

Gaston County Unified Development Ordinance (UDO)

Zoning Text Amendments

Repeal and Replace Complete Ordinance

STAFF REPORT

REQUEST

To repeal and replace the Gaston County Unified Development Ordinance in its entirety, to incorporate all necessary modifications in order to: 1) bring the Ordinance into compliance with North Carolina General Statute 160D; 2) make minor modifications to existing chapters and text; 3) make modifications to Chapter 14 (Manufactured Home Park) in order to update standards; and, 4) to incorporate mining operations as a use with supplemental regulations.

Item 1 – To incorporate the necessary modifications to bring the Ordinance into compliance with North Carolina General Statute 160D (general statute requirements)

Purpose: To consolidate City and County statutes previously in Chapters 160A and 153A merged into new Chapter 160D; other related statutes also merged into Chapter 160D, to include Zoning family care homes, regulation of outdoor advertising, and adult entertainment.

Key Notes:

- Changes will modernize, clarify, and simplify the language used
- Provides substantive amendments that all parties agreed were helpful and useful
- Did not make major changes in scope of local government authority
- Authorizes zoning exactions comparable to subdivision exactions
- Clarifies map adoption and record-keeping
- Clarifies types of zoning decisions
- Revises subdivision performance guarantees standards
- Clarifies process for development agreements
- Clarifies procedures and standards for special topic regulations

Staff Recommendation: Proposed text, as presented, is consistent with the Comprehensive Land Use Plan and in compliance with North Carolina State Law.

Item 2 – To make minor modifications to existing chapters and text (staff recommended)

Purpose: To address grammatical and formatting issues; add text for clarification and/or inclusion; and, omission of text, where applicable, to delete redundancy, dated standards, or for the purpose of consistency elsewhere throughout the Ordinance.

Itemized Changes:

Chapter 2 –

- Definitions were added for *Brewery* and *Micro Brewery* to accommodate uses that did not currently exist in the Ordinance. Staff drew upon other agencies for examples and inspiration, in an effort to exhibit consistency with regulations.
- Changes were made to *Bed and Breakfast* and *Family* to mimic standards in use by the North Carolina Building Code for number of rooms allowed and number of people respectfully.
- Definitions for *Landfill*, *Beneficial Fill*, *Landfill Land Clearing* and *Inert Debris (major and minor)* were altered to reflect the issuance of permits by the North Carolina Department of Environmental Quality.
- Age limitations were removed for manufactured homes, allowing for homes manufactured prior to 1976, in order to accommodate new General Statutes and new Manufactured Home laws.
- The definition for Mobile Home Parks was changed from a count of two (2) units to three (3) units, thus matching the definition for the Tax Department.

Chapter 3 –

- A section was removed that allowed non-conforming uses to transition to other non-conforming uses.
- Two identical sections related to non-conforming manufactured homes and non-conforming accessory manufactured homes were condensed into one section, as both had identical language.

Chapters 6 and 7 –

- Scenic View (SV) Overlay district was removed, as the district originated with the distinct purpose of protecting the Stowe Botanical Gardens. Restrictions on surrounding land controlled the height of structures, yet allowed for antennae and radio/television signals to be erected at a greater height. With the surrounding properties being sold to developers and the extension of municipal boundaries, the overlay district was no longer applicable.

Chapter 7 –

- The 570 ft contour line from the Waterfront Overlay district was removed and replaced with *High Water Mark*. This insures that the standards forty (40) ft setback will have the desired affect on all water bodies and will not be specific to Lake Wylie.
- Supplemental regulations were added to accommodate the new uses for *Brewery* and *Microbrewery*. The Use Table was updated to reflect the additions as well.

Chapters 7 and 8 –

- *Land Clearing, Landfill, and Inert Debris (major and minor)* were removed from text and from the Use Table. The wording in our Ordinance was not in compliance with State standards, thus, the text was removed and direction provided to State for regulatory supervision, permitting, and guidance.

Chapter 9 –

- Sign size was increased for signs allowed in the right-of-way, from thirty two (32) sq ft to forty eight (48) sq ft with a height of four (4) ft, to accommodate for a higher standard and aesthetically pleasing signs for subdivisions.
- Political signs were removed since the County has no jurisdiction for regulation. These types of signs are regulated by the Board of Elections and North Carolina Department of Transportation.

Chapter 13 –

- Language for variances was amended to reflect language used in the General Statutes.
- Language was removed to require all subdivisions (including minor subdivisions of five (5) lots or less) to be recorded by plat. This action follows suit with most municipalities and other local government standards.
- The processing time for a major subdivision (fifty (50) lots or more) was decreased from one hundred twenty (120) days to ninety (90) days.
- Performance guarantee bonds were changed from one hundred fifty (150) percent to one hundred twenty five (125) percent to reflect language used in the General Statutes.
- Pre-acceptance bonds were removed as they are no longer allowed by General Statutes.
- Road construction standards were changed to reflect NCDOT standards in all references.

Chapters 15 and 16 –

- No changes – both chapters are mandated by the State.

Chapter 17 –

- Reserved – no changes

Chapter 18 –

- No changes

Appendix A –

- Street Naming and Addressing Ordinance was removed; located in the Code of Ordinances.

Appendix B –

- List of Approved Trees & Shrubs was removed; applicants will now be required to provide the species of tree or shrub they intend to use and make sure it meets the requirements for coverage and growth.

Staff Recommendation: Proposed text, as presented, is consistent with the Comprehensive Land Use Plan and in compliance with North Carolina State Law.

Item 3 – To make modifications to Chapter 14 (Manufactured Home Park) in order to update standards (staff recommended)

Purpose: To update standards and provide tools to enable effective protocol, monitoring, and enforcement for existing manufactured home parks.

Key Notes:

- Required Park Maintenance (to include park ID signs, steps, interior streets, drainage, street maintenance, fencing, landscaping, lighting, street surfaces, etc)
- Amortization of Certain Required Maintenance (to occur within two (2) years from the adoption of this Ordinance)
- Significant design and construction standards included for park signs
- Significant design and construction standards included for fencing
- Enforcement transferred to Chapter 18, eliminating references to an “revocation of an operating permit” and incorporating set penalties for violations
- A change in the definition of a manufactured home park from two (2) to three (3) homes

Staff Recommendation: Proposed text, as presented, is consistent with the Comprehensive Land Use Plan.

Item 4 – To incorporate Mining Operations as a Use with Supplemental Regulations (staff recommended)

Purpose: To better define Mining Operations as a Use and provide regulatory supplements for efficiency in approval, permitting, and standard procedures.

Summary:

- Definitions were added for *Mining and Quarrying* as a Use and included in the Use Table, with Supplemental Regulations and Parking references.
- Only allowed in the (I-3) Exclusive Industrial zoning district.
- May only be approved as a Special Use Permit.
- Additional definitions included in the new supplemental section.
- County government cannot impose regulations that exceed or supersede State regulations.
- Development Standards include: fencing, access, setbacks, lighting, noise mitigation, and landscaping.
- An Operations section addresses: mining permit, blasting, dust suppression, and hours of operation.
- The approval process includes insuring the property is zoned properly; issuance of a Special Use Permit; Planning Board recommendation; Public Information Meetings (PIMs) to be held prior to public hearing; and, a quasi-judicial process for final decisions granted by the Board.
- Additional sections provide for blasting violations, other violations, and revocation of State or Federal permits.

Staff Recommendation: Proposed text, as presented, is consistent with the Comprehensive Land Use Plan and in compliance with North Carolina State Law.

PLANNING BOARD RECOMMENDATION

Scheduled (Special) Meeting Date: September 21, 2021

Meeting Summary / Points of Discussion: Staff provided the Board with an overview of the previous meeting held at the regularly scheduled date/time on Monday, September 13, 2021, to which the Board voted unanimously (5-0) to approve the request to repeal and replace the Unified Development Ordinance (UDO) in its entirety. A special meeting was called to include the Mining Operations as a Use component. Board members were provided with a recap of the entire request, which included required statutory changes for 160D, minor modifications throughout the Ordinance at the request by staff, and modifications of Chapter 14 (Manufactured Home Parks).

Clarification was made on behalf of members absent from last week’s meeting, that changes to the Ordinance for 160D were required by General Statutes and already in effect, regardless of their vote – the only modifications that the Board members could make would be to staff initiated changes.

The Director moved into an overview pertaining to the addition of the Mining text. Planning Board members expressed concern regarding dates of operation and the following recommendation was made: *to include Christmas Eve and Martin Luther King Jr. holidays in the dates of exclusion of operations in an effort to be consistent with County government dates of operation.*

The Board voted to approve the proposed zoning text amendments (revised), with a vote of seven (7) to zero (0) based upon the following statement of consistency:

The proposed zoning text amendments, as presented, are consistent with staff recommendation, the Comprehensive Land Use Plan, and in compliance with North Carolina State laws, specifically NCGS 160D.