

Zoning Ordinance Amendments: G.S. 160D

Zoning Ordinance Section	Amendment
Ordinance Enabling Statement	Remove: Article 18, Part 3, Zoning of Chapter 153A and insert Chapter 160D Articles 1 through 14.
Entire Document	Change statutory references from 153A to corresponding 160D.
SECTION 5 Conditional Zoning Districts 5.5 Conditions	Add Language: Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions mutually approved by the local government and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-5-1, or the impacts reasonably expected to be generated by the development or use of the site
SECTION 5 Conditional Zoning Districts 5.5 Conditions	Add language: Property may be placed in a conditional zoning district only in response to a petition by the owners of all the property to be included Specific conditions applicable to the district may be proposed by the petitioner or the county, but only those conditions approved by the county and consented to by the petitioner in writing may be incorporated into the zoning regulations or permit requirements.
SECTION 5 Conditional Zoning Districts 5.7 Procedure	Add statutory reference: 106D-602.
SECTION 5 Conditional Zoning Districts 5.7 Procedure	Add language to 5.7 A (1) (a) : Properties are abutting even if separated by a street, railroad, public or private right of way, or other transportation corridor. Remove Language: and include properties directly across a street, easement or public or private right of way.
SECTION 5 Conditional Zoning Districts 5.7 Procedure	Add language to 5.7 D(3)(a) : A notice of the public hearing shall be prominently posted on the site proposed for the Conditional Zoning District or on an adjacent public street or highway right-of-way during the same time period specified for mailed notices of the hearing.
SECTION 5 Conditional Zoning Districts 5.9 Alterations to Approval	Add language to 5.9 (B) : Any modifications in conditional district standards that do not involve a change in uses permitted or the density of the overall development permitted may be reviewed and approved administratively. Remove Language: that increase the intensity of the development are limited for nonresidential development to 10% of the approved building square footage or 5,000 square feet, whichever is less. For residential development, increases in density are not allowed as an administrative change.
SECTION 6.1 Zoning Map	Remove: 160A-79(b) and G.S. 153A-50 and insert 160D-105.
SECTION 6 OFFICIAL MAPS ADOPTED - DISTRICT BOUNDARIES ESTABLISHED	Add 6.2 Incorporation by Reference This ordinance, pursuant to G.S. 160D-105, shall reference or incorporate by reference, flood insurance rate maps, watershed boundary maps, or the maps officially adopted or promulgated by state and federal agencies. For these maps, a regulation text or zoning map may reference the most recent officially adopted versions of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated state and federal maps provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in Section 6.1.
SECTION 7.2 Definitions	Add the definition for Administrative Decision - Decisions made in the implementation, administration or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance.
SECTION 7.2 Definitions	Change Building definition- Any structure having a roof supported by walls or columns constructed, used or intended for supporting or sheltering any use or occupancy.
SECTION 7.2 Definitions	Add the definition for Development - The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result

	of development. Reference to a specific operation is not intended to mean that the operation activity, when part of other operations or activates/, is not development. Reference to particular operations is not intended to limit the generality of this item.
SECTION 7.2 Definitions	Add the definition for Dwelling - Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.
SECTION 7.2 Definitions	Change Dwelling Unit definition- A single unit, or a portion of a multi-family dwelling, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
SECTION 7.2 Definitions	Add definition for Legislative Decision - the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of Chapter 160D of the North Carolina General Statutes.
SECTION 7.2 Definitions	Add Definition for Map Repository - The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (http://FRIS.NC.GOV/FRIS) is the map repository, and for historical flood hazard data the FloodNC website (http://FLOODNC.GOV/NCFLOOD) is the map repository.
SECTION 7.2 Definitions	Add definition for Public Facilities - Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.
SECTION 7.2 Definitions	Add definition for Quasi-Judicial Decision - A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.
SECTION 7.2 Definitions	Add definition for Special Use Permit - A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions."
SECTION 7.2 Definitions	Add definition for Sleeping Unit - A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
SECTION 8 General Provisions	Add SECTION 8.10 Conflicts of Interest Administrative Staff . No staff member shall make a final decision on an administrative decision required by G.S. 160D-109 if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact of the staff member or the if the applicant or other person subject to that decision is a person with whom the staff member has close familial, business, or other associational relationship.
SECTION 10 Schedule of District Regulations	Add language: No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the county. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

	(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage. (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
SECTION 10.13 Zoning Table of Permitted Uses	Chance CU to SUP = Special Use Permit Only. All CU in the table changed to SUP.
SECTION 12 Landscape and Buffering Standards	Change Conditional Use Districts to Conditional Zoning Districts.
Section 17 Special Use Permits	Add a new section: 17.10 Quasi-Judicial Procedure
SECTION 18 Board of Adjustment	Add D. Conflicts of Interest to 18.2 Members of the Board of Adjustment shall not vote on advisory or legislative decisions regarding a development regulation adopted pursuant to this Chapter 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.
SECTION 18.2 Meetings	Remove G.S. 160A-388 and G.S. 153A-345.1 and insert 160D-302.
SECTION 18.2 Meetings C. Subpoenas	Remove G.S. 160A-393(d) and insert 160D-1402
SECTION 18.5 Appeal Procedure	Remove G.S. 160A-393(d) and insert 160D-1402
SECTION 18.5 Appeal Procedure	In #2 of 18.5 change the word decision to determination.
SECTION 18.5 Appeal Procedure	In #3 of 18.5 add: "In the absence of evidence to the contrary, notice pursuant to 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of notice for mailing with the United States Postal Service."
SECTION 18.6 Vote Required- Judicial Appeal	Remove G.S. 160A-393 and insert 160D-1402
SECTION 19 Amendment to Zoning Ordinance	Add language to 19.9 Board of Commissioners Receives Recommendation of Planning Board : The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the board that at the time of action on the amendment the board was aware of and considered the planning board's recommendations and any relevant portions of an the comprehensive plan.
Section 19.9 Board of Commissioners Receives Recommendation of Planning Board	Add and remove language: the Board of Commissioners must also issue a declaration that the adopted comprehensive plan in question is also amended the zoning amendment shall have the effect of also amending any future lands use map in the comprehensive plan, and no additional request or application for a plan amendment shall be required.
Section 19.9 Board of Commissioners Receives Recommendation of Planning Board	Add and remove language: The statement must include an explanation of "the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community." A plan amendment and a zoning amendment may be considered concurrently. When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the board. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any areas proposed to be rezoned; (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.
SECTION 19 Amendment to Zoning Ordinance	Add a section 19.12 Vested Rights and Permit Choice
SECTION 19 Amendment to Zoning Ordinance	Add a section 19.13 Vested Rights and Site Specific Vesting Plans

<p>SECTION 20 Enforcement</p>	<p>Add language to 20.1 Zoning Administrator: Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, 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.</p>
<p>SECTION 21 Penalty For Violations</p>	<p>Add language: When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued.</p>
<p>SECTION 21 Penalty For Violations</p>	<p>Add language: The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property.</p>
<p>SECTION 21 Penalty For Violations</p>	<p>Add Language: The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment within 30, an appeal may be made as described in Section 18.5 Appeal Procedures, pursuant to G.S. 160D-405.</p>
<p>SECTION 21 Penalty For Violations</p>	<p>Add language: Revocation of Development Approvals. - In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.</p>