

N.C.G.S Chapter 160D


Zoning, Subdivision, and Flood Damage Prevention Ordinance
Amendments and Updates

What is it ?


Replacing 153A and 160A with
the new and improved 160D

Chapter 160D consolidates, reorganizes, and modernizes the states planning and development regulation statutes and repeals existing statues that are collected and merged into the new chapter 160D. 153A was the enabling statute for County land development regulations.

Overview and History

- In 2019 when the General Assembly was considering 160D there were several bills relating to repeals and replacements of existing statutes.
 - S. 422 and S. 355 merged to create S.L 2019-111
 - Governor Signed S.L. 2019-111 on July 11th 2019
 - In the winter or 2019/2020 Local Governments start receiving guidance and materials from School of Government. Those materials were based on the merged bill.
 - The Effective date of the Legislation was January 1st 2021 to give Local Governments time to implement changes and to give the General Assembly time to consolidate the merged bills.
 - COVID 19 Legislation and new Effective Date.
 - S.L. 2020-25 signed by Governor on June 19th 2020
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Planning Staff Process

- Planning staff received training and materials from the School of Government in the winter of 2020
 - Changes to the County Ordinances were made based on the statutory updates in the merged bill.
 - Staff made the required changes to the Zoning Ordinance and had met with School of Government advisor to receive recommendation.
 - Staff was aware that further changes would be required when the final consolidation bill was passed.
 - Effective date was changed to June 19th 2020 but the County has until July 1st 2021 to implement.
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Zoning Ordinance Amendments

Section 5 Conditional Zoning Districts

5.5 Conditions

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.

In approving a reclassification of property to a conditional zoning district, the Planning Department and Planning Board may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the rezoning. 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.

5.7 A. Community Meeting

Notice of the meeting shall be provided to owners of abutting property, as listed with the Chatham County Tax Department. Properties are abutting even if separated by a street, railroad, public or private right of way, or other transportation corridor.

D. Joint Public Hearing by Board of Commissioners and Planning Board

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

5.9 Alterations to Approval

The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. 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



Section 6 Official Maps Adopted- District Boundaries Established

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 Definitions

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

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.

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, set forth in Section 17 of this ordinance, 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 8 General Provisions

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 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 17 Special Use Permits

17.4 Changes or Amendments

Minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development may be reviewed and approved administratively.

17.10 Quasi-Judicial Procedure...



Section 18 Board of Adjustment

18.4 Appeal Procedure

3. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. **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 19 Amendment to the Zoning Ordinance

19.4 Procedure for Submission and Consideration of Applications for Text Amendment or General Use Zoning Map Amendment

B. Citizen-Initiated Amendments

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 19 Amendment to the Zoning Ordinance

19.9 Board of Commissioners Receives Recommendation of Planning Board

Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan, is reasonable, and in the public interest. **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 the comprehensive plan.** Should the Board of Commissioners adopt a zoning amendment after finding that such an action is not consistent with an adopted comprehensive plan, 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 land use map in the comprehensive plan, and no additional request or application for a plan amendment shall be required.** 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.**



19.12 Vested Rights and Permit Choice

B. Vested Rights

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following: (1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755. (2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755. (3) A site-specific vesting plan pursuant to G.S. 160D-108.1. (4) A multi-phased development pursuant to subsection (f) of this section. (5) A vested right established by the terms of a development agreement pursuant to 160D-403. The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.



19.3 Vested Rights and Site Specific Vesting Plans


A. Site-Specific Vesting Plan – Consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a local government.



Section 20 Enforcement

20.1 Zoning Administrator

The notice of violation shall be delivered to the holder of the development approval and/or the current 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. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or addition, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions. 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.



Section 21 Penalty for Violations

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.




Subdivision Regulations

Section 2 Definitions

Land Use Plan – **Plan Chatham 2017- Chatham County Comprehensive Plan**

Lot Area (Useable) - The area within the lot lines which is a contiguous or non-contiguous area suitable for a septic field, well, house and access. This area does not include public right-of-ways, flood hazard areas, or floodways, or **stormwater devices and associated easements**. Riparian Buffer Areas may be used to meet useable lot area measurement requirements and other development-related regulatory requirements based on property size specified in Section 7.1B.



Section 3 Security for Completion of Improvements

B. Adequate Security

(2) A copy of the power of attorney for any countersigning agent shall be attached. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued unless the developer determines that the scope of work necessitates a longer duration. The period in which required improvements must be completed shall be specified by the County prior to the recordation of the final subdivision plat and shall be incorporated in the contract. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete.


(5) When requirements of 3.2 B(1) have been met, the performance guarantee shall be returned or released, as appropriate, in a timely manner upon acknowledgement by the county that the improvements for which the performance guarantee is being required are complete. The county shall return Letters of Credit or escrowed funds upon completion of required improvements to the specifications of the county, or upon acceptance of the required improvements, if subject to county acceptance. When required improvements that are secured by a bond are completed to the specification of the county, upon request by the developer, the county shall timely provide written acknowledgement that the required improvements have been completed.



Section 3 Security for Completion of Improvements

G. Legal Responsibilities


No Person shall have or may claim any rights under or to any performance guarantee provided pursuant to ordinance or in proceeds of any such performance guarantee other than the following:

1. The County to whom such performance guarantee is provided.
 2. The developer at whose request or for whose benefit such performance guarantee is given.
 3. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.
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Section 4 Types of Subdivisions

D. Expedited Review

This review can only be done once every ten (10) years. If you have residual land and qualify for this review, but you have done it in the last ten (10) years, you will be required to go through the minor subdivision process and pay the Recreational Fee for the district it is in. This review is connected with the land, not the owner. Furthermore, this review is not a faster process, regardless of its title. An expedited review application and associated fee(s) shall apply and be submitted to the County prior to approval of the plat.



Section 6 Specifications for Documents to be Submitted

D. Features

(13) Names of all streets existing and proposed **See Section 6.4 (B) 9.**

Section 7 Requirements and Minimum Standards for Improvements, Reservations, and Design

E. Land Subject to Stormwater Management

Land area that is used by stormwater best management practices, devices, and associated easements shall not be included when calculating the minimum usable lot area.

7.4 Lots

B. Arrangement

3) The easement shall not be within one hundred (100) feet of another easement of this type, unless approved by the Board of County Commissioners after considering lot design, land ownership, topography, and other appropriate information.

Easements shall have no connectivity with another access easement.





Flood Damage Prevention Ordinance

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143, and **Article 1 of Chapter 160D** of the North Carolina General Statutes

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its **most recently adopted Flood Insurance Rate Map FIS dated October 19, 2018** for Chatham County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, preventing Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Chatham County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

