citations for failure to vaccinate animals as required by law.
- **Dangerous dogs:** Investigation of incidents where: Approached people in a vicious or terrorizing manner. Seriously injured another domestic animal. Inflicted “serious injury” upon a person, regardless of the location.
- **Stray/feral/community cats:** Our Trap-Neuter-Return (TNR) program addresses the at-large cat populations in Buncombe County. This program has greatly reduced the euthanasia rate at the county animal shelter and stabilized the populations of stray cats, county-wide.
- **Pickup of owner-surrendered animals:** Approximately 2+ years ago The Asheville Humane Society, with the approval of county government, implemented a “structured intake process” for owner-surrendered animals at the county animal shelter, in an effort to mitigate overcrowding and reduce euthanasia rates at the shelter.



BUNCOMBE COUNTY SHERIFF'S OFFICE, ANIMAL SERVICES DIVISION cont.

- **Animal noise issues:** Animal noise issues, primarily barking dogs, are addressed in both the noise ordinance and the animal control ordinance. An animal services officer may issue a civil citation.
- **If complaints against an animal owner are not substantiated,** or if they have been substantiated but the problem persists, complainants are given a “Bark packet” to begin a process put in place by agreement between The Buncombe County Sheriff's Office and the District Attorney's Office.
- **Seizure of the animals** has to be ordered by the court and can only be done so pursuant to: Sentencing on a criminal charge wherein the animal owner has a record of several convictions that would authorize the court to award active jail time on a Class III misdemeanor.
- **Animal odor and waste runoff issues:** are highly subjective and waste runoff is difficult to detect or quantify. Deputies do respond to investigate these complaints, however complainants are often directed to the magistrate's office.



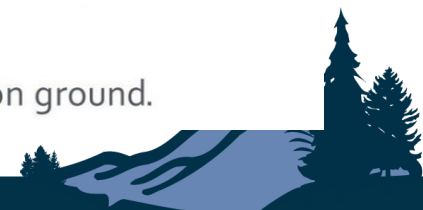
Alternative and Legal Remedies

- Mediation/arbitration – The Mediation Center
- Fines
- Liens – clean up costs, etc.
- Court

The Mediation Center



Finding common ground.



Key Takeaways

- The subject matter experts presenting today are your resource and specialize in the day to day intake, investigation and resolution of code enforcement issues.
- Jason Rogers is the primary staff contact for the code enforcement team: Jason.Rogers@buncombecounty.org



Questions?

