

AN ORDINANCE AMENDING CHAPTER 19 OF THE CHARLOTTE CITY CODE ENTITLED “STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES”

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article VI of Chapter 19 of the Charlotte City Code is amended as follows:

“Sec. 19-171. – Findings; purpose.

(a) The city council finds that:

- (1) Certain uses of property within the city generate significant levels of vehicular or pedestrian traffic along public streets abutting the property used for those purposes;
- (2) Convenient and safe pedestrian passageways should be provided in the public interest so as to separate such traffic in the interest of public safety; and
- (3) Properties which may be used for such purposes along public streets are without adequate, convenient and safe pedestrian sidewalks-; and
- (4) The provision of pedestrian passageways separated from vehicular traffic is in the interest of public safety and compliance with applicable legal requirements.

(b) The city council further finds that:

- (1) Certain uses of property generate appreciable levels of surface water runoff which in turn collects trash and litter;
- (2) Adequate drainage facilities should be provided in the public interest so as to allow the proper regulation and disposal of surface water runoff; and
- (3) Properties which may be used for such purposes along public streets are without adequate and necessary drainage facilities, such as concrete curb and gutter, catchbasins, storm drainage pipes and the like so as to control surface water runoff.

(c) Therefore, the city council, pursuant to the authority conferred by G.S. 160A-174, does ordain and enact into law this article which requires the construction of sidewalks and necessary drainage facilities in conjunction with the construction of structures, ~~or~~ buildings, or parking areas for certain uses.

Sec. 19-172. – Definitions.

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Built-upon area (BUA) means that portion of a property that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts (activity fields that have been designed to enhance displacement of runoff, such as compaction and grading or installation of sodded turf, and underground drainage systems for public parks and schools will be considered built-upon area.) "Built-upon area" does not include a wooden slatted deck or the water area of a swimming pool.

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Parking area means any area meeting the definition of “built-upon-area” and used for the storage of motor vehicles, equipment, or other items. This definition may become irrelevant in conjunction with other definitions such as “buildings.”

...

Structure means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction. This definition may become irrelevant in conjunction with other definitions such as “buildings.”

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Sec. 19-173. – Required.

- (a) Except as provided in subsections (b) and (d) of this section, construction of sidewalks and necessary drainage facilities shall be required in conjunction with the construction of any new building used for any of the following purposes:
 - (1) Office.
 - (2) Institutional.
 - (3) Multifamily residential where any building contains three or more dwelling units.

- (4) Retail sales.
 - (5) Retail services.
 - (6) Business.
- (b) When the ~~proposed new developed area~~ cumulative built upon area will be less than ~~50 percent~~ 25 percent of the total area of the property ~~under single ownership~~, sidewalks and drainage facilities may not be required. However the city engineer may require certain improvements be made if they are determined to be in the public interest or needed to ensure public safety. If the total built upon area of the site reaches 25 percent or more of the total area of the property, sidewalks and drainage facilities shall be required.
- (c) Except as required by article III of this chapter and chapter 20 of this Code, sidewalk facilities shall not be required in conjunction with the construction of any new buildings used solely for the following purposes:
- (1) Warehouse.
 - (2) Industrial.
 - (3) Auxiliary building.

However, necessary drainage facilities as provided in this article shall be required except for auxiliary buildings.

- (d) If the new building as referred to in subsection (a) of this section is an addition as defined in this article, the construction of sidewalk facilities shall not be required if the addition is less than 25% of the existing principal building or 2,500 square feet, whichever is greater, except as provided by article III of this chapter, and chapter 20 of this Code. However, necessary drainage facilities shall be required.
- (e) Construction of sidewalks or necessary drainage facilities required by this article shall be accomplished along the entire length of the frontage of the property abutting each publicly maintained street, except as otherwise specified in this article.

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Sec. 19-174. – Standards of Construction.

Sidewalks and drainage facilities shall be constructed in accordance with the construction standards set forth in the Charlotte-Mecklenburg Land Development Standards Manual (CLDSM). The requirement to construct new sidewalks, as outlined in Sec.19-173, shall also apply to existing segments of substandard sidewalk on thoroughfares as follows in subsections (a) - (c) below. For the purposes of interpreting subsections (a) - (c) below,

“substandard sidewalk” shall be deemed to mean any sidewalk which is less than 4 feet in width and/or is separated from the roadway by a planting strip less than 4 feet in width.

- (a) Any development which meets any of the following thresholds shall be required to replace all substandard sidewalk along the property’s frontage on thoroughfares with sidewalks and planting strips that meet the standards of the CLDSM,
- (1) Development that involves new construction of a principal building,
 - (2) Development that involves the expansion of an existing principal building by 25% or 2,500 square feet, whichever is greater; or
 - (3) Development that involves the expansion of an existing parking area by 2,500 square feet of built upon area or more.
- (b) Any development which removes any portion or portions of substandard sidewalk along a thoroughfare, greater than 30 linear feet, during construction shall be required to replace that removed sidewalk with a sidewalk and planting strip that meets the standards of the CLDSM.
- (c) Any development which removes or damages any portion or portions of substandard sidewalk along a thoroughfare which amounts to more than 50 percent of that property’s frontage width along that thoroughfare, shall be required to replace all substandard sidewalk along that property’s thoroughfare frontage with a sidewalk and planting strip that meets the standards of the CLDSM.

Any sidewalk constructed or reconstructed under the requirements of this article, including curb ramps and landings, shall comply to the maximum extent feasible with the standards for accessibility included in the CLDSM and CATS Bus Stop Details.

It is not the intent of Section 19-174 to reduce the developable area of a property. As such, if any sidewalk constructed or reconstructed in accordance with the requirements of Section 19-174 is located outside the City of Charlotte right-of-way, that sidewalk will not count toward the calculated built upon area for the subject property. Such sidewalk must be located in an easement dedicated to the City of Charlotte for maintenance purposes.

Affordable housing projects which are required to reconstruct substandard sidewalk as a result of the requirements of Section 19-174 may be eligible for reimbursement of the cost to reconstruct such sidewalk from the City of Charlotte’s Pedestrian Program in accordance with the city’s Sidewalk Retrofit Policy.

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Sec. 19-176. – Variance.

- (a) Where, because of topography, geography, existing utilities, public safety, mature trees designated for preservation by the City Arborist or Senior Urban Forester, or other unusual physical conditions relating to the land strict compliance with this article shall cause an unusual and unnecessary hardship on the applicant, the city engineer may vary the requirements set forth in this article. The City Engineer may also grant a variance if the improvements required by this article are not roughly proportional to the need for transportation improvements created by the development.

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Section 2. This ordinance is effective upon adoption and shall apply to applications submitted after adoption.

Approved as to Form:

City Attorney