

State Law Update (NCGS Chapter 160D)

Code Sections Affected	Key Intent
Article 1, General Provisions	Align UDO with North Carolina General Statutes (NCGS) Chapter 160D, new state law that consolidates and organizes local planning and development regulations and enacts various consensus reforms
Article 2, Measurements and Definitions	<p style="text-align: right;">Changes</p> <ul style="list-style-type: none">• Conditional use zoning is no longer allowed under the new state law, so the Conditional Use District (CUD) zoning district has been removed from the ordinance. All current CUDs will be converted to Conditional Zoning Districts (CZDs) automatically. (See Article 3, Zoning Districts)• The new statute clarifies the Planning Board’s review of special use permit items is not a quasi-judicial hearing. The proposed amendment outlines the process and procedures for its role in conducting a preliminary forum, a public meeting where the Planning Board would receive public comment and conduct an advisory review for the applicant and public in order to identify potential relevant and material evidence and issues or areas that the Board of Commissioners may need more information on in order to reach a required conclusion. (See Article 10, Administrative Procedures)• The procedures for Conditional Zoning District (CZD) rezonings have been updated to reflect the state law requirement that the applicant or owner must provide written consent to any mutually agreed-upon conditions of approval. Requirements for written consent to conditions have been applied to all other Board approvals to ensure enforceability of conditions. (See Section Article 10, Administrative Procedures)• State law requires written property owner approval of any amendment that constitutes a down-zoning, any amendment that reduces the number of allowable uses or density on the property. The proposed amendment reflects that change and prohibits third parties (i.e. not the property owner or County) from submitting applications that would down-zone property. (See Article 10, Administrative Procedures)• The General Provisions of the ordinance have been amended to address new rules for permit choice, which state that if a text amendment is approved after a developer has submitted an application, the developer has the choice as to which version of the ordinance would apply. The provision also clarifies that the most recently adopted version of the code applies by default, and the responsibility of applying permit choice law falls upon the applicant. (See Article 1, General Provisions)• The vesting period for Tree Removal Permits has been increased from six months to one year, the minimum required by state law. (See Article 10, Administrative Procedures)• The proposed amendment clarifies the County’s current practice that allows projects to continue as long as work has substantially commenced, and it establishes criteria for what constitutes a substantially commenced project. (See Section 2.3, Definitions and Terms & Article 10, Administrative Procedures)• Provisions for subdivision variances have been updated to send subdivision variances to the Board of Adjustment, consistent with zoning variances and the quasi-judicial nature of the Board of Adjustment. (See Article 10, Administrative Procedures)• The amendment clarifies the County’s current practice that Reasonable Accommodations require a four-fifths majority vote, which is in line with state law. (See Article 10, Administrative Procedures)• The amendment makes the following minor changes:<ul style="list-style-type: none">○ The following definitions have been added or modified in order to align with state law: <i>Administrative decision, Administrative determination, General Agricultural and Forestry Uses, Applicant, Application, Bedroom, Bona fide farm purposes, Building, Conditional zoning, Decision-making body or decision-making board, Developer, Development, Development approval, Development regulation, Down-zoning, Dwelling, Dwelling Unit, General use zoning, Landowner or owner, Manufactured home or mobile home, Official Map or Plans, Person, Planning board, Preliminary Forum, Property, Site plan, Site-specific Development Plan, Sleeping Unit, Special use permit, Structure, Subdivision, Substantially commenced, Vested right, and Zoning map amendment or rezoning.</i> (See Section 2.3, Definitions and Terms)○ The amendment updates where new or modified terms are used throughout the ordinance.○ References to former state law governing planning and development regulations, predominantly NCGS Chapter 153A, have been replaced with corresponding references to new state law, NCGS Chapter 160D.○ References to maps and adopted plans have been simplified to reference the most recently adopted version, preventing the need for future amendments to reference new maps or plans.○ The amendment clarifies the County’s existing practice that Staff cannot change the use or the density of an approved conditional rezoning, planned development, or special use permit. (See Article 10, Administrative Procedures)○ Rules for revocation of permits, rezonings, and all other approvals have been clarified to require the same review and decision process as was required for the original issuance of the permit, rezoning, or other approval. (See Article 10, Administrative Procedures & Article 12, Violations and Enforcement)
Article 3, Zoning Districts	
Article 4, Uses and Use-Specific Standards	
Article 5, General Development Standards	
Article 8, Erosion and Sedimentation Control	
Article 9, Flood Damage Prevention	
Article 10, Administrative Procedures	
Article 11, Nonconforming Situations	
Article 12, Violations and Enforcement	

The amendment also affects the following, which are addressed separately alongside the amendment:

- Application documents
- Administrative and technical manuals
- Rules of Procedure for all boards (requires a separate vote to adopt)
- Planning & Land Use Department webpage
- Other administrative materials, such as mailouts