

STAFF MEMORANDUM

Council Meeting – 06/17/2020



NORTH CAROLINA GENERAL STATUTES CHAPTER 160D: UPDATES TO THE LAND USE MANAGEMENT ORDINANCE, TOWN CODE, AND OTHER POLICIES

Over the next year, Town staff will recommend updates to the Land Use Management Ordinance (LUMO) and other sections of the Town Code to align our regulations with new State legislation commonly referred to as '160D'. These updates are necessary for the Town's development regulation functions to continue operating in compliance with State law.

PROJECT PURPOSE

To bring LUMO and other Town regulations and procedures into compliance with State law, as most recently revised with the adoption of Session Law 2019-111 and establishment of Chapter 160D.

BACKGROUND

'160D' refers broadly to the updating of NC General Statutes that contain the rules for how local jurisdictions (both municipalities and counties) can exercise land use authority in areas such as zoning and subdivisions. Chapter 160D and various related provisions were established under Session Law 2019-111, enacted by the General Assembly on June 28, 2019 and signed by the Governor on July 11, 2019.

Session Law 2019-111 included two parts with different effective dates. Part I, which took effect on July 11, 2019, includes miscellaneous provisions that impact local government's ability to regulate development. The Town will need to consider updates to internal- and external-facing development review procedures to comply with Part I provisions. More detail is provided in the attached **Part I Overview**.

Part II, which enacted Chapter 160D, will take effect in July 2021. In adopting Part II, the General Assembly aims to modernize State land use laws by removing obsolete terminology and clarifying some existing provisions that apply to local governments. Part II was drafted with the explicit intent to not make significant substantive changes in land use law. This modernization is what creates the need for the Town to update its own Code and LUMO through text amendments. Part II also consolidates local regulation statutes for counties and municipalities under the new 'Chapter 160D' heading (previously, statutes were divided into two chapters for different types of jurisdictions). More detail, including initial discussion of how 160D impacts Conditional Use District Zoning, is provided in the attached **Part II Overview**.

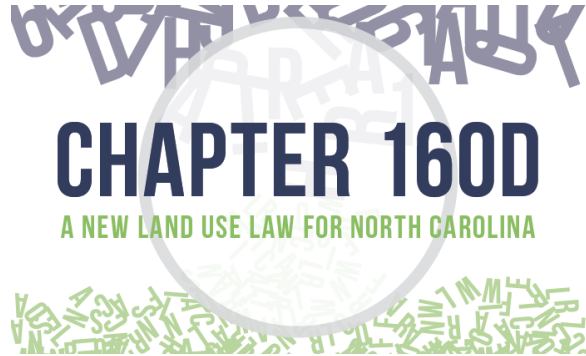
STAFF MEMORANDUM

Council Meeting – 06/17/2020

KEY CHANGES REQUIRED BY STATE LAW

Resources from the UNC School of Government provide an introduction to 160D and the major topics it addresses. Further information is available through their [checklist of changes](#)¹ and a [series of online modules](#).² The School of Government outlines the following major topic areas:

- Terminology and Definitions
- Rules for Boards and Commissions
- Substance of Development Regulations
- Comprehensive Plans
- Procedures for Land Use Decisions
 - Legislative
 - Quasi-Judicial
 - Administrative
- Vested Rights and Permit Choice
- Judicial Review of Land Use Decisions



PROPOSED PROCESS

The steps below outline a process to evaluate the necessary changes, engage stakeholders, and provide a transparent platform for updating LUMO and the Town Code. Opportunities for Council consideration are highlighted **in blue**.

1.	Staff assesses necessary changes to Town Code	March-July 2020
2.	Council introduction	June 2020
3.	Public Engagement – Building Familiarity	July-September 2020
4.	Council discussion of necessary changes and policy options	October 2020
5.	Public Engagement – Policy Choices	October 2020 - January 2021
6.	Draft Text Amendments	February 2021
7.	Planning Commission Review	February-March 2021
8.	Council Review and Adoption	April-May 2021
9.	Effective Date of Part II of Chapter 160D	July 1, 2021 (<i>anticipated</i> ³)

¹ https://www.sog.unc.edu/sites/www.sog.unc.edu/files/Chapter%20160D_Checklist_A_2.pdf

² <https://www.sog.unc.edu/resources/microsites/planning-and-development-regulation/online-modules>

³ Session Law 2020-3, passed in response to the COVID-19 crisis, extended the effective date of Chapter 160D to August 1, 2021. Senate Bill 720 would amend the effective date to July 1, 2021. That bill is awaiting Governor signature as of the writing of this memo.

STAFF MEMORANDUM

Council Meeting – 06/17/2020

PROPOSED PUBLIC ENGAGEMENT STRATEGY

While many of the '160D' changes are necessary due to revised State law, staff is committed to an open process that engages the public on the changes. Education is an important first phase of the project, laying a foundation for input on policy changes by building familiarity around topics that are technical in nature. As currently outlined, the proposed public engagement strategy includes four phases:

I. Building Familiarity	
Introduce the public to the key elements of Chapter 160D and how it intersects with current Chapel Hill approaches to land use regulation. Educate the public on planning and zoning concepts that relate to the provisions of Chapter 160D.	
IAP2 Spectrum Level⁴:	Inform
Input Type:	Online, mostly web-based information Public can ask questions and seek clarification from staff
Timing:	July - September 2020

II. Policy Choices	
Seek stakeholder feedback on implementing the provisions of Chapter 160D, where Council identifies alternatives to discuss with the community. Gather concerns about proposed changes.	
IAP2 Spectrum Level:	Consult
Input Type:	Public meetings (possible mix of in-person and virtual), Online survey Public can respond to survey, share feedback with staff, and ask questions
Timing:	October 2020 - January 2021

⁴ <https://iap2usa.org/resources/Documents/Core%20Values%20Awards/IAP2%20-%20Spectrum%20-%20stand%20alone%20document.pdf>

STAFF MEMORANDUM

Council Meeting – 06/17/2020

III. Draft Text Amendments	
Share draft Code language with the public. Determine support and ongoing concerns.	
IAP2 Spectrum Level:	Consult
Input Type:	Public meetings (possible mix of in-person and virtual), Online comment form Public can comment on draft materials, share feedback with staff, and ask questions
Timing:	February - May 2021

IV. Implementation Resources	
Educate the development community and others who interact with our development regulations about the adopted changes.	
IAP2 Spectrum Level:	Inform
Input Type:	Users can ask questions and seek clarification from staff
Timing:	Following Council adoption