

Optional Changes

G.S. Chapter 160D Checklist of Changes to Local Ordinances, Policies, and Practices

HC Code Change	Ordinance Section	NOTES
Recommended "May" (Optional)		
1. Terminology and Citations [Chapter 1, Section III]		
Recommended	42-391 (LDC) Definitions	May align ordinance terminology with Chapter 160D terminology, including for the following terms: administrative decision, administrative hearing, determination, developer, development, decision, legislative hearing, planning and development regulation jurisdiction, and quasijudicial decision. (G.S. 160D-102.) development approval, development regulation, dwelling, evidentiary hearing, legislative.
2. Substance of Zoning Ordinance [Chapter 3, Section I]		
Recommended/Existing	42-50 (LDC) 42-331 B (5) (LDC) 42-364 G (2) (LDC) 49-10 C (Preservation of Historic Resources)	May allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, must define "minor modification" by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)
3. Legislative Decisions [Chapter 4, Section II]		
A. Plan Consistency		
Recommended/Existing	42-346 B (7) (LDC)	May adopt a statement of reasonableness for zoning-text amendments. (G.S. 160D-605(b).)
B. Certain Legislative Decisions		
Recommended & Existing	42-50 (LDC) 43-331 B (5) (LDC) 49-10 C (Preservation of Historic Resources)	May allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, must define "minor modification" by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)
4. Quasi-Judicial Decisions [Chapter 4, Section III]		
A. Procedures		
Recommended	42-356 I (LDC)	May require recordation of special use permits with the register of deeds. (G.S. 160D-705(c).)
5. Administrative Decisions [Chapter 4, Section IV]		
A. Development Approvals		
Existing	Permit Validity Sections for individual permit types/approvals (LDC)	May set expiration of development approvals if work is not substantially commenced; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) Be aware that legislation will clarify the provisions on duration of development approvals. (G.S. 160D-403(c); S.L. 2019-111, § 1.3.)

Optional Changes

Not Recommended "May"

1. Boards [Chapter 2, Section II]

A. Planning Board

Not Recommended	N/A	May have the planning board serve as a preliminary forum for review in quasi-judicial decisions; if this is done, the planning board must not conduct a formal evidentiary hearing but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)	Items go to ZBA. Planning Board review of recommendation can not be part of the ZBA decision, so this is unnecessary.
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2. Land Use Administration [Chapter 2, Section III]

A. Enforcement

Not Recommended	N/A	May require a certificate of compliance or occupancy to confirm that permitted work complies with applicable laws and terms of the permit; still must require certificate of occupancy for work requiring a building permit. (G.S. 160D-403(g).)	Code Enforcement currently monitors without requiring a compliance permit. This is issue with current staff capacity and code is complaint driven.
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3. Substance of Zoning Ordinance [Chapter 3, Section I]

Not Recommended	N/A	May require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)	These have been set as conditions of approvals for SUP's and conditional zonings. BOC option to require.
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Not Recommended	N/A	May use form-based codes. (G.S. 160D-703(a)(3).)	This options is used in more urban settings. Would require a code re-write and would regulate more uses than the County currentlys requires.
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4. Quasi-Judicial Decisions [Chapter 4, Section III]

A. Certain Quasi-Judicial Decisions

Not Recommended	N/A	May adjust variance standards to provide for reasonable accommodation under the federal Fair Housing Act. (G.S. 160D-705(c).)	G.S. lanuage is not clear about the variance standard adjustments. This could be considered by the BOC at a later date or part of the 2045 CCP recomendations.
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5. Administrative Decisions [Chapter 4, Section IV]

A. Determinations

Not Recommended	N/A	May require owner to post notice of determination on the site for ten days; if such is not required, then owner has option to post on the site to establish constructive notice. (G.S. 160D-403(b).)	Owner has the option to post. Not recomenneded as a requirement to post.
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B. Development Approvals

Not Recommended		May set expiration of development approvals if work is discontinued; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).)	Unclear how vested rights issues would apply. Staff currently works with devleoper to encourage completion. Requirement could prevent project completion.
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Optional Changes

Existing "Must"

1. Geographic Jurisdiction [Chapter 2, Section I]

Existing G.S.	N/A	*For a parcel in two jurisdictions, the owner and the jurisdictions may agree for development regulations from one jurisdiction to apply to the entire parcel. (G.S. 160D-203.)	
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2. Boards [Chapter 2, Section II]

A. In General

Existing	Article X (LDC)	May have detailed rules of procedure for each board; may be adopted by governing board; if not, then may be adopted by individual board; if adopted, must maintain board rules of procedure (by clerk or other officer as set by ordinance) and must post board rules of procedure to website, if the jurisdiction has a website. (G.S. 160D-308.)	
Existing (BOC)	County Policy (Tab 33) (outlined on website)	May establish reasonable procedures to solicit, review, and make appointments; governing board typically makes appointments but may delegate that appointment-making authority. (G.S. 160D-310.)	BOC makes appointments
Existing	42-308 (LDC)	May establish additional advisory boards related to development regulations. (G.S. 160D-306.)	

B. Planning Board

Existing	42-304 A(8)	May assign to planning board the coordination of citizen engagement for planning. (G.S. 160D-301.)	
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C. Board of Adjustment

Existing	42-305 (LDC)	May assign board of adjustment to hear and decide matters under any development regulation, not just zoning. (G.S. 160D-302.)	
Existing	48-11 A	May assign duties of housing appeals board to board of adjustment. (G.S. 160D-305.)	

3. Land Use Administration [Chapter 2, Section III]

A. In General

Existing	LDC & Adopted Fee Schedule	May enact ordinances, procedures, and fee schedules relating to administration and enforcement of development regulations. (G.S. 160D-402(b).)	
Existing	Adoted Fee Schedule	May charge reasonable fees for support, administration, and implementation of development regulation; must use any such fees for that purpose, not for other purposes. (G.S. 160D-402(d).)	

B. Enforcement

Existing	42-321 (LDC)	May perform inspections for other development approvals to ensure compliance with state law, local law, and the terms of the approval; must perform (or contract for) inspections for building permits. (G.S. 160D-1113; -403(e).)	
Existing	42-309 (LDC)	May perform inspections for general code compliance and enforcement (inspections unrelated to a development approval). (G.S. 160D-402(b).)	
Existing	42-377 (LDC)	May issue stop-work orders for illegal or dangerous work or activity, whether related to a permit or not. (G.S. 160D-404(b).)	
Existing	42-377 (LDC)	May continue to use general enforcement methods, including civil penalties, fines, court-ordered actions, and criminal prosecution. (G.S. 160D-404(c).)	

4. Substance of Zoning Ordinance [Chapter 3, Section I]

Existing	Go Maps Digital Layer	May incorporate maps officially adopted by state or federal agencies (such as flood-insurance rate maps (FIRMs)) into the zoning map; may incorporate the most recent officially adopted version of such maps so that there is no need for ordinance amendment for subsequent map updates; must maintain current effective map for public inspection; may maintain in paper or	
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Optional Changes			
Existing	42-23 (LDC)	May apply zoning standards jurisdiction-wide, not just on a zoning-district-by-zoning-district basis. (G.S. 160D-703(d).)	
Existing	472-39 (LDC)	*May regulate development over navigable waters, including floating homes. (G.S. 160D-702(a).)	
5. Substance of Other Development Ordinances [Chapter 3, Section II]			
Existing in G.S.	BOC Approves (if/when Applicable)	May adopt moratoria for development regulations (subject to limitation on residential uses); moratoria do not affect rights established by permit choice rule. (G.S. 160D-107.)	
A. Historic Preservation			
Existing	49-12 (Preservation of Historic Resources)	*May choose for appeals of preservation commission decisions to go directly to superior court rather than to board of adjustment. (G.S. 160D-947(e).)	
B. Development Agreements			
Existing	42-339 E (LDC)	May consider a development agreement concurrently with a rezoning, subdivision, or site plan; may consider a development agreement in conjunction with a conditional zoning that incorporates the development agreement. (G.S. 160D-1001(d).)	
Existing in G.S.	N/A	May address fewer topics in development agreement content (list of mandated topics is shortened). (G.S. 160D-1006.)	
Existing in G.S.	N/A	May mutually agree with a developer for the developer to provide public improvements beyond what could have been required, provided such conditions are included in the development agreement. (G.S. 160D-1006(d).)	
Existing in G.S.	N/A	May include penalties for breach of a development agreement in the agreement or in the ordinance setting the procedures for development agreements; either party may bring legal action seeking an injunction to enforce a development agreement. (G.S. 160D-1008.)	
6. Comprehensive Plan [Chapter 4, Section I]			
Existing in G.S.	N/A	May coordinate a comprehensive plan with other required plans, such as Coastal Area Management Act (CAMA) plans. (G.S. 160D-501(a).)	N/A in WNC with existing plan requirements.
Existing	N/A	May coordinate with other local governments, state agencies, or regional agencies on planning processes. (G.S. 160D-503(a).)	
7. Legislative Decisions [Chapter 4, Section II]			
A. Notice			
Existing	42-371 (LDC)	For zoning-map amendments, may require applicant to notify neighbors and hold a community meeting and may require report on the neighborhood communication as part of the application materials. (G.S. 160D-602(e).)	
B. Planning Board Comment			
Existing (42-331)	42-303 (LDC)	May refer development regulation amendments (other than zoning) to the planning board for review and comment. (G.S. 160D-604(c).)	
C. Plan Consistency			
Existing	42-346 (LDC)	May adopt plan-consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)	
Existing in G.S.	N/A	May meet the requirement for plan consistency even without formal adoption of a written statement if the minutes of the governing board meeting reflect that the board was fully aware of and considered the plan. (G.S. 160D-605(a).)	

Optional Changes

Existing	N/A	May concurrently consider a comprehensive plan amendment and a zoning amendment; must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).) Must note on the applicable future land use map when a zoning-map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a).) (This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.) *For a future land use map that is deemed amended, if it is a CAMA plan, then such amendment is not effective until it goes through the CAMA plan-amendment process. (G.S. 160D-501.)	More applicable with urban settings and zoning related to comprehensive plans. N/A in County CCP, but the options exists for Counties and could be part of the 2045 CCP recommendation.
Existing	42-346 (LDC)	May consider and approve a statement of reasonableness and a plan-consistency statement as a single, combined statement. (G.S. 160D-605(c).)	
D. Certain Legislative Decisions			
Existing	42-48 (LDC)	With applicant’s written consent, may agree to conditional-zoning conditions that go beyond the basic zoning authority to address additional fees, design requirements, and other development considerations. (S.L. 2019-111, Pt. I.)	
8. Quasi-Judicial Decisions [Chapter 4, Section III]			
A. Procedures			
Existing	N/A	May continue an evidentiary hearing without additional notice if the time, date, and place of the	
Existing	N/A	May distribute meeting packet to board members in advance of the evidentiary hearing; if this is done, then must distribute the same materials to the applicant and landowner at the same time; must present such administrative materials at the hearing and make them part of the hearing	
B. Certain Quasi-Judicial Decisions			
Existing	42-369 & 42-370 (LDC)	May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional-use-district zoning. (G.S. 160D-102.)	
Existing	42-331 (LDC)	May allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, must define “minor modification” by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	
9. Administrative Decisions [Chapter 4, Section IV]			
A. Development Approvals			
Existing	42-371 (LDC)	May require community notice or informational meetings as part of the decision-making process for administrative development approvals (quasi-judicial and legislative decisions already had notice and hearing requirements). (G.S. 160D-403(h).)	
B. Determinations			
Existing	42-327 (LDC)	May designate an official to make determinations for a particular development regulation. (G.S. 160D-403(b).)	
C. Appeals of Administrative Decisions			
Existing	42-305 (LDC)	May assign the duty of hearing appeals to another board; if this is done, such board must follow quasi-judicial procedures. (G.S. 160D-405.)	
Existing	42-379 (LDC)	May designate that appeals be filed with the local government clerk or another official. (G.S. 160D-405.)	
D. Development Approvals			

Optional Changes			
Existing	Permit Validity Sections for individual permit types/approvals (LDC)	May set expiration of development approvals if work is not substantially commenced; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) Be aware that legislation will clarify the provisions on duration of development approvals. (G.S. 160D-403(c); S.L. 2019-111, § 1.3.)	
10. Vested Rights and Permit Choice [Chapter 5, Section I]			
<i>A. Vested Rights</i>			
Existing	42-364 (LDC)	May provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(c), -405.)	
<i>B. Subdivision Decisions</i>			
Existing	42-379 (LDC)	May establish a rule that administrative subdivision decisions are appealed to the board of adjustment. (G.S. 160D-1405.)	
Not Applicable "May" (Optional)			
1. Geographic Jurisdiction [Chapter 2, Section I]			
N/A		Municipality may hold hearings in anticipation of change in jurisdiction. (G.S. 160D-204.)	
N/A		*In ETJ, the county may elect to exercise development regulations that the municipality is not exercising. (G.S. 160D-202(b).)	
2. Legislative Decisions [Chapter 4, Section II]			
<i>A. Notice</i>			
N/A		For extension of ETJ, may use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)	
<i>B. Certain Legislative Decisions</i>			
N/A		May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional-use-district zoning. (G.S. 160D-102.)	