

**2021-107 TEXT AMENDMENT SUMMARY – Revision 1**  
**MECKLENBURG COUNTY ZONING ORDINANCE**  
**05/20/21**

This document summarizes the changes proposed to the Mecklenburg County Zoning Ordinance through petition 2021-107. Only the sections being revised are shown in the summary. Text to be added is in red and underlined. Text to be deleted is in red and struck through. The full ordinance, with the changes shown in the ordinance, can be found on the webpage for [rezoning petition 2021-107](#) on the Charlotte Planning, Design & Development website.

**CHAPTER 1: PURPOSE AND APPLICABILITY**

*(Section and Subsection listings not shown remain unchanged)*

**Section 1.102. Authority and purpose.**

*(Subsections not listed remain unchanged)*

- (1) These regulations are adopted pursuant to the authority granted to the Mecklenburg County by Chapter 160D-101, Articles 1 through 14 ~~153A, Article 18~~ of the General Statutes of North Carolina, and by any special local legislation enacted by the General Assembly for the Mecklenburg County, in order to carry out the purposes listed below:

**Section 1.105. Exceptions to applicability.**

*(Subsections not listed remain unchanged)*

- (1) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. 160D-403(f);-1115 ~~153A-362~~. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire pursuant to G.S. Sec. 160D-403,-1111 ~~153A-357~~ and any further work shall be subject to these regulations.
- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. A153-358-160D-403(c);-1111 and the building permit has not been revoked pursuant

to G.S. Sec. ~~153A-422, 160D-403(f);-1115~~ or (b) a vested right has been established pursuant to Section 1.110 and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. ~~153A-357 160D-403;-1110~~ shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. ~~153A-358 160D-403(c);-1111~~ and G.S. Sec. ~~153A-362 160D-403(f);-1115~~ shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

**Section 1.110. Procedures for establishing a vested right and permit choice.**  
(Subsections not listed remain unchanged)

**(1) Vested Rights**

Pursuant to ~~G.S. 153§ A-344.1 160D-102,-108 and 108.1~~, “Vested Rights”, a vested right to undertake and complete the development and use of the property under the terms and conditions as approved shall be established with respect to: ~~any property zoned as follows:~~

- (a) ~~site-specific vesting plans (including conditional zoning district plans (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and The approved plans and conditions for these conditional zoning districts constitute, for purposes of G.S. §160A385.1 160D-108(d) and 160D-108.1, site specific development plans.~~
- (b) ~~special-use permit. multi-phased development, and~~
- (c) ~~development permits in accordance with N.C.G.S.143-77~~
- (d) ~~the terms of development agreements authorized by N.C.G.S 160D, Chapter 10.~~

**(2) Period of Validity.**

- (a) Site-Specific Vesting Plans: A vested right for a site-specific plan (including conditional district zoning plans), which has been vested as provided for in this section, shall remain vested for a period of ~~from two to five~~ years.

The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum, up to a period of five years where the applicant or petitioner shows such extended period is warranted in light of 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.

- (b) Multi-phased developments: A vested right for a development with multiple phases has an extended vesting period of seven years from the time the first site approval is granted for the initial phase. The development must be at least 25 acres in size; subject to a master development plan with committed elements showing the type and intensity of use for each phase; and is to be permitted and built in phases subject to a master development plan with committed elements showing the type and intensity of use for each phase; and is to be permitted and built in phases.

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

- (c) Development permits (including zoning permits, site plan approvals): Development approvals are valid for 12 months, unless work authorized by the permit is substantially commenced.
- (d) Modifications or amendments to an approved site-specific plan or multi- phased development does not extend the period of vesting unless specifically so provided by the City Council when it approves the modification or amendment.

### (3) Effect of a Vested Right.

- (a) A vested right, once established, precludes any action by the County Commission that would modify, alter, impair, prevent, diminish, or delay the development or use of the property allowed by the applicable zoning regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.
- (b) The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.
- (c) A vested right obtained under this section is not a personal right, but shall attach to

and run with the subject property, except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 131.2 in which case the rights granted run with the owner of the permit issued by the North Carolina Department of Transportation.

- (d) New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right, shall become effective upon the expiration or termination of the vested rights.

(4) Expiration of a Vested Right.

- (a) A right, which has been vested as provided in this Section 1.110, shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
- (b) A vested right expires for 1) an uncompleted development project, and 2) a nonconforming use of property if the development work or use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month period is tolled during any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property or the existence of the statutory vesting period.

(5) Permit Choice.

If an applicant submits a permit application for development, and after application submission, but before a development permit decision is made, the Development Regulation is amended, then the applicant may choose which version of the Development Regulation applies to the application and use of land, as per G.S. 143-755.

If the applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Where multiple development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of approval of the initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

If a permit application is on hold for six consecutive months, then permit choice is waived. If an applicant resumes an application after six months of discontinuation, then the rules in effect at the time of resuming apply.

### **Section 1.111. Conflicts of Interest.**

- (1) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (2) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that 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. 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.
- (4) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (5) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself

or herself, the remaining members of the board shall by majority vote rule on the objection.

- (6) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

~~The approved plans and conditions for these districts and the vested right certification constitute, for purposes of G.S. Sec. 153A-344.1 site specific development plans.~~

~~A right which has been vested as provided for in this section shall remain vested for a period of two to five years. The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum where the applicant or petitioner shows such extended period is warranted in light of 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. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the County Commission when it approves the modification or amendment. A vested right obtained under this section is not a personal right but shall attach to and run with the subject property.~~

~~A right which has been vested as provided in this Section 1.110 shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.~~

#### **Section 1.1121. Vested right certification.**

*(Subsections not listed remain unchanged)*

Upon compliance with the provisions of this subsection, the ~~Planning~~ **County** Commission shall issue a vested right certification.

## **CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: RULES OF CONSTRUCTION**

*(Section and Subsection listings not shown have not changed)*

#### **Section 2.102. Interpretation of Zoning Maps.**

*(Subsections not listed have not changed)*

- (8) If it is alleged by any party that an error exists on the zoning maps with respect to any zoning district designation, zoning district boundary, special use permit or conditional district boundary, historical district boundary, the lines showing the effective dates of zoning enactment or any other matter with respect to the provisions of these regulations

relating to zoning information, the party may request a review of the alleged error by the Planning Commission.

The staff of the Planning Commission will evaluate any alleged map error using all available materials and records. These materials may include, but are not limited to, the following:

(f) Zoning ~~and special-use permit~~ case files.

## **PART 2: DEFINITIONS**

*(Part, Section and Subsection listings not shown have not changed)*

### **Section 2.201. Definitions.**

*(Subsections and Definitions not listed are unchanged)*

#### **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. Any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy.~~

#### **Conditional zoning.**

~~A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.~~

#### **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, except that for purposes of Minimum Housing Codes it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.~~

#### **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. A single unit providing complete, independent living facilities for no more than one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

#### **Manufactured Home. ~~(Also see Mobile home)~~**

~~A dwelling unit, other than a modular home, fabricated in an off-site manufacturing facility for~~

~~installation or assembly on the building site, which dwelling unit is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec. 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.~~

"Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

~~Mobile home. (Also see Manufactured Home)~~

~~A manufactured structure, designed to be used as a dwelling unit and built before June 15, 1976 (the date the HUD Construction and Safety Standards Act went into effect). A "mobile home" is designed to be transportable in one or more sections on its own chassis and measures at least 32 feet in length and at least eight feet in width. To be classified as a "mobile home", the unit must be placed on a permanent foundation.~~

## **CHAPTER 3: DECISION-MAKING AND ADMINISTRATIVE BODIES**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: BOARD OF COMMISSIONERS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 3.101. Powers and Duties**

*(Subsection listings not shown have not changed)*

The ~~Planning Commission~~ Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:



All members appointed to boards under this article shall, before entering their duties, qualify by taking an oath of office as required by ~~G.S. 153A-26~~G.S. 160D-309.

## **PART 2: PLANNING COMMISSION**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.202. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

## **PART 3: BOARD OF ADJUSTMENT**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.301. Powers and duties.**

*(Subsection listings not shown have not changed)*

The Zoning Board of Adjustment shall have the following powers and duties to be carried out in accordance with these regulations which include GS 160D-301, 604(c), (e) but are not limited to, the following:

### **Section 3.302. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the Board of Commissioners procedures. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

### **Section 3.303. Meetings, hearings and procedures.**

*(Subsection listings not shown have not changed)*

- (2) Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the office of the Zoning Administrator, and at the office of the City Clerk, and posted on the Charlotte Planning, Design & Development Department website and a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (5) The concurring vote of a simple majority of the members of the Board of Adjustment is required to reverse or modify any other, requirement, decision, or determination made by the

Zoning Administrator or to grant a zoning variance, as per special legislation from the requirements of these regulations.

- (6) In determining appeals of administrative decisions and variances, the Board of Adjustment shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.

#### **PART 4: HISTORIC DISTRICT COMMISSION**

*(Section and Subsection listings not shown have not changed)*

##### **Section 3.401. Powers and duties.**

*(Subsection listings not shown have not changed)*

- (2) To develop ~~standards~~ guidelines for development within designated historic districts.

##### **Section 3.402. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Historic District Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of the effective date of this ordinance between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

##### **Section 3.403. Meetings, hearings, and procedures.**

*(Subsection listings not shown have not changed)*

- (2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission, and at the office of the County Clerk, and posted on the Charlotte Planning, Design, and Development website.
- (6) In determining certificates of appropriateness, the Historic District Commission shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.
- ~~(6)(7)~~ All decisions of the Historic District Commission in granting or denying a certificate of appropriateness may be appealed to the Board of Adjustment. A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party within thirty (30) days of the receipt of the written notice of the determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

## **PART 5: PROFESSIONAL STAFF**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.502. ~~Building Standards Department~~ Code Enforcement; powers and duties.**

*(Subsection listings not shown have not changed)*

In addition to any authority granted to the Building Standards Code Enforcement Department by other laws and ordinances, the Zoning Administrator and the employees under his or her control shall have the following powers and duties, to be carried out in accordance with these regulations which include, but are not limited to, the following:

### **Section 3.603. Meetings, hearings and procedures.**

- (2) Any rules of procedure adopted by the Storm Water Advisory Committee with respect to its duties under this Ordinance shall be kept on file at the office of the Zoning Administrator, the County Clerk's office, and posted on the website a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (5) The concurring vote of a simple majority of the members of the Storm Water Advisory Committee (five (5) of the nine (9) members regardless of the number of members present for a hearing) is required to reverse or modify any order, requirement, decision, or determination made by the Zoning Administrator. The Committee shall vote in accordance with state law ~~or~~ to grant a variance from the requirements of these regulations.

### **Section 3.604. Staff.**

The staff for the Storm Water Advisory Committee shall be provided by the Mecklenburg County ~~Engineering and Building Standards Department~~ Land Use & Environmental Services Agency (LUESA).

## **CHAPTER 4: DEVELOPMENT APPROVAL**

*(Section and Subsection listings not shown have not changed)*

### **Section 4.102. Building permit required.**

*(Subsection listings not shown have not changed)*

- (1) It is illegal for any person to begin the construction, reconstruction or demolition of a structure or any part of a structure, or to begin to excavate a structure, or to make any structural repairs, alterations, or additions to any structure, or to commence construction of any paved area, which will result in an area of more than twenty thousand square feet of impervious cover, without obtaining a building permit from the Director of Building Standards Code Enforcement.

- (2) Applications for a building permit may be made by the property owner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the property owner. An easement holder may also apply for a building permit for such development that is authorized by the easement.
- (3) Building permits shall be issued in writing and provide in print or electronic form. If an electronic form is used, it must be protected from further editing.
- (4) Building permits attach to and run with the land.
- (2-5) The Director of ~~Building Standards~~ Code Enforcement will not issue a building permit unless the plans, specifications, and intended use of the structure conform to the requirements of these regulations. The application for a building permit must be accompanied by information sufficient to allow the Director of ~~Building Standards~~ Code Enforcement to act on the request and be filed in the office of Director of ~~Building Standards~~ Code Enforcement accompanied by a fee established by the Board of Commissioners.
- (6) The Director of Code Enforcement, or his or her authorized designee shall inspect work undertaken through a building permit, to assure that the work is being done in compliance with the permit. Inspectors are authorized to enter any premises within the jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

**Section 4.103. Certificate of Compliance/Certificates of ~~occupancy~~ Occupancy required.**

*(Subsection listings not shown have not changed)*

- (1) It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of Compliance/-of occupancy.
- (2) A certificate of occupancy shall not be issued unless it has been determined that the site, parcel, building or structure is in compliance with all applicable provisions of these regulations, or an instrument, acceptable to the County, to guarantee conformance with these regulations.

**CHAPTER 5: APPEALS AND VARIANCES**

*(Part, Section and Subsection listings not shown have not changed)*

**PART 1: PROVISIONS OF GENERAL APPLICABILITY**

*(Section and Subsection listings not shown have not changed)*

**Section 5.101. Authority of Mecklenburg County Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Adjustment shall have the authority: ~~to hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator~~
  - (a) ~~To hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator.~~
  - (b) ~~To hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the Charlotte Mecklenburg Historic Landmark Commission.~~
- (5) Pursuant to G.S. § ~~160D-406 153A-345(b) and (d)~~, the Board of Adjustment only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Board of Adjustment does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.
- (6) Variance approvals attach and run with the land.

#### **Section 5.103. Filing of notice of appeal.**

*(Subsection listings not shown have not changed)*

- (1) A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by ~~a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination~~ the owner or other party within ~~30 60~~ days of the day the ~~order, requirement, receipt of a written~~ determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from receipt from the source of actual or constructive notice of the determination ~~decision~~, within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the U.S. Postal Service. ~~determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Board of Adjustment rules of procedure.~~ The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Board of Adjustment shall have no jurisdiction to hear the appeal.
- (2) ~~Upon the filing of such notice, t~~The Zoning Administrator shall ~~forthwith~~ transmit to the Board of Adjustment all administrative papers, records, and other information regarding

the subject matter of the appeal. The administrative materials may be distributed to the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the applicant and to the property owner if that person is not the applicant. Administrative materials may be provided in written or electronic form.

- (3) An appeal stays all proceedings and enforcement action, including fines in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from which the appeal is taken and on due cause shown.

### **Section 5.107. Notice and hearing.**

*(Subsection listings not shown have not changed)*

The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, follow statutory procedures for evidentiary hearings and quasi-judicial ~~hold~~ decisions required by 160D-406 on any appeal or variance petition which comes before it. public hearings

As per G.S. § 160D-406 notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. 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. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Staff shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.

If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to section 5.113(1), then the aggrieved party, as stated in G.S. Sec. 160A-388(e), 160D-1402(c) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective.

The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**Section 5.108. Standards for granting a variance.**

*(Subsection listings not shown have not changed)*

- (1) Before granting a variance, the Board of Adjustment shall find: When unnecessary hardship would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all of the following:
  - (a) ~~That practical difficulties or unnecessary hardship would result from the strict application of these regulations; and~~ Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (b) ~~That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Zoning Board of Adjustment may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities; and~~ The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  - (c) ~~That the public safety and welfare have been protected and substantial justice done. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.~~
  - (d) The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.
- (2) The Board of Adjustment shall not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or

expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. ~~Except under circumstances described in subsection (3) below, the Board of Adjustment shall not grant a variance.~~

- (3) ~~Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met: Appropriate conditions may be impose on any variance, provided that the conditions are reasonably related to the variance.~~
- ~~(a) — The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and~~
  - ~~(b) — The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and~~
  - ~~(c) — The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.~~

#### **Section 5.109. Standards for granting an appeal.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Adjustment shall reverse or modify the specific order, requirement, decision, or determination under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, requirement, decision, or determination pursuant to G. S. 160D-405.

#### **Section 5.110. Action by the Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (2) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment, then the aggrieved party, as stated in G.S. 160D-1402(c) ~~Sec. 153A-345(e)~~, must file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment at the time of the hearing of the case.
- ~~(3) The board shall vote in accordance with state law. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.~~
- ~~(4) Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision~~



shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board.

- (5) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.
- (6) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to section 5.113(1), then the aggrieved party, as stated in G.S. Sec. 160D-1402(c) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective.

### **Section 5.113. Appeal from Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Board's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is filed in the LUESA Charlotte-Mecklenburg Building Standards Department. Upon the filing of the decision in LUESA, the Building Standards Department the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.
- (2) ~~If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. 153-345(e) aggrieved party either by personal service or by registered or certified mail with return written receipt requested. Every quasi-judicial decision of the Board shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. §160D-1402. Any petition for a review of the Board's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court by the later of (1) 30 days after the decision is effective, or (2) 30 days after a written copy of the decision is given in accordance with Section 5.110 of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.~~
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Board of Adjustment to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the decision in LUESA Building Standards Department, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.

- (4) If a petition for review pursuant to G.S. § ~~160D-406(k)~~ ~~153A-345(e)~~ is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Zoning Board of Adjustment for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of debt owed.

**PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER.**

*(Section and Subsection listings not shown have not changed)*

**Section 5.201. Authority of Charlotte-Mecklenburg Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (5) Pursuant to G.S. § ~~160D-925~~, ~~153A-345(b) and (d)~~, the Storm Water Advisory Committee only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Storm Water Advisory Committee does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

- (6) Variance approvals attach to and run with the land.

**Section 5.203. Filing of notice of appeal.**

*(Subsection listings not shown have not changed)*

- (1) A notice of appeal, in the form prescribed by the Storm Water Advisory Committee shall be properly filed by a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination made or rendered by the Zoning Administrator within 60 days of the ~~day the order, requirement, receipt of a written decision,~~ within which to file. If the notice of the decision is sent by mail, it is presumed received on the third business day after it is sent. or determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Storm Water Advisory Committee rules of procedure. The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Storm Water Advisory Committee shall have no jurisdiction to hear the appeal.

- (2) ~~Upon the filing of such notice, t~~The Zoning Administrator shall ~~forthwith~~ transmit to the Storm Water Advisory Committee all administrative papers, records, and other information regarding the subject matter of the appeal. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. Administrative materials may be provided in written or electronic form.
- (3) An appeal stays all proceedings and enforcement actions, including fines in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Storm Water Advisory Committee, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Storm Water Advisory Committee from which the appeal is taken and on due cause shown.

**Section 5.207. Notice and hearing.**

*(Subsection listings not shown have not changed)*

The Storm Water Advisory Committee shall, in accordance with rules adopted by it for such purpose, ~~hold~~ follow statutory procedures for evidentiary hearings and quasi-judicial decisions required by 160D-406, public hearings on any appeal or variance petition which comes before it.

The Board of Adjustment Chair shall rule on objections to inclusion or exclusion of administrative material. Such a ruling may be appealed to the full Board. All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

**Section 5.208. Standards for granting a variance.**

*(Subsection listings not shown have not changed)*

- (1) ~~Before granting a variance, the Storm Water Advisory Committee shall find~~ When unnecessary hardship would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all the following:

- (a) ~~That practical difficulties or unnecessary hardship would result from the strict application of these regulations; Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. and~~
- (b) ~~That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Storm Water Advisory Committee may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; and~~
- (c) ~~That the public safety and welfare have been protected and substantial justice done. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.~~
- ~~(e)(d) The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.~~
- (2) The Storm Water Advisory Committee shall not grant a variance, which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. ~~Except under circumstances described in subsection (3) below, the Storm Water Advisory Committee shall not grant a variance.~~
- ~~(3) Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met:~~
  - ~~(a) The difficulty or hardship would result only from these regulations and~~
  - ~~(b) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and~~
  - ~~(c) The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or from no other cause, including the actions of the owner or previous owners of the property; and making a reasonable use of the property. The~~

~~fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.~~

**Section 5.210. Action by Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (1) The Storm Water Advisory Committee shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, requirement, or determination under appeal. The written decision shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. The Storm Water Advisory Committee shall make findings of fact and conclusions of law to support its decision.
- (2) If any aggrieved party wishes to receive a written copy of the decision of the Storm Water Advisory Committee, then the aggrieved party, as stated in ~~G.S. Sec. A-153345(e); 160D-925~~ must file a written request for a copy of the Committee's decision with the Secretary or Chairperson of the Storm Water Advisory Committee at the time of the hearing of the case
- (3) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**Section 5.213. Appeal from the Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Committee's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Storm Water Advisory Committee is filed in the Mecklenburg County ~~Engineering and Building Standards Department~~ LUESA. Upon the filing of the decision in the ~~Engineering and Building Standards~~ LUESA Department, the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.
- (2) If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. ~~153-345(e); 160D-925~~ then a decision of the Committee may be delivered to that aggrieved party either by personal service or by registered or certified mail with return written receipt requested.
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Storm Water Advisory Committee to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the

decision in ~~Engineering and Building Standard Department~~ LUESA, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.

- (4) If a petition for review pursuant to G.S. §~~153A-345(e)~~ 160D-925 is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Storm Water Advisory Committee for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of the debt owed.

## **CHAPTER 6: AMENDMENTS**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: PROVISIONS OF GENERAL APPLICABILITY**

*(Section and Subsection listings not shown have not changed)*

#### **Section 6.105. Filing of petitions.**

*(Subsection listings not shown have not changed)*

- (2) Except for a county initiated zoning map amendment, no zoning map amendment that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment.

- ~~(2)~~(3) No application for reclassification of property will be accepted until it is complete. A decision by the Planning Director or his or her designee that an application is incomplete may be appealed to the Planning Commission. A decision by the Planning Commission that an application is incomplete may be appealed to the Board of Commissioners.

#### **Section 6.107. Staff review.**

*(Subsection listings not shown have not changed)*

- (2) The Planning Director shall deliver copies of the proposed amendment to other appropriate agencies including, but not limited to, the ~~Building Standards Code Enforcement~~ Department, Engineering Department, Health Department, ~~Department of Environmental Protection~~ LUESA, Parks and Recreation Department, Utilities Department, Charlotte- Mecklenburg Schools Staff and Fire Marshal.

#### **Section 6.108. Withdrawal and amendment of petition.**

*(Subsection listings not shown have not changed)*

- (1) A petition filed under Section 6.105 may be withdrawn by the petitioner at any time up to the day of the first publication of the public hearing notice as required under G. S. Section 160D-601(a). ~~adoption of a resolution by Board of Commissioners scheduling the date of the hearing for the petition.~~ After that time, the petitioner may file a request to withdraw the petition with the Planning Director. The Board of Commissioners shall decide, on the date scheduled for the hearing, whether to allow the withdrawal.

#### **Section 6.109. Notice of Hearing.**

*(Subsection listings not shown have not changed)*

- (1) **Hearing with published notice:** For adopting, amending, or repealing any ordinance or development regulation, and for proposed zoning map amendments, a notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (2) **Mailed notice:** For proposed zoning map amendments, the property owners of 1) affected parcels of land; 2) all abutting parcels; 3) other parcels located within 300 feet of the subject property; and neighborhood organizations within one mile, shall be mailed a notice of the hearing by first-class mail at the last addresses listed for such owners on the county tax abstracts. Properties are considered “abutting” even if separated by a street, railroad, or other transportation corridor. The notice shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.
- (3) **Posted Notice:** When a zoning map amendment is proposed, a notice of the hearing shall also be prominently posted on the site proposed for the amendment, or on an adjacent public street or highway right-of-way. Posting of the notice on the site shall be made at least 10 but no more than 25 days prior to the date of the hearing.
- (4) **Optional notice for large-scale zoning map amendments.** The first-class mail notice for large-scale map amendments is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the City elects to publish notice of the hearing in a newspaper of general circulation, provided each advertisement shall not be less than one-half of a newspaper page in size. The notice of the hearing shall be given once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of the publication is not to be included but the day of the hearing shall be included. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who live outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to Section 6.109(b).



### **Section 6.110. Hearing.**

*(Subsection listings not shown have not changed)*

- (4) The Planning Commission shall also adopt a statement of reasonableness for a zoning map amendment. This statement of reasonableness may consider, among other factors, 1) the size, physical conditions, and other attributes of the area proposed to be rezoned, 2) the benefits and detriments to the landowners, the neighbors, and the surrounding community, 3) the relationship between the current actual and permissible development on a tract and adjoining areas and the development that would be permissible under the proposed amendment, 4) why the action taken is in the public interest, and 5) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning”, the statement on reasonableness may address the overall rezoning.

The statement of plan consistency and the statement of reasonableness required may be approved as a single statement.

Per G.S. 41A-4 and G.S. 41-A-5(a), the Planning Commission, in making its written recommendation, shall not discriminate against affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. A written recommendation by the Planning Commission based on considerations of limiting high concentrations of affordable housing is permissible.

### **Section 6.111. Action by Board of Commissioners.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Commissioners, after receiving the report ~~and~~ recommendation, and the consistency and reasonableness statement of the Planning Commission, shall consider the reports and recommendations, and the consistency and reasonableness statement of the Planning Commission, the Planning Commission staff, and other departments. Within a reasonable time the Board of Commissioners shall either reject the proposed amendment or adopt an ordinance enacting the proposed amendment with or without modifications.

## **PART 2: CONDITIONAL ZONING DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

### **Section 6.201. Purpose.**

*(Subsection listings not shown have not changed)*

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured



Housing District Commercial Center District, Neighborhood Services District, and Hazardous Waste District.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted “Generalized Land Plan”, and adopted district and area plans. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional ~~zoning~~ district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

**Section 6.204. Approval of Conditional ~~Zoning~~ District.**

*(Only the title of this section has changed. Subsection listings not shown have not changed)*

**Section 6.205. Conditions to Approval of Petition.**

*(Subsection listings not shown have not changed)*

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the petition, but only those conditions consented to by the portioners, in writing, may be incorporated into the conditional site-specific plan. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners.

**Section 6.206. Effect of Approval.**

*(Subsection listings not shown have not changed)*

- (4) Any conditional ~~zoning~~ district approved on or after October 1, 1991, shall have vested rights pursuant to ~~N.C.G.S. Section 153A-344.1~~ G.S. 160D-108 for the period of time established pursuant to Section 1.110 and 1.111 of this Zoning Ordinance, except as such vested rights may be altered as allowed by ~~N.C.G.S. Section 153A-344.1(e)~~ G.S. 160D-108.1. Vested rights

shall remain effective beyond the end of the period of time established pursuant to Section 1.110 and 1.111 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment, unless the approved site plan explicitly provides that an adult establishment is a permitted use or the site meets the standards of Section 12.518.

#### **Section 6.209. Protest Petitions**

*(Subsection listings not shown have not changed)*

New protest petitions are no longer allowed per the North Carolina General Statutes.

~~Protest petitions shall not be valid for any amendment to an adopted conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the conditional district.~~

### **CHAPTER 7: NONCONFORMITIES**

*(Section and Subsection listings not shown have not changed)*

#### **Section 7.103. Nonconforming structures.**

*(Subsection listings not shown have not changed)*

- (8) An existing ~~mobile home or~~ manufactured home as a principal residential building on an individual lot or located in a nonconforming mobile home or manufactured housing park or subdivision in operation at the time of adoption of these regulations may be replaced with another ~~mobile home or~~ manufactured home provided the number of ~~mobile home or~~ manufactured home units may not be increased beyond the number available before replacement and the replacing ~~mobile~~ manufactured home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. A replacement mobile home or manufactured home on an individual lot or subdivision shall adhere to the standards of Section 10.403, except for subdivision (c), unless located in a R-MH district or mobile home park.

### **CHAPTER 8: ENFORCEMENT**

*(Section and Subsection listings not shown have not changed)*

#### **Section 8.102. Zoning Administrator procedures.**

*(Subsection listings not shown have not changed)*

- (2) If the Zoning Administrator discovers a violation of these regulations, pursuant to G.S. 160D-404(a) the Zoning Administrator shall issue a written notice of violation notifying the violator and give the violator (holder of the development approval) and the property owner involved, if the property owner is not the violator, by personal delivery, electronic delivery, or first-class mail and may be provided to the occupant of the property or the

person undertaking the work or activity, or may be posted on the property. The notice shall and give a specified time to correct the violation. The person providing the notice of violation shall certify to the County that the notice was provided.

(4) A notice of violation may be appealed to the board of adjustment.

#### **Section 8.103. General enforcement provisions.**

*(Subsection listings not shown have not changed)*

The provisions of this Chapter may be enforced by anyone, all, or a combination of the remedies authorized by and prescribed by this Chapter. (a) Notices of violation. When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to 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 notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-11-23, 160D-120-6, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

If inspecting, must enter the premises during reasonable hours and upon presenting credentials; must have consent of the premise's owner or an administrative search warrant to inspect areas not open to the public. G.S. 160D-403(e).

For revocation of development approval, must follow the same process as was used for the approval. G.S. 160D-403(f).

If a person continues to fail to comply with a particular provision of these regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed by this Chapter for the continued violation of the particular provision of these regulations. The Zoning Administrator shall have the power to impose fines and penalties for violation of the Zoning Ordinance, as provided herein, and may secure injunctions and abatement orders to further ensure compliance with the Zoning Ordinance as provided for in this Chapter. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Chapter.

#### **Section 8.105. Citations.**

*(Subsection listings not shown have not changed)*

(3) The citation shall direct the violator to make payment at the ~~Building Standards Department~~ LUESA within fifteen (15) days of the date of the citation, or alternatively pay the citation by

mail. If the violator does not make such payment or does not mail the citation and payment within fifteen (15) days of the issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

## **CHAPTER 9: GENERAL DISTRICTS**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 4: URBAN RESIDENTIAL DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 9.402. ~~Urban Residential districts: established.~~ Established.**

*(Only the title of Section 9.402 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.403. ~~Urban Residential districts: uses~~ Uses permitted by right.**

*(Only the title of Section 9.403 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.404. ~~Urban Residential districts: uses~~ Uses permitted under prescribed conditions.**

*(Only the title of Section 9.404 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.405. ~~Urban Residential districts: a~~ Accessory structures.**

*(Only the title of Section 9.405 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.406. ~~Urban Residential districts: a~~ Area, yard and height regulations.**

*(Only the title of Section 9.406 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.407. ~~Urban Residential districts: d~~ Development standards for various uses.**

*(Subsection listings not shown have not changed)*

(1) Density bonus provisions

(c) Bonus permitted. The following density bonuses are established for the provision of the following features:

- v. For the preservation of a structure and/or land which has been designated

as a historic property pursuant to ~~G.S. 160A-399~~ 160D- 944 and 160D- 945 and for which a certificate of appropriateness has been secured, or for the preservation of a property listed in the National Register of Historic Places preserved in accordance with the Secretary of the Interior's standards for historic preservation projects, a floor area bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units shall be granted. For the preservation of only a building facade or a group or series of facades of a structure or structures which have been designated as a historic property as listed above, a floor area bonus of 2 percent of the base floor area ratio but not less than 2 dwelling units, is granted.

**Section 9.408. ~~Urban Residential districts:~~ Off-street parking and loading standards.**  
(Only the title of Section 9.406 has changed.)

**PART 8: BUSINESS DISTRICTS**  
(Section and Subsection listings not shown have not changed)

**Section 9.805. Development standards for business districts.**  
(Subsection listings not shown have not changed)

- (7) Special Development Requirements for the BP district. Additional development requirements for the BP district are specified below:
  - (b) Utility lines underground. All utility lines such as electric, telephone, CATV, or other similar lines must be installed underground, unless the following criteria are met:
    - (i) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
    - (ii) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.
- (8) Administrative site plan approval required for BP district. Once the BP district has been established all development in the business park district must be built in accordance with an administratively approved site plan. Site planning in proposed developments must provide protection of the development from adverse surrounding influences and protection of surrounding areas from adverse influences within the development. The site plan must be designed giving adequate consideration to the minimum standards of these regulations and to the following factors: the size and shape of the tract; the topography and necessary grading, the reasonable preservation of the natural features of the land and vegetation; the size and relationship of buildings; and the character of

relationship to adjoining properties. Consideration should be given to the location and arrangement of parking areas, the nature and extent of screening, the design of and utilization of streets and open spaces. The site plan must be prepared by a registered professional land planner licensed to practice in North Carolina. This registration could include land planners with designations as AICP, ASLA, AIA, PE, or others so long as the designer of record specializes in site design.

- (a) Purpose. In order to assure compliance with minimum ordinance standards and to aid in the review and approval of development proposals, this Section establishes a site plan review process. This process is an administrative process conducted by the Director of the Planning Commission on behalf of the Director of the Building Standards Department LUESA. It is intended that this process occur early in the planning of a proposed development in order to streamline the approval process, to assure that ordinance standards will be met, to address any specific hardships which could warrant a variance from specific provisions, to assure that the proposal complies with adopted public policies regarding the area of the proposal, and to promote and protect the public health, safety, and welfare.
- (c) Review and approval. Within 20 business days of the receipt of a complete preliminary site plan, the Planning Director will review the proposal against the standards of this ordinance. In addition, the Planning Director may consult with other governmental agencies regarding the proposal as it relates to the standards of other ordinances in order to avoid unnecessary delays in the approval process.

If the preliminary plan meets the standards of this ordinance and is in general conformity with other applicable regulations, the Planning Director will mark the plan as "Approved for Final Plans" and return the approved plan to the applicant. The applicant is then free to develop any final site plans that may be necessary or required for the issuance of construction permits. In addition, the approval of the preliminary plan is necessary for the applicant to secure the necessary grading permits to begin work on the site.

All final site plans must be submitted to the Charlotte-Mecklenburg Building Standards Department LUESA for approval. One copy of the proposed final site plan will be reviewed by the Planning Director to assure compliance with the approved preliminary site plan.

## **CHAPTER 10: OVERLAY DISTRICTS**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 2: HISTORIC DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.203. Certificate of appropriateness required.**

*(Subsection listings not shown have not changed)*

- (2) If a certificate shall be required, then the Historic District Commission staff will provide the applicant with an application form, instructions, and such technical advice as may be deemed necessary. The Historic District Commission shall prepare and adopt principles and guidelines standards, not inconsistent with Chapter ~~160A, Part 3C~~ 160D, Part 4 "Historic ~~Districts~~ Preservation", of the General Statutes, for new construction, alterations, additions, moving and demolition. A copy of the adopted principles and guidelines standards shall be kept at the Historic District Commission's Office and County Clerk's Office.
- (3) Work may not begin until a certificate has been issued. A certificate must be issued by the Historic District Commission through an evidentiary hearing prior to the issuance of a building permit or other permit granted, for the purposes of constructing, altering, moving, or demolishing structures, which a certificate may be issued subject to reasonable conditions necessary to carry out the purposes of N. C. General Statutes, Chapter ~~160A, Article 19, Part 3C~~ Chapter 160D, Article 9, Part 4. A certificate of appropriateness shall be required whether or not a building permit is required.

### **Section 10.208. Procedure.**

*(Subsection listings not shown have not changed)*

- (2) All properly filed applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time. ~~In cases where the Historic District Commission deems it necessary, it may hold a public hearing concerning the application.~~

### **Section 10.209. Notice hearing, decision, and procedures**

*(Subsection listings not shown have not changed)*

- (2) ~~The Historic District Commission shall follow statutory procedures for evidentiary hearings and quasi-judicial decisions in 160D-406 when approving, approving with conditions, or denying a certificate of appropriateness application. The Historic District Commission shall take such steps as may be reasonably required under the particular circumstances, as stated in the "Rules of Procedure", to inform the abutting property owners and any other owners of any property likely to be materially affected by the application,~~ prior to the issuance or denial of a certificate of appropriateness.

Notices of evidentiary hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing, in accordance with G.S. 160D-406.



In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. 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. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Staff shall transmit to the Historic District Commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission at the hearing.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

The Historic District Commission Chair shall rule on objections to inclusion or exclusion of administrative material. Such a ruling may be appealed to the full Board.

The quasi-judicial decision shall be written, signed by the Chair, and effective upon filing the written decision with the clerk to the Commission.

The decision shall be delivered by personal delivery, electronic mail, or first-class mail to the applicant, property owner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the County that proper notice has been made.

#### **Section 10.210. Standards.**

*(Subsection listings not shown have not changed)*

- (1) In considering an application for a certificate of appropriateness, the Historic District Commission shall first determine that the project is compatible with the district as a whole in terms of size, scale, and massing, as well as maintaining a pedestrian scale and orientation. Further, the Historic District Commission shall apply the Secretary of Interior's Standards for Rehabilitation (See 36 Code of Federal Regulations, Section 67.7. Hereinafter: "Secretary's Standards") stated in Sub-section (2) and the principles and ~~guidelines~~ standards, referred to in Section 10.202(2), and adopted by the Historic District Commission. Although the Historic District Commission will use the "Secretary's Standards" as its guidelines, approval of a certificate of appropriateness by the Historic District Commission should not be interpreted as approval for any other process such as the Investment Tax Credits.



**Section 10.213. Appeal to Zoning Board of Adjustment.**

*(Subsection listings not shown have not changed)*

~~N. C. General Statutes Section 160A-397 establishes the appeal procedure.~~ An appeal in the nature of certiorari may be taken by any aggrieved party to the Zoning Board of Adjustment from the Historic District Commission's action granting or denying the certificate of appropriateness pursuant to Chapter 5 of these regulations. Any appeal must be filed with the Board of Adjustment within thirty days from after the decision is effective or receipt of the written notice of the determination. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition~~the date of the issuance or denial of the certificate.~~ An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County.

**Section 10.214. Enforcement**

- (2) Pursuant to N. C. General Statutes Section ~~160A-365~~ 160D-404, "Enforcement ~~of Ordinances~~", these Historic Districts' provisions may be enforced by any remedy provided in N. C. General Statutes Section ~~160A-175~~ 160D-404 and, also, as specifically described in Chapter 8 of this Zoning Ordinance.

**Section 10.216. Revocation of building permit.**

*(Subsection listings not shown have not changed)*

Pursuant to N. C. General Statutes Section ~~160A-422~~ 160D-1115, "Revocation of building permits", the Mecklenburg County ~~Building Standards Department Code Enforcement~~ shall be notified to revoke any building permits for any substantial departure from the approved application, plans, or specifications, for refusal or failure to comply with the requirements of a certificate of appropriateness. If a certificate of appropriateness is required, then a building permit shall not be issued. If a building permit has been mistakenly issued or issued based upon false statements or misrepresentations made in securing the building permits, then the building permit may be revoked.

**Section 10.219. Denial or revocation of certificate of compliance and occupancy.**

- (1) As stated in the Mecklenburg County Building Ordinance, Section B-114, "Certificates of Compliance and Occupancy", the Mecklenburg County ~~Building Standards Code Enforcement~~ Department shall not issue a certificate of occupancy or certificate of compliance unless there has been compliance with any certificate of appropriateness issued by the Historic District Commission. Compliance with a certificate of appropriateness shall include, but not be limited to, meeting all the requirements of the certificate of appropriateness in not doing any act which would have required a certificate of appropriateness.
- (2) Further, pursuant to Section B-115-2, "Revocation of Permits or Certificates", any permit or certificate of occupancy or certificate of compliance issued by the Mecklenburg County

~~Building Standards Code Enforcement~~ Department in violation of any of the Historic Districts' provisions, stated herein, also may be revoked by the Mecklenburg County ~~Building Standards Code Enforcement~~ Department.

## **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.510. Appeals and Variances.**

*(Subsection listings not shown have not changed)*

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-1402.
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:
  - 2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-1402.
  - 3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
    - b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § ~~153A-345(e)~~ 160D-1402.

## **PART 6: CATAWBA RIVER/LAKE WHYLIE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.610. Appeals and Variances.**

*(Subsection listings not shown have not changed)*

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-923.
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:
2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-923.
  3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
- If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and ~~G.S. § 153A- 345(e)~~ 160D-1402. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

## **Part 7: LOWER LAKE WYLIE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.710. Appeals and Variances.**

*(Subsection listings not shown have not changed)*

- (2) A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance." Any appeal for the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ G. S. 160D-1402.
- (3) A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and

Variances, of these regulations, with the following limitations:

- (b) The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 “Standards for granting a variance”. Any appeal of the Board’s decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~; G. S. 160D-1402.
  - (c) The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, “Standards for granting a variance” of these regulations and the standard provided for in 15A NCAC 2B.0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
2. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board’s hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board’s denial of a major watershed variance shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ G S 160D-923.

## **CHAPTER 11: CONDITIONAL ZONING DISTRICTS**

*(No changes to this chapter are proposed)*

## **CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 12.103. Requirements for lots along thoroughfares.**

*(Subsection listings not shown have not changed)*

~~G.S. 153A-326~~ 160D-702 states that counties shall have authority to (i) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic loads, and other characteristics relevant to the achievement of the purposes of this Section, and establish by ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be setback from the right-of-way line or the centerline of an existing or proposed street. Pursuant to that authority, the following requirements shall apply:

## **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

*(Section and Subsection listings not shown have not changed)*

### **Section 12.509. Public utility transmission and distribution lines.**

*(Subsection listings not shown have not changed)*

All electricity, telephone, CATV, and other utility distribution lines, which deliver service to the end user from a transmission line providing service to an area larger than the individual parcel or project area in developing or redeveloping areas, shall be installed underground in all zoning districts, except the Research, Institutional and BP districts unless terrain, subsurface or surface obstructions inhibit installation. ~~This provision does not apply to the Research, Institutional and BP districts., or if the following criteria are met:~~

- (1) If electric utility distribution lines exist above ground at the time of first approval of a plat or development plan approval, whether or not the distribution lines are subsequently relocated during construction of the subdivision or development plan
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

## **PART 6: STORMWATER DRAINAGE**

*(Section and Subsection listings not shown have not changed)*

### **Section 12.603. Standards for plan approval.**

*(Subsection listings not shown have not changed)*

The following standards shall be met for approval of a storm water drainage plan:

- (1) The County Engineer shall review the drainage plan for compliance with the standards contained in the current edition of the Charlotte-Mecklenburg Land Development Standards Manual, the Charlotte-Mecklenburg Storm Water Design Manual, ~~which is to be adopted in its entirety pursuant to G.S. 153A-47,~~ and all other relevant and appropriate standards established by the Engineering Department.

## **CHAPTER 13: SIGNS**

*(Section and Subsection listings not shown have not changed)*

### **Section 13.103. Procedures.**

*(Subsection listings not shown have not changed)*

- (3) Issuance of Permits

Upon the filing of an application for a sign permit made by the property owner, a lessee or

person holding an option or contract to purchase or lease the property, or an authorized agent of the property owner, the Zoning Administrator shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. The Zoning Administrator or their designee shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. The Zoning Administrator or their designee shall issue a sign permit in writing to the applicant. The sign permit shall be issued in print or electronic form. Any permit issued exclusively in electronic form shall be protected from further editing once issued. The permit shall be delivered by personal delivery, electronic mail, or by first-class mail, to the applicant and the property owner, if different from the applicant. The permit shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, a written notice of the sign permit shall be delivered to the last address listed for the property owner on the county tax abstract.

If the sign permit is denied, the Zoning Administrator or designee shall deliver a written notice of the decision to the applicant at the address on the application, and to the property owner, if different from the applicant. The written notice shall be provided by personal delivery, electronic mail, or first-class mail, and shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, the notice shall be delivered to the last address listed for the property owner on the county tax abstract.

An appeal of the decision shall be made to the Zoning Board of Adjustment and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

(5) Final Inspection

Upon notification of completion by the permit holder, the ~~Building Standards Department~~ LUESA shall make a final inspection of the sign to verify conformance with applicable codes.

**Section 13.106. Signs not requiring a permit.**

*(Subsection listings not shown have not changed)*

(8) Campaign or Election signs provided:

- (c) Prior to the erection of any campaign or election sign, the candidate or an authorized representative shall post a bond with ~~Building Standards~~ LUESA in the amount of \$50.00 guaranteeing the removal of such signs within 7 days after the election for which they are used;

### **Section 13.110. Creation of Special Sign Regulations.**

*(Subsection listings not shown have not changed)*

- (5) In approving or disapproving the Planned Development Flexibility Option, the Planning Design, & Development Director shall deliver written notice of the decision, in print or electronic form to the applicant and property owner, if different from the applicant by personal delivery, electronic mail, or by first-class mail,

If the request is not approved, the reasons shall be stated in the notice of the decision. Any notice of decision issued exclusively in electronic form shall be protected from further editing once issued.

The notice shall be delivered to the applicant at the address provided in the application, and to the property owner, if different from the applicant, at the last address listed for the owner of the property on the county tax abstract.

An appeal of the decision to the Board of Adjustment shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

### **Section 13.113. Enforcement.**

*(Subsection listings not shown have not changed)*

- (2) Citations

If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Zoning Administrator shall issue a warning citation to the violator. Violations shall be corrected within ten (10) days of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to Section 8.105, 'Citations', of this Ordinance, which is incorporated by reference herein as if fully stated.

For violations, a written notice of violation shall be sent to the permit holder and to the property owner, if the property owner is not the holder of the permit. Notices of violation shall be provided by person al 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 City that the notice was provided.

### **Section 13.114. Variances and Appeals.**

- (1) In accordance with the procedures stated in Chapter 5 of the Zoning Ordinance, the Board of Adjustment, before granting a variance shall find: When unnecessary hardship would result

from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all of the following: shall have the power to hear and act upon applications for a variance from the requirements of these regulations after making the following finding:

- (a) That a variance is necessary because of unique features of the site such as its terrain or existing landscaping, or because of unique structural circumstances involved that are not applicable to other structures in the same zoning district. The fact that the sign may be utilized more profitably should a variance be granted will not be considered grounds for a variance. Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) That the special conditions do not result from the actions of the applicant or of a previous owner of the property. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) That granting the variance requested shall not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.
- (d) That granting the variance requested shall not confer on the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant. The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.
- (e) ~~That the variance granted is the minimum variance that shall make possible the reasonable use of the land, building, or structure.~~
- (f) ~~That granting a variance shall not conflict with the stated purposes of these regulations.~~
- (g) ~~That granting a variance shall not have an adverse impact upon neighboring properties.~~



- (7) In addition to the powers and duties contained herein, the Mecklenburg County Zoning Board of Adjustment is designated by the Charlotte City Council, pursuant to G.S. ~~160A-361(7)~~, 160D-302 as a planning agency authorized and directed to grant variances pursuant to Section 13.114(1)-(3) and (5) of the City of Charlotte Zoning Ordinance and one-time extensions not to exceed two years pursuant to Section 13.114(4) of the City of Charlotte Zoning Ordinance with respect to signs within the corporate limits of the City of Charlotte that do not comply with the regulations of Chapter 13 of the City of Charlotte Zoning Ordinance and are subject to the 8-year amortization period of Section 13-112(1)(a) of the City of Charlotte Zoning Ordinance.

This designation and authorization of the Mecklenburg County Zoning Board of Adjustment shall not affect in any way the jurisdiction of the City of Charlotte Zoning Board of Adjustment. The City Zoning Board of Adjustment shall have the authority to adopt guidelines for the City Zoning Board of Adjustment's clerk in assigning applications with respect to the above-referred to signs to the City or the County Board of Adjustment.

Notwithstanding any ordinance provision or rules of procedure to the contrary, the Zoning Administrator shall have the authority to designate in the notice the time within which applications must be timely and properly filed being no less than 60 days and no more than 120 days from the date of the notice.

Any appeals from the Mecklenburg County Zoning Board of Adjustment to Superior Court for City applications shall be pursuant to G.S. ~~160A-388(e)~~, 160D-406(k) This subsection (7) shall automatically expire as of April 1, 1998.