


Chapter 160D
Updated Laws for Development Regulations

David Owens & Adam Lovelady
NCAZO Annual Conference
August 2019




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Resources on the Way!


- Website: nc160D.sog.unc.edu
- Explanatory Book (Winter)
- Annotated Bill (available)
- Checklist for Ordinance Update (Fall)
- Cross-Over Chart (Fall)
- FAQs (Fall, ongoing)
- On-Demand Training (Fall)
- Regional Workshops (Winter)



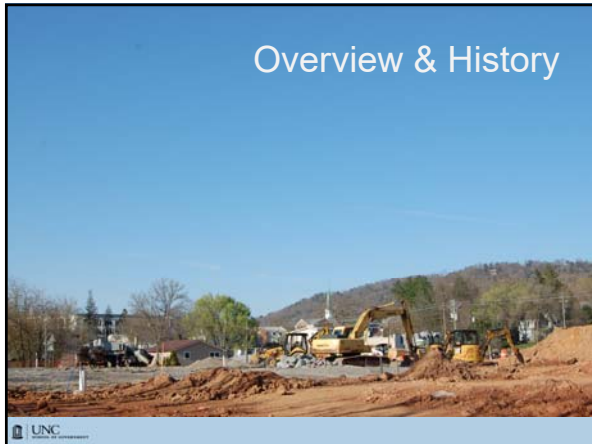
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Outline

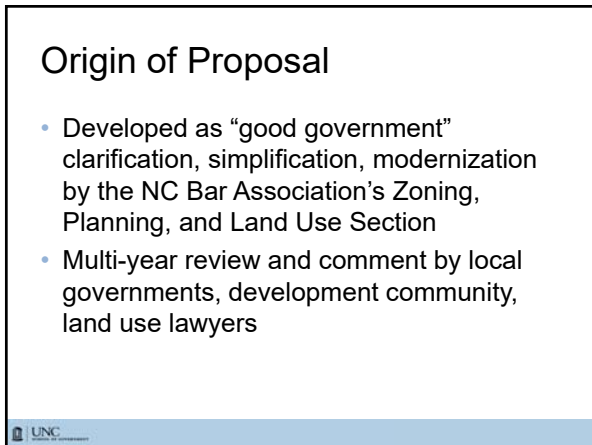
1. Overview & History
2. Implementation
3. Jurisdiction & Boards
4. Legislative Decisions
5. Quasi-Judicial Decisions
6. Planning Requirement
7. Administration
8. Vested Rights and Permit Choice
9. Judicial Review



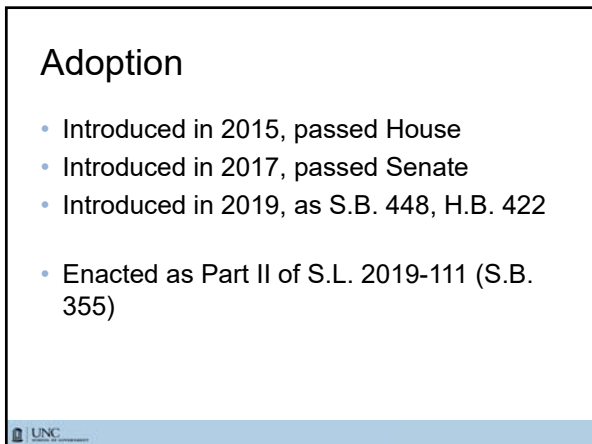
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Overview

- Consolidates city and county planning and development regulation statutes as new Chapter 160D
- Reorganizes statutes into more user-friendly framework
- Many consensus reforms to clarify and modernize provisions



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Chapter 160D Organization

Art. 1. General Provisions	Art. 8. Subdivision
Art. 2. Jurisdiction	Art. 9. Particular Uses, Areas
Art. 3. Boards, Organization	Art. 10. Development Agreements
Art. 4. Administration, Enforcement, Appeals	Art. 11. Building Code and Building Condition
Art. 5. Planning	Art. 12. Housing Codes
Art. 6. Process to Adopt and Amend Regulations	Art. 13. Miscellaneous Additional Authority
Art. 7. Zoning	Art. 14. Judicial Review

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Numbering Convention

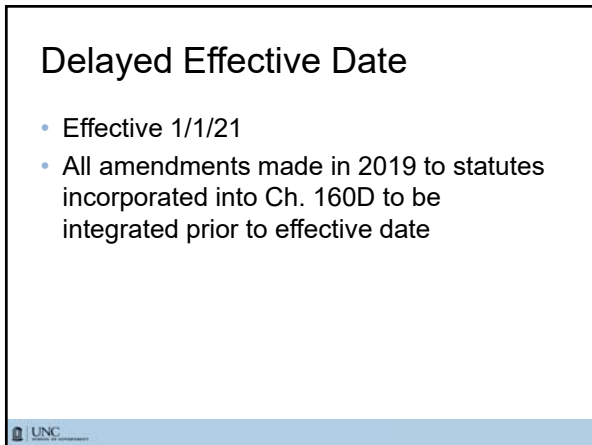
- Chapter-Article-Section
- 160D-7-3



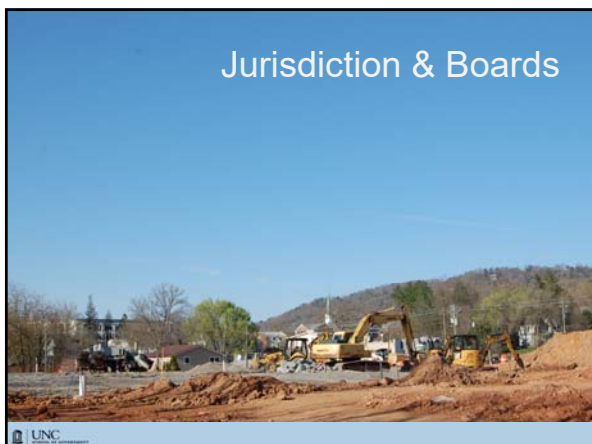
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Geographic Jurisdiction

- No change in basic allocation between cities and counties
- County can adopt development regulation for ETJ if city fails to adopt comparable city regulation there
- Simplify county ETJ appointments to city boards



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Geographic Jurisdiction

- Can accept and process applications and hold hearings in anticipation of jurisdiction shift
- Can mutually agree that one jurisdiction will handle development regulation if city or county boundaries split a parcel



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Boards

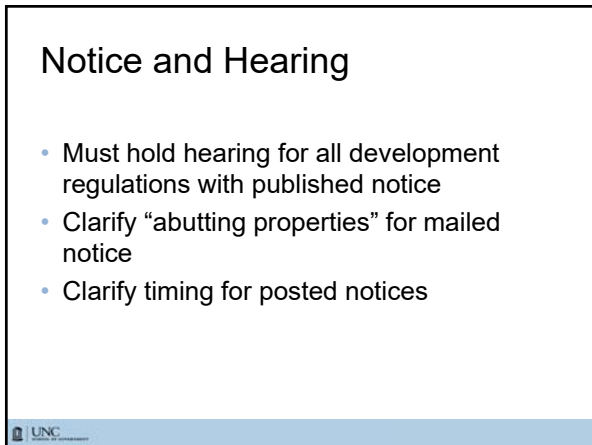
- Must have board to make recommendations on zoning amendments
- Simplify calculation of number of ETJ members needed
- Allow rules of procedure for each board
- Require oath of office
- Clarify appointment process



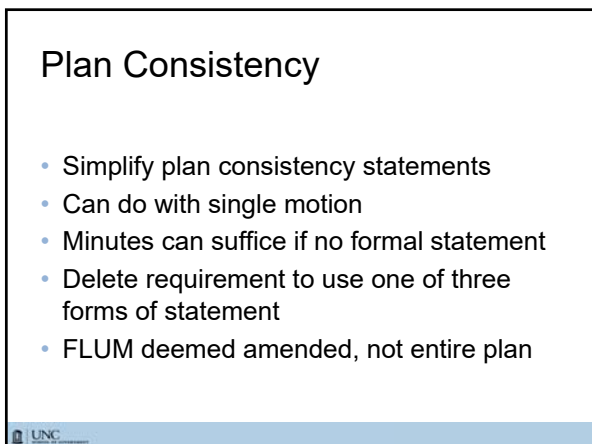
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Reasonableness

- Only mandatory for zoning map amendments
- Factors set out
- Can combine plan consistency and reasonableness statements

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Voting

- Simple majority vote on municipal first reading of development regulation amendments
- Defines prohibited “close family relationship” for legislative, quasi-judicial, and staff conflicts

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Eliminate CUD/Allow Form Code

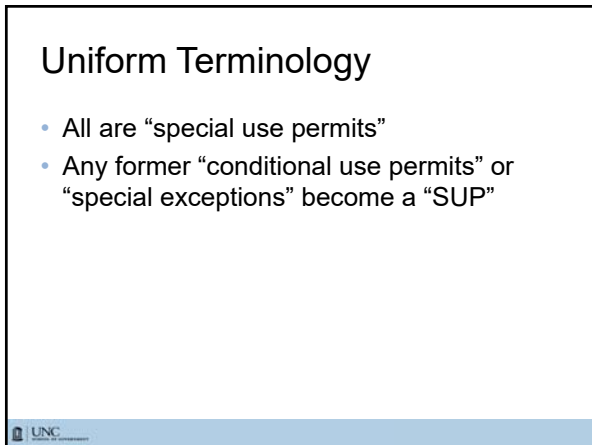
- Can have conditional zoning and special use permits, but no longer as a combined process
 - Cannot have district with only special uses
 - Cannot do concurrent rezoning and special use permit
- Allow use of form-based districts



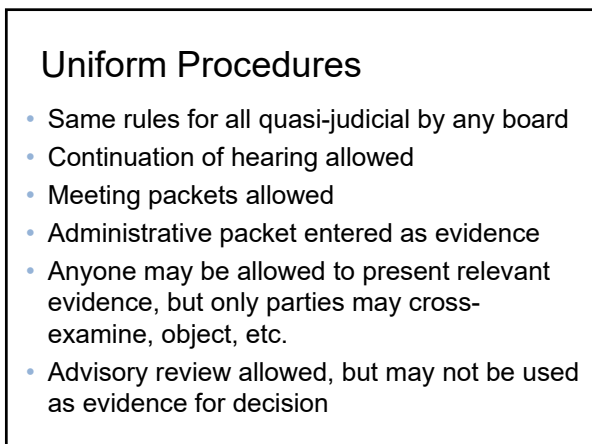
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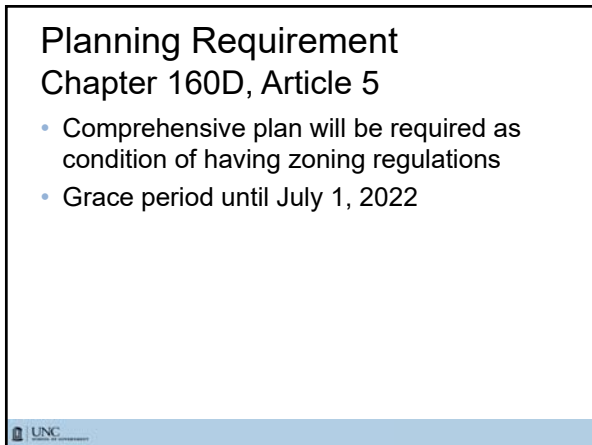
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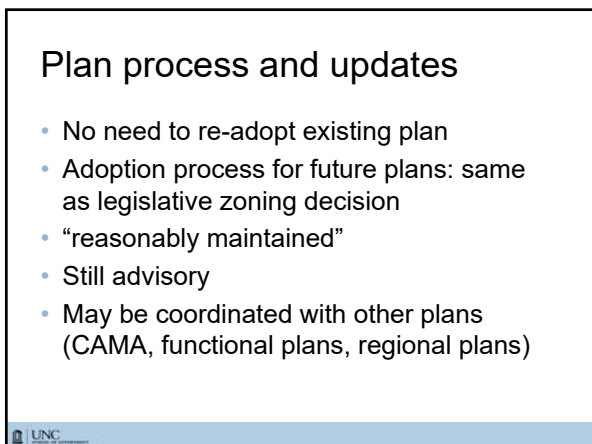
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Plan Contents May Include . . .

- Issues and opportunities facing the local government
- Pattern of desired growth and development and civic design
- Economic development and community development
- Acceptable levels of public services and infrastructure
- Housing with a range of types and affordability
- Recreation and open spaces.
- Mitigation of natural hazards
- Protection of the environment and natural resources
- Protection of significant architectural, scenic, cultural, historical, or archaeological resources
- Analysis and evaluation of implementation measures



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Administration



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General Administrative Authority

- Chapter 160D, Article 4
- General rules applicable across development regulations (specific



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New Staff Conflicts of Interest

- Not make a decision if
 - the outcome would have a direct, substantial, and readily identifiable financial impact on the staff person
 - the staff person has a close familial, business, or other associational relationship with the applicant or other person subject to the decision
- Prior standard is preserved
 - No financial or employment interest in development in the jurisdiction
 - No work inconsistent with duties to local government



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Maps

- Official maps may be incorporated by reference (specific 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



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“Development Approvals”

- Written (print or electronic)
- Applications by property owner or person with lease, option, or easement on the property
- Community notice and/or informational meetings may be required
- 12-month expiration (as general rule)



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Determinations

- Ordinance may designate official to make determination
- Written determination provided to the owner and requester (if different)



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Minor Modifications

- Staff authorized to make modifications to
 - Development Approvals
 - Special Use Permits
 - Conditional Zoning
- Defined in the ordinance; parameters for amount of change
- No change in permitted uses or the density
- Major modification goes through standard approval process



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Exactions

- Exactions and performance guarantees are allowed for zoning regulations to the same extent and limitations as with subdivision plats



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Enforcement

- Inspections
- Stop Work Orders
- Certificates of Occupancy
- Notice of Violation
- Revocation of Development Approvals
- General Enforcement (penalties, fines, court order)
- Historic Preservation Enforcement

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Appeals of Administrative Decisions

- Quasi-judicial process
- To board of adjustment (unless stated otherwise)
- Covers all dev. regs (state or local law may alter)
- Notice effective 3 days after the notice is mailed
- Staff decision-maker must be witness (or current office holder)
- Enforcement actions, including fines, are paused during appeal



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Vested Rights and Permit Choice



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G.S. 160D-1-8


- To be aligned with SL 2019-111, Part I



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Process to Claim

- Seek administrative determination from authorized official
- Or, straight to court




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Types and Terms

- Building Permit (6 months)
- Development Approval (1 year)
- Site-Specific Vesting Plan (2-5 years)
- Multi-Phase Development (7 years)
- Development Agreement (per agreement)

- Common Law Vested Rights (reasonable)



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Continuing Review

- Local government may revoke the original approval for failure to comply with applicable terms, conditions, or development regulations



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Exceptions from Site Specific and Multi-Phase Vested Rights

- Written consent of the affected landowner
- Upon findings that hazards would pose a serious threat
- Upon compensation
- Upon findings of intentional misinformation or misrepresentations to obtain the approval
- Upon findings that State or federal law precludes the development as approved



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Judicial Review



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Chapter 160D, Article 14

- To be aligned with SL 2019-111, Part I



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Original Civil Action

- Challenge to validity of an ordinance may be brought



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Vested Rights

- Applicant may seek administrative determination or may go straight to court



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Quasi-Judicial

- Developer may proceed unless a party seeks a judicial stay; but no vesting if decision reversed
- Appeals of preservation decisions may go straight to court