



MEMO

Date: May 11, 2021
 To: Davidson Board of Commissioners
 From: Jason Burdette, Planning Director
 Re: Davidson Planning Ordinance NCGS 160D Proposed Text Amendments, Staff Analysis

1. TEXT AMENDMENTS

TEXT CHANGES – PROPOSED AMENDMENTS

The following is a list of proposed text changes to the Town of Davidson Planning Ordinance (DPO). The listed changes are being undertaken to provide changes per the adoption of NCGS 160D by the North Carolina General Assembly. Proposed changes to the DPO (“text amendments”) are in draft form below.

ORGANIZATION

Proposals are organized by page number. The Proposed Text Changes contain three distinct sections organized by subject matter:

1. **Terminology & Citations:** This section contains changes involving specific references to NCGS 160A or 153A, the previous legislation, which are replaced with references to NCGS 160D.
2. **Planning Ordinance Sections:** This section is organized by Planning Ordinance section and contains changes to various regulations, processes, and definitions. Sub-sections are distinguished by red/white titles.
3. **Miscellaneous Topics:** This section is organized by the topic related to distinct sets of changes. Sub-sections are distinguished by red/white titles.

Subject matter sections are distinguished by larger section breaks using black rows.

1. TERMINOLOGY & CITATIONS				
PAGE	SECTION	TITLE	ISSUE	PROPOSED ACTION
1-1	1.2	AUTHORITY	Outdated chapter reference (160A-372, 160A-381)	Change the reference to 160D-804 and 160D-107; 109; -406; -702; -704; -705; -903; -908
TEXT CHANGES			<p>Old Text: The development regulations contained in the Planning Ordinance have been adopted pursuant to the specific authority granted to municipalities by the North Carolina General Statutes (NCGS) in Sections 160A-372, 160A-381 and 160A-381.</p> <p>New Text: The development regulations contained in the Planning Ordinance have been adopted pursuant to the</p>	

			specific authority granted to municipalities by the North Carolina General Statutes (NCGS) in Sections 160D-804 and 160D-107; 109; -406; -702; -704; -705; -903; -908.	
1-2	1.5.1	IMPLEMENTATION OF ADOPTED PLANS AND POLICIES	Old Text: Outdated chapter reference (160A-382, 160A-383); Outdated plan references.	New Text: Change the reference to 160D-502; -605(b); -703; 909 and 160D-604(d); -605(a); -701. Change plan references to include Davidson Comprehensive Plan 2020 and the Davidson Mobility Plan.
TEXT CHANGES			<p>Old Text: In accordance with NCGS 160A-382-383, the Planning Ordinance is intended to implement the various development-related plans and policies adopted by the Board of Commissioners (including the 2010 Comprehensive Plan, the Park and Recreation Master Plan, transportation plans, small area plans, corridor plans, or any other development-related plan or policy).</p> <p>New Text: In accordance with NCGS 160D-502 and 160D-605(b); -703; -909 and 160D-604(d); -605(a); -701 the Planning Ordinance is intended to implement the various development-related plans and policies adopted by the Board of Commissioners (including, but not limited to, the 2020 Comprehensive Plan, the Park and Recreation Master Plan, the Davidson Mobility Plan, transportation plans, small area plans, corridor plans, or any other development-related plan or policy).</p>	
2-77	2.2.17	CONDITIONAL PLANNING AREA	Old Text: NCGS 160A-382, 384, 385	New Text: 160D-502; -605(b); -703; 909; 160D-601; 160D-102; -18(d); -603
4-2	4.2	APPLICABILITY & ADMINISTRATION	Old Text: 160A-381	New Text: 160D-107; -109; -406; -702; -704; -705; -903; -908
6-30	6.12.2	RESERVATION OF SCHOOL SITES...	Old Text: 160A-372	New Text: 160D-804
13-1	13.2.1	AUTHORITY AND RESPONSIBILITY (PLANNING BOARD)	Old Text: 160A-19	New Text: 160D-301; -302
13-2	13.2.2	MEMBERSHIP AND TERMS OF OFFICE (PB/BOA)	Old Text: In accordance with G.S. 160A-362, the Planning Board/Board of Adjustment shall consist of nine to twelve members as determined by the Board of Commissioners. Representation shall be provided for the extraterritorial jurisdiction by appointing at least one	New Text: In accordance with NCGS 160D-301, the Planning Board shall consist of at least three members as determined by the Board of Commissioners. In accordance with NCGS 160D-307, the Planning Board shall include proportional

			and up to three residents of the extraterritorial jurisdiction. Old Text: All members of the Planning Board also serve as member of the Board of Adjustment, either presently serving or alternates. The five presently serving members shall be elected by the Planning Board and shall include an ETJ representative. The chair of the Board of Adjustment shall be chosen by the Board of Commissioners.	representation of ETJ residents. New Text: All members of the Planning Board also serve as member of the Board of Adjustment (BOA) on a rotating basis as specified in the board's Rules of Procedure. In accordance with NCGS 160D-302, the BOA shall consist of at least five members and, per NCGS 160D-307, shall include proportional representation of ETJ residents. The chair of the Board of Adjustment shall be chosen by the Board of Commissioners.
13-4	13.3.2	MEMBERSHIP AND TERMS OF OFFICE (DRB/HPC)	Old Text: In accordance with NCGS 160A-451-455, and NCGS 160A-400, the Design Review Board/Historic Preservation Commission shall consist of seven members.	New Text: In accordance with NCGS 160D-304; -960; -961; -962; and -963, the Design Review Board/Historic Preservation Commission shall consist of a minimum of seven members and a maximum of 15 members.
14-6	14.5.6.1	PLANNING BOARD RECOMMENDATION (CONSISTENCY STATEMENTS)	Old Text: ...NCGS 160A-383	New Text: 160D-604(d); -605(a); -701
14-6	14.5.7	BOARD OF COMMISSIONERS PUBLIC HEARING	Old Text: ...NCGS 160A-381	New Text: ...NCGS 160D-601
14-6	14.5.7.1	BOARD OF COMMISSIONERS DECISION	Old Text: ...NCGS 160A-383	New Text: ...a consistency statement and statement of reasonableness per NCGS 160D-604(d); 605(a); -701
14-28	14.14	TERMINATION OF APPLICATION AND APPROVALS	Old Text: ...NCGS 160A-418 and 160A-422...	New Text: ...NCGS 160D-403(c); -1109; -403(f); -1113
14-30	14.16.1	VESTED RIGHTS – GENERAL PROCEDURES	Old Text: ...NCGS 160A-385.1	New Text: ...NCGS 160D-102; 1007(d)
14-31	14.16.5	VESTED RIGHTS – REVOCATION OR EXPIRATION	Old Text: ...NCGS 160A-385	New Text: ...160D-102; -108.1(d); -603

			Old Text: ... NCGS 160A-417	New Text: ...160D-403; -1108
15-4	15.2.6	CIVIL PENALTY	Old Text: ...NCGS 160A-175	New Text: ...160D-404
16-19	16.3	DEFINITIONS (PLANNING BOARD)	Old Text: ... NCGS 160A-361; -362	New Text: ...NCGS 160D-301; -307
17-1	17.1	AUTHORITY & ENACTMENT (WATERSHED)	Old Text: ...in Chapter 160A, Article 8, Section 174, General Ordinance Authority...	New Text: ...NCGS 160D-926...
18-1	18.1.2	STATUTORY AUTHORITY (FLOODPLAIN)	Old Text: ... in Parts 3, 5, and 8 of Article 19 of 160A; and Article 8 of 160A of the North Carolina General Statutes...	New Text: ...NCGS 160D-701; -702; -703; and -923...
20-1	20.1.2	AUTHORITY – POST-CONSTRUCTION STORMWATER ORDINANCE	Old Text: ...including, but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185...	New Text: ...including, but not limited to the Article 14, Section 5 of the Constitution of North Carolina; NCGS 160D-925; and rules promulgated by the Environmental Management Commission....
20-3	20.1.5	APPLICABILITY AND JURISDICTION (PCCO)	Old Text: ...Valid building permit issued pursuant to G.S. § 153A-344 or G.S. § 160A-385(b)(i)...	New Text: ...valid building permit issued pursuant to NCGS 160D-403; -1108...
20-35	20.7.3	REMEDIES AND PENALTIES (PCCO)	Old Text... NCGS 160A-193...	New Text: ...160D-1125...
22-1	22.2	PURPOSE – HISTORIC PRESERVATION	Old Text: ...(NCGS 160A-400.1 to 400.14)...	New Text: ...(160D-102; -303; -404(c); -940; -941; -942; -943; -944; -945; -946; -947; -948; -949; -950; and -951)...
22-1	22.3	CREATION AND APPOINTMENT (HPC)	Old Text: ...160A-400.7...	New Text: ...160D-303; -941
22-6	22.5.3B	PROCEDURE FOR DESIGNATION (HPC)	Old Text: ...NCGS 160A 400.6...	New Text: ...160D-946...
22-7	22.7.2	REVIEW GUIDELINES (HPC)	Old Text: ...160A-400.1 – 400.14	New Text: ...160D-102; -303; -404(c); -940; -941; -942; -943; -944; -945; -946; -947; -948; -949; and -951...

22.7	22.7.6	APPLICATIONS AND REQUIRED PROCEDURES (HPC)	Old Text... NCGS 160A-400.9(f)...	New Text: ...NCGS 160D-102; -947
2. PLANNING ORDINANCE				
SECTION 1 – PURPOSE & APPLICABILITY				
1-2	1.4	PURPOSE & INTENT	NCGS 160D requires jurisdictions with zoning regulations to adopt a comprehensive plan.	Modify DPO to include reference to the Davidson Comprehensive Plan (2020).
TEXT CHANGES			<p>Old Text: The regulations contained in the Planning Ordinance have been adopted in accordance with the 2010 Davidson Comprehensive Plan...</p> <p>New Text: The regulations contained in the Planning Ordinance have been adopted in accordance with the 2020 Davidson Comprehensive Plan...</p>	
1-2	1.5.1	IMPLEMENTATION OF ADOPTED PLANS & POLICIES	NCGS 160D requires jurisdictions plans to be adopted and/or modified in accordance with state statute.	Update the DPO references to include the correct G.S. 160D-501 reference and Davidson Comprehensive Plan (2020) year. Additionally, add the Mobility Plan to the list of plans.
TEXT CHANGES			<p>Old Text: In accordance with NCGS 160A-382-383, the Planning Ordinance is intended to implement the various development-related plans and policies adopted by the Board of Commissioners (including the 2010 Comprehensive Plan, the Park and Recreation Master Plan, transportation plans, small area plans, corridor plans, or any other development-related plan or policy). As such, all development plans...</p> <p>New Text: In accordance with NCGS 160D-501, the Planning Ordinance is intended to implement the various development-related plans and policies adopted by the Board of Commissioners (including the 2020 Comprehensive Plan, the Parks and Recreation Master Plan, the Mobility Plan and supporting transportation plans, small area plans, corridor plans, or any other development-related plan or policy). Plans shall be adopted, as applicable, in accordance with state statute and shall be reasonably maintained. As such, all development plans...</p>	
1-4	1.7	PLANNING ORDINANCE MAP	Outdated chapter reference (None)	Change the reference to 160D-105
TEXT CHANGES			<p>Old Text: The Planning Ordinance Map, as adopted by the Board of Commissioners, establishes the official zoning districts and overlay districts for the Town of Davidson and is hereby incorporated by reference. Digital and hard copies of the Planning Ordinance Map,</p>	

			<p>including all amendments, are maintained by the Town of Davidson Planning Department and are available from the Administrator upon request.</p> <p>New Text: The Planning Ordinance Map, as adopted by the Board of Commissioners, establishes the official zoning districts and overlay districts for the Town of Davidson and is hereby incorporated by reference. Digital and hard copies of the Planning Ordinance Map, including all amendments, are maintained by the Town of Davidson Planning Department and are available for public inspection from the Administrator upon request. Furthermore, the Town must maintain in paper or digital format any state or federal agency maps incorporated by reference into the zoning map (NCGS. 160D-105).</p>	
1-6	1.10	CONFLICT OF INTEREST	NCGS 160D requires governing boards and staff to adopt and/or abide by conflict-of-interest standards listed in state statute.	Modify DPO to include reference to NCGS 160D-109 Conflicts of interest.
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text [New Section 1.10]: “1.10 Conflict of Interest All governing boards, advisory boards, and staff shall abide by the standards outlined in NCGS. 160D-109 Conflict of interest.”</p>	
SECTION 2 – PLANNING AREAS				
2.3.5	2-85	LOCAL HISTORIC DISTRICT OVERLAY	Revise references to “review guidelines” in accordance with G.S. 160D.	Reference “review standards” rather than “review guidelines” in accordance with G.S. 160D-947(c).
TEXT CHANGES			<p>Old Text:</p> <p>A. Purpose: Davidson’s historic district has a unique sense of place. It is a legacy that links present and future residents with the community’s past and provides a diversity vital to the town’s quality of life. Local historic district designation is designed to protect and enhance the existing character of Davidson’s historic district. The overlay zoning protects the district from unmanaged change through a review process based on established design guidelines.</p> <p>B. Standards: Buildings in the local historic district must meet the requirements in Section 4 and the Davidson Historic District Design Guidelines. If there are conflicts, the stricter regulation takes precedence.</p> <p>New Text:</p> <p>A. Purpose: Davidson’s historic district has a unique sense of place. It is a legacy that links present and future residents with the community’s past and provides a</p>	

			<p>diversity vital to the town’s quality of life. Local historic district designation is designed to protect and enhance the existing character of Davidson’s historic district. The overlay zoning protects the district from unmanaged change through a review process based on established design standards.</p> <p>B. Standards: Buildings in the local historic district must meet the requirements in Section 4 and the Davidson Historic District Design Standards. If there are conflicts, the stricter regulation takes precedence.</p>
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SECTION 4 – SITE & BUILDING DESIGN STANDARDS

4-2	4.2.1	HISTORIC DISTRICT REGULATIONS	<p>Revise references to “review guidelines” in accordance with G.S. 160D.</p>	<p>Reference “review standards” rather than “review guidelines” in accordance with G.S. 160D-947(c).</p>
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TEXT CHANGES			<p>Old Text: ...COA applications are reviewed against the historic district design guidelines.</p> <p>New Text: ...COA applications are reviewed against the Davidson Historic District Design Standards.</p>
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SECTION 6 – SUBDIVISION & INFRASTRUCTURE STANDARDS

6-28	6.11	IMPROVEMENT GUARANTEES	<p>Conform subdivision performance guarantee requirements with statutory standards.</p>	<p>Include reference to NCGS 160D-804.1.</p>
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TEXT CHANGES			<p>Old Text: ...In lieu of meeting the requirement for the completion...</p> <p>New Text: ... All Improvement Guarantees shall conform to NCGS 160D-804.1. In lieu...</p>
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SECTION 11 – SIGNS

11-2	11.2.2	REQUIRED PERMITS	<p>Revise references to “review guidelines” in accordance with G.S. 160D-947(c).</p>	<p>Reference “review standards” rather than “review guidelines” in accordance with G.S. 160D-947(c).</p>
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TEXT CHANGES			<p>Old Text: B. All signs proposed to be affixed to a structure in the Local Historic Overlay District must apply for a Certificate of Appropriateness (COA) from the Historic Preservation Commission, and must comply with the provisions of this section and the Davidson Historic District Design Guidelines.</p> <p>New Text: B. All signs proposed to be affixed to a structure in the Local Historic District Overlay must apply for a Certificate of Appropriateness (COA) from the Historic Preservation Commission, and must comply with</p>
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			the provisions of this section and the Davidson Historic District Design Standards.	
11-15	11.5.3	WALL MURALS	Revise references to “review guidelines” in accordance with G.S. 160D-947(c).	Reference “review standards” rather than “review guidelines” in accordance with G.S. 160D-947(c).
TEXT CHANGES			<p>Old Text: B. Permitted Location: Exterior Wall Murals are only allowed on commercial buildings in the Historic Overlay District, and as such, are subject to approval by the Historic Preservation Commission in accordance with the procedures set out for Certificates of Appropriateness (COA) in Section 22. In granting a COA the Historic Preservation Commission shall find that the proposed Wall Mural is in compliance with the criteria in this subsection (11.5.1), as well as the Davidson Historic District Design Guidelines.</p> <p>New Text: B. Permitted Location: Exterior Wall Murals are only allowed on commercial buildings in the Local Historic District Overlay, and as such, are subject to approval by the Historic Preservation Commission in accordance with the procedures set out for Certificates of Appropriateness (COA) in Section 22. In granting a COA the Historic Preservation Commission shall find that the proposed Wall Mural is in compliance with the criteria in this subsection (11.5.1), as well as the Davidson Historic District Design Standards.</p>	
SECTION 13 – BOARDS & COMMISSIONS				
13-1	13.1.1	ESTABLISHED	NCGS 160D requires governing and advisory boards to adopt and/or abide by conflict-of-interest standards listed in state statute.	Modify DPO to include reference to NCGS 160D-109 Conflicts of interest.
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text: [Second Paragraph] “...as amended by the Board of Commissioners. All advisory boards shall abide by the standards outlined in G.S. 160D-109 Conflict of interest and shall, before entering their duties, qualify by taking an oath of office as required per G.S. 160D-309.”</p>	
13-1	13.2.1.A	AUTHORITY & RESPONSIBILITY	NCGS 160D enumerates various duties the Planning Board may be assigned.	Modify DPO to include list of duties enumerated in NCGS 160D-301 Planning boards.
			<p>Old Text:</p> <ol style="list-style-type: none"> To review and make a recommendation on the schematic design of all master plans. To render opinions and make recommendations on all issues and petitions related to the planning ordinance 	

TEXT CHANGES			<p>and other land use plans which may be adopted from time to time which require approval by the Board of Commissioners.</p> <p>3. A subcommittee of the Planning Board shall review the planning ordinance and make recommendations for changes to the full Planning Board for its consideration and recommendation prior to the end of each calendar year.</p> <p>New Text:</p> <ol style="list-style-type: none"> 1. To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis. 2. To facilitate and coordinate citizen engagement and participation in the planning process. 3. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner. 4. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604 and to advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable, in accordance with G.S. 160D-604(d). 5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct. 6. To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board. 7. To perform any other related duties that the governing board may direct. 	
13-5	13.4	MEETINGS, HEARINGS, & PROCEDURES OF ALL BOARDS & COMMISSIONS	<p>NCGS 160D enables advisory boards to adopt Rules of Procedure and requires boards to keep minutes of their proceedings – both long-standing practices in Davidson.</p>	<p>Modify DPO to include Rules of Procedure noticing (i.e., must be posted online) and require boards to keep minutes of each meeting.</p>
TEXT CHANGES			<p>Old Text: Any rules of procedure adopted by any board or commission shall be kept on file at the offices of the Planning Director and shall be made available to the public at any meeting or hearing.</p> <p>New Text [Second Paragraph]: “Any rules of procedure adopted by any board or commission shall be kept on file at the offices of the Planning Director and shall be</p>	

			made available to the public on the town website. Additionally, each board shall keep minutes of its proceedings.”	
13-2	13.2.2	MEMBERSHIP AND TERMS OF OFFICE	Outdated chapter reference (160A-362)	Change the reference to 160D-307a
TEXT CHANGES			<p>Old Text: Representation shall be provided for the extraterritorial jurisdiction by appointing at least one and up to three residents of the extraterritorial jurisdiction.</p> <p>New Text: The Town shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census.</p>	
13-2	13.2.2	MEMBERSHIP AND TERMS OF OFFICE	Outdated chapter reference (160A-362)	Change the reference to 160D-307b
TEXT CHANGES			<p>Old Text: Representatives from the ETJ area shall be appointed by the Mecklenburg County Board of Commissioners.</p> <p>New Text: The extraterritorial representatives on an advisory board shall be appointed by the board of county commissioners with jurisdiction over the area. The county shall make the appointments within 90 days following resolution from the Town Board of Commissioners. If a board of county commissioners fails to make these appointments within 90 days after receiving a resolution from the Town Board of Commissioners requesting that they be made, the Town Board of Commissioners may make them.</p>	
13-4	13.3.2	MEMBERSHIP AND TERMS OF OFFICE	Outdated chapter references (G.S. 160A-451-455 and G.S. 160A-400)	Change references to 160D-303 (Historic Preservation Commission), 160D-304 (Appearance Commission), and 160D-307 (ETJ Representation)
TEXT CHANGES			<p>Old Text: In accordance with G.S. 160A-451-455, and G.S. 160A-400, the Design Review Board/Historic Preservation Commission shall consist of a total of seven members. Representation shall be provided for the extraterritorial jurisdiction by appointing at least one resident of the extraterritorial jurisdiction.</p> <p>Representatives from within the Town limits shall be appointed by the Board of Commissioners. Where possible, the Board of Commissioners shall appoint to a majority of the Commission those residents who have had special training or experience in a design field, such as architecture, landscape architecture, horticulture, planning, or a closely related field.</p>	

	<p>The term of office shall be three years, although initial appointments shall be made for one, two and three years so the terms may be staggered. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. The Board of Commissioners shall appoint the Design Review Board/Historic Preservation Commission chair. The chair shall serve a one-year term.</p> <p>New Text: Members of the Design Review Board also serve on the Historic Preservation Commission.</p> <p>In accordance with G.S. 160D-304; -960 to -963 and 160D-303; -941, the Design Review Board/Historic Preservation Commission shall consist of seven to twelve members as determined by the Board of Commissioners. The Town shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided for the extraterritorial jurisdiction by appointing at least one resident of the extraterritorial jurisdiction.</p> <p>Representatives shall be appointed by the Davidson Board of Commissioners. Representatives from the extraterritorial jurisdiction shall be appointed by the board of county commissioners with jurisdiction over the area. The county shall make the appointments within 90 days following resolution from the Town Board of Commissioners. If a board of county commissioners fails to make these appointments within 90 days after receiving a resolution from the Town Board of Commissioners requesting that they be made, the Town Board of Commissioners may make them.</p> <p>A majority of members appointed to the Design Review Board/Historic Preservation Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The term of office shall be three years, although initial appointments shall be made for one, two and three years so the terms may be staggered. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. The Board of Commissioners shall appoint the Design Review Board/Historic Preservation Commission chair. The chair shall serve a one-year term.</p>
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SECTION 14 – ADMINISTRATION & PROCEDURES

14-1	14.1	PURPOSE AND INTENTION	Outdated chapter reference (None)	Change the reference to 160D-109c
TEXT CHANGES			<p>Old Text: None</p> <p>New Text: No staff member shall make a final decision on an administrative decision if the outcome of that</p>	

			<p>decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.</p> <p>No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.</p>		
14-2	14.3	TYPES OF DEVELOPMENT PROPOSALS	<table border="1"> <tr> <td> <p>The legislation requires listing who may apply for a development application and notes that approvals run with the land. Additionally, the UNC School of Government recommends outlining the process for review and acceptance of development applications.</p> </td> <td> <p>Rename section to be titled "Development Proposals" and reorganize to create three sub-sections: "14.3.1 Types of Development Proposals," "14.3.2 Development Applications," "14.3.3 Approvals." Include information on who may apply, how completeness is determined, and that approvals run with the land.</p> </td> </tr> </table>	<p>The legislation requires listing who may apply for a development application and notes that approvals run with the land. Additionally, the UNC School of Government recommends outlining the process for review and acceptance of development applications.</p>	<p>Rename section to be titled "Development Proposals" and reorganize to create three sub-sections: "14.3.1 Types of Development Proposals," "14.3.2 Development Applications," "14.3.3 Approvals." Include information on who may apply, how completeness is determined, and that approvals run with the land.</p>
<p>The legislation requires listing who may apply for a development application and notes that approvals run with the land. Additionally, the UNC School of Government recommends outlining the process for review and acceptance of development applications.</p>	<p>Rename section to be titled "Development Proposals" and reorganize to create three sub-sections: "14.3.1 Types of Development Proposals," "14.3.2 Development Applications," "14.3.3 Approvals." Include information on who may apply, how completeness is determined, and that approvals run with the land.</p>				
			<p>Old Text: 14.3 Types of Development Proposals (types listed, but no sub-sections)</p> <p>New Text:</p> <p>14.3 Development Proposals</p> <p>14.3.1 Types of Development Proposals [Use existing text]</p> <p>14.3.2 Development Applications</p> <p>Application Submittal: Applications for development approvals may only be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.</p> <p>Application Review: Initial applications will be reviewed for completeness according to the steps below. Subsequent document submittals within the same development process will be reviewed for completeness</p>		

			<p>based on staff capacity and not according to the timelines listed below.</p> <p>1. Completeness Determination</p> <p>Applicants shall submit applications to the Town of Davidson Planning Department. Until an application is determined to be complete and in accordance with ordinance requirements, an application has not been submitted.</p> <p>On receiving a development application, Planning staff shall determine whether the application is complete or incomplete within ten business days. A complete application is one that:</p> <ol style="list-style-type: none"> a. Contains all information and materials required for submittal of the correct type of application, and in sufficient detail, format/organization, and readability for staff to evaluate the application for compliance with applicable review standards pertaining to the Davidson Planning Ordinance and the Town of Davidson policies, procedures, and practices; and b. Is accompanied by the appropriate, completed application(s) and fee(s) established for the correct type of application. <p>2. Application Incomplete</p> <ol style="list-style-type: none"> a. On determining that the application is incomplete, the staff shall, as appropriate, provide the applicant written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness review. b. If the applicant fails to resubmit an application within 30 calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. <p>3. Application Complete: On determining that the application is complete, the staff shall accept the application as submitted in accordance with the procedures and standards of this ordinance in effect at the time of the submittal and provide the applicant written notice of application submittal acceptance.</p> <p>14.3.3 Development Approvals</p> <p>Unless provided otherwise by this ordinance or law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this ordinance attach to and run with the land. For further information, see the Vested Rights section.</p>	
14-5	14.4	CONDITIONAL PLANNING AREA	Missing reference to "legislative decision."	Add reference per 160D-601
			<p>Old Text: Conditional Planning Area is more fully described in Section 2. As stated in Section 2, a Conditional Planning Area shall be adopted by the Board</p>	

TEXT CHANGES			of Commissioners, which allows a specific development with reasonable conditions. New Text: Conditional Planning Area is more fully described in Section 2. As stated in Section 2, a Conditional Planning Area is a legislative decision consistent with NCGS 160D-601 and shall be adopted by the Board of Commissioners, which allows a specific development with reasonable conditions.	
14-6	14.5.6.1	PLANNING BOARD RECOMMENDATION	Outdated chapter reference (160A-383)	Change the reference to 160D-604
TEXT CHANGES			<p>Old Text: The conditional planning area with conditions shall be placed on the Planning Board agenda for review and recommendation. The Planning Board shall send a positive or negative recommendation to the Board of Commissioners. In either case, the Planning Board will conform with NCGS § 160A-383 pertaining to consistency statements. Along with the recommendation, the Planning Board shall submit to the Board of Commissioners a report, including any changes made to the original submittal, comments, concerns, and recommended conditions of approval. If they send a negative recommendation, they shall state their reasons in writing.</p> <p>New Text: The conditional planning area with conditions shall be placed on the Planning Board agenda for review and recommendation. The Planning Board shall send a positive or negative recommendation to the Board of Commissioners. In either case, the Planning Board will conform with NCGS § 160D-604 pertaining to consistency statements. Along with the recommendation, the Planning Board shall submit to the Board of Commissioners a report, including any changes made to the original submittal, comments, concerns, and recommended conditions of approval. If they send a negative recommendation, they shall state their reasons in writing.</p>	
14-6	14.5.7.1	BOARD OF COMMISSIONERS PUBLIC HEARING	Outdated chapter reference (160A-383c)	Change the reference to 160D-605
TEXT CHANGES			<p>Old Text: After the public hearing, at the same meeting or a subsequent meeting, the Board shall vote to approve, disapprove, or defer the conditional planning area with conditions, and adopt a consistency statement per NCGS § 160A-383.</p> <p>New Text: After the public hearing, at the same meeting or a subsequent meeting, the Board shall vote to approve, disapprove, or defer the conditional planning area with conditions, and adopt a consistency statement per NCGS § 160D-605(a). The Board shall also approve a statement of reasonableness per NCGS 160D-605(b). The consistency statement and statement of reasonableness may be approved in a single statement per NCGS 160D-605(c).</p>	

14-18	14.11.4	BUILDING PERMITS	Outdated chapter reference (None)	Change the reference to 160D-1111 & 160D-108.1
TEXT CHANGES			<p>Old Text: None</p> <p>New Text: Add new Heading “Expiration”</p> <p>Building permits expire after six months if the permit holder has not commenced work under the permit. If the Permit Holder begins work and then discontinues work for twelve months, the permit is no longer valid. G.S. 160D-1111</p> <p>A building permit shall not expire or be revoked due to running time if part of an outstanding vested right per G.S. 160D-108.1(e)(3)</p>	
14-28	14.14	TERMINATION OF APPLICATIONS AND APPROVALS	The legislation clarifies the validity and duration of approved local development permits.	Reorganize this section to clarify circumstances and terminology surrounding permit approval and duration, including what constitutes substantial commencement (at the recommendation of the UNC School of Government).
			<p>Old Text: Existing 14.14 text.</p> <p>New Text:</p> <p>14.14.1 Terminations [Shift last paragraphs to end of first paragraph]</p> <p>Any application for a process...as stated in the Termination of Applications & Approvals chart listed below. The approval of a local development permit as provided in this section shall terminate at the end of the applicable sunset period with respect to construction and development activities unless a building permit has been issued or a final plat has been recorded.</p> <p>Upon issuance of a local development permit (i.e., an approved development plan), the provisions of NCGS 160D and SL 2019-11 shall apply, except that an approved building permit shall not expire or be revoked because of the running of time while work is being undertaken related to an approved local development permit.</p> <p>14.14.1.A Substantial Commencement</p> <p>A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period listed in Table 14-1. Substantial commencement of work shall be determined by the Planning Director or appropriate government authority based on any of the following:</p> <ol style="list-style-type: none"> a. The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days; 	

			<p>b. The development has installed substantial on-site infrastructure; or</p> <p>c. The development has received and maintained a valid building permit for the construction and approval of a building foundation.</p> <p>Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to NCGS. 160D-108.</p> <p>14.14.2 Extensions [Existing text...The Planning Director may grant...not specific to the developer].]</p>
14-30	14.16	VESTED RIGHT REQUIREMENTS	<p>Outdated chapter reference (160A-360.1)</p> <p>Change the reference to 160D-108</p>
TEXT CHANGES			<p>Old Text: Vested Right Requirements (14.16 Heading)</p> <p>New Text: Vested Right and Permit Choice Requirements</p>
14-30	14.16.1	VESTED RIGHT GENERAL PROCEDURES	<p>Outdated chapter reference (160A-385.1)</p> <p>Change the reference to 160D-108</p>
TEXT CHANGES			<p>Old Text: Pursuant to G.S. 160A-385.1 and not withstanding any other provisions or amendment thereto, a landowner may apply for approval of a site-specific development plan as defined in the statute that shall entitle said landowner to develop property in accordance with said plan.</p> <p>New Text: Pursuant to G.S. 160D-108.1 and not withstanding any other provisions or amendment thereto, a landowner may apply for approval of a site-specific development plan as defined in the statute that shall entitle said landowner to develop property in accordance with said plan.</p>
14-30	14.16.1	VESTED RIGHT GENERAL PROCEDURES	<p>Outdated chapter reference 160A-385.1</p> <p>Change the reference to 160D-108.1</p>
TEXT CHANGES			<p>Old Text: None</p> <p>New Text: [After Last Paragraph]</p> <p>A) Development Permit Upon issuance of a development permit as defined in G.S 143-755(e)(2), the statutory vesting is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. G.S 160D-108(d)</p> <p>B) Multi-Phase Development A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. The development</p>

			<p>remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. G.S. 160D-108(f)</p> <p>C) Site-Specific Development A site-specific vesting plan consists of a land development plan submitted to the appropriate approval authority for the purpose of obtaining one (1) of the following zoning or land-use permits or approvals pursuant to G.S. 154A-334.1:</p> <ul style="list-style-type: none"> • Master Plan • Conditional Master Plan • Individual Building <p>A site-specific vesting plan remains vested for a period of two years. Rights to be vested for a period exceeding two years but not exceeding five years may be considered where warranted considering all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.</p> <p>A site-specific vesting plan must comply with all requirements of G.S 160D-108.1 and meet the requirements for substantial commencement.</p>	
14-31	14.16.5	VESTED RIGHT REVOCATION OR EXPIRATION	Outdated chapter reference (160A-385)	Change the reference to 160D-403
TEXT CHANGES			<p>Old Text: The vested right, may be revoked by the Board of Commissioners as provided for in G.S.160A-385. In addition, a revocation may occur if the Board of Commissioners determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Planning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Board of Commissioners.</p> <p>New Text: The vested right may be revoked by the appropriate authorities pursuant to G.S.160D-403(f). In addition, a revocation may occur if the appropriate authorities determine that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Planning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town of Davidson.</p>	
14-31	14.16.5	VESTED RIGHT REVOCATION OR EXPIRATION	Outdated chapter reference (160A-385)	Change the reference to 160D-403
TEXT CHANGES			<p>Old Text: A building permit issued Mecklenburg County Engineering pursuant to G.S. 160A-417 may not expire or be revoked because of the running of time on a piece</p>	

			of property while a plan has been approved and the vested right period has not otherwise expired. New Text: A building permit issued Mecklenburg County Engineering pursuant to G.S. 160D-403 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.
14-31	14.16.6	PERMIT CHOICE	Outdated chapter reference (160A-360.1) Change the reference to 160D-108
		TEXT CHANGES	Old Text: None New Text: [Add New Heading] Permit Choice If an application is made in accordance with the regulations of this ordinance for development approval and any regulations change between the time of submittal and the time the application is approved, the applicant can choose which version of the regulation will apply to the application. If the applicant chooses the version of the regulation at the time of application submittal, the applicant shall not be required to await the outcome of the amendment of the regulation prior to acting on the development permit. G.S. 160D-108(b).
14-32	14.18.2	APPEALS PROCEDURE	Outdated chapter reference (160A-388) Change the reference to 160D-405 & 406
		TEXT CHANGES	Old Text: A. The Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed. B. The Board of Adjustment shall have all the powers of the Planning Director in making any order, requirement, decision, interpretation, or determination with reference to an appeal or petition. New Text: A. The Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision that ought to be made. B. The Board of Adjustment shall have all the powers of the Planning Director in making any order, requirement, decision, interpretation, or determination with reference to an appeal or petition. All administrative decisions, unless otherwise provided by statute or ordinance, may be appealed to the Board of Adjustment. G.S. 160D-405(a) C. The owner or party shall have 30 days from receipt of written notice to file an appeal. Any other party with standing shall have 30 days for receipt of any source to file an appeal. In the absence of evidence to the

			<p>contrary, notice pursuant to G.S. 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of notice for mailing with the United States Postal Service. G.S. 160D-405(d)</p> <p>D. The official who made the determination, or their successor, must appear as a witness at the hearing. G.S. 160D-406</p> <p>E. An appeal stays the enforcement of the action appealed, including fines, until a determination is made, unless the Board of Adjustment receives a certified decision as otherwise provided in G.S. 160D-406(f)</p>
14-34	14.19	CHANGES & AMENDMENTS TO THE PLANNING ORDINANCE	<p>Include reference to "legislative decision."</p> <p>Add sentence to end of existing paragraph.</p>
		TEXT CHANGES	<p>Old Text: ...The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in response to changed conditions or changes in public policy.</p> <p>New Text: ...The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in response to changed conditions or changes in public policy. All changes and amendments to the Davidson Planning Ordinance or Planning Area Map shall be legislative decisions requiring approval from the Board of Commissioners and consistent with NCGS 160D-601, -602, -603, -604, and -605.</p>
14-35	14.19.3	REQUIRED PLANS AND PUBLIC NOTIFICATION	<p>NCGS 160D clarifies public notice requirements for proposed zoning map amendments (160D-602).</p> <p>Include requirement that a notice sign be posted at least ten and no more than twenty-five days prior to the public hearing in accordance with 160D-602.</p>
		TEXT CHANGES	<p>Old Text: E. The Planning Director shall also place a sign or other legible notice on the property on which the planning area change is requested at least ten days before the public hearing.</p> <p>New Text: E. The Planning Director shall also place a sign or other legible notice on the property on which the planning area change is requested at least ten days and no more than twenty-five (25) days before the public hearing.</p>
14-36	14.19.5	RECOMMENDATION AND PROCEDURES	<p>Outdated chapter reference (160A-383c)</p> <p>Change the reference to 160D-605</p>
		TEXT CHANGES	<p>Old Text: In considering any petition to redesignate property to a different planning area (rezoning), the Planning Board in its recommendation and the Board of Commissioners in its decision shall take into consideration; among other factors deemed relevant by either board.</p>

			<p>New Text: In considering any petition to redesignate property to a different planning area (rezoning), the Planning Board per NCGS 160D-604(d) in its recommendation and the Board of Commissioners per NCGS 160D-605(a) in its decision shall take into consideration; among other factors deemed relevant by either board.</p> <p>NCGS § 160D-605(a). The Board shall also approve a statement of reasonableness per NCGS 160D-605(b). The consistency statement and statement of reasonableness may be approved in in single statement per NCGS 160D-605(c).</p>	
14-37	14.19.5	Recommendation & Decision	<p>NCGS 160D provides additional clarity on approval of consistency statements – a practice by which Davidson has abided according to state law but that it had heretofore not codified.</p>	<p>Revise the DPO to include reference to consistency statements made by the governing board.</p>
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text: ...or any other designation. In accordance with G.S. 160D-605, when adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The consistency statement requirement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.</p> <p>Note: If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use/Planning Area map in the adopted plan, and no additional request or application for a plan amendment shall be required.</p>	
14-37	14.20	CHANGES TO MUNICIPAL EXTRATERRITORIAL JURISDICTION	<p>NCGS 160D provides clarity on notice requirements for the extension of municipal extraterritorial jurisdiction area.</p>	<p>Revise DPO to include reference to G.S. 160D-202.</p>
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text [New Section 14.20]: 14.20 Changes to Municipal Extraterritorial Jurisdiction Any municipality proposing to exercise extraterritorial jurisdiction (ETJ) under NCGS 160D-202 shall notify the owners of all parcels of land proposed for addition to the</p>	

			<p>area of ETJ, as shown on the county tax records, at least thirty days prior to the ETJ hearing. The notice shall inform the landowner of the effect of the extension of ETJ, of the landowner’s right to participate in a legislative hearing prior to adoption of any ordinance extending the area of ETJ, as provided in G.S. 160D-601, and of the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning board and the board of adjustment, as provided in G.S. 160D-303. The municipality may hold one hearing (with single mailed notice) regarding ETJ and initial zoning amendment.”</p>	
14-38	14.21	QUASI-JUDICIAL DECISIONS	<p>NCGS 160D provides clarity on quasi-judicial procedures</p>	<p>Revise DPO to include reference to G.S. 160D-406.</p>
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text [New Section 14.21 Quasi-Judicial Decisions]:</p> <p>A. Process Required: Boards and Commissions shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision, in accordance with G.S. 160D-406. An evidentiary hearing shall be held to gather competent material, and substantial evidence to establish the facts of the case. The evidentiary hearing must have testimony under oath and must establish written findings of fact and conclusions of law.</p> <p>B. Presentation of Evidence: The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.</p> <p>Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review. Note: Even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts.</p> <p>C. Decisions: The board/commission shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order,</p>	

	<p>requirement, decision, or determination that ought to be made. The board/commission shall have all the powers of the official who made the decision.</p> <p>Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.</p>
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SECTION 15 – VIOLATIONS AND PENALTIES

15-1	15.1.1	ADMINISTRATOR AUTHORITY	Missing 160D citation.	Add 160D citation to current language.
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TEXT CHANGES			<p>Old Text: ... public or private, to perform any duty imposed upon them by this ordinance.</p> <p>New Text: ...public or private, to perform any duty imposed upon them by this ordinance and consistent with NCGS 160D-403(e) and -1113.</p>
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15-2	15.1.3(B)	NOTICE OF VIOLATION	DPO standards for NOV need updating specific to delivery.	Update NOV consistent with 160D.
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TEXT CHANGES			<p>Old Text: Methods of Service: The Planning Director shall notify the person responsible for a violation of any provision of this ordinance and give the responsible person a specified time to correct the violation. Notice of violation shall be given in writing and mailed or hand delivered to the address listed for the responsible person in the county property tax records, unless the Planning Director has actual knowledge that the person is residing at a different address. Service of any written notice is complete by hand delivering the notice or by depositing the notice in first class mail. No written notice will be given when the Planning Director has the authority to summarily remove, abate, or remedy a violation of this article. When a person has failed to comply with a notice of violation as described above, the Planning Director shall not be required to provide further notices of violation to that person with regard to the same property before taking any of the enforcement actions authorized by this ordinance.</p> <p>New Text: Methods of Service: The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the</p>
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			notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.	
15-3	15.2.5	REVOCATION OF PERMITS	DPO reference to NCGS missing.	Include reference to NCGS 160D-403(f)
TEXT CHANGES			Old Text: N/A – Does Not Exist New Text: [add as last sentence] ...ordinance. Any revocation of permit shall comply with NCGS 160D-403(f).	
SECTION 16 – DEFINITIONS				
16-3	16.3	DEFINITIONS	Definition Does Not Exist	Add DPO definition for “Administrative Decision.”
TEXT CHANGES			Old Text: N/A – Does Not Exist New Text: Administrative Decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this NCGS 160D or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.	
16-5	16.3	DEFINITIONS	DPO definition must match NCGS 160D and state building code definition.	Change definition of “Building” to match.
TEXT CHANGES			Old Text: Building: A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods. New Text: Building: Any structure used or intended for supporting or sheltering any use or occupancy, including shelter, housing, or enclosure of persons, animals, or goods.	
16-9	16.3	DEFINITIONS	Definition Does Not Exist	Add DPO definition for “Determination.”
TEXT CHANGES			Old Text: N/A – Does Not Exist New Text: Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.	
16-9	16.3	DEFINITIONS	Outdated definition.	Revise definition for “Developer” per 160D.
TEXT CHANGES			Old Text: Developer: Any person seeking approval under these regulations for any form of development. New Text: Developer: A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been	

			authorized by the landowner to undertake development on that property.	
16-9	16.3	DEFINITIONS	Outdated definition.	Revise definition for "Development" per 160D.
TEXT CHANGES			<p>Old Text: Development: The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.</p> <p>1. Except as provided in subsection 3 hereof, for the purposes of these regulations the following activities or uses shall be considered development:</p> <p>a. The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;</p> <p>b. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;</p> <p>c. Alteration of the shore or bank of a pond, lake, river, or other waterway;</p> <p>d. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;</p> <p>e. Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or</p> <p>f. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.</p> <p>2. Development includes all other activity customarily associated with it. When appropriate to the context development refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition</p> <p>3. For the purpose of these regulations the following operations or uses shall not be considered development; some may, however, require a building permit:</p> <p>a. Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed.</p> <p>b. Work involving the maintenance or replacement of existing landscaped areas and existing rights of way;</p> <p>c. A change in use of land or structure from a use within a specified category of use to another use in the same category;</p> <p>d. A change in the ownership or form of ownership of any parcel or structure;</p>	

			<p>e. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law, or</p> <p>f. The clearing of survey cuts or other paths of less than 4 feet in width.</p> <p>g. Construction of an individual single family home or duplex on a lot that a) is included in an approved master plan or minor subdivision, or b) existed prior to the effective date of this ordinance by a process that did not require subdivision approval.</p> <p>New Text: Development: Any of the following:</p> <ul style="list-style-type: none"> a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. b. The excavation, grading, filling, clearing, or alteration of land. c. The subdivision of and as defined in G.S. 160D-802. d. The initiation or substantial change in the use of land or the intensity of use of land. <p>This definition does not alter the scope of regulatory authority granted by NCGS 160D.</p>	
16-9	16.3	DEFINITIONS	Definition Does Not Exist	Add DPO definition for "Dwelling."
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text:</p> <p>Dwelling: Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.</p>	
16-10	16.3	DEFINITIONS	Definition Does Not Exist	Include definition for "Development Approval" per 160D.
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New text: An administrative or quasi-judicial approval made pursuant to NCGS 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.</p>	
16-10	16.3	DEFINITIONS	Definition Does Not Exist	Include definition for "Development Regulation" per 160D.
TEXT CHANGES			Old Text: N/A – Does Not Exist	

			<p>New Text: A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this NCGS 160D, or a local act or charter that regulates land use or development.</p>	
16-10	16.3	DEFINITIONS	DPO definition must match NCGS 160D and state building code definition.	Change definition of " Dwelling Unit" to match.
TEXT CHANGES			<p>Old Text: Dwelling Unit: A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.</p> <p>New Text: Dwelling Unit: A single-unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.</p>	
16-11	16.3	DEFINITIONS	Definition Does Not Exist	Add definition for "Evidentiary Hearing" per 160D.
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text: Evidentiary Hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS 160D.</p>	
16-11	16.3	DEFINITIONS	Outdated chapter reference (None)	Change the reference to 160D-109f
TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text: Familial Relationship: For purposes of this ordinance, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.</p>	
16-11	16.3	DEFINITIONS	DPO references old statute.	Add 160D-903 citation for Farm, Bona Fide.
TEXT CHANGES			<p>Old Text: Farm, Bona Fide: A tract of land meeting the definition of farm as included in this ordinance and certified under the provision of NCGS. 153A-340.</p> <p>New Text: Farm, Bona Fide: A tract of land meeting the definition of farm as included in this ordinance and certified under the provision of NCGS 160D-903 and complaint with state statute therein. Bona fide farms are exempt from town zoning regulation; however, other municipal development regulations may apply.</p>	

16-13	16.3	DEFINITIONS	Definition Does Not Exist <i>Note: This is not a required change due to NCGS 160D, but will make town processes more consistent with 160D regulations.</i>	Add definition for "Habitable."
			Old Text: N/A – Does Not Exist New Text: Space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage and utility spaces and similar areas are not considered habitable spaces.	
16-15	16.3	DEFINITIONS	Definition Does Not Exist	Add definition for "Legislative Decision" per 160D.
TEXT CHANGES			Old Text: N/A – Does Not Exist New Text: Legislative Decision: The adoption, amendment, or repeal of a regulation under NCGS 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NCGS 160D.	
16-15	16.3	DEFINITIONS	Definition Does Not Exist	Add definition for "Legislative Hearing" per 160D.
TEXT CHANGES			Old Text: N/A – Does Not Exist New Text: Legislative Hearing: A hearing to solicit public comment on a proposed legislative decision.	
16-20	16.3	DEFINITIONS	Definition Does Not Exist	Add definition for "quasi-judicial decision" per 160D.
TEXT CHANGES			Old Text: [N/A Does not exist] New Text: Quasi-Judicial Decision: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.	
16-23	16.3	DEFINITIONS	Definition Does Not Exist	Add DPO definition for "Sleeping Unit."

TEXT CHANGES			<p>Old Text: N/A – Does Not Exist</p> <p>New Text: Sleeping Unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a <i>dwelling unit</i> are not sleeping units.</p>	
SECTION 22 – HISTORIC PRESERVATION ORDINANCE				
22-1	22.1	PURPOSE	Outdated chapter references (G.S. 160A-400.1 to 400.14).	Change references to 160D-303 and 160D-940 to -951.
TEXT CHANGES			<p>Old Text: Whereas the historical heritage of the Town of Davidson is a valued and important part of the general welfare; and whereas the conservation and preservation of that heritage, through the documentation and regulation of historic districts or landmarks, or through the acquisition of historic properties, stabilizes and increases property values, and pursuant to North Carolina General Statute (NCGS 160A-400.1 to 400.14) this ordinance is enacted in order to...</p> <p>New Text: Whereas the historical heritage of the Town of Davidson is a valued and important part of the general welfare; and whereas the conservation and preservation of that heritage, through the documentation and regulation of historic districts or landmarks, or through the acquisition of historic properties, stabilizes and increases property values, and pursuant to North Carolina General Statute (NCGS 160D-303 and 160D-940 to 951) this ordinance is enacted in order to...</p>	
22-1	22.3.1	CREATION AND APPOINTMENT	Outdated chapter references (160A-400.7)	Change reference to 160D-303 and 160D-941
TEXT CHANGES			<p>Old Text: Pursuant to general statute 160A-400.7, a historic preservation commission, hereinafter referred to as the “Commission” was created by ordinance in 1989 by the Davidson Board of Commissioners.</p> <p>New Text: Pursuant to general statute 160AD-303 and 160D-941, a historic preservation commission, hereinafter referred to as the “Commission” was created by ordinance in 1989 by the Davidson Board of Commissioners.</p>	
22-6	22.5.3	PROCEDURE FOR DESIGNATION	Outdated chapter reference (G.S. 160A-400.6)	Update chapter reference to 160D-946.
TEXT CHANGES			<p>Old Text: B. Pursuant to G.S. 160A-400.6, as amended, the designation report shall be submitted to the North Carolina Department of Cultural Resources, Division of Archives and History...</p>	

			New Text: B. Pursuant to G.S. 160D-946, as amended, the designation report shall be submitted to the North Carolina Department of Cultural Resources, Division of Archives and History...	
22-9	22.7.1	CERTIFICATES OF APPROPRIATENESS REQUIRED	Reference to quasi-judicial procedures missing.	Include reference to quasi-judicial procedures of G.S. 1601D-406.
TEXT CHANGES			<p>Old Text: F. Commission staff may issue a Certificate for minor works as defined in the Commission’s Rules of Procedure. Minor works shall include the ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof.</p> <p>New Text: F. Commission staff may issue a Certificate for minor works as defined in the Commission’s Rules of Procedure. Minor works shall include the ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof.</p> <p>Other than these administrative decisions on minor works, decisions on Certificates of Appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-406.</p>	
22-10	22.7.2	REVIEW GUIDELINES	Outdated reference to “design guidelines” and chapter references (G.S. 160A-400.1 – 400.14)	Update section heading to “review standards” and update chapter references to 160D-303 and 160D-940 to -951.
TEXT CHANGES			<p>Old Text: 22.7.2 Review Guidelines Prior to the designation of any historic landmark or district, the Commission shall prepare and adopt guidelines not inconsistent with G.S. 160A-400.1 – 400.14 for constructing, altering, restoring, rehabilitating, relocating, removing, or demolishing of property designated as historic, which guidelines shall ensure, insofar as possible, that changes in designated landmarks or properties located districts shall be in harmony with the reasons for designation.</p> <p>New Text: 22.7.2 Review Standards Prior to the designation of any historic landmark or district, the Commission shall prepare and adopt standards not inconsistent with G.S. 160D-303 and 160D-940 to -951 for constructing, altering, restoring, rehabilitating, relocating, removing, or demolishing of property designated as historic, which standards shall ensure, insofar as possible, that changes in designated landmarks or properties located districts shall be in harmony with the reasons for designation.</p>	

22-11	22.7.6	APPLICATIONS AND REQUIRED PROCEDURES	Revise references to “review guidelines” in accordance with G.S. 160D-947(c).	Reference “review standards” rather than “review guidelines” in accordance with G.S. 160D-947(c).
TEXT CHANGES			<p>Old Text: F. When considering the application, the Commission shall apply the review guidelines required by Section 22.7.2...</p> <p>New Text: F. When considering the application, the Commission shall apply the review standards required by Section 22.7.2...</p>	
22-12	22.7.6	APPLICATIONS AND REQUIRED PROCEDURES	Revise appeals timeline in accordance with G.S. 160D-947.	Revise COA appeal timeframe from 60 days to 30 days in accordance with 160D-947.
TEXT CHANGES			<p>Old Text: J. An appeal of a final action by the Commission may be made to the Davidson Board of Adjustment. Written notice of intent to appeal must be sent to the Commission, postmarked within twenty (20) calendar days following the Commission’s decision. Appeals must be filed with the Davidson Board of Adjustment within sixty (60) calendar days following the Commission’s decision and shall be in the nature of certiorari. A decision by the Davidson Board of Adjustment may be appealed to the superior court of Mecklenburg County</p> <p>New Text: J. An appeal of a final action by the Commission may be made to the Davidson Board of Adjustment. Written notice of intent to appeal must be filed within thirty days following the Commission’s decision or written notice is provided. Appeals shall be in the nature of certiorari. A decision by the Davidson Board of Adjustment may be appealed to the superior court of Mecklenburg County.</p>	
22-12	22.7.6	APPLICATIONS AND REQUIRED PROCEDURES	Outdated ordinance reference (G.S. 160A- 400.9)	Update chapter reference to 160D-102 and 160D- 947
TEXT CHANGES			<p>Old Text: K. A Certificate shall be required for designated landmarks or buildings, structures, sites, areas, or objects within designated districts which are owned by the State of North Carolina or any of its agencies, political subdivisions, or instrumentalities, subject to the regulations of this ordinance and in accordance with North Carolina General Statute 160A-400.9(f).</p> <p>New Text: K. A Certificate shall be required for designated landmarks or buildings, structures, sites, areas, or objects within designated districts which are owned by the State of North Carolina or any of its agencies, political subdivisions, or instrumentalities, subject to the regulations of this ordinance and in</p>	

accordance with North Carolina General Statute 160D-947.

3. MISCELLANEOUS TOPICS

ACCESSORY STRUCTURES

4-18	4.5.8.B.2	ACCESSORY STRUCTURES	<p>Per G.S. 160D-702, municipalities may not regulate building design elements of buildings reviewed under the NC Residential Building Code for One- and Two-Family Dwellings.</p> <p><i>Note: This is not a required change due to NCGS 160D, but will make town processes more consistent with 160D regulations.</i></p>	<p>Remove DRB review requirement for accessory structures with a footprint greater than 650SF in accordance. The DRB does not have design purview over structures reviewed under the NC Residential Building Code for One- and Two-Family Dwellings.</p>
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TEXT CHANGES			<p>Old Text: B. 2. Any accessory structure over 650 square feet of first floor area and all accessory structure ancillary to non-residential building types shall be reviewed by the Design Review Board, in accordance with the procedures in Section 14.</p> <p>New Text: B. 2. All accessory structure ancillary to non-residential building types shall be reviewed by the Design Review Board, in accordance with the procedures in Section 14.</p>
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CERTIFICATES OF APPROPRIATENESS

22-11	22.7.6.H	APPLICATIONS AND REQUIRED PROCEDURES	<p>Extend COA sunset period to align with Design Review Board approvals (18 months).</p> <p><i>Note: This is not a required change due to NCGS 160D, but will make town processes more consistent with 160D regulations.</i></p>	<p>Revise COA sunset period from 180 days to 18 months (same as DRB approvals).</p>
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TEXT CHANGES			<p>Old Text: A Certificate shall be valid for 180 calendar days from date of issuance, or, in the case of a Certificate for demolition, from the effective date. If the authorized work has not commenced within that period, or has been discontinued for more than 365 calendar days from the date of issuance, such Certificate shall immediately expire and the applicant shall be required to reapply.</p> <p>New Text: A Certificate shall be valid for 18 months from date of issuance, or, in the case of a Certificate for demolition, from the effective date. If the authorized</p>
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			work has not commenced within that period, or has been discontinued for more than 365 calendar days from the date of issuance, such Certificate shall immediately expire and the applicant shall be required to reapply.	
MINOR SUBDIVISION/CONSERVATION SUBDIVISION				
6-29	6.11.1.C	IMPROVEMENT GUARANTEES	Outdated references to “minor subdivision” and “conservation subdivision”	Remove references no longer applicable.
TEXT CHANGES			Old Text: Funds may be paid in lieu of construction of improvements for minor subdivisions, as established in Section 14, upon approval of the Planning Director. New Text: N/A [Removed]	
14-1	14.2	APPLICABILITY	Outdated references to “minor subdivision” and “conservation subdivision”	Remove references no longer applicable.
TEXT CHANGES			Old Text: The provisions of this section shall be applicable to all minor subdivisions, conservation subdivisions, exempt subdivisions, individual buildings, master plans... New Text: The provisions of this section shall be applicable to all exempt subdivisions, individual buildings, master plans...	
14-31	14.16.4	VESTED RIGHTS – CONSTRUCTION DOCUMENT PROCESS	Outdated references to “minor subdivision” and “conservation subdivision”	Remove references no longer applicable.
TEXT CHANGES			Old Text: Preliminary plats for minor subdivisions with previously vested plans shall be reviewed for compliance and consistency and subsequently approved by the Planning Director in accordance with the provisions of this ordinance, providing the proposed preliminary plat for the minor subdivision does not deviate from, and is subdivided in accordance with the approved plan. New Text: Preliminary plats for master plans with previously vested plans shall be reviewed for compliance and consistency and subsequently approved by the Planning Director in accordance with the provisions of this ordinance, providing the proposed preliminary plat for the master plan does not deviate from, and is subdivided in accordance with the approved plan.	
16-10	16.3	DEFINITIONS	Outdated references to “minor subdivision” and “conservation subdivision”	Remove references no longer applicable.
TEXT CHANGES			Old Text: [Development, 3.g.] Construction of an individual single-family home or duplex on a lot that a) is included in an approved master plan or minor subdivision , or... New Text: N/A [Removed “minor subdivision”]	

16-12	16.3	DEFINITIONS	Outdated references to “minor subdivision” and “conservation subdivision”	Remove references no longer applicable.
TEXT CHANGES			<p>Old Text: [Flag Lot] ...Flag lots are prohibited in master plans, site plans, and minor subdivisions.</p> <p>New Text: [Flag Lot] ...Flag lots are prohibited in master plans, site plans, and exempt subdivisions.</p>	

2. PUBLIC PLANS AND POLICIES

The proposed text changes are consistent with the existing policy and ordinance frameworks adopted by the town. All proposed changes meet the requirements set forth in Davidson Planning Ordinance 1.5.1 Implementation of Adopted Plans & Policies: “Any amendments to, or actions pursuant to, this ordinance should be consistent with these adopted plans and policies, as amended.”

3. PLANNING BOARD RECOMMENDATION

This section will be completed once the Planning Board provides feedback and are commendation at their May 2021 meeting.

4. STAFF RECOMMENDATION

Staff recommends adoption of these legislatively-mandated and supporting changes to: Improve ordinance clarity; ensure operational continuity with the state-mandated adoption date of July 1, 2021; and, to avoid confusion and/or legal action resulting from a failure to adopt the changes.