



Chatham County, NC

Legislation Text

File #: 20-3645, **Version:** 1

A request by the Planning Department to schedule a legislative public hearing for November 16th 2020 to consider amendments to the Chatham County Zoning, Subdivision, Watershed Protection, and Flood Damage Prevention Ordinances required by the Chapter 160D Statutory update.

Action Requested:

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Introduction & Background:

In July of 2019 the North Carolina General Statutes consolidated current city- and county-enabling statutes from Chapters 153A and 160A into a single, unified chapter, and placed these statutes into a more logical, coherent organization. Provisions that affect all development regulations (such as definitions and provisions on moratoria, vested rights, and conflicts of interest) were placed in one article, followed by articles that address geographic jurisdiction, creation and duties of boards, administration of regulations, the process for adoption and amendment of regulations, and judicial review of regulations. The new legislation also has significant changes to other land use related functions including, subdivision, building and housing codes, environmental regulation, historic preservation, and community development.

While the new law does not make major policy changes or shifts in the scope of authority granted to local governments, it does provide many clarifying amendments and consensus reforms that will need to be incorporated into local development regulations. Chapter 160D is effective now, but local governments have until July 1, 2021 for to adopt the necessary amendments to conform local ordinances to the new law.

When the legislation was passed in 2019, the chapter 160D update was included as part two of a consolidated law, S.L. 2019-111. It was understood in 2019 that the provisions of Part one would need to be merged into Part two's Chapter 160D prior to the repeal of the city and county zoning statutes amended by Part I. There was also other land use legislation that would need to be added to 160D as well. In order to allow for all these changes to take place, the general assembly pushed the effective date to January 1st 2021. However, due to complication from the COVID19 Pandemic, when the consolidated law was passed in June 2020 the new effective date was July 2021.

Discussion & Analysis:

The school of government provided a list of all the "must, may, and be aware of" items that would need to be included in the local governments ordinance updates. The following changes are the "musts" applicable to the Chatham County ordinances. The 160D related amendments in the Zoning Ordinance are in Sections 5, 6, 7 8, 10, 12, 18, 19, 20, and 21. Language was added to Section 5.5 Conditions which states that conditions imposed on conditional zoning districts must be agreed to by

the county and petitioner and approval must be in writing. Language in Section 5.7 Procedure was modified regarding abutting properties and mailed notice. In Section 5.9 Alterations to Approval, language was added stating: 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.

The change to Section 6 is the addition of language regarding incorporation by reference. Section 6.2 was added to allow the reference or incorporation by reference of, flood insurance rate maps, watershed boundary maps, or any other maps officially adopted or promulgated by state and federal agencies. The planning department was already doing this for FIRMs and other federal maps.

There are eleven definitions either edited or added to Section 7 Definitions. The definition for building and dwelling unit were changed to conform to the new statutory language. New definitions for Administrative Decision, Development, Dwelling, Legislative Decision, Map Repository, Public Facilities, Quasi-Judicial Decisions, Special Use Permit, and Sleeping Unit were added to Section 7 because they were specifically added to the new statutes.

Section 8 is amended to add new Conflict of Interest standards for administrative staff. New Conflict of Interest standards were also added to the Board of Adjustment Section. Section 10 was amended to add new language regarding third part down-zoning. The new statutory language makes clear that no down-zoning 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, unless it is initiated by the County. Section 10.13 the table of uses was amended to change all references to Conditional Use Permits to Special Use Permits. All CU's are now SUP's.

Section 17 is changed to Special Use Permits, with a new subsection 17.10 Quasi- Judicial Process. Section 18.5 Appeal procedure was amended to conform notice standard to new rules regarding notice for mailing with the United States Postal Service.

In Section 19 new language is added that states 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. Section 19 also has two substantial additions regarding Vested Rights. Section 19.12 and 19.13 are added and amended to conform to statutory language.

Sections 20 and 21 had language added to conform to the 160D updates regarding the enforcement of the Zoning Ordinance and the Penalty for Violations. The 160D updates also include new language for the Subdivision Ordinance, with the majority of the changes related to financial guarantees.

The new statutory language refers to Financial Guarantees as Performance Guarantees so the language in Chatham's ordinance was amended to reflect that.

Section 3 has added language that states 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.

Section 3 has two new subsections added that amend and add language regarding contracts for Performance Guarantees and the returning of bonds and letters of credit the developers when improvements are complete.

Over the last 18 months the planning department has become aware of several other amendments that need to be made to the Subdivision Ordinance. Planning staff thought it was appropriate to submit those amendments with the 160D updates. In section 4 of the subdivision ordinance language was added to clarify some misconceptions regarding expedited review, namely that is faster than other review process. Additionally, the word plat replaced the word subdivision in areas where the word plat made more sense.

In section 5 the Environmental Quality Department is used. As that department was changed to Watershed Protection the language in the ordinance was amended accordingly. The changes to the subdivision ordinance are mostly housekeeping items such as the ones mentioned. For a more detailed list please see the attachment labeled Table of Changes.

How does this relate to the Comprehensive Plan:

Land Use Recommendation 02: Support context-sensitive design that preserves rural and small town character. **Land Use Policy 12:** Work toward an open (clear/concise) and cooperative approach to land use planning and regulation.

Recommendation:

Schedule the Public Hearing for November 16th 2020 to consider amendments to the Chatham County Zoning, Subdivision, Watershed Protection, and Flood Damage Prevention Ordinance