

## TOWN OF MOREHEAD CITY

**REQUEST FOR TOWN COUNCIL REVIEW**

**AGENDA ITEM: 4.B**  
**DATE: August 4, 2020**

**TO: The Honorable Mayor and Town Council**

**FROM: Ryan Eggleston, City Manager**

**PUBLIC HEARINGS: REVIEW ORDINANCE 2020-O-08 AMENDING SUBSECTION 2-2 FOR “DETERMINATION”, “DEVELOPMENT REGULATION”, “EVIDENTIARY HEARING”, AND “QUASI-JUDICIAL DECISION” AND AMENDING ARTICLES 5 AND 6 TO COMPLY WITH CHAPTER 160D OF THE N.C.G.S. AND AMENDING SECTIONS 4-29,16-8, AND 16-11 TO REQUIRE QUASI-JUDICIAL SUBDIVISION VARIANCE REQUESTS TO BE HEARD BY THE BOARD OF ADJUSTMENT**

**Background Information Attached: Yes X No**

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Planning Director Sandi Watkins will present Ordinance 2020-O-08 Amending 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 (N.C.G.S.).

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.

In accordance with N.C.G.S. 160A-364, this public hearing was advertised twice in the Carteret News Times on Sunday, July 26, 2020 and Sunday, August 2, 2020.

The Planning Board unanimously recommended approval of the text amendment at their July 21, 2020 meeting with Tom Saunders making the motion and Andrea Smith seconding