



Rezoning Petition 2021-110
Pre-Hearing Staff Analysis
May 17, 2021

REQUEST

Text amendment to the Charlotte Zoning Ordinance, Sections 1.102, 1.105, 1.110, 1.111, 2.102, 2.202, 3.202, 3.203, 3.301, 3.302, 3.303, 3.401, 3.402, 3.403, 3.501, 3.602, 3.605, 3.606, 4.102, 5.101, 5.103, 5.107, 5.110, 5.113, 6.105, 6.108, 6.109, 6.110, 6.111, 6.113, 6.201, 6.204, 6.205, 6.206, 6.207, 6.209, 7.103, 8.102, 8.107, 9.104, 9.407, 9.805, 9.906, 9.1006, 10.203, 10.208, 10.209, 10.210, 10.216, 10.509, 10.510, 10.609, 10.610, 10.710, 10.711, 12.103, 12.509, 12.212, 13.4, 13.10, 13.11, 13.12, 13.15, 15.8.4, Table of Contents Chapter 13, Table of Contents – Zoning Ordinance.

SUMMARY OF PETITION

The text amendment proposes to update the Charlotte Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to development by the July 1, 2021 deadline.

PETITIONER

AGENT/REPRESENTATIVE

Charlotte Planning, Design & Development
Charlotte Planning, Design & Development

COMMUNITY MEETING

Meeting is not required.

STAFF

RECOMMENDATION

Staff recommends approval of this petition.

Plan Consistency

The text amendment is **consistent** with 2019 North Carolina General Assembly legislation.

Rationale for Recommendation

- The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation.
- The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures;
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner;
- The text amendment adds new conflict of interest standards for boards and administrative staff; and
- The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.

PLANNING STAFF REVIEW

• **Background**

- In 2019, the North Carolina General Assembly adopted new land use legislation consolidating previous city enabling statutes (Article 19 of Chapter 160A) and county enabling statutes (Article 18 of Chapter 153A) and into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.

- Chapter 160D legislation becomes effective July 1, 2021, or takes effect for a jurisdiction when local ordinances are updated and adopted, if adopted prior to July 1, 2021.
- This text amendment updates the Charlotte Zoning Ordinance to align zoning regulations and processes related to land use to meet the July 1, 2021 deadline.

- **Proposed Request Details**

The text amendment contains the following highlights:

General

- Updates North Carolina General Statute references to align with the new N.C.G.S Chapter 160D references.
- Requires all development approvals and decisions (including variances, appeals, certificates of appropriateness, administrative amendments, alternative compliance, site plan approvals, conditional zoning approvals, and zoning permits) to be written and provided to the applicant and property owner, if different.

Chapter 1

- Updates vested rights by adding multi-phased development with an extended vesting of up to seven (7) years.
- Adds new details on the permit choice rule for vested rights.
- Adds new conflict of interest standards for boards, appointed boards, and administrative staff.

Chapter 2

- Updates definitions for "building", "dwelling unit", "manufactured home", and deletes the definition for "mobile home", to align with legislation.
- Adds new definitions for "conditional zoning" and "dwelling" per legislation.

Chapter 3

- Requires rules of procedures for appointed boards to be posted on the website and available at the City Clerk's office, in addition to the office of the Charlotte Planning, Design, and Development Department.
- Updates the duties of the Board of Adjustment to include decisions on appeals regarding a certificate of appropriateness. (Also in Chapter 5)
- Modifies the terminology of the historic district "guidelines" to historic district "standards". (Also in Chapter 10)
- Requires the Historic District Commission to follow updated statutory procedures for evidentiary hearings and quasi-judicial decisions.

Chapter 4

- Updates the entities that can apply for a building permit to include property owners, a lessee or person holding an option or contract to purchase or lease land, an authorized agent of the property owner, or an easement holder (for development authorized by the easement).
- Requires building permits to be issued in writing, in print or electronic form, and protected from further editing.
- Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.
- Requires a certificate of compliance and/or certificate of occupancy before using any land, building or structure or any change of use, except for agricultural purposes.

Chapter 5

- Updates the duties of the Board of Adjustment to include decisions on appeals regarding a certificate of appropriateness.
- Updates the appeal procedures adding that if the administrative materials are forwarded to the Board of Adjustment prior to the hearing, they shall at the same time be distributed to the applicant and property owner, if different.
- Updates the statutory procedures for evidentiary hearings and quasi-judicial decision.

Chapter 6

- Requires that down-zoning of property must have the written consent of all property owners, with the exception of those initiated by government or the property owner(s).
- Modifies the administrative amendment process by not permitting changes that increase the intensity and density of the development.
- Updates the notice of hearing provisions for zoning map amendments (rezoning petitions) and text amendments to the City Zoning Ordinance.
- Adds requirements for the City Council to adopt a statement of reasonableness for a zoning map amendment and a statement of plan consistency.
- Requires a petitioner to provide written consent to all conditions attached to the approval of a conditional rezoning.

Chapter 7

- Deletes the term, "mobile home" from the non-conforming regulations, leaving the term "manufactured home" in the text.

Chapter 8

- Requires a notice of violation to be provided to the property owner as well as the violator, and provides options for delivery of the notice or posting on the property.

Chapter 9

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 10

- Updates the statutory procedures for evidentiary notices, hearings, decisions, and procedures for the Historic District Commission and the Board of Adjustment.

Chapter 11

- No changes.

Chapter 12

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 13

- Updates the procedures for issuing or denying a sign permit and provides options for delivery of the permit or decision to the applicant and property owner, if different from the applicant.
- Requires sign permits to be issued in print or electronic form, and for permits issued exclusively in electronic form, the form shall be protected from further editing once issued.
- Updates the procedures for providing a written notice of the decision for a Planned Development Flexibility Option to the applicant and property owner, if different from the applicant.
- Requires written notices of violation to be provided to the permit holder and to the property owner, if different from the applicant, and that the notice may be posted on the property.

Chapter 14

- No changes.

Chapter 15

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 16

- No changes.

Appendix

- No changes

- **Public Plans and Policies**

- The North Carolina General Statute legislation requires the Charlotte Zoning Ordinance to become compliant with N.C.G.S Chapter 160D regulations by July 1, 2021.

- **TRANSPORTATION SUMMARY**

- **Transportation Considerations**
 - No comments submitted.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments submitted.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** Not applicable.
- **Charlotte Water:** No comments submitted.

- **City Arborist:** No comments submitted
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments submitted.
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** No outstanding issues.
- **Urban Forestry:** No outstanding issues.

See Attachments (applications, department memos, maps etc.) Online at www.rezoning.org

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