



PART II OVERVIEW (Provisions Effective July 1, 2021)

CHAPTER 160D: DETERMINING UPDATES TO THE LAND USE MANAGEMENT ORDINANCE, TOWN CODE, AND OTHER POLICIES

Part II of Session Law 2019-111 establishes Chapter 160D. It will take effect in the summer of 2021.¹ The Land Use Management Ordinance (LUMO) and Town Code will need various updates to maintain compliance with State law, as revised by the adoption of Session Law 2019-111 and establishment of Chapter 160D.

A team of Town staff, representing multiple departments and disciplines, completed a thorough review of Part II to determine which provisions require updates in the Town Code. [More detailed information and proposed Code language for Council consideration will be provided in the coming months.](#) Below is a brief overview of the significant provisions of Part II.

1. **Conditional Use District Zoning**

The most significant change, in staff's opinion, is that Part II eliminates the use of *Conditional Use District Zoning*, which is the practice of combining a quasi-judicial Special Use Permit with a legislative rezoning. This is currently the most utilized option in Chapel Hill for placing conditions on a rezoning. The Council may continue to issue Special Use Permits after the effective date of Part II, but the conditions of the Special Use Permit will no longer be linked to the rezoning of the site.

Conditional Zoning is a tool that can accomplish many of the same objectives as *Conditional Use District Zoning*, specifically the ability to place conditions on a rezoning. A key difference is that *Conditional Zoning* includes only a legislative process with no Special Use Permit used in combination with the rezoning.

2. **Special Use Permit Review Process**

Part II clarifies the Planning Commission's role in a quasi-judicial process, which may lead to Council consideration of the Commission's involvement in Special Use Permit review. While the Commission may review Special Use Permits, their recommendation cannot be used as the basis for a Council decision on the Special Use Permit. The decision must be made based on evidence presented at the Council public hearing.

3. **Development Agreement Procedures**

Part II provides increased flexibility for how Council can establish a Development Agreement and what elements it may include.

4. **Appeal of Historic District Commission Decisions**

Council has the option to continue having applicants appeal HDC decisions to the Board of Adjustment, or to have direct appeal to Superior Court.

5. **Miscellaneous Minor Changes**

Some 160D provisions require a technical change to the Town Code that has no policy impact. For example, the Town must add and modify various LUMO definitions to be consistent with State law.

¹ Session Law 2019-111 established January 1, 2021 as the original effective date of Chapter 160D. Session Law 2020-3, passed in response to the COVID-19 crisis, extended the effective date 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.