

REQUEST	Text amendment to the Charlotte Tree Ordinance, Sections 21-31, 21-32, 21-122, 21-124, and 21-126.
SUMMARY OF PETITION	The petition proposes to update the Charlotte Tree 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	<p>Staff recommends approval of this petition.</p> <p><u>Plan Consistency</u> The petition is consistent with 2019 and 2020 North Carolina General Assembly legislation, Chapter 160D.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> • The text amendment updates the Charlotte Tree Ordinance to align with new N.C.G.S. Chapter 160D legislation. • The text amendment updates the public notice requirements for 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 the Tree Advisory Commission and administrative staff.
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PLANNING STAFF REVIEW

- **Background**
 - In 2019 and 2020, the North Carolina General Assembly adopted new development 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 Tree Ordinance to align regulations and processes related to land use to meet the July 1, 2021 deadline.
- **Proposed Request Details**

The text amendment contains the following highlights:

 - Sections 21-1 through 21-30
 - No changes.
 - Section 21-31
 - Requires the Tree Advisory Commission rules of procedure to be consistent with N.C.G.S Chapter 160D and kept on file at the office of the City Clerk and posted on the City of Charlotte website.

- Requires the Tree Advisory Commission to follow Chapter 160D statutory procedures for all quasi-judicial decisions.
- Requires the Tree Advisory Commission members to take an oath of office prior to starting their duties.
- Requires the Tree Advisory Commission members to comply with new conflict of interest standards.

Section 21-32

- Adds new conflict of interest requirements for staff that make administrative decisions.

Sections 21-33 through 21-121

- No changes.

Section 21-122

- 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 notice of violation to be provided to the holder of the development approval and to the landowner of the property involved, if different, and provides options for delivery of the notice or posting on the property. (Also in Section 21-124)
- Requires a notice of violation related to a civil penalty to be delivered to the person assessed the penalty by personal delivery, electronic delivery, or first-class mail. The notice may be posted on the property.
- Requires the staff person providing the notice of violation to certify that the notice was provided. (Also in Section 21-124)

Section 21-123

- No changes

Section 21-124

- Requires a notice of violation to be provided to the holder of the development approval and to the landowner of the property involved, if different, and provides options for delivery of the notice or posting on the property. (Also in Section 21-122)
- Requires the staff person providing the notice of violation to certify that the notice was provided. (Also in Section 12-122)

Section 21-125

- No changes.

Section 21-126

- Requires the Tree Advisory Commission to follow statutory quasi-judicial procedures in determining appeals of administrative decisions and variances.
- Requires the Tree Advisory Commission to vote in accordance with state law on appeals and variances.
- Requires notices of hearings to be sent to the petitioner, the property owner, if different from the applicant, and to owners of land abutting the parcel of land that is the subject of the hearing.
- Updates the variance findings of fact.
- Updates the requirements that appeals stay enforcement action and accrual of any assessment of any fines during the pendency of the appeal, unless there is imminent peril to life or property, or the violation is transitory in nature.
- Requires notices of appeals to be sent to the person or entity whose appeal is the subject of the hearing, if the owner did not initiate the hearing, and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days prior to the date of the hearing. A notice of the hearing may also be posted on the site that is the subject of the hearing, or on an adjacent street or right-of-way.
- Requires every quasi-judicial decision of the Tree Advisory Commission to be subject to review by the superior court, and must be filed within 30 days after the decision is effective or a written copy of the decision is provided. When first-class mail is used to deliver the notice, three days shall be added to the time to file the petition.
- Updates the appeal procedures adding that if the administrative materials are forwarded to the Tree Advisory Commission prior to the hearing, they shall at the same time be distributed to the applicant and property owner, if different.
- Requires the administrator or staff person whose decision is being appealed, (or his or her successor if the person is no longer employed) to appear as a witness at the quasi-judicial hearing.
- Allows all parties with standing to participate fully in the evidentiary hearing.
- Requires the decision of the Tree Advisory Commission to be reduced to writing, reflect the commission's determination of contested facts and their application to the applicable standards, and approved by the Commission and signed by the Chair or other duly

appointed member. The decision shall be delivered by personal delivery, electronic mail, or by first-class mail to the petitioner, property owner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.

- Requires the staff person who provides the notice to certify that proper notice has been made.

- **Public Plans and Policies**

- The North Carolina General Statute legislation requires the Charlotte Tree 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 outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** No outstanding issues.
- **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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