

[illegible][illegible]

---

---

---

---

---

---

### What is the status of 160D updates for your jurisdiction?

Have not yet started.	Reviewed materials, but still a long way to go.	Made significant progress, but still substantial work to do.	Staff work is done or nearly done, but need approval from governing board.	We are done.
-----------------------	---	--	--	--------------

Start the presentation to see live content. For screen share software, share the entire screen. Get help at [patex.com/ncgov](http://patex.com/ncgov)

UNC SCHOOL OF GOVERNMENT

4

---

---

---

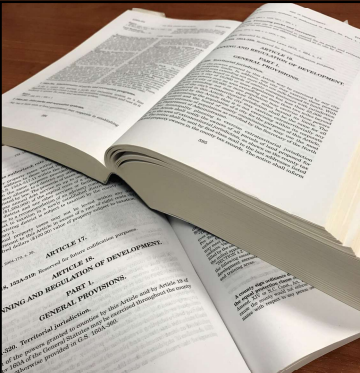
---

---

---

---

---



### Consolidate

CHAPTER 160D  
A NEW LOOK AT LAW FOR NORTH CAROLINA

5

---

---

---

---

---

---

---

---

### Organize

<b>General Articles</b> <ol style="list-style-type: none"> <li>1. General Provisions</li> <li>2. Jurisdiction</li> <li>3. Boards, Organization</li> <li>4. Administration, Enforcement, Appeals</li> <li>5. Planning</li> <li>6. Process to Adopt and Amend Regulations</li> </ol>	<b>Specific Articles</b> <ol style="list-style-type: none"> <li>7. Zoning</li> <li>8. Subdivision</li> <li>9. Particular Uses, Areas</li> <li>10. Development Agreements</li> <li>11. Building Code and Building Condition</li> <li>12. Housing Codes</li> <li>13. Miscellaneous Additional Authority</li> <li>14. Judicial Review</li> </ol>
--	---

UNC SCHOOL OF GOVERNMENT

CHAPTER 160D  
A NEW LOOK AT LAW FOR NORTH CAROLINA

6

---

---

---


---


---


---

---

---







## 10. Adjusted Deadlines

7

---

---

---


---


---


---

---

---







## Adjusted Deadlines

- Originally January 1, 2021
- Effective NOW! (S.L. 2020-25)
- Local governments have until July 1, 2021 to implement
- Comprehensive plan by July 1, 2022

8

---

---

---


---


---


---

---

---







## Adjusted Deadlines

Practical Effect

Ch. 160D becomes fully effective (and Ch. 153A/160A provisions repealed) when:

- (1) it updates its development regulations **OR**
- (2) on July 1, 2021

Whichever happens first

9

---

---

---

---

---

---

---

---

## Adjusted Deadlines

- Now 160D Authorities Available
- July 1, 2021 Local ordinances must be updated
- July 1, 2022 Comp plan or land use plan required for zoning

UNC SCHOOL OF GOVERNMENT CHAPTER 160D

10

---

---

---

---

---

---

---

---

## 9. Plan Requirement

UNC SCHOOL OF GOVERNMENT CHAPTER 160D

11

---

---

---

---

---


---

---

---

## Prior Law

No general requirement for a comprehensive plan



UNC SCHOOL OF GOVERNMENT CHAPTER 160D

12

---

---

---

---

---

---

---


---


### New Requirement

Article 5 of Chapter 160D

In order to impose zoning regulations, a local government **must** have a comprehensive plan

Grace period until July 1, 2022





13

---

---

---

---


---

---



---

---

### 2018 Survey Numbers



- 68% of responding cities have a plan
- 78% of responding counties have a plan

14

---

---

---

---

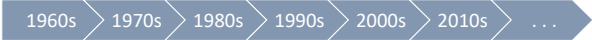


---

---

---

---

### “reasonably maintain”

15

---

---

---

---

---

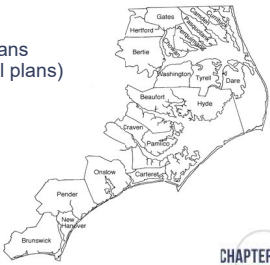
---

---

---

## Plan Coordination

- May be coordinated with other plans (CAMA, functional plans, regional plans)



UNC SCHOOL OF GOVERNMENT CHAPTER 1600

16

---

---

---

---

---

---

---

---

## SL 2020-25

Land use plan may suffice for comprehensive plan

UNC SCHOOL OF GOVERNMENT CHAPTER 1600

17

---

---

---

---

---

---

---

---

## 8. Consistency Statements Streamlined

UNC SCHOOL OF GOVERNMENT CHAPTER 1600

18

---

---

---

---

---

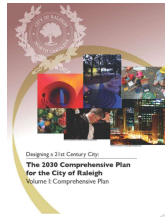
---

---

---

## Plan Consistency

- Simplify plan consistency statements
  - Delete requirement to use one of three forms of consistency statement
  - Briefly describe how action is or is not consistent with adopted plans
- Simplify plan amendment if inconsistent zoning amendment is adopted
  - FLUM deemed amended, not entire plan



19

---

---

---

---

---

---

---

---

## Plan Consistency

- Can approve zoning amendment and plan statement with single motion
- Minutes can suffice if no formal statement approved
  - But only if the governing board was aware of and actually considered the planning board recommendation and the plan before acting on the amendment



20

---

---

---

---

---

---

---

---

## Reasonableness

- Mandatory for zoning map amendments
- Optional for zoning text amendments
- Factors to address are set out
  - Same as for spot zoning analysis
- Can combine plan consistency and reasonableness statements

21

---

---

---

---




---

---

---

---

# 7. Keep Maps on File

22

---

---

---

---

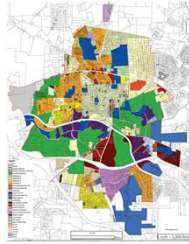
---

---




---

---

## Maps (160D-105)



- Official maps may be incorporated by reference (specific map or most recent)
- Clerk or other specified office must maintain for public inspection
  - Current and past zoning maps
  - Current maps incorporated by reference
- Paper or digital format is allowed

23

---

---

---

---

---

---

---

---

# 6. Align Terminology





24

---

---

---

---

---

---

---

---



	Legislative	Quasi-Judicial	Administrative
Character			
Example			
Hearing			
Decision-Maker			

UNC SCHOOL OF GOVERNMENT CHAPTER 1600

25

---

---

---

---

---

---

---

---

### Uniform Terminology and Streamlined Process

- "Special Use Permit"
  - Quasi-judicial approval with site-specific conditions
  - Replaces conditional use permit and special exception
- "Conditional Zoning"
  - Legislative approval with site-specific conditions
  - Replaces conditional use district zoning
- End of Conditional Use District Zoning
- Transition for existing approvals

UNC SCHOOL OF GOVERNMENT CHAPTER 1600

26

---

---

---

---

---

---

---

---

## 5. Get Consent for Conditions

UNC SCHOOL OF GOVERNMENT CHAPTER 1600

27

---

---

---

---

---

---

---

---

## Conditions and Estoppel

- QJ conditions on remand (160A-393; SL 2019-111, Sec. 1.9)

**SECTION 1.10.** Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-393.2. No estoppel effect when challenging development conditions.**

A city or county may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant."

28

---

---

---

---

---

---

---

---

## Conditions on Remand

- QJ conditions on remand (160A-393; SL 2019-111, Sec. 1.9)

- If the court concludes that a permit was wrongfully denied because the denial was not based on substantial competent evidence or was otherwise based on an error of law, the court ~~may~~ shall remand with instructions that the permit be issued, subject to ~~reasonable and appropriate conditions~~ any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

29

---

---

---

---

---

---

---

---

## Conditional Zoning

160A-382; 153A-342; SL 2019-111, Sec. 1.14 & 1.15

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions ~~mutually~~ mutually-approved by the city and ~~consented to by the petitioner in writing~~ may be incorporated into the zoning regulations or permit requirements. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, including the establishment of special or conditional use districts or conditional zoning, a city may not require, enforce, or incorporate into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160A-381(h), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. 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 city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

30

---

---

---

---

---

---

---

---

## 4. Clarify Vested Rights

31

---

---

---

---

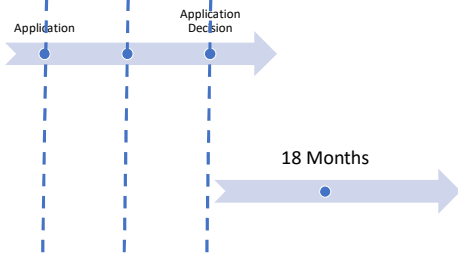
---

---

---

---

## Broadened Permit Choice (S.L. 2019-111, Pt. I)



32

---

---

---

---

---

---

---

---

Type of Permit/Rights	Period of Validity	Summary of Applicability
Development Permits	12 months	General rule that development approvals (site plans, plats, special use permits, and more) are valid for twelve months unless altered by other statutes. Local regulations may extend the period of validity. G.S. 160D-108.
Site-Specific Vesting Plan	2 years (up to 5)	Certain approvals identified by local ordinance create extended vesting. Permit must be identified as such at the time of approval. G.S. 160D-108.1.
Multi-Phased Development	7 years from first site plan approval	Qualifying development enjoys extended vesting. Must be at least 25 acres in size, subject to a master development plan with committed elements, to be permitted and built in phases. G.S. 160D-108.
Validity after Development Discontinuation	2 years	For a development that has substantially commenced work, statutory vested rights expire after 24 consecutive months of discontinuance of the project. The discontinuance period is tolled for any litigation relating to the project or property. (Building permits limited to 12 months of discontinuation.) G.S. 160D-108.
Development Agreement	Per agreement	Negotiated agreement between developer and local government specifying a range of development topics, including period of vesting. G.S. 160D-108 & -1007.

33

---

---

---

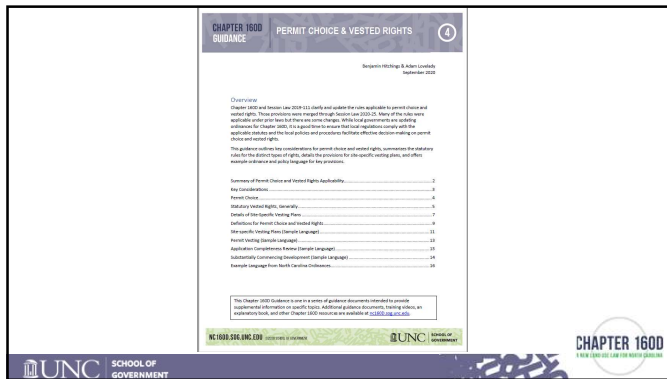
---

---

---

---

---



34

---

---

---

---

---

---

---

---

---

---



35

---

---

---

---

---

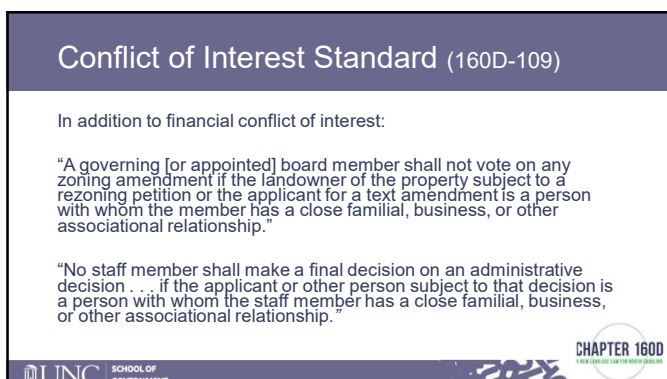
---

---

---

---

---



36

---

---

---

---

---

---

---

---

---

---



37

---

---

---

---

---

---

---

---



38

---

---

---

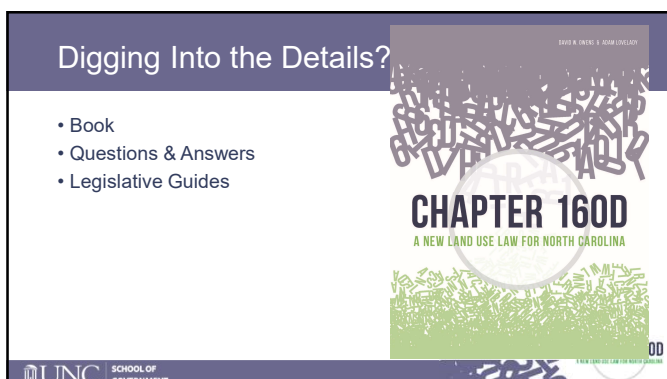
---

---

---

---

---



39

---

---

---

---

---

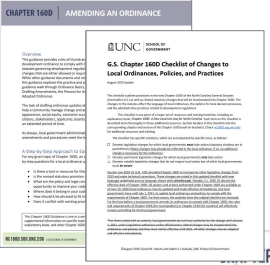
---

---

---

## Drafting Ordinance Updates?

- Office Hours  
Free, but registration required  
1:00-2:00; Sept 10, Oct 8, Nov 5, Dec 3
- Updated Checklist
- Guidance Documents



UNC SCHOOLS OF GOVERNMENT

CHAPTER 160D

40

---

---

---

---

---

---

---

---

## 160D Code Scan

- Secondary review of amendments already drafted by the local government (not a code drafting service)
- Includes
  - initial call, a scan of applicable ordinances, a review and mark-up of 160D updates, a call to discuss findings, and a follow up email with additional resources, as applicable
  - Up to 10 hours of staff time
- \$1,200 flat fee

UNC SCHOOLS OF GOVERNMENT

CHAPTER 160D

41

---

---

---

---

---

---

---

---

## 1. Relax

UNC SCHOOLS OF GOVERNMENT

CHAPTER 160D

42

---

---

---

---

---

---

---

---

Recap

10. Adjusted Deadlines

9. Plan Requirement

8. Consistency Statements Streamlined

7. Keep Maps on File

6. Align Terminology

5. Get Consent on Conditions

4. Clarify Vested Rights

3. Broadened Conflicts of Interest

2. Lots of SOG Resources

1. Relax

UNC SCHOOL OF GOVERNMENT

CHAPTER 160D

43

---

---

---

---

---

---

---

---

DAVID W. PERDUE & KATHY JOHNSON

CHAPTER 160D

A NEW LAND USE LAW FOR NORTH CAROLINA

For additional resources, training options, and more, visit:

[nc160D.sog.unc.edu](http://nc160D.sog.unc.edu)

UNC SCHOOL OF GOVERNMENT

CHAPTER 160D

44

---

---

---

---

---

---

---

---