

2021-110 TEXT AMENDMENT SUMMARY

CHARLOTTE ZONING ORDINANCE

5/20/21

This document summarizes the changes proposed to the Charlotte Zoning Ordinance through petition 2021-110. 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 2021-110](#) on the Charlotte Planning, Design & Development website.

(For all Chapters listed herein, section and subsection listings not shown remain unchanged)

CHAPTER 1 PURPOSE AND APPLICABILITY

Section 1.102. Authority and purpose.

These regulations are adopted pursuant to the authority granted to the City of Charlotte by Chapter ~~160A, Article 19~~160D, Articles 1 through 14, of the General Statutes of North Carolina, and by any special local legislation enacted by the General Assembly for the City of Charlotte, in order to carry out the purposes listed below:

Section 1.105. Exceptions to applicability.

- (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which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. ~~160A-422~~160D-403(f) and 160D-1115. 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. ~~160A-448~~160D-403(c) and 160D-1111 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. ~~160A-418~~160D-403(c) and 160D-1111 and the building permit has not been revoked pursuant to G.S. Sec. ~~160A-422, 160D-403(f) and 160D-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. ~~160A-417~~ 160D-403 and 160D-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. ~~160A-418~~ 160D-403(c) and 160D-1111 and G.S. Sec. ~~160A-422~~ 160D-403(f) and 160D-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.

(1) Vested Rights

Pursuant to G.S. §~~160A-385.1~~ 160D-102, 160D-108, and 160D-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); which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and
- (b) special-use permit, multi-phased developments pursuant to G.S. Section 160D-108(f);

~~The approved plans and conditions for districts constitute, for purposes of G.S. §160A- 385.1, site specific development plans.~~

(c) development permits in accordance with N.C.G.S. 143-755; and

(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.

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 City Council 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

- (a) 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 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.

CHAPTER 2 DEFINITION AND RULES OF CONSTRUCTION

Section 2.102 Interpretation of Zoning Maps

Part 2 Definitions

(Definitions not listed are unchanged)

- (8) Interpretation of information on the zoning maps will be made by the Zoning Administrator. Appeals of the Zoning Administrator's interpretation may be made to the Board of Adjustment.

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

(Petition No. 2012-020, § 2.102, (05/14/2012))

- (a) The tax map, current or historic.
- (b) Legal descriptions of properties or boundaries.

- (c) Historical zoning maps.
- (d) Zoning case history maps.
- (e) Tax records, current or historic.
- (f) Zoning ~~and special use permit~~ case files.
- (g) Official maps from other jurisdictions.
- (h) Topographic and planimetric maps and aerial photos.
- (i) Other documentable information.

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.

(Petition No. 2006-94, § 2.201, 09/18/06)

~~A structure, transportable in one or more sections, which meets all the following requirements:~~

- ~~(a) — Meets all of the requirements of the Federal Manufactured Home Construction and Safety Standards Act of 1974, which requires units built after June 15, 1976 to have a HUD certification label confirming it was built in conformance with the Act of 1974;~~
- ~~(b) — Is designed to be used as a dwelling unit;~~
- ~~(c) — Is eight feet or more in width, and or 40 feet or more in length; or, when erected on site, is 320 or more square feet;~~
- ~~(d) — Is built on a permanent chassis;~~
- ~~(e) — Is connected to required utilities during set up, including plumbing, heating, air conditioning and electrical systems contained therein;~~
- ~~(f) — When set up, it has a permanent foundation and skirting installed in accordance with the North Carolina Department of Insurance Regulations for Manufactured Home Installation Standards; and~~
- ~~(g) — Unless located in a manufactured home park, the moving hitch or tongue shall be removed upon set up.~~

~~A manufactured home that meets requirements (a) through (d) only, is still considered to be a manufactured home, even though it has not met requirements (e) through (g) until after it is set up.~~

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.~~

~~(Petition No. 2006-94, § 2.201, 09/18/06)~~

~~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.~~

Zoning Administrator.

The employee of the Charlotte-Mecklenburg Planning Department charged with the administration and interpretation of these regulations or his or her designee.

(Petition No. 2005-78, § 2.201, 06/20/05)

(Petition No. 2012-020, § 2.201, 05/14/2012)

CHAPTER 3 DECISION-MAKING AND ADMINISTRATIVE BODIES

PART 2: PLANNING COMMISSION

Section 3.202. Membership; officers.

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 comply with the conflict of interest standards in Section 1.111.

Section 3.203. Meetings, hearings, and procedures.

- (2) Any rules of procedure adopted by the Planning Commission shall be kept on file at by the office of the Charlotte Planning, Design and Development Department-Commission, and at the City Clerk's office and posted on the website.
- (6) ~~Planning Commission members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member~~
~~(Petition No. 2006-16 §3.203(6), 03/20/06)~~

Section 3.204. Staff.

The staff for the Planning Commission shall be provided 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.

Staff shall comply with the conflict of interest standards in Section 1.111.

PART 3: BOARD OF ADJUSTMENT

Section 3.301. Powers and duties.

- (1A) The Board of Adjustment shall have the authority to hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the City of Charlotte Historic District Commission.

Section 3.302. Membership; officers.

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the City Council procedures. Each member shall

comply with the conflict of interest standards in Section 1.111.

Section 3.303. Meetings, hearings and procedures.

(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. ~~a~~ 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 ~~four-fifths~~ a simple majority of the Board of Adjustment shall be necessary to grant a zoning variance, as per special legislation. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter 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.

(Petition No. 2014-087 §3.303(5), 10/20/2014)

(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.

Section 3.304. Staff.

The staff for the Board of Adjustment shall be provided by the Zoning Administrator.

Staff shall comply with the conflict of interest standards in Section 1.111.

PART 4: HISTORIC DISTRICT COMMISSION

Section 3.401. Powers and duties.

(2) To develop ~~guidelines~~ standards for development within

designated historic districts.

Section 3.402. Membership; officers.

Each member shall comply with the conflict of interest standards in Section 1.111.

Section 3.403. Meetings, hearings, and procedures.

(2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission, at the office of the City 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.

(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.

Section 3.404. Staff.

Staff shall comply with the conflict of interest standards in Section 1.111.

PART 5: PROFESSIONAL STAFF

Section 3.501. Charlotte Planning Commission Staff; powers and duties.

- (14) To comply with the Conflict of Interest standards in Section 1.111.

PART 6: ALTERNATIVE COMPLIANCE REVIEW BOARD

(Petition No. 2018-169 §Part 6, 04/15/2019)

Section 3.602: Membership and officers.

- (1) Each member shall comply with the conflict of interest standards in Section 1.111.

Section 3.605: Meetings and procedures.

- (2) Any rules of procedure adopted by the Alternative Compliance Review Board shall be kept on file at the office of the Charlotte Planning, Design and Development Department, at the City Clerk's office, and posted on the Department website.
- ~~(4) Alternative Compliance Review Board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.~~

Section 3.606: Staff.

- (3) Staff shall comply with the Conflict of Interest standards in Section 1.111.

Chapter 4 DEVELOPMENT APPROVAL

Section 4.102. Building permit required.

- (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 provided 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 Land Use and Environmental Services Agency (LUESA), or his or her authorized designee, 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 LUESA to act on the request and be filed in the office of Director of Land Use and Environmental Services Agency (LUESA), accompanied by a fee established by the City Council.

(Petition No. 2006-116 §4.102(2), 01/16/07)

(6) The Director of Land Use and Environmental Services Agency (LUESA), 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. Certificates of Compliance/Certificates of Ooccupancy required.

(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/occupancy.

(Petition No. 2006-116 §4.103(1), 01/16/07)

CHAPTER 5 APPEALS AND VARIANCES

Section 5.101. Authority of City of Charlotte

(1A) The Board of Adjustment shall have the authority to hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the City of Charlotte Historic District Commission in the nature of certiorari within the times prescribed for appeals of administrative decisions pursuant to G.S. 160D-405(d).

- (5) Pursuant to G.S. §~~160A-388~~, 160D-406 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.

(Petition No. 2014-087 §5.101(5), 10/20/2014)

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

Section 5.103. Filing of notice of appeal.

- (1) A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party ~~a person aggrieved with the decision of the Zoning Administrator, or of his or her authorized designee,~~ within thirty (30) days of the decision receipt of the 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 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. Pursuant to N.C.G.S. §160A-388(d), when passing upon appeals, the Board shall have jurisdiction to grant variances for any violations but shall have that jurisdiction for variances only at that time.~~ If an applicant fails to request variances at that time, then the applicant shall forfeit the right to seek variances for the stated violations. ~~The Board shall not have jurisdiction to grant variances.~~ The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by City Council. Failure to timely and properly file such notice and the 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.

(Petition No. 2006-116 §5.103(1), 01/16/07)

- (2) ~~Upon the filing of such notice,~~ 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 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 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.

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

As per G.S. § 160A-388(a2); 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.

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 5.110. Action by the Board of Adjustment.

- (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.

- (36) 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. (*Petition No. 2014-087 §5.110(1-3), 10/20/2014*)

Section 5.113. Appeal from Board of Adjustment.

(*Petition No. 2005-78 §5.104(1)(3)(4), 06/20/05*) (*Petition No. 2014-087 §5.113(1-3), 10/20/2014*)

- ~~(1) 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.~~
- (2-1) 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. § ~~160A-393~~ 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 subsection (1) 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 2) If a petition for review pursuant to G.S. § ~~160A-388(e2)~~ 160D-406(k) 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 City 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 City 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.

(Petition No. 2014-087 §5.113(1-3), 10/20/2014)

CHAPTER 6 AMENDMENTS

PART 1 PROVISIONS OF GENERAL APPLICABILITY

Section 6.105. Filing of petitions.

- (2) Except for a city-initiated zoning map amendment, ~~when a rezoning application is not filed by the owner of the subject parcel of land~~ 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 City Council.

Section 6.108. Withdrawal and amendment of petition.

- (1) The petitioner may withdraw a petition filed under [Section 6.105](#) at any time prior to the day of the first publication of the public hearing notice as required under G.S. Section ~~160A-364~~ 160D-601(a). After that time, the petitioner may file a request to withdraw the petition with the Planning Director. The City Council shall decide, on the date scheduled for the hearing, whether to allow the withdrawal.
- (Petition No. 2003-101 §6.108(1), 11/17/03)*

Section 6.109. Notice of hearing.

- (1) Notice of all public hearings required under this Chapter shall be in accordance with the North Carolina General Statutes ~~160D-602~~ and rules

and procedures adopted by the City Council.

Section 6.110. Hearing.

- (2) The hearing shall be conducted in accordance with North Carolina General Statute 160D-601 and rules and procedures adopted by City Council.
- (3) No proposed amendment shall be approved until the Planning Commission has made its written recommendations, or 30 days after the public hearing, whichever shall first occur. If the Planning Commission does not make a recommendation within 30 days after the petition has been referred to it, then the Planning Commission shall be considered to have made a favorable recommendation, unless action was taken to defer.

In making its written recommendation, the Planning Commission shall ~~also~~ advise and comment on whether the ~~zoning petition proposed action~~ is consistent with ~~the purposes, goals, and objectives and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property.~~ any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

Section 6.111. Action by City Council.

- (6) ~~In approving a rezoning petition, the City Council shall adopt a statement describing whether its action is consistent with the purposes, goals, objectives, and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property, and provide an explanation why the action taken is reasonable and in the public interest. This statement shall not be subject to judicial review. (Petition No. 2006-16 §6.111(5), 03/20/06)~~ If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly

initiated as provided in G.S. 160D-601, to the City Clerk at least two business days prior to the proposed vote on such change, the City Clerk shall deliver such written statement to the City Council.

- (7) When adopting or rejecting any zoning text or map amendment, the City Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the City Council was aware of and considered the Planning Commission's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review.

If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the City Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- (8) The City Council 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.

Section 6.113. Protest petitions.

(Petition No. 2009-15 §6.113(1, 2, 3) 04/20/09)

- ~~(1) In the event that the City Council receives a petition protesting any reclassification of property, and signed by the owners of either 20 percent or more, of the area included in the proposed change, or 5% or more of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned, the amendment shall become effective only upon an affirmative vote of three fourths (3/4) of the members of the City Council, including the Mayor, who are not excused from voting. For the purposes of this subsection, vacant positions on the Council and members who are excused from voting shall not be considered “members of the Council” for calculation of the requisite supermajority.~~

~~Street right-of ways shall not be considered in computing the 100-foot buffer area as long as that street right-of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. The protest petition shall be on the form prescribed by the City or on a document containing all of the information on the City’s form. All protest petitions shall include the following information to be considered complete:~~

- ~~• Name, address, daytime phone number of the person filing the protest petition with the City Clerk.~~
- ~~• Rezoning petition number.~~
- ~~• Statement of the reason for the protest petition.~~
- ~~• Legible printed name of property owner(s).~~
- ~~• Tax parcel identification number of the property included in the protest petition.~~
- ~~• Address of the property included in the protest petition.~~
- ~~• Daytime phone number of property owner(s) or authorized agent signing the protest petition.~~
- ~~• Signature of legal property owner(s) or authorized agent (indicate representative capacity) of the property included in the protest petition.~~
- ~~• Number of pages submitted.~~
- ~~• Clerk’s certification.~~

- ~~(2) No protest against any change or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. § 160A-385, unless it 1) meets the requirements of subsection (1) of this section, and 2) has been received by the City Clerk in sufficient time to allow the City at least two normal work days, excluding Saturdays, Sundays and City of Charlotte legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. (For example, a petition must be filed by 5:00 p.m. on Wednesday for a hearing taking place the following Monday.)~~
- ~~(3-1) For existing protest petitions on rezoning map amendments without a decision by Council, Any~~ property owner may withdraw their protest at any time prior to the Council's vote on the rezoning petition. Such a withdrawal deletes the subject properties from the computation. ~~pursuant to G.S. § 160A-385.~~ In order to effectively withdraw signatures, the withdrawals must be in writing, identify the rezoning petition protested against, state that the submitted signatures have the purpose of deleting the signers from the protest petition, and be submitted to the City Clerk. Only those protest petitions that meet the qualifying standards ~~set forth in G.S. 160A-385~~ at the time of the vote on the rezoning petition shall trigger the supermajority voting requirement. A withdrawn protest may not be reinstated. ~~after the deadline for filing protests set forth in subsection (2).~~ *(Petition No. 2006-16 §6.113(3), 03/20/06)*

PART 2 CONDITIONAL ZONING DISTRICT

Section 6.201. Purpose

- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured Housing ~~District Development~~, Commercial Center District, Neighborhood Services District, Hazardous Waste District, and Research 3 District.

Section 6.204. Approval of conditional zoning district.

The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the

rezoning at the public hearing and no valid protest petition ~~under G.S. 160A-386~~ was filed. ~~If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.~~

Section 6.205. Conditions to approval of petition.

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition, but only those conditions consented to by the petitioner, in writing, may be incorporated into the conditional site-specific plan. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. 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 City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the City, 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 City Council. Only those conditions mutually consented to by the petitioner, in writing, and approved by the Council, by ordinance, and the petitioner may shall be incorporated into the petition. (*Petition No. 2006-16 §6.205, 03/20/06*)

Section 6.206. Effect of approval.

Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to N.C.G.S. Section ~~160A-385.1~~ 160D-108 for the period of time established pursuant to Section 1.110 of this Zoning Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section ~~160A-385.1(e).~~ 160D-108.1(c). Vested rights shall remain effective beyond the end of the period of time established

pursuant to [Section 1.110](#) 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 6.207. Alterations to approval.

(Petition No. 2007-27, § 6.207, 04/16/07)

- (2) Administrative minor amendment process.

An administrative minor amendment is defined as an amendment that does not significantly alter the site plan or its conditions and the change does not have a significant impact upon abutting properties.

- a. Application for an administrative minor amendment. Any request for an administrative minor amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review.
- b. Authority to approve an administrative minor amendment. The Planning Director or designee shall have the delegated authority to approve an administrative minor amendment change to an approved site plan. ~~The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and the change does not have a significant impact upon abutting properties.~~

~~Any changes that increase the intensity or density of the development or involve a change of use are considered to be significant changes that can not be considered through an administrative minor amendment. limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less.~~

Other Significant changes to an approved site plan that can not be

considered through an administrative minor amendment include the following:

- (a) Increasing the number of buildings
- ~~(b) Increasing the number of dwelling units more than five (5) units or 10% of the total approved, whichever is less.~~
- ~~(e b)~~ Adding driveways to thoroughfares
- ~~(d c)~~ Reducing parking spaces below the minimum standards
- ~~(e d)~~ Reducing buffers or yards
- ~~(f e)~~ Moving structures closer to adjacent properties in a residential district or when abutting a residential use.
- ~~(g f)~~ Reducing open space
- ~~(h g)~~ Changing owner occupied units to rental if noted on the site plan
- ~~(i h)~~ Increasing the mass of buildings.

Significant changes are considered major modifications and shall follow the standard legislative approval process for legislative hearings.

The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and City Council consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.

- (c) Staff decision, notifications, appeal process.
 - (i) Approval where there was a valid protest petition in effect on the original rezoning petition. If an administrative amendment is approved, and a valid protest petition was filed against the original petition on or after January 1, 2006 (even if it was withdrawn), then the Planning Director or designee shall:
 - 3. Post a sign on the subject property, indicating that the staff has granted an administrative amendment.

Adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within ~~24~~ 30 days from the date of the written notification. If notification is sent by first-class mail, an additional three days shall be added to the time period. The Zoning Committee of the Planning Commission shall hear the appeal through a quasi-judicial process.

- (ii) Approval without valid protest petition in effect on the date of the original rezoning decision. If an administrative amendment is approved, adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within ~~24~~ 30 days of the date the decision was filed, although no notification to adjacent property owners is required.
- (iii) Denial. If an administrative amendment is denied, then the Planning Director or designee shall send written notification of the denial to the applicant. The applicant shall have ~~24~~ 30 days from the date of the written notification to file an appeal of the decision with the Planning Director or designee. If the written notification is sent by first-class mail, then three days shall be added to the time period.

Section 6.209. Protest Petitions

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

Existing protest petitions remain in effect for zoning map amendments still pending approval by City Council.

CHAPTER 7 NONCONFORMITIES

Section 7.103. Nonconforming structures.

- (8) An existing ~~mobile home or~~ manufactured home located in a nonconforming mobile home or manufactured housing park 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.

CHAPTER 8 ENFORCEMENT

Section 8.102. Enforcement procedures

(Petition No. 2005-78 §8.102, 06/20/05)

If an inspection by the professional staff identified in Part 5 of Chapter 3 reveals a violation of these regulations, the Zoning Administrator, individually, or by and through his or her authorized designees, shall issue a written notice of violation notifying the violator (holder of the development approval) and the owner of the property 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 the violator a specified time to correct the violation. The person providing the notice of violation shall certify to the City that the notice was provided.

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

Section 8.107. Other remedies.

(Petition No. 2006-116 §8.107(1,2,3 & 4), 01/16/07)

- (3) Written notice of the suspension or revocation of a building permit or a certificate of occupancy pursuant to [Section 8.107\(2\)](#) shall be given in accordance with the provisions for issuance of citations set out in Section 8.105, and by notifying the holder of the building permit or certificate of occupancy in writing stating the reason for the revocation or suspension. The same development review and approval process required for issuance of the approval shall be followed.

CHAPTER 9 GENERAL DISTRICTS

PART 1 TABLES OF USES AND HIERARCHY OF DISTRICTS

Section 9.104 Bona Fide Farms.

Bona fide farms located in the extra-territorial jurisdiction (ETJ) are exempt from city zoning regulations, to the same extent bona fide farming activities are exempt from

county zoning pursuant to 160D-903.

PART 4 URBAN RESIDENTIAL DISTRICTS

Section 9.407. Urban Residential Districts; development standards for various uses.

- (1) Density bonus provisions.
 - (c) Bonus permitted.
 - (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.

PART 8 BUSINESS DISTRICTS

Section 9.805. Development standards for business districts.

- (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.

PART 9 UPTOWN MIXED USE DISTRICT

Section 9.906. Uptown Mixed Use District; urban design and development standards.

(8) Utility Lines

All utility lines along all project street frontages must be placed underground in projects over 100,000 square feet as part of the streetscape improvements, or if the following criteria are met:

- a. 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.
- b. 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 10 URBAN INDUSTRIAL DISTRICT

Section 9.1006. Urban Industrial District; development standards.

- (5) All development in the UI districts must conform to any adopted streetscape plan for the streets, which the project abuts. Improvements relating to sidewalk tree planting and landscaping as specified by the streetscape plan must be installed during the development process. Setbacks prescribed in the streetscape plan supersede those listed as minimums for the district when the plan specifies a greater setback than the minimum for the district. Developers are strongly encouraged to work with the appropriate utility companies to relocate overhead utilities underground during the development of the site, unless the following criteria are met:

- a. 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.

- b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

~~If the utilities are not relocated at the time the site is developed the design of the site must provide for the eventual placement of utilities underground, and appropriate easements must be set aside accordingly.~~

Section 9.1007. Urban Industrial District; off-street parking.

- (~~3~~ 2) Parking spaces intended for use by small or compact vehicles may comprise 25

percent of the total parking spaces required. Such parking spaces may not be less than 7½ feet in width and 14 feet in length.

- (~~4~~ 3) Bicycle parking. The bicycle parking standards of [Section 12.202](#) and [Section 12.202A](#) are applicable in this district
(Petition No. 2005-013, §9.1007(3), 3/21/05)

CHAPTER 10 OVERLAY DISTRICTS

PART 2 HISTORIC DISTRICTS

Section 10.203. Certificate of Appropriateness required.

- (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 City 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 3~~ 160D, Article 9, Part 4. A certificate of appropriateness shall be required whether or not a building permit is required.

Section 10.208. Procedure.

- (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 and decision.

~~The Historic District Commission shall follow statutory procedures for evidentiary hearings and quasi-judicial decisions in G.S. 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.

Section 10.210. Standards.

- (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 10.203(2), and adopted by the Historic District Commission. Although the Historic District Commission will use the "Secretary's Standards" as its standards,

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.

- (2) Any appeal must be filed with the Board of Adjustment within thirty days from ~~the date of receipt of the written notice of~~ the issuance or denial of the certificate. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County.

Section 10.216. Revocation of building permit.

Pursuant to N. C. General Statutes Section ~~160A-422~~ 160D-1115, "Revocation of building permits", the Land Use and Environmental Services Agency 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 by the Land Use and Environmental Services Agency, or as directed by the City.

(Petition No. 2005-78 §10.216, 06/20/05)

PART 5 MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

Section 10.509. High Density Option.

3. Installation of Structural BMP's

(Petition No. 2011-019 § 10.509(3), 04/25/11)

- B. Property Other Than SUBDIVISIONS – Civil Penalties
Any person who fails to install or maintain the required structural BMP in accordance with this chapter shall be subject to a civil penalty of not more than \$500. No penalties shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means which are reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil

penalty or other enforcement action. Each day that the violation continues shall constitute a separate violation. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

Section 10.510. Appeals and Variances.

- 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. § ~~160A-388(e).~~160D-406(k).
- C. 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. § ~~160A-388(e).~~ 160D-406(k).
- 3. 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. § ~~160A-388(e).~~160D-406(k).

PART 6 CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY

Section 10.609. High Density Option.

3. Installation of Structural BMP's

(Petition No. 2011-019 § 10.609(3) 04/25/11)

B. Property Other Than SUBDIVISIONS - Civil Penalties

Any person who fails to install or maintain the required structural BMP in accordance with this chapter, shall be subject to a civil penalty of not more than \$500. No penalties shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means which are reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. Each day that the violation continues shall constitute a separate

violation. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

Section 10.610. Appeals and Variances.

- 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. § ~~160A-388(e).~~ 160D-406(k).
- C. 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. § ~~160A-388(e).~~ 160D-406(k).
- 3. 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. § ~~160A-388(e).~~ 160D-406(k).

PART 7 LOWER LAKE WYLIE WATERSHED OVERLAY

Section 10.711. Appeals and Variances.

- 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. § ~~160A-388(e).~~ 160D-406(k).
- C. 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. § ~~160A-388(e).~~ 160D-406(k).
- 3. 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. § ~~160A-388(e)~~160D-406(k).

CHAPTER 12 DEVELOPMENTAL STANDARDS OF GENERAL APPLICABILITY

PART 1 SUPPLEMENTAL DEVELOPMENT STANDARDS

Section 12.103. Requirements for lots along thoroughfares.

- (4) An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to the particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:
 - (a) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement;
 - (b) The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
 - (c) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. The Board of Adjustment's decision shall be subject to review by the superior court by proceedings in the nature of certiorari all in accordance with G.S. Sec. ~~160A-388(e)~~. 160D-1402 and 160D-406(k).

PART 5 SPECIAL REQUIREMENT FOR CERTAIN USES

Section 12.509. Public utility transmission and distribution lines.

- (1) 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 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:~~

- ~~(a) The power liens 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.~~
- ~~(b) 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 STORMWATAR DRAINAGE

Section 12.603. Standards for plan approval.

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

- (1) The City Engineer shall review the drainage plan for compliance with the standards contained in the current edition of the Charlotte-Land Development Standards Manual, the Charlotte-Mecklenburg Storm Water Design Manual, which is to be adopted in its entirety ~~pursuant to G.S. 160a-76~~, and all other relevant and appropriate standards established by the Engineering Department.

CHAPTER 13 SIGNS

13.4 Sign Permit

B. Approval Procedure

- 1. 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 or their designee shall examine the plans and specifications within 15 business days. If deemed necessary, they may inspect the premises where the sign will be installed.

2. If an application for a proposed sign permit is complete and complies with all the requirements of these regulations and other applicable codes, including but not limited to Historic District Commission Design Guidelines, the Zoning Administrator or their designee a permit shall be issued 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.

13.10 Signs Requiring Permits

L. Sign Permit Procedures

All sign permit decisions shall be accordance with the procedures of Section 13.4.B.

13.11 Outdoor Advertising Signs

E. Outdoor Advertising Sign Permit Procedures

All outdoor advertising sign permit decisions shall be in accordance with the procedures of Section 13.4.B.

13.12 Special Sign Regulations

All special sign permit decisions shall be in accordance with the procedures of Section 13.4.B.

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.

4. Approval and New Sign Permit Required

- b. In approving or disapproving the application for relocation, conversion or modification of the detached sign, the Planning Director or designee 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.

An appeal of the decision to the Zoning 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.

- c. If the application is approved a new sign permit is required for each sign.

D. Landmark and Historic Signs

1. Designation Procedure

- a. In approving or disapproving a landmark or historic sign application, the Zoning Administrator or their designee shall ~~state the reasons in writing~~ deliver written notice of the decision, in print or electronic form to the property owner by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the address of the property owner on the application.

An appeal of the decision to the Zoning Board of Adjustment shall be properly filed within 30 days ~~of the date of the decision as shown on the face of the decision.~~ 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.

13.15 Sign Enforcement

B. Notices of Violations and Citations

If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Zoning Administrator or their designee shall issue to the violator/permit holder either (1) a written Warning Citation for violations associated with, but not limited to, temporary type signs such as portable signs, banners, and feather flags or (2) a written Notice of Violation for violations associated with permanent type signs.

For violations, a written notice of violation shall be sent to the violator/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 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 City that the notice was provided. A notice of violation may be appealed to the board of adjustment within 30 days of receipt. If the notice of violation is delivered by first-class mail, the notice shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

CHAPTER 15 TRANSIT ORIENTED DEVELOPMENT DISTRICTS

15.8.4 Uses

9. Utility

- c. **Utility Transmission and Distribution Lines.** For new construction, service from utility distribution lines serving the site, which deliver service to the end user from a transmission line providing service to an area larger than the individual site, shall be installed underground unless terrain, subsurface, or surface obstructions inhibit installation., or if 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.

