

ORDINANCE AMENDMENT: City-initiated request to amend the Unified Development Ordinance by adding definitions under subsection 2-2 for “Determination”, “Development regulation”, “Evidentiary hearing”, and “Quasi-judicial decision” and by amending Articles 5 and 6 to comply with Chapter 160D of the North Carolina General Statutes and by amending sections 4-29, 16-8, and 16-11 to require quasi-judicial subdivision variance requests be heard by the Board of Adjustment and to approve Plan Consistency Resolution No. 2020-0005.

The General Assembly enacted S.L. 2020-25 (S.720) making Chapter 160D effective as of June 19, 2020. Chapter 160D consolidates, reorganizes, and modernizes the state’s planning and development regulation statutes and repeals existing statutes (David Owens, 2020). Local governments can enact their amendments now, but they are not required to do so until July 1, 2021. Staff is diligently working to update the Town’s Unified Development Ordinance to comply with Chapter 160D, and this is one of the first installments of the overall update.

According to the UNC School of Government, quasi-judicial hearings, such as variances and special use permits, are generally assigned to an appointed board, such as a Board of Adjustment. Legislative decisions, such as rezoning and ordinance amendments, are assigned to the governing board. Where an advisory board is involved in a quasi-judicial case, there are limitations on how its recommendation can be presented to the board making the decision in that the decision-making body must hear the relevant information and ascertain the credibility of each witness. Currently in Morehead City, all variances are heard before the Board of Adjustment, with the exception of subdivision variances. Accordingly, staff is recommending that all variance types, including subdivision variances, be heard before the Board of Adjustment.

Type of Decision	Example	Typical Assignment
Legislative	Rezoning	Governing Board
Quasi-judicial	Variance or special use permit	Board of Adjustment
Advisory	Recommendation on rezoning	Planning Board
Administrative	Notice of zoning violation	Staff

Source: Introduction to Land Use Regulations, UNC School of Government, Adam Lovelady.