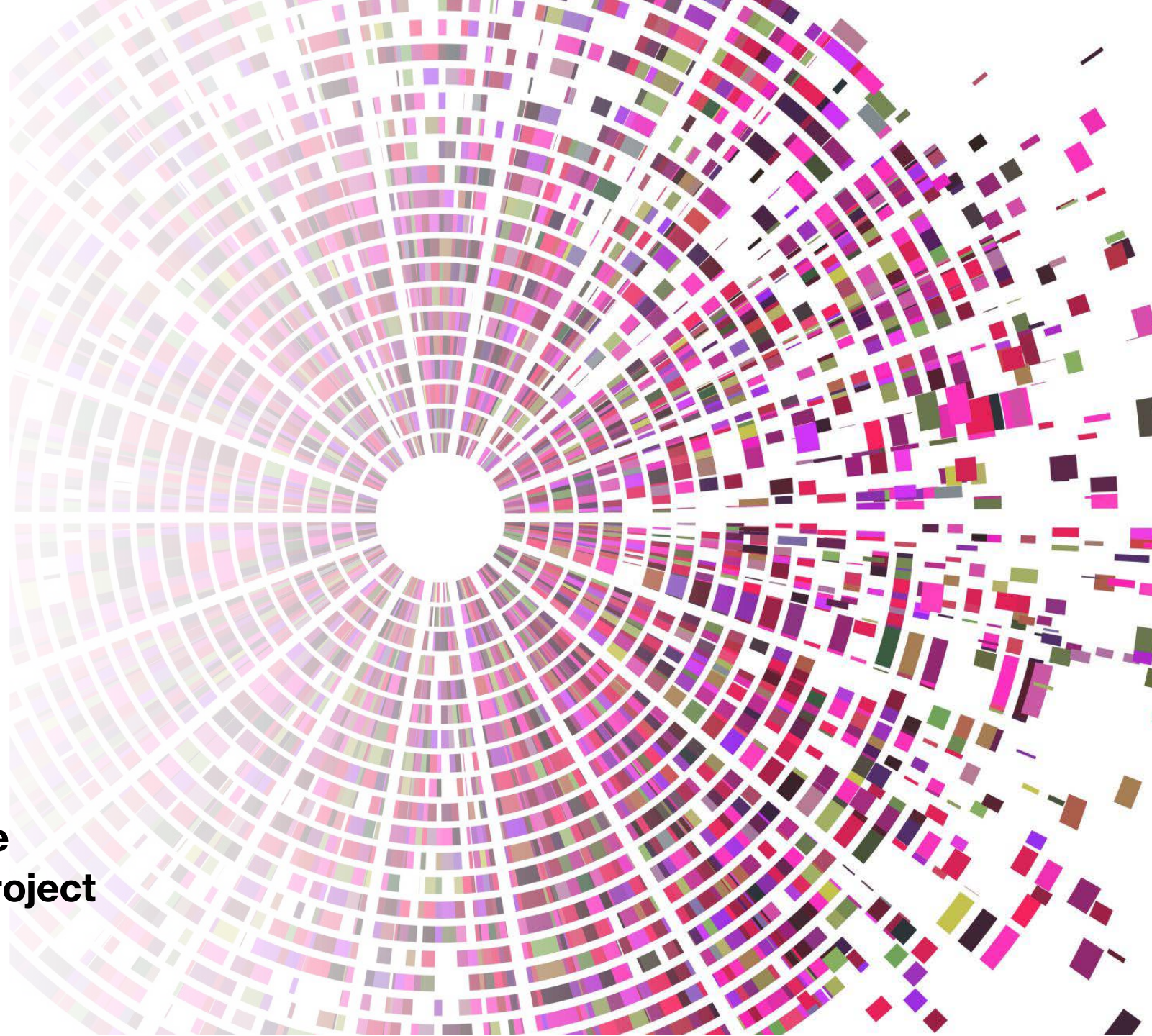




LAND DEVELOPMENT REGULATIONS UPDATE

Town of Weaverville

**NCGS Chapter 160D Compliance
Land Development Ordinance Project
2021**



Scope and Stated Goal

- Chapter 160D of the North Carolina General Statutes is the first major recodification and modernization of development regulations since the 1900s and now applies to all county and municipal jurisdictions. This new law was enacted in 2019 and requires all county and municipal jurisdictions to **update their land development regulations by July 1 for consistency with GS 160D.**
- This Town project includes a substantial rewrite of the Town's development regulations with the goal of Town regulations that are **legally compliant, well-organized, user-friendly, and consistent with Town Council land development policy goals.**

Accomplishing the Goal

Legally Compliant

- Mandatory GS 160D provisions have been incorporated into the Town's regulations

Consistent with Town Policy

- Existing policies maintained except where changes were required by 160D or requested by Town Council, such as:
 - Subdivision regulations
 - Sidewalk requirements
- Optional revisions recommended by staff and/or the Planning Board will be highlighted in this presentation and specifically reviewed prior to approval

Well-Organized and User-Friendly

- All development regulation collapsed into one consolidated chapter
- General provisions and definitions are included to reduce duplicate provisions
- For ease of use most of the required statutory text within the regulations has been included, instead of just referencing the statutory provisions
- Uniform system of numbering

Example: §20-1202

Chapter Part Article Section

New Organizational Structure

- Existing Chapter 2 concerning Boards and Committees will be amended to include establishment, records, officers, rules of procedure, and duties of the **planning board** and **board of adjustment**, and **conflicts of interest provisions** for both boards, Town Council, and staff.
- Chapters 25 and 36 will be repealed and replaced with Chapter 20 which will be called the “***Land Development Ordinance***” and which will contain all land development regulations, divided into the following parts:
 - Part I – General Provisions, Definitions, Administration, Enforcement, Appeals, Planning, Adoption and Amendments, Nonconformities
 - Part II – Subdivision Regulations
 - Part III – Zoning Regulations
 - Part IV – Regulations Requiring Separate Permits

Policies and Practices That Have Not Changed

- **Table of Uses** (see below)
- **Table of Dimensional Requirements**
- **Additional Standards for Uses Permitted with Standards** (see below)
- **Landscaping Regulations**
- **Outdoor Lighting Regulations**
- **Hillside Development Regulations**
- **Sign Regulations**
- **Wireless Telecommunication Facilities Regulations**
- **Quasi-Judicial Procedure**
- **Nonconformities**

One optional addition that is recommended by staff and Planning Board is to add a standard for family care homes that is newly allowed by 160D. If adopted the standard would prohibit any family care home from locating closer than a ½ mile from an existing family care home.

Substantive Changes Concerning Planning Board, Board of Adjustment, and Conflicts of Interest (Ch. 2)

- Provisions concerning the establishment and operations of both the Planning Board and the Board of Adjustment are now located in Article IV of Chapter 2.
- Changes to policy and practice include the following:
 - Planning and Zoning Board now called the **Planning Board** for consistency with 160D
 - Zoning Board of Adjustment now called the **Board of Adjustment** for consistency with 160D
 - Current **appointment provisions** provide that Planning Board is appointed by the mayor with approval of Town Council and Board of Adjustment is appointed by Town Council; GS 160D-310 sets out the default of Town Council appointment to both boards. Town Council has indicated that it prefers to align with GS 160D-310 in this regard.
 - Current provisions require **removal of a member of the Board of Adjustment member** for 3 or more consecutive absences even if there is a good reason; Town Council has indicated its preference that removal be in the discretion of Town Council
- Article VI – Conflicts of Interest – added and applicable to governing board, appointed boards (including Planning Board and Board of Adjustment), and administrative staff

Substantive Changes Concerning General Provisions (Ch. 20, Part I)

- Article I – General Provisions
 - Mostly contains **GS 160D required provisions**
 - Addresses **various topics** such as jurisdiction, effect of development approvals on subsequent property owners, effect of plat approval on dedications; **allows for development agreements for any size project**; acknowledges that Buncombe County is handling Building Code enforcement in the Town’s jurisdiction; sets out requirements for permit choice, vested rights, and limitations on any moratorium on development; provides for applicable fees as set out on the fee schedule adopted by Town Council each year and newly required **notice and public comment periods for subdivision fee increases**
- Article II – Definitions
 - **Consolidated set of definitions** – GS 160D required definitions and definitions from Chapters 25 and 36; where duplicate definitions existed they have been resolved; definitions of terms not used in the regulations have been eliminated (§20-1202)

Substantive Changes Concerning General Provisions (Ch. 20, Part I)

- Article III – Administration, Enforcement, and Appeals
 - Changes to prior-approved development – Optional provision (§20-1303) to define **minor modification** and allow staff to make limited changes without having to go through the standard approval process for major modifications. Limited to changes that do not involve a change of use, increase density, increase impacts on traffic, stormwater, etc., involve minor adjustments to road configuration or internal circulation, minor adjustments to building locations or utility alignment, and otherwise meet all other ordinance requirements, including zoning standards and applicable conditions; staff must provide notice to Town Council of minor changes to conditional districts; appeals go to board of adjustment.
 - Allows some **court actions** to be brought directly as a declaratory judgment or other civil action; otherwise appeals from board of adjustment decisions are largely the same.

Substantive Changes Concerning General Provisions (Ch. 20, Part I)

- Article IV – Planning
 - Requires a **comprehensive plan** be adopted and reasonably maintained by Town Council with the advice and consultation of the Planning Board. GS 160D provisions set out what the plan should do and what topics that it can address. The plan must be consulted for certain amendments to development regulations. The comprehensive land use plan that was adopted in 2019 is consistent with the new requirements.
- Article V – Adoption and Amendment of Development Regulations
 - Change in practice is needed for **map amendments related to annexations**. Public hearings for annexations and zoning map amendments must be conducted separately in the future as there is no legal authority to combine them
 - **Notice requirements for text and map amendments** –
 - Text amendments - Newspaper notice (notice must run twice with the first ad being at least 10 but not more than 25 days prior to hearing)
 - Map amendments – Posting and mailed notice to properties abutting the subject properties at least 10 but not more than 25 days prior to hearing; newspaper notice not required but optional; alternate notice requirements for large scale zoning map amendments

Substantive Changes Concerning General Provisions (Ch. 20, Part I)

- Article V (continued)
 - Current regulations (§36-359(c)) provide that a public hearing before Town Council on amendments is not to be automatically set if the Planning Board provides a negative recommendation. This provision is not supported by law and has been removed.
 - 160D provides that **down-zoning**, zoning which decreases the density or reduces the permitted uses on a property (changes that make property rights more restrictive), can only be initiated by the Town unless the property owner consents
- Article VI – Nonconformities – no substantive changes; moved from zoning regulations (Ch. 36, Art. XVI)

Substantive Changes to Subdivision Regulations (Ch. 20, Part II)

- Substantially rewritten subdivision regulations to accommodate changes in policy at direction of Town Council and for compliance with GS 160D. All subdivision decisions continue to be administrative decisions.
- Article I – General Provisions
 - **Definition of Minor Subdivision** has been modified: 4 or less lots and no construction needed for public water and sewer or street access; applies to residential and commercial subdivisions (§20-2105)
 - **Subdivision Review Procedure** has been amended (§§20-2202, 20-2203):
 - Major S/D – Preliminary Plan – Staff, Technical Review Committee, Planning Board
 - Major S/D – Final Plat – Technical Review Committee and Planning Director
 - Minor S/D – Final Plat – Technical Review Committee and Planning Director (no preliminary plan required)
 - **Appeals of Subdivision Decisions:** Staff decisions appealable to board of adjustment; Planning Board decisions appealable to court (§20-2111)

Substantive Changes to Subdivision Regulations (Ch. 20, Part II)

- Article III – Design Standards – no policy changes
- Article IV – Required Improvements –
 - **Sidewalks on Access Streets** – sidewalks required along all street frontages for minor and major subdivisions if the street is on a sidewalk master plan, sidewalk improvement plan, or sidewalk priority list (§20-2404); eligible for **Sidewalk Waiver** if insufficient right-of-way width or not feasible due to special circumstances like severe roadside conditions or slope (§20-3108)
 - **Sidewalks on Internal Streets** – sidewalks required on at least one side of new streets constructed in a major subdivision (§20-2404)
 - Does not allow **performance guarantees** for required improvements
- Article V – Mapping Standards
 - Reduces obligation to provide **topographical information** on plans or plats from 300 feet outside of the subject property to 100 feet; optional – but recommended by staff (§20-2504)

Substantive Changes to Zoning Regulations (Ch. 20, Part III)

- Substantially similar to current regulations; changes related to compliance with GS 160D or recommended by staff and/or Planning Board.
- Article I – General Provisions
 - Authority for **incentives** related to energy consumption or sustainability in new development has been included (§20-3107); can add regulation in future if desired
 - Added **variance** language for reasonable accommodations for disabilities; requires **variances to be recorded** – optional but recommended for recordkeeping and notice purposes (§20-3108(d))
 - Amends **sidewalk waiver provisions** – can be granted by board of adjustment if insufficient right-of-way width or not feasible due to special circumstances like severe roadside conditions or slope (§20-3108); optional – but recommended

Substantive Changes to Zoning Regulations (Ch. 20, Part III)

- Article II – Conventional Districts, Overlay Districts, Conditional Districts and Special Use Permits
 - Use districts now call **conventional districts** (§20-3201) – no substantive changes; references to “family life” have been changed to “residential life” for more inclusivity
 - **Overlay districts** (§20-3202)– no substantive changes since MHO enacted in Feb 2021
 - Conditional zoning districts now known as **conditional districts** (§20-3203)– no major changes; limits on conditions, all conditions must be consented to by the owner to be enforceable; public involvement meeting renamed community meeting – optional but in current regs, community meeting notice includes which includes posting and mailed notice to properties within 200 feet; final plat to be reviewed by technical review committee and approved by planning director
 - **Special use permits** (§20-3204) – process and standards have not changed; limits on conditions, recommend that owner consent to conditions to avoid a future appeal by the owner - optional but needed for appeals purposes; final plat to be reviewed by technical review committee and approved by planning director; requires special use permits to be recorded – optional but recommended

Substantive Changes to Zoning Regulations (Ch. 20, Part III)

- Article II (continued)
 - **Table of uses** (§20-3205) – no substantive changes, except staff and Planning Board recommend that family care homes be permitted with standards and not permitted by right [now allowed by 160D-907] – optional but recommended
 - **Table of dimensional requirements** (§20-3206) – no substantive changes
 - **Alternate setbacks for some dwellings** (§20-3208(h)) – current policy of allowing front yard setbacks to be reduced if the average front yard setback of existing buildings within 100 feet is less than the what is required; staff added clarification that this is to be calculated on the same side of the street, optional – recommended for clarity
 - **Traffic impact study** (§20-3208(n)) – substantive changes recommended; new language developed in consultation with Planning Board member Rachael Bronson and her colleague Colin Kinton of Traffic Planning and Design, Inc.; new provisions require a traffic impact study if development will generate more than 750 daily trips (which is typical for a single family residential subdivision with 70+ lots or a multi-family apartment with 105+ units)

Substantive Changes to Zoning Regulations (Ch. 20, Part III)

- Article III – Additional Standards for Certain Uses
 - no substantive changes, except staff and Planning Board recommend an additional standard for **family care homes** to prohibit them from being located within ½ mile radius of another existing family care home [now allowed by 160D-907] – optional but recommended (§20-3326)
- Article IV – Landscaping Regulations
 - no substantive changes; **list of vegetative species** removed and to be kept on file by the zoning administrator (§20-3411)
- Article V – Off-Street Parking, Loading and Unloading, Sidewalks
 - **Sidewalk** provisions updated for better coordination with subdivision sidewalk requirements (§20-3503) and sidewalk waivers (§20-3108)

Substantive Changes to Zoning Regulations

Regulations Recommended for Future Review (Ch. 20, Part III)

- Article VI – Outdoor Lighting
 - no substantive changes; recommend for future review to simplify regulations
- Article VII – Hillside Development Regulations –
 - no substantive changes; recommend for future review
- Grading Regulations
 - **Staff recommends that current regulations be repealed and studied further in near future**; current regulations (Ch. 36, Art. XV) require plan review for projects which disturb from ½ acre up to 1 acre of land (County regulates 1+ acre); solid waste and nuisance provisions still in place to handle related issues; optional – but recommended; Town Council has indicated its agreement to repeal grading regulations pending further study
- Sign Regulations and Wireless Telecommunication Facility Regulations
 - moved from zoning regulations to Part IV; both recommended for future review

Regulations Requiring Separate Permits

Regulations Recommended for Future Review (Ch. 20, Part IV)

- Article I – Sign Regulations
 - Moved from zoning regulations; current regulations carried forward so no substantive changes; strongly recommend for future review to address evolving policy goals
- Article II – Wireless Telecommunication Facility Regulations
 - Moved from zoning regulations; current regulations carried forward so no substantive changes, but new 160D provisions added and will prevail if in conflict with existing language; strongly recommend for future review to better incorporate existing policy with new 160D provisions

Regulations Not Considered

The goal of the project was to provide regulation consistent with known policy (as expressed by Town Council directly or through the prior enactment of ordinances). To stay consistent with current policy, there are some **regulations allowed by GS 160D that have not been considered** (some of which are not applicable for a variety of reasons), including the following:

Municipal extraterritorial jurisdiction, Building Code enforcement, minimum housing code, housing appeals board, historic preservation, historic preservation commission, community appearance commission, appearance commission, open space acquisition, community development and redevelopment, form-based districts or development form controls (that address physical form, mass, and density of structures, public spaces, and streetscapes), incentives for reduction in energy consumption and/or sustainable design, community service facilities and recreation areas/open spaces in subdivision approvals, voluntary agricultural districts and accessory farm buildings, airport zoning, amateur radio antennas, fraternities/sororities, public buildings, solar collectors, temporary health care structures, transportation corridor maps, local environmental regulations, forestry activities, mountain ridge protection, stormwater control, water supply/watershed

There has also been some discussion concerning **floodplain regulations** and how that does or should impact land development, particularly the calculation of density. The consensus on this policy was not known at the time of drafting, so it is recommended that this issue be studied and presented to the Planning Board and/or Town Council for future consideration.

Additional Information Available – Cross-Reference Table and Topic Analysis

Copies of the full text are available upon request, as are additional resources, such as a **cross-reference table** linking new provisions to current provisions and a **topic analysis** on several different subjects that provide a more detailed look at specific issues including the following:

- Additional Standards
- Conditional Districts
- Conventional and Overlay Districts
- Grading Regulations
- Regulations Not Changed
- Regulations Not Considered
- Sidewalk Requirements and Waivers
- Special Use Permits
- Subdivision Modifications
- Table of Dimensional Requirements
- Table of Uses
- Text and Map Amendments
- Traffic Impact Studies
- Wireless Telecommunication Facility Regulations

Planning Board Role

Planning Board Members:

- **Gary Burge – Chair**
- **Catherine Cordell – Vice Chair**
- **John Chase**
- **Rachael Bronson**
- **Suzanne DeVane**
- **Bob Pace – Alternate**
- **Andrew Willis – Alternate**
- **Andrew Nagle – Town Council Liaison**

The Town wishes to recognize the Planning Board and its critical role in the review and development of the updated land development regulations.

Over eight (8) public meetings beginning in October 2020, and countless hours outside of those meetings, the Planning Board has reviewed an estimated 200 pages of new regulations and an estimated 180 pages of existing regulations in order to understand the 160D changes and to guide the development of regulations in areas representing a policy change.

The Board has had active and energetic discussions on various topics, including specifically sidewalk requirements, in order to ensure that all sides of an issue were examined and the best regulation proposed.

Any success that this project has is a direct result of the hard work of this dedicated group of volunteers.

Next Steps

• **Town Council and Planning Board:**

- 4/6 Planning Board final review
- 4/26 Town Council sets public hearing and public comment period; begins review
- 5/4 Planning Board final review and adoption of recommendation
- 5/24 Town Council holds public hearing; possible adoption
- 6/28 Town Council possible adoption
- 7/1 Effective date and codification

• **Public Information/Input:**

- 4/27 Materials available online/by request
- 4/27-5/24 Staff available to provide info; written comments being received by mail/email
- 5/1+ eFocus article and media release
- 5/13 Public Info/Input Sessions
 - Town Hall at 5pm
 - Zoom at 6pm
- 5/19 Public Info/Input Sessions
 - Town Hall at 5pm
 - Zoom at 2pm
- 5/24 Public Hearing at 6pm at Town Hall

Project Staff Contact Information

For access to project materials or for more information please contact either of the following project staff members:

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