

**COMMITTEE OF THE WHOLE  
CITY HALL, THIRD FLOOR  
TUESDAY, APRIL 28, 2020  
8:30 A.M.**

PRESENT: Committee members, Beal, Gibbons, Perkins, Prestwood, Stevens and Willis.

City Manager Hildebran and City Clerk Cannon.

VIA TELECONFERENCE:

Mayor Pro-Tem Crissy Thomas presided over the meeting via teleconference. Others include Todd Perdue, Fire Chief Hair, Finance Director Bean, Police Chief Phelps, Recreation Director Story, Main Street Director Horn, Planning Director Wheelock, Public Utilities Director Thomas, and Public Works Director Wright.

ABSENT: Joshua Harris, Public Information Officer.

I. CALL TO ORDER

A. Mayor Pro-Tem Thomas welcomed everyone and called the meeting to order.

II. CITIZEN COMMENT PERIOD

III. COMMITTEE ITEMS

A. Public Utilities/Public Works

1. Update; Public Utilities: Director Radford Thomas presented information on the following items:
  - Biosolids Project at Lower Creek WWTP is coming along on schedule at this point. The new belt press has been delivered and Staff is expecting the new dryer to be shipped and delivered in June. Also, the construction to enclose the dryer building is coming along very well.
  - The Metering Project is moving along well and Staff is working with MeterSYS and the contractor to get more meter installers on the project in order to pick up the pace on new meter installations. The network is working well and Staff is already able to use data from the meter reading network to proactively address leak issues and customer concerns about high usage.
  - The Utilities Department is operating as normal under the current COVID-19 protocols with using staggered shifts for reporting to work and observing social distancing as much as possible. Also, personal protective equipment (PPE) has been made available to everyone along with plenty of hand sanitizer.
  - The AWIA Risk and Resiliency analysis is currently underway.
2. Update; Public Works: Director Jared Wright presented the following information:
  - a) Sanitation Conversion Update: Manufacturing of new rollout carts is underway, with deliveries expected to begin next week. Distribution to solid waste customers will

follow within the next two weeks. Director Wright stated that the procurement/manufacture/delivery process has gone smoothly and quickly.

- b) **Street Resurfacing:** The paving contractor has completed resurfacing of two additional streets within the last several days, and we are nearing completion of planned resurfacing for the 2019-20 fiscal year. We have had a few quality control issues with the latest paving, but it appears to be related to a poor asphalt product blend. These issues will be corrected as warranty items with no additional cost to the City.
- c) Crews are continuing with maintenance activities as necessary. These activities include brush removal (increase in volume associated with home improvements-COVID-19), mowing, and ditch clearing.
- d) Public Works Staff continues to discuss future projects with consultants, including the Hwy 18/Morganton Boulevard greenway crossing. City Council adopted a resolution of support to pursue RTP grant funding for this project at the April 7 Council meeting. The pre-application deadline was waived by the funding authority, and we intend to continue the submittal process with deadlines in July and September, 2020.
- e) The renovation of first floor at City Hall should be completed this week. Building Maintenance Staff is awaiting delivery/installation of the collection counter and counter surfaces.

#### IV. COMMUNITY DEVELOPMENT

- A. The Lenoir Tourism Development Authority (LTDA): The LTDA meeting for March was cancelled and the Board did not in April. Economic Development Director Kaylynn Horn reported the 365 Tourism Conference has been cancelled, but in its place Staff has participated in several very informative webinars from VISIT NC. These webinars have shared considerable information, resources and tips regarding the current crisis and the state of affairs of the hospitality industry which is quite concerning.
- B. The Lenoir Business Advisory Board (LBAB): The LBAB did not meet in March due to attendance at the North Carolina Main Street Conference in New Bern, NC. Overall the Board had a delegation of 17 people who participated and helped the City happily accept three North Carolina Main Street awards this year. The Board received an award for the North Carolina Gravity Games for Best Event Series and an award for The Little Building with the Big Impact – Dayvault Drug Store property for Best Endangered Property Rescue. The Board also received the North Carolina Main Street Champions award for the City of Lenoir Public Works Sanitation Division.

Staff has been continually updating our small business COVID-19 Crisis tips and resources pages on our Downtown Lenoir website and participating in numerous webinars to keep up with and stay informed on the rapidly changing and ever evolving stimulus packages as they are rolled out. This has been a very well-received and much appreciated resource site for the small businesses.

Staff has been working on several back burner administrative projects such as the downtown property inventory and historic descriptions, reviewing bylaws and grant practices, etc. Alongside these projects, Staff has implemented the Downtown Virtual Takeout Bingo Challenge to encourage foot traffic to our restaurants and establishments

currently offering takeout services. This promotion wraps up the first week in May.

Staff has also launched the first TOGETHER at HOME Virtual Concert Series which was held on April 20 and featured Patrick and Kay Crouch and several other performers who graciously donated their time and their talents to entertain, encourage and unite our community. This virtual music concert was appreciated by many people in our community. Staff is also in the process of scheduling the second concert within this series.

During the National Volunteer Week, the amazing Downtown Lenoir volunteers baked just over 2,500 cookies for the Essential Cookies for Essential Workers promotion. These cookies were distributed to the frontline essential workers in the community. The volunteers are to be highly commended for their time and generosity.

Another Zoom meeting is scheduled with the organizers of the Caldwell Farmers Market and Seth Nagy, the Caldwell County Extension Director for the NC State Cooperative Extension Agency. Staff will be continuing discussion regarding when to schedule the first Caldwell County Farmers' Market held in Downtown Lenoir this year and what practices and procedures will be required regarding social distancing and public safety.

Staff continues to work with Destination by Design on the City's Branding project. The project is moving forward with great success and Staff hopes to conclude in the very near future.

- C. Planning Board: The Planning Board held a teleconference meeting on Monday, April 27. Planning Director Jenny Wheelock presented the following information:
1. Rezoning Request: The Planning Board will submit a request to City Council to call for a public hearing for Tuesday, May 19 to consider a rezoning request for property located on Melview Place in the Extra Territorial Jurisdiction (ETJ) (behind Lenoir Industrial Park) to be rezoned from I-1 (Light Industrial) to R-R (Rural Residential), in order to facilitate construction of a single-family home on family-owned land.
  2. Blue Bell Mill Project: Planning Director Wheelock reported a Certificate of Appropriateness for the Blue Bell rehabilitation project to convert the Blue Bell industrial building into multi-family units was approved unanimously by the Lenoir Planning Board at their meeting on Monday, April 27, acting in their capacity as the Lenoir Historic Preservation Commission. The Commission is the final decision making authority, so the project will be able to start the permitting process.
  3. Update; N.C.G.S.§160D Land use Law: Planning Director Wheelock gave a presentation summarizing required updates resulting from the newly adopted land use legislation for North Carolina, Chapter 160D. This new law incorporates previous statutes for land use regulation for Counties (previously 153A) and Cities (previously 160A). Director Wheelock reviewed the required changes that the City must adopt by January 1, 2021 (conflict of interest standards, updated terminology, procedural updates) as well as some changes the City may choose to adopt (allowing for administrative modifications to development approval; eliminating Planning Board

review of quasi-judicial special use permits).

A copy of the power point presentation and handouts are attached to these minutes as information.

Following general discussion, City Council reached a general consensus that administrative modifications should be explored in a draft ordinance, but that the Planning Board should remain in its advisory capacity for Special Use Permits. Noticing requirements will be changed to reflect what is required by the new statute for those types of cases, eliminating the need for published notification in some instances.

Director Wheelock stated she will work with the City Attorney and other Department Directors to present a draft ordinance to City Council later this year.

#### D. Financial and Administration

1. March Financial Summary: Finance Director Donna Bean reviewed the Financial Summary as of March 31, 2020. The over/under balance in the General Fund is \$2,213,437.71, Downtown District (\$134,268.32), and Water & Sewer Fund \$1,732,319.85. (A copy of the March financial summary is attached to these minutes as information).

Director Bean stated the City won't know the exact impact of the effect of the coronavirus on our local economy/revenue until later on in the year.

2. Job Description; Senior IT Specialist: Finance Director Bean presented a job description for a Senior IT Specialist to replace Burl Sprouse who accepted the position of Technology Solutions Administrator with the Piedmont Triad Regional Council (PTRC) located in Kernersville, NC. The PTRC is one of 16 regional councils in North Carolina and serves as the lead regional organization for the Piedmont Triad region representing 74 member governments in a 12 county area. Mr. Sprouse will continue to assist the City during the transition period. (A copy of the job description is attached to these minutes as information).

Director Bean reviewed the essential job functions and the minimum qualifications or standards required to perform the essential job functions and recommended Council approve the job description.

#### Motion

Upon a motion by Councilmember Willis, Council voted 7 to 0 to approve the job description for a Senior IT Specialist as presented and as recommended by City Staff.

- E. Parks & Recreation Advisory Board: The Parks & Recreation Advisory Board did not meet in April. Recreation Director Kenny Story presented the following information:
  - No current activities are taking place at this time.
  - Trash has become a problem at the J.E. Broyhill Walking Park and along the Greenway. Also, Staff has found some needles at the Walking Park and the Police

Department is patrolling this area more often.

- Staff continues to sanitize all facilities daily and has also been doing some cleanup work around the facilities.
- Parks & Ground Staff is hard at work mowing and doing other projects that are scheduled this time of year.
- Staff at the Aquatic & Fitness Center is working on getting the outdoor pool ready which was scheduled to open on Saturday, May 23. However, following a brief discussion by Council at the Committee of the Whole meeting today, they were in consensus to hold off on opening the pool at this time.
- Caldwell County School buses have been parked at the Martin Luther King, Jr. Center and the J. E. Broyhill Walking Park to provide Wi-Fi for students who don't have access to the Internet. Caldwell County Schools and the Education Foundation are in charge of this project.
- All events and activities have been canceled until at least June 1, 2020. Note: Director Story stated he is talking with other Directors around the area and state on what they are doing about programs, activities and events.

- F. Update; Public Communications: A report was not given at this time. (A copy of the March 2020 Communications Report is attached to these minutes as information).

As information, during the month of March, there were 9 news releases, 12 photos, 2 videos, 204 social posts, 30 notify me requests, 17 questions & answers and 1 e-sign up. The website experienced 73,927 views and reached people via Facebook and Twitter.

## V. PUBLIC SAFETY

### A. Police Department

1. Update: Police Chief Brent Phelps reported on the following items:
  - The Department is in the process of hiring new officers. Two new patrol officers began working in the last two weeks and Staff plans to start two additional officers within the next two to three weeks.
  - Patrol Officers made a significant arrest on Saturday, April 25 by catching five individuals stealing additional mowers from Corriher Tractor.
  - The Department's stock of Personal Protection Equipment (PPE) is in good shape with current levels on hand.
  - Staff has increased our patrol presence at the J. E. Broyhill Walking Park and at the greenways.
  - Staff has been working with some of the businesses based on the Governor's Executive Order and we are asking for voluntary compliance from the business owners.

### B. Fire Department

1. Update: Fire Chief Ken Hair reviewed the Quarterly Report for January, February and March. He stated Staff participated in 4,633 training hours, conducted 69 inspections and responded to 5 structure fires. In addition, he reported they received 400 medical

calls and 64 service calls. There were a total of 673 incidents for the quarter. (A copy of the report is attached to these minutes as information).

## VI. OTHER

A. May Calendar: By consensus of the Council, the calendar for the month of May was approved listing various meetings and events.

City Council will meet on Monday, May 4 at 6:00 p.m. in the City/County Chambers.

**Note:** This date was chosen due to a previous conflict when Council adopted their annual meeting schedule in October 2019.

## VII. Adjourn:

There being no further business; the meeting was adjourned at 10.08 a.m.

### Attachments

March Financial Summary

Job Description for SR. Information Technology Specialist

Quarterly Report-Fire Department

Power Point-N.C.G.S. §160D Land Use

Handout-G.S. Chapter 160D Checklist of Changes to Local Ordinances and Practices.



**City of Lenoir  
Financial Summary  
As of 3/31/2020**



| General Fund  |                     |                  |             |                              |                  |
|---------------|---------------------|------------------|-------------|------------------------------|------------------|
|               | 2019-2020<br>Budget | 3/31/2020        | % of Budget | Change from<br>Previous Year | 3/31/2019        |
| Total Revenue | \$ 18,403,707.96    | \$ 15,664,315.81 | 85%         | \$ 827,021.05                | \$ 14,837,294.76 |
| Expenditures  | \$ 18,403,707.96    | \$ 13,450,878.10 | 73%         | \$ 809,201.09                | \$ 12,641,677.01 |
| Over/Under    | \$ -                | \$ 2,213,437.71  |             | \$ 17,819.96                 | \$ 2,195,617.75  |

| Downtown District |                     |                 |             |                              |                |
|-------------------|---------------------|-----------------|-------------|------------------------------|----------------|
|                   | 2019-2020<br>Budget | 3/31/2020       | % of Budget | Change from<br>Previous Year | 3/31/2019      |
| Revenues          | \$ 183,736.00       | \$ 19,333.36    | 10.5%       | \$ (37,917.71)               | \$ 57,251.07   |
| Expenditures      | \$ 183,736.00       | \$ 153,601.68   | 84%         | \$ 18,957.41                 | \$ 134,644.27  |
| Over/Under        | \$ -                | \$ (134,268.32) |             | \$ (56,875.12)               | \$ (77,393.20) |

| Water/Sewer Fund |                     |                 |             |                              |                 |
|------------------|---------------------|-----------------|-------------|------------------------------|-----------------|
|                  | 2019-2020<br>Budget | 3/31/2020       | % of Budget | Change from<br>Previous Year | 3/31/2019       |
| Revenues         | \$ 8,941,688.00     | \$ 7,098,040.76 | 79%         | \$ 149,057.13                | \$ 6,948,983.63 |
| Expenditures     | \$ 8,941,688.00     | \$ 5,365,720.91 | 60%         | \$ 516,729.19                | \$ 4,848,991.72 |
| Over/Under       | \$ -                | \$ 1,732,319.85 |             | \$ (367,672.06)              | \$ 2,099,991.91 |

**CITY OF LENOIR**  
**FINANCE**  
**SR. INFORMATION TECHNOLOGY SPECIALIST**  
**(Revised: 4-15-2020)**

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.*

**GENERAL STATEMENT OF THE JOB:**

Under general supervision, performs advanced level of technical work in design, installation, maintenance, and support activities for PC hardware/software, voice/data communications, application software, databases, and servers. Work involves networking computer systems throughout City departments, inter-departments and outside agencies. Employee is compensated on a salary basis; is employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field; the employee's primary duty consists of the application of systems analysis techniques and procedures including the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; or the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or a combination of the of duties which requires the same level of skills. Work involves planning systems, development, and enhancements of systems, installing and evaluating PC and network hardware and software, overseeing projects and implementations. Employee is responsible for training users of computer systems. Employee reports to the Finance Director.

**ESSENTIAL JOB FUNCTIONS**

- Responsible for infrastructure and network developments, upgrades, installations, support, and maintenance of city's fiber network, wireless network & computer systems;
- Comprehensive understanding of servers, routers, switches, firewalls, virtualization, database and software management, phone systems, antivirus, network security, WIFI, website maintenance assistance, applying updates, service packs and patches and managing outsourced vendor contracts;
- Coordinates with user departments to determine needs; discusses and resolves problems;
- Purchases, installs, repairs, and maintains network hardware, software & individual computer stations;
- Maintains VOIP telephone system;
- Responsible for network security, back-up, redundancy, and disaster recovery which includes monitoring and ensuring the disaster recovery plans including critical communications during utility outages and emergency events;
- Installs and configures PC's and application software;
- Comprehensive knowledge of networked computer system hardware and software in a MS Windows environment with Active Directory management; including incorporation of best business practices and knowledge of municipal ordinances and statutes;
- Comprehensive knowledge of FreeNAS Storage Operating System and PFSense firewall software.

- Troubleshoots and resolves network or telecommunication wiring and installation problems which requires a comprehensive knowledge of the nature of functions and problems in the networked and virtual user environment;
- Responsible for development, maintenance, and integrity of databases;
- Maintains and corrects problems with computer hardware and peripheral devices;
- Adds, removes, and maintains users of the network operation system which provides user access and ensures user connectivity to City departments;
- Responsible for task relating to network monitoring, operations, installation, and/or maintenance for local, off-site, and/or remote locations;
- Consults with external agencies linked to computer and communication services;
- Ensures network security, performance and reliability where top level support and quick response resolution to technical outages is paramount. This includes addressing system alert notifications from monitoring devices and applications with strong emphasis on preventive maintenance;
- Ensures all phases of help desk support are properly coordinated, monitored, logged, tracked, and resolved appropriately;
- Assists in the planning and evaluation of existing network systems and makes recommendations which includes analyzing and making recommendations for system and application upgrades and replacements;
- Participates in planning telecommunications specification for new building, renovations, or new construction;
- Coordinates scheduling for telecommunications services installation;
- Coordinates and supervises work of staff;
- Installs and maintains the camera systems for the City;
- Offer support to Downtown WI-FI contractor
- Maintains the City's email to provide an important communications tool for employees.
- Develops technology solutions to address user needs

### **ADDITIONAL JOB FUNCTIONS AND ABILITIES**

- Ability to effectively plan, coordinate and leverage financial and personnel resources for optimal service delivery, including during enterprise wide project implementations that stretch beyond the daily workload;
- Ability to adjust to rapidly changing technologies and business environment, which requires leading and facilitating continual education and adaptation of IT personnel and city workforce;
- Comprehensive knowledge of contract negotiation and management including discernment of advantages of outsourced services versus in-house solutions; advanced project and budget management skills;
- Ability to analyze, troubleshoot and effectively communicate problem resolution, including facilitating critiques of diverse business processes in order to effectively match with appropriate technological solutions;
- Ability to communicate and present complex technical ideas effectively, both orally and in writing;
- Ability to apply innovative and creative problem solving skills; analytical ability and inductive thinking to adapt technology solutions, policies, procedures and methods to fit unusual and

complex situations;

- Ability to engage, represent, motivate and lead professional and technical personnel;
- Ability to recognize contractual and legal implications and involve appropriate officials and counsel;
- Ability to communicate with others tactfully, courteously, effectively and firmly both orally and in writing;
- Ability to establish and maintain extraordinary team oriented working relationships with City officials, subordinates, co-workers and when necessary, the media, stakeholders, and citizens.
- Interviews, hires, trains, evaluates performance, coaches, counsels, disciplines, promotes, and recognizes department staff
- Ensures due diligence and compliance for any outsourced service delivery, system upgrades, security and network monitoring;
- Provides user training and technical support, critical system data backups, redundancy and disaster recovery;
- Engaged management of multiple IT project initiatives simultaneously without sacrificing timely resolution of 24/7 Help Desk work order support;
- Prepares and monitors IT operational and project budgets; including cost forecasting, auditing and routine monitoring to ensure cost benefit of ongoing support contracts and technological initiatives;
- Facilitates research, vendor selection, contract negotiation and manages hardware and software implementation projects;
- Performs other related tasks as required.

### **MINIMUM QUALIFICATIONS OR STANDARDS REQUIRED TO PERFORM ESSENTIAL JOB FUNCTIONS**

**Education:** Bachelors degree in computer science with a major in information technology, computer science, or related field or any combination of education and experience equivalent to a degree from an accredited college or university which provides the required knowledge, skills and abilities needed for this position. Must have at least three years experience in the installation, operations, maintenance of computer network and would prefer considerable experience as a computer systems analyst, programmer, or systems administrator, and considerable network experience; or an equivalent combination of education and experience.

#### **Special Requirements:**

Microsoft Certified Engineer certification preferred.

VMWare certification preferred

Valid North Carolina driver's license required

**Physical Requirements:** Must be physically able to operate a variety of machinery and equipment including computers, printers, copiers, calculators, MDT, cameras and printers, etc. Must be able to exert 20 to 50 pounds of force on occasion. Physical demand requirements are in excess of those for sedentary work. Work usually requires walking or standing to a significant degree and frequently requires the ability to move objects; work requires climbing, stooping, kneeling, crouching, reaching, pushing, pulling, lifting, fingering, grasping, and repetitive motions; vocal communication is required

for expressing or exchanging ideas by means of the spoken word; hearing is required to perceive information at normal spoken word levels; visual acuity is required for depth perception, preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, operation of machines, determining the accuracy and thoroughness of work, and observing general surroundings and activities; the working is subject to inside and outside environmental conditions.

**Currently used by the City of Lenoir:**

- LANs & WAN technology
- VMware, hubs/switches/routers/bridges
- TCP/IP protocols
- Linux
- MS Office 2010
- 0365 Email
- Digium Phone System
- VOIP,
- GIS,
- Ubiquiti Wireless Technology
- FreeNAS Storage Operating System
- PFSense Firewall Software
- Spiceworks Work Order Tracking System
- 150 computers
- 350 Active Directory /User Directory
- 135+ cameras
- 30 servers
- 145 IP Phones/214 extensions
- 300 cellular devices

# NCGS 160D

{ Technical Changes to NC Land Use Law  
{ (previously found in 160A and 153A)

- ⌘ Re-organization and consolidation of the enabling legislation for City (160A) and County (153A) planning and zoning
- ⌘ Local ordinances must be changed to update references, definitions, terms, and practices by January 1, 2021
- ⌘ Good news: Not much real change for us

## 160D: Overview

- ⌘ Eliminated the option of the Legislative Special/Conditional Use District combined with a Quasi-Judicial Special/Conditional Use Permit. (We already got rid of this when we adopted procedures for “Conditional Zoning”)
- ⌘ Requires a “reasonably recent” comprehensive plan by 1/1/2022 in order to enforce zoning
- ⌘ Updated Term: Conditional Use Permits must now be called Special Use Permit (to eliminate confusing between legislative “Conditional Zoning” and quasi-judicial “Special Use Permits”)
- ⌘ “Permit Choice” Rule applies to all subsequent permits a development needs – applicants can choose to follow old or new rules at time of application.
- ⌘ In General: Clarify legal procedures, more explicitly state what local governments can and cannot do, more “CYA” type requirements, codifies best practices and case law

## Highlights of “Changes”

- ⌘ Adopt broaden “conflict of interest” standards for governing and advisory boards and staff
- ⌘ Board Members must take “oath of office” before starting duties
- ⌘ Inspections: must enter during reasonable hours, must have consent or an administrative search warrant
- ⌘ Must make a note on the Future Land Use map when a zoning map amendment is approved that is not consistent with the map
- ⌘ Must allow administrative decisions to be appealed to the Board of Adjustment; clarifies required notice/hearing procedures when this happens
- ⌘ Must require that applicants for any development approval be made by a person with a property interest or contract to purchase the property
- ⌘ Applicants who choose to travel under old regulations (using “permit choice rule”) don’t have to wait for final action on rule changes
- ⌘ Must obtain landowner’s written consent to conditions on a quasi-judicial development approval for them to be enforceable

## Local Governments \*Must\*

- ⌘ Parcels in two jurisdictions: Owner and both jurisdictions may agree to apply one jurisdiction's rules across entire parcel (property specific – can't be adopted generally)
  
- ⌘ Can require conditions in Conditional Zoning cases that are beyond normal scope of authority (ex: design standards on single family homes), when applicant signs written consent to the conditions.
  
- ⌘ Administrative Modifications: May authorize staff to make “minor modifications” to Conditional Zoning, special use permits, and other development approvals (must define what a “minor” modification is, must follow a standard approval process). Changes to use or density cannot be deemed “minor.”
  - ⌘ Discussion: As general practice, changes between concept plans and final civil drawings are normal – staff looks to conditions of approval
  - ⌘ More formal standards/definitions seem to be required for this after 1/1/2021
  - ⌘ Could also apply to zoning standards – allowing a 10% modification to setbacks or height standards (as an example) without needing a variance.

## Local Governments \*May\*

- ⌘ May have Planning Board serve as preliminary review for quasi-judicial decisions, but:
  - ⌘ PB can't conduct an evidentiary hearing
  - ⌘ Must be an informal preliminary discussion of application
  - ⌘ Forum/recommendation \*can't\* be used as the basis for a decision by the Council
  
- ⌘ UNC SOG recommends against sending quasi-judicial to an advisory board beforehand
  
- ⌘ Could assign authority to approve Special Use Permits to Planning Board, or could remove Planning Board from the process.
- ⌘ If Council wants to keep same procedure, staff recommends eliminating notice requirements for advisory meeting.

## Discussion: Planning Board and QJ Cases

- ⌘ Make noticing requirements consistent with statutory requirements
- ⌘ Clarify rules re: Variances and the Board of Adjustment
- ⌘ Update “vested rights” section
- ⌘ Ensure Housing ordinance is aligned with current/new rules
- ⌘ Ensure Subdivision ordinance is aligned with current/new rules
- ⌘ Eliminate privilege license requirements

Other “clean up” amendments needed...

- ✓ Chapter 1 - GENERAL PROVISIONS 3
- ✓ Chapter 2 - ADMINISTRATION 13
- ✓ Chapter 3 - ANIMALS 2
- ✓ Chapter 4 - BUILDINGS AND BUILDING REGULATIONS 16
- ✓ Chapter 5 - BUSINESS REGULATION, LICENSING AND TAXATION 1
- ✓ Chapter 6 - CEMETERIES 2
- ✓ Chapter 8 - FIRE PREVENTION AND PROTECTION 4
- ✓ Chapter 9 - FLOOD DAMAGE PREVENTION 1
- ✓ Chapter 10 - HOUSING 14
- ✓ Chapter 11 - MOTOR VEHICLES AND TRAFFIC 1
- ✓ Chapter 12 - NUISANCES 2
- ✓ Chapter 13 - OFFENSES AND MISCELLANEOUS PROVISIONS 2
- ✓ Chapter 16 - POLICE 1
- ✓ Chapter 17 - SANITATION 1
- ✓ Chapter 18 - STREETS AND SIDEWALKS 2
- ✓ Chapter 19 - SUBDIVISIONS 1
- ✓ Chapter 21 - WATER AND SEWER 4
- ✓ APPENDIX A - ZONING 7
- ✓ STATE LAW REFERENCE TABLE 1

Almost every chapter of the Code contains a 160A reference

.....

- ⌘ Planning Staff to draft omnibus ordinance to update Code (focus will be on development-related ordinances)
- ⌘ Workshop as needed with Committee of the Whole
- ⌘ Coordinate with City Attorney and other Department Heads – should all updates be in omnibus, can some references be incorporated into other planned updates?
- ⌘ Planning Board to Review (statutory requirement to review changes to Zoning chapter – must be heard at November Planning Board meeting to meet deadline for adoption!)
- ⌘ Public Hearing at City Council to adopt
- ⌘ Updates to Comprehensive Plan by 1/1/2022

# Next Steps...Clock is Ticking!

9189308-  
AICP credits  
\*3 hrs of CZO credit  
should be coming

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

This checklist outlines provisions in the new Chapter 160D of the North Carolina General Statutes (hereinafter G.S.) as well as related statutory changes that will be incorporated into Chapter 160D. The changes to the statutes affect the language of local ordinances, the options for local decision processes, and the administrative practices related to development regulations.

This checklist is one piece of a larger set of resources and training materials, including an explanatory book, *Chapter 160D: A New Land Use Law for North Carolina*. Each item on this checklist is described more thoroughly in those additional resources. Section headers in this checklist note the corresponding chapter and section of the Chapter 160D book [in brackets]. Check [nc160D.sog.unc.edu](http://nc160D.sog.unc.edu) for additional resources and training.

The checklist has specific notations, which are accompanied by specific icons, as follows:

- Denotes **legislative changes** for which local governments *must* take action (statutory citations are in parentheses)
- Denotes **permissive legislative changes** for which local governments *may* take action
- Denotes **notable legislative changes** that do not require local action but of which local governments must *be aware*

\*For items noted with an asterisk, local governments do not have authority for the change until January 1, 2021, unless legislation authorizes earlier effectiveness. Noted changes may be incorporated into ordinances and policies, but they must not be effective until 2021. All other changes may be adopted and effective immediately.

### I. Terminology and Citations [Chapter 1, Section III]

- Must** update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. (See appendixes B and C in the Chapter 160D book.)
- Must** align ordinance terminology with Chapter 160D terminology for *conditional zoning* and *special use permits*; must delete use of the terms *conditional use permit*, *special exception*, *conditional use district zoning*, and *special use district zoning*. (See G.S. 160D-102.)
- Must** ensure that ordinance definitions for the following terms are not inconsistent with definitions provided in state law and regulation: *building*, *dwelling*, *dwelling unit*, *bedroom*, and *sleeping unit*. (S.L. 2019-111, § 1.17.)
- May** align ordinance terminology with Chapter 160D terminology, including for the following terms: *administrative decision*, *administrative hearing*, *determination*, *developer*, *development*, *development approval*, *development regulation*, *dwelling*, *evidentiary hearing*, *legislative*

*decision, legislative hearing, planning and development regulation jurisdiction, and quasi-judicial decision.* (G.S. 160D-102.)

## II. Geographic Jurisdiction [Chapter 2, Section I]

- \*For extension of extraterritorial jurisdiction (ETJ), a municipality **must** provide mailed notice thirty days prior to ETJ hearing; municipality **may** hold one hearing (with single mailed notice) regarding ETJ and initial zoning amendment. (G.S. 160D-202(d).)
- Municipality **may** hold hearings in anticipation of change in jurisdiction. (G.S. 160D-204.)
- \*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.)
- \*In ETJ, the county **may** elect to exercise development regulations that the municipality is not exercising. (G.S. 160D-202(b).)

## III. Boards [Chapter 2, Section II]

### A. In General

- Must** adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)
- Must** keep minutes of proceedings of each board. (G.S. 160D-308.)
- Must** have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)
- Must** update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)
- Must** provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)
- 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.)
- 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.)
- May** establish additional advisory boards related to development regulations. (G.S. 160D-306.)

## B. Planning Board

- **May** assign to planning board the coordination of citizen engagement for planning. (G.S. 160D-301.)
- **May** assign planning board to serve as preliminary forum for review and comment on quasi-judicial decisions, provided that no part of the preliminary forum or recommendation may be used as a basis for the deciding board. (G.S. 160D-301.)

## C. Board of Adjustment

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

# IV. Land Use Administration [Chapter 2, Section III]

## A. In General

- Must** incorporate new staff conflict-of-interest standards into ordinance or policy. (G.S. 160D-109.)
- Must** maintain in paper or digital format current and prior zoning maps for public inspection. (G.S. 160D-105.)
- Must** maintain in paper or digital format any state or federal agency maps incorporated by reference into the zoning map. (G.S. 160D-105.)
- **May** enact ordinances, procedures, and fee schedules relating to administration and enforcement of development regulations. (G.S. 160D-402(b).)
- **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

- Must** issue notices of violation (NOVs) in conformance with statutory procedures (must deliver to permittee and landowner if different; may deliver to occupant or person undertaking the activity; delivery by hand, email, or first-class mail; may be posted onsite; administrator to certify NOV for the file.) (G.S. 160D-404(a).)
- If inspecting, **must** enter the premises during reasonable hours and upon presenting credentials; **must** have consent of premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. 160D-403(e).)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- **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).)

- **May** perform inspections for general code compliance and enforcement (inspections unrelated to a development approval). (G.S. 160D-402(b).)
- **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).)
- **May** issue stop-work orders for illegal or dangerous work or activity, whether related to a permit or not. (G.S. 160D-404(b).)
- **May** continue to use general enforcement methods, including civil penalties, fines, court-ordered actions, and criminal prosecution. (G.S. 160D-404(c).)
- △ Be aware that a local government must bring a court action in advance of the applicable five- and seven-year statutes of limitation. (G.S. 1-51 and -49; established prior to Chapter 160D.)

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

- **Must** maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office); **may** adopt and maintain in paper or digital format. (G.S. 160D-105.)
- **Must** eliminate conditional-use-district zoning; existing conditional-use-district zoning converts to conditional district on January 1, 2021. (G.S. 160D-703; S.L. 2019-111, § 2.9(b).)
- **\*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 digital format. (G.S. 160D-105.)
- **\*May** require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)
- **May** use form-based codes. (G.S. 160D-703(a)(3).)
- **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).)
- **May** apply zoning standards jurisdiction-wide, not just on a zoning-district-by-zoning-district basis. (G.S. 160D-703(d).)
- **\*May** regulate development over navigable waters, including floating homes. (G.S. 160D-702(a).)

## VI. Substance of Other Development Ordinances [Chapter 3, Section II]

- Must** conform subdivision performance guarantee requirements with statutory standards. (S.L. 2019-79 (S.B. 313), to be incorporated into G.S. Chapter 160D.)
- Must** conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)
- Must** exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)
- Must** not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)
- \*Must** follow standardized process for housing-code enforcement to determine owner's abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)
- 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

- Must** follow standard quasi-judicial procedures for preservation certificates of appropriateness. (G.S. 160D-947(c).)
- Must** frame preservation district provisions as "standards" rather than "guidelines." (G.S. 160D-947(c).)
- \*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

- Must** process a development agreement as a legislative decision. (G.S. 160D-105.)
- Must** have a local government as a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently). (G.S. 160D-1001(b).)
- 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).)
- \*May** address fewer topics in development agreement content (list of mandated topics is shortened). (G.S. 160D-1006.)
- 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).)
- 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.)

## VII. Comprehensive Plan [Chapter 4, Section I]

- Must** adopt a comprehensive plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)
- Must** adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)
- Must** reasonably maintain a plan. (G.S. 160D-501(a).)
- May** coordinate a comprehensive plan with other required plans, such as Coastal Area Management Act (CAMA) plans. (G.S. 160D-501(a).)
- May** coordinate with other local governments, state agencies, or regional agencies on planning processes. (G.S. 160D-503(a).)

## VIII. Legislative Decisions [Chapter 4, Section II]

### A. Notice

- Must** follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; **must** adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)
- For zoning-map amendments, **must** provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)
- For zoning-map amendments, **must** provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)
- For extension of ETJ, **may** use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)
- 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

- Must** refer zoning amendments to the planning board for review and comment; **must** not have governing board handle planning board duty to review and comment on zoning amendments. (G.S. 160D-604(c), (e).)
- Must** have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)
- May** refer development regulation amendments (other than zoning) to the planning board for review and comment. (G.S. 160D-604(c).)

### C. Plan Consistency

- When adopting an amendment to the zoning ordinance, **must** adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (*\*This eliminates the 2017 requirement that statements take one of three particular forms.*)
- May** adopt plan-consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(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).)
- 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.)
- Must** adopt a statement of reasonableness for zoning-*map* amendments; for such statements, **may** consider factors noted in the statutes; **\*may** adopt a statement of reasonableness for zoning-*text* amendments. (G.S. 160D-605(b).)
- May** consider and approve a statement of reasonableness and a plan-consistency statement as a single, combined statement. (G.S. 160D-605(c).)

### D. Voting

- \*Must** permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)

### E. Certain Legislative Decisions

- Must** prohibit third-party down-zonings; **may** process local government–initiated down-zonings (S.L. 2019-111, Pt. I.)
- Must** obtain applicant’s/landowner’s written consent to conditions related to a conditional-zoning approval to ensure enforceability. (S.L. 2019-111, Pt. I.)
- 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.)

- 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.)
- **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).)

## IX. Quasi-Judicial Decisions [Chapter 4, Section III]

### A. Procedures

- **Must** follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(28).)
- **Must** hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing **must** have testimony under oath; **must** establish written findings of fact and conclusions of law. (G.S. 160D-406.)
- Board chair **must** rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling **may** be appealed to the full board. (G.S. 160D-406(d).)
- **Must** allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; **may** allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)
- **May** continue an evidentiary hearing without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened; if quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no notice. (G.S. 160D-406(b).)
- **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 record. (G.S. 160D-406(c).)
- **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.)
- **May** require recordation of special use permits with the register of deeds. (G.S. 160D-705(c).)
- △ **Be aware** that the definition of *close family relationship* as used for conflicts of interest includes spouse, parent, child, brother, sister, grandparent, or grandchild (including step, half, and in-law relationships). (G.S. 160D-109(f).)

- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)

## B. Certain Quasi-Judicial Decisions

- Must** not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (S.L. 2019-111, Pt. I.)
- Must** obtain applicant's/landowner's written consent to conditions related to a special use permit to ensure enforceability. (S.L. 2019-111, Pt. I.)
- Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; **must** presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- \*May** adjust variance standards to provide for reasonable accommodation under the federal Fair Housing Act. (G.S. 160D-705(c).)
- 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.)
- 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).)

## X. Administrative Decisions [Chapter 4, Section IV]

### A. Development Approvals

- Must** provide development approvals in writing; **may** provide in print or electronic form; if electronic form is used, then it **must** be protected from further editing. (G.S. 160D-403(a).)
- Must** provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)
- Must** provide that development approvals run with the land. (G.S. 160D-104.)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- 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).)
- 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.)

- **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).)
- **May** authorize administrative staff to approve minor modifications of development approvals and conditional-zoning approvals; if this is done, then **must** define “minor modifications” by ordinance and **must not** include modification of permitted use or density of development; major modifications **must** go through full applicable approval process. (G.S. 160D-403(d); -703(b); -705(c).)

### B. Determinations

- **Must** provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)
- **May** designate an official to make determinations for a particular development regulation. (G.S. 160D-403(b).)
- **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).)

### C. Appeals of Administrative Decisions

- **Must** allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building-code and housing-code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)
- **Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- **Must** require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)
- **Must** pause enforcement actions, including fines, during the appeal. (G.S. 160D-405.)
- **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.)
- **May** designate that appeals be filed with the local government clerk *or* another official. (G.S. 160D-405.)

## XI. Vested Rights and Permit Choice [Chapter 5, Section I]

### A. Vested Rights

- Must** recognize that building permits are valid for six months, as under prior law. (G.S. 160D-108(d)(1).)
- Must** recognize the default rule that development approvals are valid for twelve months, unless adjusted by statute or local rule. (G.S. 160D-108(d)(2).)
- Must** identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108(d)(3); -108(f).)
- Must** recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(d)(4); -108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)
- May** provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(c), -405.)
- Be aware** that a person claiming vested rights may bring an original civil action in court, skipping administrative determination and board of adjustment consideration. (G.S. 160D-405(c).)
- Be aware** that vested rights run with the land, except for state-permitted outdoor advertising permits that run with the owner of the permit. (G.S. 160D-108(g); S.L. 2019-111, Pt. I.)

### B. Permit Choice

- Must** not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 160D-108(b).)
- Be aware** that if a local development regulation changes after an application is submitted, the applicant may choose the version of the rule that applies; but **may** require the applicant to comply with new rules if the applicant delays the application for six months. (G.S. 160D-108(b); S.L. 2019-111, Pt. I.)
- Be aware** that an application for one development permit triggers permit choice for permits under any development regulation; such permit choice is valid for eighteen months after approval of the initial application. (S.L. 2019-111, Pt. I.)

## XII. Judicial Review [Chapter 5, Section II]

### A. Declaratory Judgments

- △ **Be aware** that an individual may bring a declaratory judgment action to challenge legislative zoning decisions, vested rights claims, and challenges to land use authority related to administrative decisions, subject to specified procedures. (G.S. 160D-1401.)
- △ **Be aware** that other civil actions may be authorized—Chapter 160D does not limit availability of other actions. (G.S. 160D-1404.)

### B. Appeals of Quasi-Judicial Decisions

- **\*Must** update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)
- **Must** provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; -1405.)
- △ **Be aware** that on appeal a party may request a stay of the approval or enforcement action. (G.S. 160D-1402(e).)
- △ **Be aware** that a local government may seek a stay in favor of itself (to prevent development under an approval). (G.S. 160D-1402(e).)
- △ **Be aware** that if, in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk. (G.S. 160D-1402(f).)
- △ **Be aware** that on appeal, the superior court now must allow for supplementing the record on questions of standing, conflicts of interest, constitutional violations, or actions in excess of statutory authority. (S.L. 2019-111, § 1.9.)
- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)
- △ **Be aware** of specific judicial instructions for decisions of appeals of quasi-judicial decisions. (S.L. 2019-111, § 1.9.)

### C. Subdivision Decisions

- **May** establish a rule that administrative subdivision decisions are appealed to the board of adjustment. (G.S. 160D-1405.)
- △ **Be aware** that appeals of administrative subdivision decisions may be appealed directly to superior court. (G.S. 160D-1403.)
- △ **Be aware** that quasi-judicial subdivision decisions are appealed to superior court in the nature of certiorari. (G.S. 160D-1402.)

**TO:** Scott Hildebran, City Manager  
**FROM:** Ken Hair, Fire Chief  
**DATE:** April 6, 2020  
**RE:** Fire Department Report for January, February, March 2020

**TRAINING AND FIRE PREVENTION:**

|                                    |       |
|------------------------------------|-------|
| Training Hours                     | 4,663 |
| Inspections                        | 69    |
| Fire Prevention Education Programs | 1     |

**INCIDENT REPORTS BY TYPE SITUATION FOUND:** **Total Incidents**

|  |     |
|--|-----|
| Fire, structure  | 5   |
| Fire, vehicle and heavy equipment                          | 4   |
| Fire, brush or grass                                       | 12  |
| Fire, trash  | 2   |
| Fire, other  | 3   |
| Medical call   | 400 |
| EMS lift assist  | 12  |
| Assist Invalid, lift assist                                | 2   |
| 10-50, PI  | 13  |
| 10-50, no PI   | 34  |
| Rescue call  | 12  |
| Service call, public                                       | 64  |
| Cover in assignment  | 2   |
| Hazardous condition, other, power lines down               | 7   |
| Hazardous material or spill                                | 9   |
| False alarm, sprinkler malfunction                         | 14  |
| False alarm, smoke or carbon monoxide detector malfunction | 34  |
| False alarm, alarm sounded, no fire                        | 13  |
| False alarm, malicious                                     | 0   |
| False alarm, other   | 31  |
| Severe weather or natural disaster, other                  | 0   |

**TOTAL INCIDENTS** **673**

**RESPONSES BY DISTRICTS:**

|             |               |               |
|-------------|---------------|---------------|
| <u>HQ's</u> | <u>STA. 2</u> | <u>STA. 3</u> |
| 400         | 170           | 103           |