

August 22, 2022
Ordinance Book 65, Page 166

ORDINANCE NO. 372-X

**EASTFIELD STATION AREA
ANNEXATION**

**AN ORDINANCE TO EXTEND THE CORPORATE
LIMITS OF THE CITY OF CHARLOTTE, NORTH
CAROLINA**

WHEREAS, the City Council has been petitioned under G.S. 160A-31(a) to annex the area described below; and

WHEREAS, the City Council has by Resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held during a meeting that was accessible in-person at the Charlotte-Mecklenburg Government Center and virtually via the Government Channel, the City's Facebook page, or the City's YouTube page at 6:30 p.m. on August 22, 2022, after due notice by the Mecklenburg Times on August 9, 2022; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Charlotte as of August 22, 2022:

LEGAL DESCRIPTION

Being that certain parcel of land lying and being in the Long Creek Township,

Mecklenburg County, North Carolina and being more particularly described as follows

BEGINNING at a calculated point at the intersection of the center line of Hucks Road (a 60 ft public right-of-way) and the center line of the right-of-way Norfolk Southern Railroad (a 100 ft right-of-way); thence with the center line of Norfolk Southern Railroad the following two (2) courses and distances: 1) N 18°21'59" E a distance of 1301.22' to a calculated point; 2) N 18°22'27" E a distance of 315.89' to a calculated point at the southwest corner of The Mattamy Carolina Corporation Property as described in Deed Book 37041, Page 541; thence with the aforesaid Mattamy Carolina Corporation Property and with the existing city limits of the City of Charlotte the following seven (7) courses and distances: 1) S 71°36'15" E a distance of 593.36' to a new iron rod; 2) S 72°35'17" E a distance of 232.28' to an existing iron rod; 3) N 18°16'03" E a distance of 465.73' to an existing iron rod; 4) S 71°58'27" E a distance of 68.69' to a new iron rod; 5) S 72°30'14" E a distance of 296.07' to an existing iron rod; 6) S 18°20'51" W a distance of 413.36' to an existing iron rod; 7) S 72°24'09" E a distance of 61.02' to an existing iron rod located on the western line of Lot 66, Block 1 of Spring Park, Phase 2, Map 4 as described in Map Book 37, Page 887; thence continuing with the existing city limits of the City of Charlotte; and with the aforesaid Lot 66; and with Lots 39, 40, 55, 56, and 57 of Spring Park, Phase 1, Map 2 as described in Map Book 31, Page 657; and with Lot 17, Block 1 of Spring Park, Phase 1, Map 1 as described in Map Book 32, Page 571; and with Lot 16, Block 1 of Spring Park, Phase 1, Map 1 as described in Map Book 29, Page 427 S 16°18'02" W crossing existing iron rods at a distance of 792.85' and 954.50' for a total distance of 1139.70' to an existing iron rod located at the northwest corner of the Frank S. Barbee Property as described in Deed Book 4288, Page 551; thence continuing with the city limits of the City of Charlotte; and with the aforesaid Barbee Property S 16°10'16" W crossing an existing axle at a distance of 348.37' for a total distance of 365.31' to a calculated point in the center line of Hucks Road; thence with the center line of Hucks Road and continuing with the city limits of the City of Charlotte the following three (3) courses and distances: 1) N 79°08'37" W a distance of 909.66' to a calculated point; 2) N 79°27'01" W a distance of 211.26' to a calculated point; 3) N 79°34'16" W a distance of 196.53' to a to the point and place of beginning, having an area of 2,133,615 sq. ft. (48.9811 acres) according to a survey by Cloninger Bell Surveying & Mapping, PLLC dated May 30, 2022. Map File No. 1693.

Section 2. Upon and after August 22, 2022, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Charlotte and shall be entitled to the same privileges and benefits as other parts of the City of Charlotte. Said territory shall be subject to municipal taxes according to G.S.160A-58.10.

Section 3. Subject to change in accordance with applicable law, the annexed territory described above shall be included in the following Council electoral district 4.

August 22, 2022

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Section 4. The Mayor of the City of Charlotte shall cause to be recorded in the office of the Register of Deeds of Mecklenburg County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Mecklenburg County Board of Elections, as required by G.S. 163-288.1.

Adopted this 22nd day of August, 2022.

APPROVED AS TO FORM:



Charlotte City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 166-169.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 22nd day of August 2022.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

ORDINANCE NO. 373

AMENDING CHAPTER 15

AN ORDINANCE AMENDING CHAPTER 15 OF THE CHARLOTTE CITY CODE ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS" TO REVISE ARTICLE I "IN GENERAL" AND ADD ARTICLE XV "SOCIAL DISTRICTS"

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

Section 1: Article I of Chapter 15 of the Charlotte City Code is amended as follows:

Sec. 15-3. - Beer and wine consumption; possession of open container; disposal of containers.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Beer means the same as the term "malt beverage," as defined by G.S. Ch. 18B.

Open container means a container that has a broken seal or a container other than the manufacturer's unopened original container.

Public street means any highway, road, street, avenue, boulevard, or other way within and under the control of the city and open to public use, including the sidewalks of any such street.

Rapid transit rail platform has the meaning set forth in section 15-270.

Wine means the same as the term "unfortified wine" as defined by G.S. Ch. 18B.

(b) Consumption in public. Except as permitted in chapter 19 article IX, chapter 15 article XV, and subsection (f) of this section, no person shall consume any beer or wine upon or within the limits of any public street or sidewalk in the city or upon any rapid transit rail platform.

(c) Consumption on private premises. It shall be unlawful for any person to consume any beer or wine upon the private business premises of another without permission of the owner or person in control of such premises.

(d) Possession of open container in public. Except as permitted in chapter 19 article IX, chapter 15 article XV, and subsection (f) of this section, it shall be unlawful for any person to possess an open container of beer or wine upon or within the limits of any public street or sidewalk in the city or upon any rapid transit rail platform.

(e) Container disposal. It shall be unlawful for any person to drop, throw, cast or deposit any used beer or wine container upon any public street or sidewalk or upon the private business premises of another without permission of the owner or person in control of such premises.

(f) Exception; permit required. Consumption of alcoholic beverages is permitted during any community-sponsored public function, festival or celebration being conducted within a public street, sidewalk or other publicly owned area pursuant to a written permit issued by the city manager or his duly authorized designee. This permit, when issued, will also allow the sale, service and distribution of beer and wine on designated streets, sidewalks and areas reserved for the event, subject to all applicable ABC regulations. However, before such permit is issued under this section, the city manager or his duly authorized designee shall designate the boundaries of the event and temporarily close those streets within the boundaries for general public use.

(g) Application for permit. Application forms for the permit referred to in subsection (f) of this section are available from the department of transportation or the risk management division and must be filed at least 21 days prior to the opening day of the event.

(Code 1985, § 15-3; Ord. No. 3655, § 5, 7-23-2007)

Section 2. Article XV is added as a new article to Chapter 15 of the Charlotte City Code as follows:

ARTICLE XV. – SOCIAL DISTRICTS

Sec. 15-314. Purpose and Application.

Pursuant to the provisions of G.S. § 160A-205.4 and Article 3 of G.S. Ch 18B, one or more social districts may be created within the City.

- (1) Social districts shall be created, designated, and managed in accordance with the requirements contained in G.S. Ch. 18B and Sec. 15-3 of the Charlotte Code of Ordinances.

- (2) The provisions and terms contained in this Article shall be applicable to each established social district in Sec. 15-322. Under no circumstances shall any social district operate outside of the hours of 10:00 a.m. and 10:00 p.m. daily. At all other times, the provisions and terms contained in this Article are not in effect and all provisions of State and local laws concerning the possession and consumption of alcoholic beverages shall be in full force and effect.
- (3) Any alcoholic beverage purchased for consumption in a social district shall (i) only be consumed in that social district and (ii) be disposed of before the person in possession of the alcoholic beverage exits the social district.
- (4) The City shall publish standards and provisions governing the process and rules for establishing and maintaining social districts. Any permittee that wishes to petition the City for the creation of a social district shall apply in accordance with the process prescribed in the standards and provisions pursuant to Sec. 15-320. The permittee shall be responsible for operating its business in accordance with all City and State ordinances, laws, rules, and regulations governing social districts generally and the social district management and maintenance plan in Sec. 15-322.

Sec. 15-315. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Customer means a person who purchases an alcoholic beverage from a permittee that is in a social district.

Mixed-use development means an integrated development containing both residential and nonresidential uses and adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a privately maintained street or other right-of-way, or which may be contained in a single building.

Multi-tenant establishment means a building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.

Non-permittee business means a business that is located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

Open container means a container that has a broken seal or a container other than the manufacturer's unopened original container.

Permittee means a person holding any of the following ABC permits:

- i. An on-premises malt beverage permit issued pursuant to G.S. § 18B-1001(1).
- ii. An on-premises unfortified wine permit issued pursuant to G.S. § 18B-1001(3).
- iii. An on-premises fortified wine permit issued pursuant to G.S. § 18B-1001(5).
- iv. A mixed beverages permit issued pursuant to G.S. § 18B-1001(10).
- v. A wine shop permit issued pursuant to G.S. § 18B-1001(16).
- vi. A distillery permit issued pursuant to G.S. § 18B-1100(5).

Public street means any highway, road, street, avenue, boulevard, or other way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

Person means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

Premises means a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal process.

Social District means a defined area in which a person may consume alcoholic beverages sold by a permittee. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours established for the social district pursuant to Sec. 15-314. A social district may include privately owned property, including permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

Sec. 15-316. Sale of Open Containers of Alcoholic Beverages in Social Districts.

It shall be unlawful for a permittee located in a social district to sell open containers of alcoholic beverages and allow customers to exit its licensed premises to the social

district unless the permittee meets the following requirements:

- (1) Permittee is located in an ABC approved and City of Charlotte adopted social district.
- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the social district and off the premises of the permittee in a container that meets all of the following requirements:
 - a) The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b) The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
 - c) The container is not comprised of glass.
 - d) The container displays, in no less than 12-point font, the statement, "Drink Responsibly - Be 21."
 - e) The container shall not hold more than 16 fluid ounces.
- (3) Nothing in this section shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. § 18B-1010.

Sec. 15-317. Responsibilities of Non-Permittee Businesses in Social Districts.

Any non-permittee business that is part of a social district and allows customers to bring alcoholic beverages onto its premises is not responsible for enforcement of G.S. Ch. 18B but must comply with the following requirements:

- (1) Clearly post signage at any exits that do not open to the social district indicating that alcoholic beverages may not be taken past that point.
- (2) Post the uniform signage provided to the non-permittee business indicating that customers may bring alcoholic beverages onto the premises of the non-permittee business during the days and hours that the social district is active.
- (3) Allow law enforcement officers access to the areas of the premises accessible by customers during the days and hours that the social district is active.

Sec. 15-318. Requirements for Possession and Consumption of Open Containers of Alcoholic Beverages in Social Districts.

Except where otherwise allowed by local ordinance, it shall be unlawful to possess or consume an open container of an alcoholic beverage in a social district during the hours established for the social district pursuant to Sec. 15- 314 unless:

- (1) The alcoholic beverage is purchased from a permittee located in the social district;
- (2) The customer-purchased open container of alcoholic beverage is in a container meeting the requirements set forth in Sec. 15-316 of this Article, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) The person does not possess at one time open containers of alcoholic beverages in the social district in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. § 18B-1010.
- (4) The person does not enter the premises of a non-permittee business in the social district with an open container of an alcoholic beverage unless the non-permittee business has the uniform sign for the social district as set forth in Sec. 317 displayed.
- (5) The person disposes of any open container of an alcoholic beverage purchased from a permittee in the person's possession prior to exiting the social district unless the person is reentering the licensed premises of the permittee where the alcoholic beverage was purchased.

Notwithstanding G.S. §18B-300 and G.S. §18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the social district.

Sec. 15-319. Multi-Tenant Establishments.

Permittees and non-permittee businesses in a multi-tenant establishment located within a social district may participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment ABC permit.

Sec. 15-320. Standards and Provisions.

The City Manager or designee is authorized to adopt, amend, and repeal standards and provisions governing the application process and requirements for the establishment, management, and maintenance of social districts. Before beginning to

operate, each social district's management and maintenance plan shall be approved by City Council. It shall be unlawful to operate a social district in violation of the standards and provisions adopted pursuant to this section.

Sec. 15-321. Exceptions.

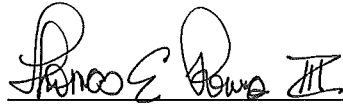
For the health and safety of the general public, the City Manager or designee shall have the authority to temporarily suspend the days and hours of operation of a social district.

Sec. 15-322. Established Social Districts.

Reserved.

Section 3. The ordinance will become effective upon adoption.

Approved as to form:



Sr. Asst. City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 170-176.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 22nd day of August 2022.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

ORDINANCE NUMBER: 374

ORDINANCE TO ADOPT THE
UNIFIED DEVELOPMENT ORDINANCE

AN ORDINANCE TO ADOPT THE UNIFIED DEVELOPMENT ORDINANCE

Whereas, the Charlotte Future 2040 Comprehensive Plan ("Comprehensive Plan" and the Charlotte Future 2040 Policy Map ("Policy Map") will guide the development and investments made in the City of Charlotte (the "City") over the next two decades;

Whereas, the City has not undertaken a major revision to the zoning ordinance in over 30 years;

Whereas, the Unified Development Ordinance ("UDO") is a city-wide effort to consolidate and update eight areas of development-related ordinances and regulations (zoning; subdivision; street and sidewalk regulations; trees; post construction stormwater regulations; floodplain regulations; driveway/access standards; and soil erosion and sedimentation control ordinance) that guide the City's growth and development into one document;

Whereas, The UDO aligns these regulations with the vision adopted in the Charlotte Future 2040 Comprehensive Plan and builds from other City policies and initiatives including, but not limited to, the Strategic Mobility Plan, the Strategic Energy Action Plan, and the Tree Canopy Action Plan, to strategically guide the City's growth and development in consideration thereof;

Whereas, The UDO is divided into five sections: *Ordinance Introduction* (Articles 1 and 2), *Zoning Districts and Standards* (Articles 3 through 22), *Stormwater* (Articles 23 through 28), *Subdivision, Streets, and Other Infrastructure* (Articles 29 through 34), and *UDO Administration* (Articles 35 through 39); and

Whereas the UDO incorporates the best of the existing code with contemporary best practices into a new set of regulations designed to guide the City's future growth and development consistent with the Charlotte Future 2040 Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA:

Section 1. The UDO Public Hearing Draft, released on June 3, 2022, and presented for a City Council public hearing on July 11, 2022, together with the Planning Committee recommendation dated July 19, 2022, and the revisions directed by the City Council, are collectively called the Unified Development Ordinance (UDO), are hereby adopted, and enacted into the City Code on August 22, 2022. The UDO shall be codified into the City Code as a new Chapter 24.

Section 2. The Unified Development Ordinance (UDO), as further set forth in this ordinance, shall be effective beginning June 1, 2023.

Section 3. Upon the effective date of June 1, 2023, the following chapters, articles, sections, and appendix of the City Code are repealed in their entirety:

- a. Chapter 9 - Floodplain Regulations
- b. Chapter 17 – Soil Erosion and Sedimentation Control
- c. Chapter 18, Article 4 – Post Construction Stormwater
- d. Chapter 19, Article 3 – Driveway Connections
- e. Chapter 19, Article 6 – Sidewalk and Drainage Facilities
- f. Chapter 19, Article 8 - Obstructions and Encroachments,
Section 19-245(b)(2)
- g. Chapter 20 – Subdivisions
- h. Appendix A – Zoning Ordinance

Section 4. Upon the effective date of June 1, 2023, the Zoning Board of Adjustment shall be renamed the UDO Board of Adjustment.

Section 5. Upon the effective date of June 1, 2023, areas mapped on the Official Zoning Map with a conditional or optional zoning district retain their zoning district designations and approved site plan conditions remain in effect under the zoning ordinance regulations in place at the time of adoption of the conditional or optional zoning district.

Section 6. Upon the effective date of June 1, 2023, areas mapped on the Official Zoning Map as a conventional zoning district, without an overlay district, are translated to a new UDO zoning district as shown in the table below:

Zoning Districts Translation	
Previous Conventional Zoning District	UDO Zoning District
B-1	CG
B-2	CG
B-D	ML-1
BP	OFC
I-1	ML-1
I-2	ML-2
INST	IC-1
MUDD	CAC-2
O-1	OFC
O-2	OFC
O-3	OFC
R-3	N1-A
R-4	N1-B
R-5	N1-C
R-6	N1-D
R-8	N1-D
R-8MF	N2-A
R-12MF	N2-B
R-17MF	N2-B
R-22MF	N2-B
R-43MF	N2-B
TOD-CC	TOD-CC
TOD-NC	TOD-NC

Zoning Districts Translation	
Previous Conventional Zoning District	UDO Zoning District
TOD-TR	TOD-TR
TOD-UC	TOD-UC
RE-1	RC-1
RE-2	RC-1
UMUD	UC
UR-1	N1-E
UR-2	N2-B
UR-3	N2-C
UR-C	N2-C
R-MH	MHP
U-I	ML-1

Section 7: Upon the effective date of June 1, 2023, areas mapped on the Official Zoning Map with a conventional zoning district with an overlay zoning district are translated to a new UDO zoning district as shown in the table below:

Previous Overlay Zoning District	UDO Zoning District
HD	HDO
Airport Zone	District eliminated
AIR	ANDO
MHO	MHO
Mountain Island Lake Watershed Overlays	District eliminated
Catawba River/Lake Wylie Watershed Overlays	District eliminated
Lower Lake Wylie Watershed Overlays	District eliminated
PED	<p>All districts except R-3, R-4, R-5, R-6, R-8, R-8MF, R-12MF, R-17MF, R-22MF, R-43MF, TOD-TR, TOD-NC, TOD-CC, TOD-UC, and MUDD Zoning Districts: NC</p> <p>R-8MF, R-12MF, R-17MF, R-22MF, and R-43MF Zoning Districts: N2-C</p> <p>R-3, R-4, R-5, R-6, R-8, TOD-TR, TOD-NC, TOD-CC, TOD-UC, and MUDD Zoning Districts: the zoning translation for the district applies</p>
TS	District eliminated

Section 8. Upon the effective date of this ordinance, June 1, 2023, if a pending conventional rezoning petition is requesting a pre-UDO zoning district, the request will be changed to the translated UDO district. Any pending conventional rezoning petition will become null and void if no decision has been reached within two (2) years from the application submittal

date, or the effective date, whichever is later.

Section 9. Upon adoption of this ordinance, conditional and optional rezoning applications for a zoning map amendment to a pre-UDO zoning district will be accepted by City staff and processed under the pre-UDO zoning regulations, if a complete application is filed by February 1, 2023, even if the decision is made after the effective date. However, the decision must occur no later than March 1, 2024. The petition will become null and void if no decision is reached within that time frame.

Section 10. Upon adoption of this ordinance, any pending text amendment to the Zoning Ordinance (Appendix A of the City Code) or Subdivision Ordinance (Chapter 20 of the City Code) will become null and void.

Section 11. Except as otherwise authorized in this section, upon adoption of this UDO, the following text amendments to the UDO may be made without further public hearing to:

- a. Codify changes approved by City Council in conjunction with the approval of the UDO,
- b. The addition of or changes to graphics, and
- c. To correct typographical or cross-reference errors.

Section 12. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 13. This ordinance has been adopted following a duly advertised public hearing of the Charlotte City Council, and upon a recommendation and statement of consistency from the Planning Committee of the Charlotte-Mecklenburg Planning Commission.

Section 2. The City of Charlotte Unified Development Ordinance shall be effective on June 1, 2023.

Approved As To Form

Sr. Asst.


City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 177-180.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 22nd day of August 2022.





ORDINANCE NUMBER: 375

AMENDING CHAPTER 21

AN ORDINANCE AMENDING CHAPTER 21 OF THE CHARLOTTE CITY CODE ENTITLED "TREES", ARTICLE I ENTITLED, "IN GENERAL", ARTICLE II ENTITLED "ADMINISTRATION", ARTICLE III ENTITLED "MAINTENANCE AND PROTECTION OF TREES", ARTICLE IV ENTITLED, "GENERAL LAND DEVELOPMENT REQUIREMENTS", AND ARTICLE V ENTITLED, "MODIFICATION, INSPECTION, ENFORCEMENT, AND APPEAL"

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

Section 1. Chapter 21 of the Charlotte City Code is amended as follows:

Chapter 21 – TREES⁽¹⁾ __

Adopted 6-21-21

Footnotes:

~~—(1)—~~

~~**Editor's note**— Ord. No. 4521, § 1, adopted September 27, 2010, amended chapter 21 in its entirety to read as herein set out. Formerly, chapter 21, articles I—V pertained to similar subject matter, and derived from the Code of 1985, §§ 21-1—21-20, art. III, and Ord. No. 2447, § 11, adopted November 24, 2003. Section 2 of Ord. No. 4521 states the following: "Section 2. These amendments shall apply to all development and additions to existing sites within the corporate limits of this city and its extraterritorial jurisdiction, unless one of the following exemptions applies as of the effective date: (1) Residential and nonresidential development and additions to existing sites submitted and accepted for review; (2) Zoning use application submitted and accepted for review for uses that do not require a building permit; (3) Valid building permit issued pursuant to G.S. 153A-344 or G.S. 160A-385, so long as the permit remains valid, unexpired, and unrevoked; (4) Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project); and/or (5) A conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district and parallel conditional use district) approved, provided formal plan submission has been made and accepted for review prior to the date that the vested rights for the conditional zoning district expire pursuant to G.S. 160A-385.1 and Sec. 1.110 of the Charlotte zoning ordinance. (6) N.C.G.S. Chapter 160D amended the chapter to be compliant with text amendment 2021-113, adopted 6-21-21.~~

~~**Charter reference**— Trees, § 6.221.~~

~~**Cross reference**— Buildings and building regulations, ch. 5; streets, sidewalks and other public places, ch. 19; subdivisions, ch. 20.~~

~~**State Law reference**— Cutting, injuring or removing timber, G.S. 14-135.~~

ARTICLE I. - IN GENERAL

Sec. 21-1. - Short title.

This Chapter will be known and may be cited as the "Charlotte Tree Ordinance."

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-2. - Definitions.

Words and phrases used in this Chapter that are not specifically defined in this section shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Amenitized tree area means an area that serves to meet the tree save requirement for urban sites and includes planted trees and amenities, such as irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.~~

Caliper means the diameter measurement of the trunk taken six inches above ground level for trees up to and including four-inch caliper size. Measurement shall be taken 12 inches above the ground level for larger trees.

Charlotte Tree Manual (CTM) means technical instructions, specifications, standards, best practices, procedures, and guidance for tree planting, tree protection, tree canopy management as published by the City and subject to amendment from time to time by the City. The City shall prepare, amend, update, and publish the CTM for reference and use by property owners, developers, consultants, design professionals, contractors and the general public in furtherance of the tree canopy policy objectives, requirements, and intent of the Charlotte Future 2040 Comprehensive Plan, the Charlotte Unified Development Ordinance, the Charlotte Urban Forest Master Plan, and this Chapter. The CTM shall be reviewed by the Chief Urban Forester and the Charlotte Tree Advisory Commission.

City means the city engineer, the city arborist or the senior urban forestry specialist, director of Charlotte Planning, Design and Development Department, the Chief Urban Forester, director of General Services, the City Arborist, or their designated agent.

City tree. All planted trees in the street right-of-way and any naturally occurring trees three inches diameter in breast height (DBH) or greater in street right-of-way as specified in the (CTM). For the purposes of this term, street right-of-way includes all segments of City-accepted and/or City Landscape Management-maintained public street rights-of-way (Charlotte Department of Transportation (CDOT) or North Carolina Department of Transportation (NCDOT)) in Charlotte's corporate city limits. Landscape Management maintains trees on NCDOT street right-of-way in the city limits except for road segments identified in Charlotte Tree Manual – City Landscape Management Maintenance Areas.

Commission means the city Charlotte tree advisory commission.

~~dbh (diameter at breast height) means the diameter of a tree four and one-half feet above the average-ground level.~~

~~Corridors are identified on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.~~

~~Designated mixed-use centers are identified on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.~~

Critical root zone. The area of soil around the tree where roots that provide stability and uptake of water and minerals are located, the main structural and functional part of the root system. It is a protected circular area around a tree with a radius equal to one foot per inch of tree diameter at breast height (DBH) with the tree trunk at the center of the circle.

DBH (diameter at breast height) the diameter of a tree 4.5 feet above the average ground level.

Drip line means a vertical line running through the outermost portions of the tree crown extending to the ground.

Existing tree canopy means tree canopy that has existed for at least two years prior to development as evidenced by city or county aerial photographs, or a tree survey of trees one-inch caliper and larger.

Heritage tree means any tree that is listed in the North Carolina Big Trees List, the American Forest Association's Champion Tree list or any tree that would measure 80 percent of the points of a tree on the North Carolina Big Trees List.

Heritage Tree. Any tree native to North Carolina per the US Department of Agriculture Natural Resource Conservation Service Plants Database with a DBH of 30 inches or greater.

Homeowner means an owner of an existing single-family or duplex residence.

Impervious cover means buildings, structures and other paved, compacted gravel or compacted areas which by their dense nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

Internal planting area means a planting area located on private property outside the public right-of-way.

Invasive plant species means plant species that spread rapidly with little or no assistance. For the purposes of this chapter the following plant species are considered invasive: Bushkiller-Cayratia japonica, Chinese wisteria-Wisteria sinensis, English ivy-Hedera helix Japanese wisteria-Wisteria floribunda, Japanese honeysuckle-Lonicera japonica, Kudzu-Pueraria montana.

International Society of Arboriculture (ISA). An international industry group that promotes the professional practice of arboriculture.

Land conservation group means a nonprofit land trust or similar organization approved by the city that permanently protects land, water, trees and wildlife habitat to enhance quality of life in Charlotte and Mecklenburg County.

Land Disturbing Activity. Any use of the land by any person in residential, governmental, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the groundcover or topography and that may cause or contribute to sedimentation.

Off-site mitigation means requirement of the developer and the property owner to convey at no cost to the city an equal amount of land in Mecklenburg County with a mature tree canopy to Mecklenburg County or to a land conservation group pursuant to the tree ordinance guidelines. The land shall be conveyed subject to either a permanent conservation easement or deed restrictions for the purpose of preserving tree canopy. The conveyance and its terms must be:

- (1) Approved by the city;
- (2) Be acceptable to either Mecklenburg County or a land conservation group; and
- (3) Comply with the tree ordinance guidelines.

Paved area means any ground surface covered with concrete, asphalt, stone, compacted gravel, brick, or other paving material.

Payment in lieu means contribution by the developer and the property owner to a city administered tree preservation fund a dollar amount equal to a percentage of the tax value of the land being developed at the

~~time of the plan approval in accordance with section 21-94 and the tree ordinance guidelines. The tax value shall not exceed 90 percent of the average tax value of land in the city limits of and the ETJ, excluding the land within the boundaries of I-277 and in accordance with the tree ordinance guidelines.~~

NCDOT means North Carolina Department of Transportation.

Pedestrian scale lighting means lighting that is specifically intended to illuminate the sidewalk, as opposed to vehicular travel ways, and shall not exceed 15 feet in height.

Perimeter planting strip means a planting strip that abuts a public street or transportation right-of-way.

~~Person means a public or private individual, corporation, company, firm, association, trust, estate, commission, board, public or private institution, utility cooperative, or other legal entity.~~

Person(s). An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the state of North Carolina and its agencies and political subdivisions, or other legal entity.

Planting area. Ground surface free of built upon area and/or paved material which is reserved for required trees.

~~Planting strip and planting area means ground surface free of impervious cover and/or paved material which is reserved for landscaping purposes.~~

Planting Strip. Ground surface free of built upon area and/or paved material, located between the back of curb and the sidewalk or shared use path. Planting strips typically include perimeter trees and other plantings.

Property Owner, Landowner, or Owner. The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the Mecklenburg County tax abstract to determine who is a property owner.

~~Renovation means any construction activity to an existing structure which changes its square footage, changes its footprint, or modifies the exterior wall material excluding cosmetic maintenance and repairs.~~

~~Root protection zone means, generally, 18 inches to 24 inches deep and a distance from the trunk of a tree equal to one-half its height or its drip line, whichever is greater.~~

~~Single-family development shall refer to any single-family detached dwelling or duplex dwelling submitted for review subject to the subdivision ordinance.~~

~~Specimen tree means a tree or group of trees considered to be an important community asset due to its unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance as determined by the city. Examples include large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pine species) in good or better condition with a dbh of 24 inches or greater, and smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a dbh of ten inches or greater.~~

~~Streetscape plan means a plan that specifies planting strips, tree species, sidewalk locations, building setbacks and other design aspects for streets within the city. Such plans are effective following approval by the city council.~~

~~Suburban commercial zones mean all zoning districts other than single-family development and urban zones as defined in this section.~~

Topping or top means any pruning practices that result in more than one-third of the foliage and limbs being removed. This includes pruning that leads to the disfigurement of the normal shape of the tree.

~~Transit station area means high density area within approximately one-half mile of an existing or planned~~

~~rapid transit station as designated by the city planning department.~~

Tree Disturbing Activity. It shall be considered a disturbing activity when a person performs or contracts to perform any of the following activities:

- (a) Spray, fertilize, remove, destroy, cut, top, damage, trim, prune, remove, cut, or carve or otherwise severely prune any tree or its root system not in accordance with the CTM
- (b) Attach any object, including, but not limited to, rope, wire, nail, chain, or sign, to any such tree or shrub not in accordance with the CTM
- (c) Alter the natural drainage, excavate, or lay any drive within the critical root zone.
- (d) Perform excavation or construction work, which shall include but not be limited to driveway installations, irrigation work, tree removal and/or grading of any kind, within the drip line of any tree without first installing a fence, frame, or box in a manner and of a type and size satisfactory to the City to protect the during construction

Tree, large maturing means any tree the height of which is 35 feet or greater at maturity.

~~*Tree, large maturing shade* means any tree the height of which is 35 feet or greater at maturity and has a limb spread of 30 feet or more at maturity.~~

Tree, small maturing means any tree the height of which is less than 35 feet at maturity.

Tree evaluation formula means a formula for determining the value of trees and shrubs as published by the International Society of Arboriculture.

~~*Tree ordinance guidelines* means instructions and specifications of tree planting and tree protection as published by the city and subject to amendment from time to time by the city.~~

~~*Tree protection zone* mean a distance equal to the designated zoning district setback or 40 feet from the front property line, whichever is less, or from the side lot line on a corner lot. For urban zones, the tree protection zone shall be the same as the planting strip required for the associated zoning district or as designated in a streetscape plan. This definition does not apply to single-family development.~~

~~*Tree save area* means an area measured in square feet containing existing healthy tree canopy in a single-family subdivision or an area containing existing or mitigated off-site healthy tree canopy in a commercial development. The area may include up to five feet beyond the drip line of the tree.~~

~~*Urban retail site* means any building site for a building that includes ground-floor nonresidential use.~~

Unified Development Ordinance for the City of Charlotte means a document containing all adopted development regulations pursuant to the authority conferred by the North Carolina General Statutes, and through special legislation enacted by the North Carolina General Assembly for the City of Charlotte. This document is referred to as the "UDO" throughout the Charlotte Tree Ordinance.

~~*Urban zones* means property zoned as any of the following zoning districts: UMUD (uptown mixed use district), MUDD (mixed use development district), TOD (transit-oriented development), UR (urban-residential), and NS (neighborhood services), as well as any zoning district with a PED (pedestrian overlay) or TS (transit supportive) overlay. Urban zones do not include single-family development, even if developed under an urban zoning district.~~

~~*Wedges* are those areas shown on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.~~

(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 8093, § 1, 8-22-2016; Ord. No. 9671, § 1.A.1, 10-21-

2019)

Cross reference—Definitions generally, § 1-2.

Sec. 21-3. - Purpose and intent.

~~(a) It is the purpose of this chapter to preserve, protect and promote the health, safety and general welfare of the public by providing for the regulation of the planting, maintenance and removal of trees located on roadways, parks and public areas owned or controlled by the city and on new developments and alterations to previous developments on private property.~~

~~(b) It is the intent of this chapter to:~~

- ~~(1) Protect, facilitate and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.~~
- ~~(2) Emphasize the importance of trees and vegetation as both visual and physical buffers.~~
- ~~(3) Promote clean air quality by reducing air pollution and carbon dioxide levels in the atmosphere, returning pure oxygen to the atmosphere and increasing dust filtration.~~
- ~~(4) Reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights.~~
- ~~(5) Minimize increases in temperatures on lands with natural and planted tree cover.~~
- ~~(6) Maintain moisture levels in the air of lands with natural tree cover.~~
- ~~(7) Preserve underground water reservoirs and permit the return of precipitation to the groundwater strata.~~
- ~~(8) Prevent soil erosion.~~
- ~~(9) Provide shade.~~
- ~~(10) Minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters by facilitating a natural drainage system and amelioration of storm water drainage problems.~~
- ~~(11) Conserve natural resources, including adequate air and water.~~
- ~~(12) Require the preservation and planting of trees on site to maintain and enlarge the tree canopy cover across the city.~~

(a) The purpose of this Chapter is to preserve, protect and promote the health, safety, and welfare of the public by providing for the regulation of the planting, maintenance, and removal of trees.

(b) The intent of this Chapter is to:

- (1) Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.
- (2) Emphasize the importance of trees and vegetation as both visual and physical buffers.
- (3) Promote clean air quality by reducing air pollution and carbon dioxide levels in the atmosphere, returning pure oxygen to the atmosphere, and increasing dust filtration.
- (4) Reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights.
- (5) Minimize increases in temperatures on lands with tree cover.
- (6) Maintain moisture levels in the air of lands with tree cover.
- (7) Emphasize the importance of safeguarding native ecosystems through native tree preservation.
- (8) Preserve underground water reservoirs and facilitate the return of precipitation to the groundwater strata.
- (9) Prevent soil erosion.
- (10) Provide shade.
- (11) Minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters by facilitating a natural drainage system and amelioration of stormwater drainage problems.
- (12) Conserve natural resources, including adequate air and water.
- (13) Maintain and enhance the tree canopy cover across the city.

(Ord. No. 4521, § 1, 9-27-2010)

~~Sec. 21-4. – Applicability and exemptions.~~

~~This chapter shall apply to all developers and/or owners of real property involved with the erection, repair, alteration or removal of any building or structure as well as the grading in anticipation of such development. Compliance with this chapter will be required in the following circumstances:-~~

~~(1) New development.~~

~~(2) In the case of the following cumulative (since January 2011) additions or changes:-~~

~~a. Additions to existing sites that are equal to or greater than five percent of the site's existing building square footage or the addition of 1,000 square feet or more of building;~~

~~b. When ten or more parking spaces are added to the site with no building; or~~

~~c. Facade changes to ten percent or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g., adding or eliminating doors, windows, closings, openings, or increased wall area).~~

~~(3) The following are excluded from the requirements of sections 21-94, 21-95 and 21-96:-~~

~~a. The homeowner of a single family or duplex residence.~~

~~b. Property which as altered does not meet the requirements of subsection (2).~~

~~Secs. 21-5—21-30. – Reserved.~~

ARTICLE II. - ADMINISTRATION

~~Footnotes:-~~

~~—(2)—~~

~~Cross reference— Administration, ch. 2.~~

Sec. 21-4. – Chief Urban Forester, or their designee.

- (a) To interpret, administer and enforce the provisions of Chapter 21, the Charlotte Tree Ordinance.
- (b) To lead and supervise the work and activities of staff, and supervise the tree regulation review, enforcement, and compliance.
- (c) To lead City-wide and department urban forestry goals and initiatives.
- (d) To serve as a liaison for the Charlotte Tree Advisory Commission, and interdepartmental committees.
- (e) To interpret and translate information to the public on regulatory processes, planning initiatives, and land use policies related to urban forestry and tree canopy.

~~Sec. 21-31. – Tree advisory commission.~~

~~(a) The city council may establish a tree advisory commission. This commission may from time to time make recommendations relative to trees to the city manager or his authorized representative and perform other duties as designated in this chapter.~~

~~(b) The tree advisory commission shall be composed of 12 members, a majority of whom shall be residents of the city. Seven of the members shall be appointed by the city council, and three of the~~

members shall be appointed by the mayor. The remaining two members shall be representatives of the city engineering and property management department and shall be ex-officio members.

- (c) ~~Those members appointed by the mayor and city council shall serve three years, and no member appointed by the mayor and city council shall be eligible to serve more than two consecutive full terms. Member terms shall be appointed on a staggered basis so that no more than five of the ten appointed seats become vacant at one time.~~
- (d) ~~Any member who fails to attend the requisite number of meetings as set out in the boards and commission's attendance policy adopted by the city council shall be automatically removed from the commission. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section. The chair of the commission will notify the proper appointing authority if a member is absent the requisite number of the meetings, and appointment will be made by the appointing authority to fill that vacancy.~~
- (e) ~~Any rules of procedure adopted by the tree advisory commission shall be consistent with the provisions of G.S. Chapter 160D and kept on file at the office of the City Clerk and posted on the City of Charlotte website.~~
- (f) ~~In determining appeals of administrative decisions and variances, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec. 160D-406.~~
- (g) ~~The tree advisory commission shall keep minutes of its proceedings as required by G.S. Sec. 160D-308.~~
- (h) ~~Each member shall take an oath of office before starting their duties as required by G.S. Sec. 160D-309.~~
- (i) ~~Each member shall comply with the conflict of interest standards as specified in G.S. Sec. 160D-109 and Section 1.111 of the City of Charlotte zoning ordinance.~~

(Ord. No. 4521, § 1, 9-27-2010) (Ord. 2021-113 adopted 6-21-21)

Sec. 21-325. - City jurisdiction and authority.

- (a) The eCity of Charlotte shall have the jurisdiction, authority, control, supervision and direction over for the requirements of this Chapter over all trees planted or growing in the corporate limits of the city except where exempted in this eChapter.
- (b) The City shall prepare and publish guidelines and specifications for tree planting, care, maintenance, removal and landscape design in a document entitled "Tree Ordinance Guidelines" the Charlotte Tree Manual for reference and use by property owners, developers, consultants and the general public in furtherance of the requirements and intent of Article 20 of the UDO and this eChapter. This document shall be reviewed periodically by the Chief Urban Forester city's engineering department and the tree advisory eCommission.
- (c) The eCity shall review all applications for permits for any planting, removal and/or trimming or cutting of trees subject to this eChapter and shall have the authority to grant or deny permits and to attach reasonable conditions to the granting of a permit.
- (d) No staff member shall make a final decision on an administrative decision required by this eChapter 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 the eCity to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the eCity, as determined by the eCity. For purposes of this eChapter, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. No. 4521, § 1, 9-27-2010) (2021-113; 6-21-21)

~~Secs. 21-33—21-60.—Reserved.~~

ARTICLE III. - MAINTENANCE AND PROTECTION OF TREES

Sec. 21-6. — Applicability.

The requirements of this Article shall apply to all properties including public entities and owners of public property. Additional information related to tree planting and preservation development requirements, long-term compliance, and protected trees may be found in Article 20. Landscape, Screening, & Tree Preservation of the UDO.

Sec. 21-647. - Trees on public property.

Trees located on City property and on public street right-of-way are considered assets of the City of Charlotte and are always protected by this Chapter. The City manages city trees to provide the highest level of benefits possible to the Charlotte community while maintaining a high standard of public safety and acceptable risk.

- ~~(a) No person shall spray, fertilize, remove, destroy, cut, top, or otherwise severely prune, including the root system, or treat any tree or shrub having all or any portion of its trunk in or upon any public property without first obtaining a written permit from the city and without complying strictly with the provisions of the permit and this chapter.~~
- (a) No person shall perform a tree disturbing activity to any City tree, without first obtaining a tree work permit from the City. The provisions of said permit, this Chapter, and (CTM) shall be strictly complied with. Failure to comply with the provisions of an issued tree work permit shall constitute a willful violation of this Chapter.
- (b) No person shall plant any tree or shrub on any public street rights-of-way or public City property without first obtaining a tree work permit from the eCity and without complying strictly with the provisions of said the permit, and the provisions of this eChapter, and the CTM.
- ~~(c) No person shall damage, cut, or carve any tree or shrub having all or any portion of its trunk in or upon any public property; attach any object, including, but not limited to, rope, wire, nail, chain or sign, to any such tree or shrub or attach any such object to the guard or stake intended for the protection of such tree.~~
- (c) No person shall place, store, deposit, or maintain, upon the ground in any public street or public place, any compacted stone, cement, brick, sand, or other materials which may impede or obstruct the free passage of air, water, and fertilizer to the roots of any tree or shrub growing in any such street or place without written authorization from the eCity.
- ~~(e) No person shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree having all or any portion of its trunk in or upon any public property without obtaining a permit from the city and without strictly complying with the provisions of the permit and provisions of this chapter.~~

- (f) ~~No person shall perform, or contract with another to perform, excavation or construction work within the drip line of any tree having all or any portion of its trunk in or upon any public property without first installing a fence, frame or box in a manner and of a type and size satisfactory to the city to protect the tree during the excavation or construction work. All building materials, equipment, dirt or other debris shall be kept outside the root protection zone. The tree protection fence, frame or box shall not be removed unless or until the city authorizes it to be removed.~~
- (g) ~~Liability for damages or injuries to any tree or shrub having all or any portion of its trunk in or upon public property resulting from a violation of this article shall be determined by the city in accordance with section 21-124. The person performing the work, the property owner and the person contracting for the performance shall be jointly and severally liable for any penalties or other enforcement action imposed pursuant to this chapter or other provisions of law on account of work performed in violation of this article. However, no claims shall be made more than five years after damage can be proven to have occurred.~~
- (d) All building materials, equipment, dirt, and debris shall be kept outside the critical root zone. Any tree protection fence, frame, or box required by this Chapter, Article 20. of the UDO, the CTM, or Charlotte Land Development Standards Manual (CLDSM) shall not be removed unless or until the City authorizes such removal.
- (e) It shall be the duty of the property owner to plant required perimeter trees in public street rights-of-way as required by a City-approved development plan pursuant to the CTM, CLDSM, and Article 20. of the UDO. Trees required by the Article 20. of the UDO, or trees protected by this Chapter as a condition of a previously approved development plan, which die, are missing, or are otherwise deemed unhealthy by the City, shall be removed and replaced by the property owner normally during the next planting season which is November through March. New owners of properties already in compliance shall maintain that compliance. Trees of the same, approved species as those existing may be used to replace dead, missing, or unhealthy trees. The property owner is required to use large maturing shade trees as replacements whenever possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if they have voluntarily done so in the past.
- (f) It shall be the duty of the property owner to maintain and/or replace required amenity zone streetscape elements, including tree pits, installed in public street rights-of-way as required by a City-approved development plan pursuant to the CTM.
- (g) The removal of City trees may be subject to mitigation payment and/or planting requirements, pursuant to the CTM. Collected fees from City tree mitigation shall be deposited in the Street Tree Planting Fund.
- (h) City trees shall be allowed to grow to their natural height and form. Topping is prohibited.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-628. - Trees on private property.

- (a) Any person owning or occupying real property bordering on any street where trees have branches, limbs, trunks, or other parts projecting into the public street or property shall prune such trees or keep them trimmed in such a manner that they will not obstruct or shade the streetlights, obstruct or interfere with the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct views of any street or alley intersection, maintain or prune such trees, pursuant to the CTM, in a manner that they will not do any of the following:
 - (1) Obstruct or shade the streetlights or pedestrian scale lighting in public rights-of-way.
 - (2) Obstruct or interfere with the passage of pedestrians or bicyclists on sidewalks, shared-use paths, greenways, bicycle lanes, and other similar multimodal transportation facilities.
 - (3) Obstruct vision of traffic signs or signals.
 - (4) Obstruct views of any street or alley intersection.

- (b) Any person owning or occupying real property bordering on any public street, City park, or other public City property, on which there may be trees that are diseased or insect infested, shall remove, spray, or treat any such trees in a manner that will not infect or damage nearby public vegetation or cause harm to the community or citizens therein any person or domestic animal.
- (c) ~~No tree equal to or larger than two inches caliper may be trimmed, pruned, or removed from the tree save area, and no tree equal to or larger than eight inches caliper may be trimmed, pruned, or removed from the tree protection zone, without a permit. No grading, demolition, trenching, or other activity which may adversely affect trees in this zone may proceed prior to approval and issuance of necessary permits by the city.~~
- (c) No tree disturbing activity may impact any tree equal to or larger than two inches within a required green area, any tree equal to or larger than eight inches caliper within a tree protection zone, any heritage tree, and/or any other tree required or protected by Article 20. of the UDO or this Chapter prior to approval and issuance of applicable tree work permits by the City.
- (d) ~~It shall be the duty of the property owner to maintain all trees planted pursuant to, or protected by, this chapter in a healthy condition in accordance with this section and the tree ordinance guidelines developed by the city. Trees shall be allowed to grow to their natural height and form. Topping is prohibited.~~
- (d) It shall be the duty of the property owner to maintain, plant, and/or replace required and protected trees on private property as required by Article 20. of the UDO or this Chapter, including heritage trees, and perimeter trees planted in network-required private streets. Trees shall be allowed to grow to their natural height and form. Pruning of these trees shall be allowed where a tree work permit has been issued and another requirement of Article 20. of the UDO, this Chapter, or another City Code requires pruning of these trees. Topping is prohibited. Property owners will not be held liable for any pruning conducted by utility providers.
- (e) ~~When trees that are subject to or protected by this chapter die, are missing, or are otherwise deemed unhealthy by the city, they shall be removed and replaced by the property owner to comply with any existing streetscape plan or as directed by the city, normally during the next planting season which is November through March. New owners of properties already in compliance must maintain that compliance. Trees of the same, approved species as those existing may be used to replace dead, missing or unhealthy trees. The property owner is encouraged to use large maturing shade trees as replacements when possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if he has voluntarily done so in the past.~~
- (e) Trees required or protected by Article 20. of the UDO, this Chapter, or by a condition of a previously approved development plan, which die, are missing, or are otherwise deemed unhealthy by the City, shall be removed and replaced by the property owner, normally during the next planting season which is November through March.

Owners of properties, sites, and parcels that are already in compliance shall maintain that compliance with the standards of Article 20. of the UDO, this Chapter, CTM, and CLDSM. Trees of the same approved species as those existing may be used to replace dead, missing, or unhealthy trees. The property owner is required to use large maturing shade trees as replacements whenever possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if they have voluntarily done so in the past.

- (f) If the owner or occupant of such property does not perform the duties set out in subsections (a), (b) and (e) 21-8(a) and 21-8(b), the eCity may order the pruning, removal or treatment of trees on private property that cause obstructions, present insect or disease problems or otherwise present a danger to public health or safety. The order shall be in writing to the owner or occupant responsible for such condition and shall be acted upon within 30 days from the time of the receipt of the order. If, after 30

days, the owner or occupant has not responded or acted to prune, remove or treat the trees, the eCity shall have the authority to enter upon the property to perform the work necessary to correct the condition and bill the owner or occupant for the actual costs incurred. In situations deemed necessary to the public health, safety, or welfare, the eCity may act without prior notification to the property owner or occupant.

- (g) Heritage trees - Heritage trees shall be protected at all times within the corporate limits of the city, subject to the requirements of this Chapter as specified below.

- (1) Heritage trees may be removed when a City-issued tree work permit is requested and approved. No removal activities shall commence until such permit is issued, any applicable mitigation payments have been received, and a planting plan has been approved.

Tree work permits for the removal of heritage trees that have been preserved related to development requirements associated with a previously City-approved development plan shall only be granted when one or more of the standards of Article 20.14.B.1. of the UDO, or when the standards of item 2 below are met.

- (2) Heritage trees that are sufficiently diseased, injured, dead, or are in danger of falling shall not be required to obtain a City-issued tree work permit or mitigate the tree loss prior to removal. Trees removed without a permit due to health or hazard shall be either certified by an ISA-certified arborist or adequately documented through picture, video or other documentation prior to removal. Heritage trees that are in declining health may be removed without a City-issued tree work permit only when certified by an ISA-certified arborist prior to removal. For the purpose of this section, a "tree in declining health" shall mean a tree that can be expected to fall within a 1-3 year time period per an assessment by an ISA-certified arborist.

- (3) Mitigation - Owners and persons authorized by the City to remove a heritage tree shall comply with the following mitigation actions:

- a. Required Tree Replanting - One or more trees shall be planted on the property in mitigation pursuant to the CTM. Trees replanted to meet this mitigation requirement shall be in addition to other trees required by this Chapter and Article 20. of the UDO.
- b. Heritage Tree Mitigation Payment - A heritage tree mitigation payment shall be required for every heritage tree removed per the fee set by the CTM. The required mitigation payment may be reduced or eliminated where trees are replanted on the property in addition to those required by item (3)a. above. The rate of reduction shall be subject to the CTM.

- (4) Specimen Tree Preservation - Specimen trees may be preserved to meet all Heritage Tree mitigation requirements specified above. Only large hardwoods and large softwoods, per the definition of this term in the UDO, shall be used to meet this mitigation requirement. One specimen tree preserved shall meet the mitigation requirements for the removal of one Heritage Tree approved for removal.

- (5) Collected fees from mitigation per this item shall be deposited into the Canopy Care Fund

- (6) It shall be the duty of the property owner to maintain, plant, and/or replace mitigation and heritages trees on private property as required by this section. Trees shall be allowed to grow to their natural height and form.

- (h) Tree save standards

- (1) Tree save areas shall be free of invasive plant species unless otherwise approved by the Chief Urban Forester. If a tree save area contains invasive plant species invasive plant species shall be removed. Invasive plant species are considered removed if they are no longer living in or under the tree canopy. Property owners are required to maintain this condition for compliance with this Chapter.

Pursuant to the CTM, any alterations to the tree save area in Tier 3 and Tier 4 Place Types shall be accomplished without mechanized tools and vehicular equipment and made of organic, environmentally friendly materials, unless otherwise approved by the Chief Urban Forester. For sites located in Tier 1 or Tier 2 Place Types, alterations to the tree save area do not have to meet the above standard. However, if alterations are made or amenities are added, these changes shall be made in a manner that is not detrimental to the saved trees or their critical root zone. Alterations and addition of any amenities shall be approved by the Chief Urban Forester.

- (2) No structure shall be allowed within ten feet of the tree save area. A building restriction note shall be indicated on the record plat pursuant to the CTM.
- (3) Additional amenity elements including, but not limited to, benches, trails, gazebos, sheds, fences, may be permitted in the tree save area by the Chief Urban Forester pursuant to the CTM.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-639. - Permits.

- (a) Persons requesting to do any planting, removal, trimming, or cutting of trees perform any tree disturbing activity to trees subject to this eChapter, or any of the activities prohibited by this article, shall obtain a tree work permit secure a permit for tree work from the city engineering and property management department General Services Department or the Charlotte Planning, Design and Development Department before the activities commence, pursuant to the CTM. For purposes of this subsection, a tree work permit issued by the City or a landscape plan approved by the city constitutes a permit. development plan subject to the applicability of the UDO that is approved by the City constitutes a tree work permit.
- (b) The eCity shall have the authority to review all requests for tree work permits and to grant, deny, or attach reasonable conditions to such permits.
- (c) Individual tree work permits will not be required for city and state department of transportation projects shall not be required for Charlotte Department of Transportation (CDOT), Charlotte Area Transit Services (CATS), and North Carolina Department of Transportation (NCDOT) projects so long as tree preservation and protection requirements are included in the project plans.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-6410. - Utilities.

- (a) Public and private utilities which install overhead that install aboveground or underground utilities, including CATV installations and water and sewer installations by or at the direction of the Charlotte-Mecklenburg Utilities, shall be required to accomplish all work on property subject to this article Chapter in accordance with the utility company's written pruning and trenching specifications or as mutually agreeable to the property owner, the eCity, and the utility.
- (b) Public and private utilities shall submit written specifications for pruning and trenching operations to the eCity for approval. Specifications shall be reviewed periodically by the eCity and the tree advisory commission for necessary improvements and as required by modifications in this eChapter. Upon approval of its specifications, a utility shall not be required to obtain a tree work permit for routine trenching and pruning operations affecting a tree having all or any portion of its trunk in or upon any public property protected by this Chapter so long as such work is done in strict accordance with the approved specifications. Requests for the removal of trees shall be handled on an individual permit

basis. Failure to comply with the approved specifications shall be deemed is a willful violation of this Chapter.

(c) ~~Refer to section 21-96 for light pole location requirements.~~

(Ord. No. 4521, § 1, 9-27-2010)

~~Sec. 21-65. Tree protection and/or planting required on public property.~~

~~This chapter shall apply to public entities and owners of public property, and it shall be unlawful for such owners to fail to comply with all sections of this chapter unless specifically exempted therefrom.~~

~~Secs. 21-66—21-90. Reserved.~~

~~ARTICLE IV. GENERAL LAND DEVELOPMENT REQUIREMENTS~~

~~Sec. 21-91. Tree survey.~~

~~Tree save area boundaries shall be required to be surveyed and be described in meets and bounds and be recorded on the final plat.~~

~~All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single family development shall require a tree survey. The survey shall identify all trees of eight-inch dbh or greater and all planted trees of two-inch caliper or greater and six feet in height that grow partially or wholly within the city right-of-way.~~

~~All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single family subdivision, subject to subsection 21-94(d)(1) [21-96(f)(1)] shall require a tree survey. The survey shall identify all trees of eight-inch dbh or greater within the tree protection zone.~~

~~(Ord. No. 4521, § 1, 9-27-2010)~~

~~Sec. 21-92. Tree protection plan.~~

~~(a) All applications for grading, building, demolition, land use, change of use, or rezoning shall include a tree protection plan of all tree save areas and tree protection zones. On sites where less than one-acre is being graded, tree protection is still required and may be incorporated in the tree planting plan submitted in accordance with section 21-94. A tree protection plan shall include the following:~~

~~(1) A tree and root protection zone plan for any existing trees having all or any portion of their trunks in or upon any public property, which are:~~

~~a. All trees of eight-inch dbh or larger; and~~

~~b. Any planted trees of two-inch caliper or larger.~~

~~(2) A tree and root protection zone plan for the following:~~

~~a. Existing trees of two-inch caliper and larger in the tree protection zone and tree save area; and~~

~~b. Any trees of two-inch caliper or larger being saved for credit toward planting requirements.~~

~~(b) — All applications for single-family development shall include a tree and root protection zone plan for the following:—~~

- ~~(1) Heritage trees;—~~
- ~~(2) Specimen trees; and/or—~~
- ~~(3) Tree save areas being protected for credit toward the tree save requirement for single-family development.—~~

~~(Ord. No. 4521, § 1, 9-27-2010)~~

~~Sec. 21-93. — General tree save requirements.~~

- ~~(a) — Tree save areas shall be free of invasive plant species unless approved otherwise by the city. If an area proposed for tree save contains invasive plant species at the time of such proposal, such invasive plant species shall be removed prior to the issuance of final certificate of occupancy for commercial and multi-family properties or at final plat approval for subdivisions. Invasive plant species are considered removed if they are no longer living in the tree canopy. Subsequent property owners are required to maintain this condition for compliance with the chapter.—~~
- ~~(b) — Tree removal in a tree save area will require a permit from the city pursuant to section 21-63 and may require mitigation. Invasive plant species and hazardous trees may be removed without city approval.—~~
- ~~(c) — Pursuant to the tree ordinance guidelines, any alterations to the tree save area must be accomplished without mechanized equipment and made of organic, environmentally friendly materials, unless approved otherwise by the city. For sites located in urban zones, alterations to the tree save area do not have to meet the above standard. However, if alterations are made or amenities are added, these changes must be made in a manner that is not detrimental to the saved trees or their critical root zone. Alterations and amenitization must be approved by the city.—~~
- ~~(d) — Any tree save area less than 30 feet in width must have boundary and property lines delineated on-site by a surveyor prior to the first submittal of plans.—~~
- ~~(e) — No structure will be allowed within ten feet of the tree save area. A building restriction must be noted on the record plat in accordance with the tree ordinance guidelines. For urban zones the ten-foot building restriction may be counted toward the tree save area requirement as long as this area continuously and directly abuts a tree save area, and remains pervious. However, regulatory trees may not be planted within this ten-foot area.—~~
- ~~(f) — Tree save areas may include Mecklenburg County Park and Recreation Greenways. Trail placement must be coordinated with the city so that the effective tree save area required is maintained.—~~
- ~~(g) — Tree save areas on commercial properties may include existing tree canopy which overhangs existing underground utility easements based upon adherence to the tree ordinance guidelines and approval by the city.—~~
- ~~(h) — On commercial properties in cases where no other viable tree save areas exist and based upon adherence to the tree ordinance guidelines and approval by the city, tree save areas may include the planting of small maturing trees in accordance with Duke Energy's, or its successor's, approved planting list and within 20 feet of the centerline of power distribution easements that are accessible for maintenance by mechanical equipment.—~~
 - ~~(i) In local historic districts designated by a historic district overlay (see chapter 10, part 2 of the zoning ordinance), the requirements of the Historic District Overlay apply in addition to the regulations of this section.—~~

~~(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 9671, § 1.B.1 — 3, 10-21-2019)~~

~~Sec. 21-94. Tree save area and tree protection zone requirements for commercial development.~~

- (a) ~~A minimum of 15 percent of the overall commercial site must be preserved as tree save area (hereinafter for purposes of this section, "commercial tree save area"). If less than 15 percent of the site has existing trees, additional trees shall be planted at a rate of 36 trees per acre to meet the commercial tree save area requirement. In the event any area of the commercial tree save area cannot be protected, tree save area must be provided at 150 percent of the area removed. Replacement trees must be planted at 36 trees per acre.~~

~~Additions to existing sites that meet the criteria in subsection 21-4(2) shall protect all trees of eight-inch dbh or greater within the tree protection zone or maintain existing tree save areas for sites developed in accordance with the effective date of the ordinance from which this chapter derives.~~

- (b) ~~In all cases, any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.~~

~~The following exceptions and alternatives to the tree save area requirement apply:~~

~~(1) UMUD and UMUD-O within the I-277 loop and any TOD, MUDD or UMUD-zoned parcels in transit station areas, as designated in a transit station area plan, are exempt. If no transit station area plan has been adopted, the transit station area will be designated as the property within one-half mile of an existing or proposed transit station location identified on the approved Metro Transit Commission (MTC) System Plan.~~

~~(2) In transit station areas, designated mixed-use centers, NS zoning districts (for sites of 12 acres or less), and I-1 and I-2 zoning districts, the following measures may be chosen, individually or in combination, such that the measures are equal to 100 percent of any portion of the commercial tree save area not preserved as required above:~~

~~a. Plant or replant trees at a rate of 36 trees per acre on-site.~~

~~b. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.~~

~~c. Undertake either off-site mitigation, or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.~~

~~d. In urban zones, create amenitized tree areas that include 36 trees per acre on-site and meet the following:~~

~~1. Planting areas shall be a minimum of ten feet wide, unless otherwise approved by the city.~~

~~2. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.~~

~~3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.~~

~~4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.~~

~~(3) In corridors that are outside of transit station areas the following measures may be chosen, individually or in combination, such that the measures are equal in area to 150 percent of any portion of the required commercial tree save area not preserved as required above:-~~

~~a. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.-~~

~~b. Undertake either off-site mitigation or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.-~~

~~c. In urban zones, create amenitized tree areas that include 36 trees per acre on-site and meet the following:-~~

~~1. Planting areas shall be a minimum of ten feet wide unless otherwise approved by the city.-~~

~~2. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.-~~

~~3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.-~~

~~4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as otherwise approved by the city.-~~

~~(4) In urban zones located in wedge areas, a minimum of 15 percent of the overall commercial site must be preserved as tree save area. For any tree save area not preserved the following measures may be chosen, individually or in combination, such that the measures are equal to 150 percent of any portion of the commercial tree save area not preserved as required above:-~~

~~a. Plant or replant trees at a rate of 36 trees per acre on-site.-~~

~~b. Provide amenitized tree area that meets the following:-~~

~~1. Trees must be planted at 36 trees per acre on-site.-~~

~~2. Planting areas shall be a minimum of ten feet wide.-~~

~~3. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.-~~

~~4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.-~~

~~5. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.-~~

~~(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 9671, § 1.B.4, 10-21-2019)-~~

~~Sec. 21.95. Tree save requirements for single family development.-~~

- (a) ~~*Percentage of area required.* Whenever the existing tree canopy of a single-family development site is at least ten percent of the total property area, a tree save area equal to ten percent of the total property area must be saved during development of the site. If the existing tree canopy of the site is less than ten percent but more than five percent, a tree save area equal to ten percent of the total property area must be achieved by saving the entire existing tree canopy and planting new trees to reach the required percentage area. Single-family development sites with an existing tree canopy of less than five percent of the total property area must have a tree save area equal to five percent of the total property area, which may be achieved by saving the existing tree canopy and planting new trees.~~
- (b) ~~*Tree save area method for calculation.* Square footage for existing and dedicated road rights-of-way and utility easements and for existing ponds and lakes will be subtracted from the total site area before the required percent of the tree save area is calculated. Where there are groups of trees that have areas within the group that are not expected to fill in with time, additional trees can be planted, pursuant to city approval, so that the entire area can qualify as a tree save area. A planted shade tree shall be equivalent to 2,500 square feet of saved area and new trees must be planted at a rate of 18 per acre. If root disturbance or construction activities occur within the drip line of any tree designated as protected in the tree protection plan, only the area actually being protected will be included in the calculated tree save area. Credit received for trees designated as heritage or specimen trees will be one and one-half times the actual square footage of the drip line. The city may adjust applicable land development standards to protect and preserve heritage or specimen trees.~~
- (c) ~~*Criteria for new trees.* New trees planted in common open spaces to satisfy the requisite tree save area requirement must be at least three-fourths inch caliper shade trees. New trees planted within individual lots to satisfy the requirement must be at least one and one-half inch caliper trees. Trees planted for mitigation where the existing tree canopy must be removed due to conflicting design criteria or hardship approved by the city must be planted in accordance with this section to obtain the required percentage.~~
- (d) ~~*Heritage trees.* A person requesting to remove a heritage tree must obtain a permit from the city before the activities commence. Owners and persons who remove a heritage tree without a permit are subject to the civil penalties set out in section 21-124. For purposes of this subsection, a landscape plan approved by the city constitutes a permit. Permits for the removal of Heritage trees will be granted only where:~~
- ~~(1) The tree is located in the buildable area or yard area where a structure or improvement may be placed and there is no other reasonable location and/or preservation would unreasonably restrict use of the property.~~
 - ~~(2) The tree is diseased, injured, in danger of falling, creates unsafe sight distance or conflicts with other sections of this Code or provisions of other ordinances or regulations.~~
 - ~~(3) One five-inch caliper tree or three two-inch caliper trees are planted in mitigation for the removal of each healthy tree under this subsection.~~
- (e) ~~*Incentives for increasing area.* Incentives for increasing tree save areas are designed to achieve the specific objective to:~~
- ~~(1) Enhance the city's tree canopy in residential settings.~~
 - ~~(2) Improve the overall quality of life within the larger single-family developments.~~
 - ~~(3) Further the land use policies of the city, including encouragement of open spaces and the preservation of wooded sites.~~
 - ~~(4) Discourage clear-cutting of sites before and during construction of single-family development.~~

(f) ~~The following incentives apply to single-family development as defined by this chapter.~~

(1) ~~*Reduced yards.* For single family development requiring a tree save area, setback requirements as specified in subsections 12.805(3)(a), (b), and (c) of the zoning ordinance are reduced as follows:~~

a. ~~Front setbacks can be reduced to a minimum of 15 feet for all lots; front loaded garages must maintain a minimum setback of 20 feet; and~~

b. ~~Rear yards can be reduced to 30 feet on all internal lots. Rear yards forming the outer boundary of a project must conform to the minimum rear yard of subsection 9.025(1)(g) for the zoning district in which the development is located.~~

(2) ~~*Density bonus.* Single family development sites may be granted a density bonus provided the entire tree save area is dedicated to common open space. Such dedication must be to a homeowners' association or a public or private agency that agrees to accept ownership and maintenance responsibilities for the space. The density bonus is calculated as follows: the entire dedicated tree save area in acres multiplied by the maximum residential density number of the underlying zoning district.~~

(3) ~~*Reduced lot sizes.* A development need not meet the minimum lot area and lot width requirements set forth in table 9.205 of the zoning ordinance if it complies with one of the following incentives:~~

a. ~~Sites with more than ten percent and up to 25 percent of tree save area(s) in common open space may apply the cluster provisions for lot size and lot width of that zoning category.~~

b. ~~Sites with greater than 25 percent of tree save area(s) in common open space, including the buffer area and where the perimeter protection is provided either by perimeter lots that meet the underlying zoning cluster provisions or by a minimum 20-foot perimeter tree save area, may apply the cluster provisions for lot size and width of the next lower zoning category as shown in the following table and in accordance with section 9.205(5) of the zoning ordinance.~~

	R-3	R-3 Cluster	R-4	R-4 Cluster	R-5	R-5 Cluster	R-6	R-6 Cluster
Min. Lot Area	10,000	8,000	8,000	6,000	6,000	4,500	4,500	3,500
Min. Lot Width	70'	60'	60'	50'	50'	40'	40'	40'

(g) ~~*New supplemental plantings.* If the existing tree canopy is insufficient to meet the desired incentive level, new supplemental plantings may be used to reach the desired level. This only applies for sites that have less than ten percent existing tree canopy prior to development or for sites that have more than ten percent existing tree canopy and the entire canopy is being saved.~~

(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 4766, § 1, 10-17-2011; Ord. No. 8093, §§ 1, 2, 8-22-16)

Note—Ord. No. 8093, § 2, adopted August 22, 2016, states "That this ordinance shall become effective upon its adoption, with the exception of the revised text for Section 21-95(f)(3)(b) that reads, "including the buffer area and where the perimeter protection is provided either by perimeter lots that meet the underlying zoning cluster provisions or by a minimum 20 foot perimeter tree save area." The revised section shall become effective on November 22, 2016."

~~Sec. 21-96. Tree planting requirements.~~

- ~~(a) Tree planting plan. All applications for building permits or land use permits shall include a tree planting plan. The tree planting plan shall be submitted in written/design form and shall conform to the general provisions of this section and all specifications set out in the applicable tree ordinance guidelines as issued by the city.~~
- ~~(b) Tree and soil specifications. All trees planted pursuant to this article must be planted in amended soils as specified in the tree ordinance guidelines. The trees also must be from an approved list supplied by the city. Trees not on the list may be approved by the city on a case-by-case basis. Where trees are specified to be two-inch caliper, the minimum height shall be eight feet. If a multi-stem tree is used, it must have three to five stems and be eight to ten feet tall at the time of planting. Where three-inch-caliper trees are specified, the minimum height shall be ten feet tall, and multi-stem trees shall be ten to 12 feet tall. All trees must comply with the American Standard for Nursery Stock, published by the American Association of Nurserymen.~~
- ~~(c) A minimum of 50 percent of new trees must be native species, and sites with more than 20 trees required will have to install multiple species pursuant to the tree ordinance guidelines.~~
- ~~(d) Site lighting must be a minimum 30 feet away from a tree. If pedestrian scale lighting is being used, then lighting must be a minimum of 15 feet away from a tree, unless approved otherwise by the city. However, for urban zones, the following standards apply. Light poles taller than 15 feet must be a minimum of 20 feet away from a tree, and light poles 15 feet or less in height must be at least 10 feet away from a tree.~~
- ~~(e) For urban zones, the following standards apply:
 - ~~(1) Required trees, with the exception of perimeter trees, must be located at least ten feet from on-site underground utilities unless otherwise approved by the city. For the purposes of this standard, underground utilities means main service lines for water, sewer, city maintained stormwater, electric and gas lines.~~
 - ~~(2) Required trees must be located at least ten feet from buildings unless otherwise approved by the city.~~
 - ~~(3) The minimum spacing between large maturing trees may be reduced from 40 feet to 30 feet. The minimum spacing between small maturing trees may be reduced from 30 feet to 20 feet. Tree species identified for reduced spacing may be found in the tree ordinance guidelines or as otherwise approved by the city.~~~~
- ~~(f) Perimeter planting requirements. Requirements for perimeter planting are as follows:
 - ~~(1) Single-family development zones. Trees of a minimum two-inch caliper must be planted within 20 feet of the back of the curb on new streets, and any existing streets with lot frontage, in new single-family development. Trees may be planted between the sidewalk and the curb if a minimum six-foot planting strip is provided. Spacing will be an average of 40 to 50 feet apart for large maturing shade trees, and 30 to 40 feet apart for small maturing shade trees. Where a single-family development is directly across the street from multifamily development, the spacing between trees will be an average of 40 feet. Existing two-inch caliper or greater large maturing shade trees preserved within 20 feet of the back of the curb may be counted towards the street tree requirement if they are adequately protected during construction. The city may grant a modification for other existing trees on a case-by-case basis.~~
 - ~~(2) Suburban commercial zones. A continuous perimeter planting strip, located in the public right-of-way between the curb and sidewalk or on private property abutting the public right-of-way, with a minimum width of eight feet, shall be required. If large maturing trees are planted, each tree shall have~~~~

a minimum two-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, the same conditions apply, but the increment drops to 30 feet.

~~(3) Urban zones.~~ Planting requirements for urban zones are as follows:

~~a. Planting strip.~~ A continuous perimeter planting strip, located between the street and sidewalk, with a minimum width of eight feet, shall be required. The planting strip requirement may be met using tree pits as detailed in Charlotte Land Development Standards 4000 series.

~~1. If large maturing trees are planted, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof.~~

~~2. If the required number of trees cannot be planted as required by section 21-96(f)(3)a.1 due to site constraints, the alternatives listed below, individually or in combination, may be used. Site constraints include, but are not limited to, driveway locations, sight triangles, sight lines, and above-ground utility locations, as determined by the city.~~

~~i. Spacing between large maturing trees may be reduced to 30 feet. Spacing between small maturing trees may be reduced to 20 feet. Tree species identified for reduced spacing may be found in the tree ordinance guidelines or as otherwise approved by the city.~~

~~ii. Trees that cannot be planted in the perimeter planting strip may be planted in alternative locations within 20 feet of the future back of curb, or in locations otherwise approved by the city.~~

~~iii. A payment in lieu may be made to the city for trees that cannot be planted in the perimeter planting strip.~~

~~b. Urban retail sites.~~ The following options are available for urban retail developments:

~~1. Relocation of trees.~~ The number of perimeter trees required in subsection (f)(3) may be reduced by up to 50 percent if the same quantity of trees reduced are planted elsewhere on the site and at least one perimeter tree is installed.

~~2. Tree pits.~~ The perimeter trees required in subsection (f)(3) may be installed in tree pits with irrigation and sub-drainage as specified in the tree ordinance guidelines in lieu of a continuous perimeter planting strip. If large maturing trees are planted in the pits, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted in the pits, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof and as long as at least one perimeter tree is installed.

~~(4) Renovated sites.~~ When a building permit is requested for renovation of a previously developed site where the required perimeter planting strip does not exist, trees are still required. However, in lieu of a minimum eight-foot-wide planting strip, a pavement cutout equal to 200 square feet and with a minimum width of five feet may be substituted.

~~(5) Railroad or utility rights-of-way.~~ When a railroad or utility right-of-way separates the perimeter planting strip from a city right-of-way, the perimeter planting strip and tree planting requirements must still be met.

~~(6) Large shade trees required.~~ In locations without overhead power distribution lines that obstruct normal growth, 75 percent of the trees required under subsections (f)(1), (2), and (3) shall be large maturing shade trees.

~~(7) Streetscape plans.~~ In applicable cases where the city council has approved a streetscape plan, its provisions shall supersede those set forth in subsections (f)(2), (3) and (5).

~~(g) Internal planting requirements, excluding single-family development.~~ Requirements for internal planting, excluding single-family development, are as follows:

~~(1) Planting areas.~~

~~a. Suburban commercial zones.~~ Whenever the impervious cover exceeds 10,000 square feet, a planting area equal to ten percent of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any perimeter planting and tree save area requirements.

~~b. Urban zones.~~ Whenever the impervious cover exceeds 10,000 square feet, a planting area for landscape purposes and tree planting is required as follows:

~~1. The planting area shall equal ten percent of the total impervious surface for all urban zoning districts except for UMUD and MUDD.~~

~~2. In MUDD and UMUD zoning districts outside the I-277/I-77 loop, the planting area may equal five percent of the total impervious surface. The planting requirements for UMUD zoning districts within the I-277/I-77 expressway loop are set out in subsection 9.906(4)(e) of the zoning ordinance in appendix A to this Code.~~

~~3. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any perimeter planting, tree save area, and tree amenity area requirements.~~

~~4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city.~~

~~Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.~~

~~(2) Parking areas.~~ Internal planting requirements for parking areas are as follows:

~~a. Suburban commercial zones.~~ Planting in suburban commercial zones shall be in accordance with the following:

~~1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk, unless the parking lot has continuous islands running the length of the parking lot with minimum eight feet width; then the requirement will increase to 60 feet from a tree trunk.~~

~~2. Bus and tractor-trailer lots will be required to plant trees 40 feet apart around the perimeter of the parking lot in a minimum ten-foot wide planting strip. If there is parking on the perimeter of the bus and tractor-trailer lots, bollards or wheel stops are required.~~

~~3. Seventy-five percent of the trees planted must be large maturing shade trees except as provided in subsection (g)(2)a.4. Minimum planting area per tree shall be 274 square feet with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.~~

~~4. Where small maturing shade trees are used, the minimum planting area shall be 200 square feet, with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches. Small maturing shade trees may be planted where overhead power distribution lines would interfere with normal growth (normally within 25 feet of overhead power distribution lines or within the Duke Power right-of-way for overhead transmission lines).~~

~~b. Urban zones. Planting in urban zones shall be in accordance with the following:~~

~~1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk. Trees planted must be large maturing shade trees except as provided in subsection (g)(2)b.2.~~

~~i. Minimum planting area per large maturing shade tree shall be 274 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.~~

~~ii. Minimum planting area per large maturing shade tree may be reduced to a minimum surface area and a minimum dimension of eight feet, if the entire planting area contains an approved soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.~~

~~iii. For parking spaces located in driveways for individual single-family attached dwellings or multi-family attached dwellings (as defined by chapter 15 of the zoning ordinance), the required trees may be located elsewhere on the site as approved by the city. The number of trees shall equal the quantity required by section 21-96(g)(2)b.1.~~

~~2. Small maturing trees may be planted where overhead power distribution lines would interfere with normal growth. Minimum planting area per small maturing tree shall be 200 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.~~

~~(3) Renovated sites. When a building permit is requested for the renovation of a site previously developed, internal tree planting is still required, and the minimum planting area shall be 200 square feet per tree. However, only five percent of the total impervious cover must be set aside for landscape purposes.~~

~~(4) Existing trees. In meeting these internal planting requirements, credit may be given for existing trees if the following are met:~~

~~a. The property owner must include in the tree survey referenced in section 21-91 all existing trees of two-inch dbh or greater which he/she proposes to satisfy these planting requirements.~~

~~b. Only healthy trees and those that have been protected during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy in accordance with approved tree protection requirements, may satisfy these tree planting requirements.~~

~~c. If the minimum protection standards are not met, or if trees are observed by the city to be injured or threatened, it may be deemed ineligible for meeting these requirements. The city shall have the authority to modify the planting requirements of this subsection to preserve existing trees.~~

~~(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 4607, 12-20-2010; Ord. No. 8093, § 1, 8-22-16; Ord. No. 9671, § 1.B.5, 10-21-2019)~~

~~Secs. 21-97—21-120. Reserved.~~

ARTICLE V. - MODIFICATION, INSPECTION, ENFORCEMENT, COMMISSION, AND APPEAL

Sec. 21-~~121~~11. – Modifications

- (a) If strict compliance with the standards of this eChapter conflict with existing federal or state statutory or regulatory requirements, or when planting is required by this chapter and the site design, topography, natural vegetation, or other special considerations exist relative to the proposed development, the developer ~~the owner~~ may submit a specific alternate plan for planting to the city Chief Urban Forester for consideration. This plan must shall meet the purposes and standards of this eChapter but may suggest measures other than those in ~~article IV. listed in this Chapter.~~ In addition, if the developer ~~owner~~ seeks a modification of planting requirements based upon a contention that the planting required by this eChapter would pose a threat to health and safety due to a conflict with existing federal or state statutory or regulatory requirements, a modification ~~will~~ shall only be considered upon receipt of a written explanation of the alleged conflict created by the planting requirement and a copy of the statute or regulation that creates the conflict. The city Chief Urban Forester shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the applicant. Any appeals by the applicant shall be in accordance with Sec. 21-126.
- (b) Requests for a delay in complying with this eChapter due to poor weather conditions for planting will be considered following a written request directed to the City's Charlotte Planning, Design and Development Department ~~city's engineering and property management department.~~ Certificates of occupancy will be issued upon approval of a request for planting delay. Such request for a delay will not change the timeframe during which the planting will be completed. Failure to comply will result in penalties as provided for in section 21-12414.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-~~122~~12. - Inspections and investigations of sites.

- (a) Administrative staff of the eCity are authorized to inspect the sites subject to this eChapter to determine compliance with this eChapter, the terms of applicable development approval, or rules or orders adopted or issued pursuant to this eChapter. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government 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.
- (b) If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this eChapter or rules or orders issued pursuant to this eChapter, the city Chief Urban Forester may issue a written notice of violation: in accordance with Sec. 21-14(d) of this Chapter. As specified by G.S. Sec. 160D-404(a), the notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not 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 the violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. A notice of violation shall identify the nature of the violation and shall set forth the measures necessary to achieve compliance with this eChapter. The notice shall inform the person whether a civil penalty will be assessed ~~immediately or~~ and shall specify a date by which the person must comply with this eChapter. The notice shall advise that failure to correct the violation within the time specified will subject that person to the civil penalties as provided in section 21-124 Sec. 21-14(b) of this Chapter, the CTM, or any other authorized enforcement action.
- (c) The eCity shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this eChapter, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites subject to this eChapter as specified by G.S. Sec. 160D-403(e) and subsection (a) of this section.

(Ord. No. 4521, § 1, 9-27-2010) (2021-113; 6-21-21)

Sec. 21-~~123~~13. - Emergencies.

In an emergency such as a windstorm, ice storm, fire or other disaster, the requirements of this eChapter may be waived by the eCity during the emergency period so that the requirements of this eChapter will in no way hamper private or public work to restore order in the city. This shall not be interpreted to be a general waiver of the intent of this eChapter.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-~~124~~14. – Penalties.

- (a) Generally. Any person who violates any of the sections tree regulations of this eChapter, or rules or orders adopted or issued pursuant to this eChapter, shall be subject to any one, all, or a combination of the civil penalties prescribed by this section Sec. 21-14(b) below and by the CTM. Penalties assessed under this chapter in Sec. 21-14(b) below are in addition to and not in lieu of compliance with the requirements this eChapter. The person performing the work, the property owner, and the person contracting for the performance shall be jointly and severally liable for any penalty or other enforcement action imposed pursuant to this eChapter, the CTM, or other provisions of law on account of work performed in violation of this chapter these regulations.
- (b) Civil Penalties. Civil penalties for violations of this chapter the tree regulations in this Chapter shall be assessed pursuant to the CTM and the following:
- (1) Failure to plant original or replacement trees in accordance with this eChapter shall be \$50.00 for each tree not planted. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in section 21-422 Sec. 21-14(d) of this Chapter. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to plant each individual tree shall constitute a separate, daily, and continuing violation.
 - (2) Injury or damage to, or destruction of, trees and shrubs protected by sections 21-61 and 21-62 this Chapter that result in the total loss of the tree or shrub shall be assessed in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum civil penalty for each tree injured, damaged, or destroyed shall not exceed \$20,000.00 No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.
 - (3) Injury or damage to, or destruction of, trees and shrubs protected by sections 21-61 and 21-62 this Chapter that do not result in the total loss of the trees or shrubs shall be assessed for each tree or shrub in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum amount of the penalty shall not exceed \$1,000.00 No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.
 - (4) Failure to install or maintain required tree protection measures in accordance with section 21-92 Article 20. of the UDO, this Chapter, the CTM, or CLDSM shall be a penalty of \$1,000.00. No civil penalty shall be assessed until the person has been issued a notice of violation by the Chief Urban Forester as provided in section 21-422 Sec. 21-14(d) of this Chapter. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to install the required tree protection measures shall constitute a separate, daily, and continuing violation. Injury or damage to, or destruction of, trees in the tree protection zone and tree save area and/or green area resulting from inadequate or omitted tree protection measures constitutes a separate violation which may subject the violator to any other applicable penalty set forth in this section Chapter.
 - (5) Any other action that constitutes a violation of regulations of this eChapter may subject the violator to a civil penalty of \$50.00, and each day of continuing violation shall constitute a

separate violation. However, the maximum amount of the penalty shall not exceed \$1,000.00.

- (c) Nonmonetary Penalty. A nonmonetary penalty, in the form of increased or additional planting requirements, may be assessed in addition to or in lieu of any monetary penalties prescribed under this section or the CTM.
- (d) Notice. ~~The city~~ The Chief Urban Forester shall determine the amount of the civil penalty, in accordance with Sec. 21-14(b) and the CTM for any violations of this Chapter, and shall notify the responsible person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. As specified by G.S. Sec. 160D-404(a), ~~the notice of violation shall be delivered to the person assessed the civil penalty by personal delivery, electronic delivery, or first-class mail. 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, and the certificate shall be deemed conclusive in the absence of fraud. The notice of violation shall be provided in accordance with Sec. 21-12(b) of this Chapter.~~ The notice of assessment shall direct the violator to either pay the assessment or ~~contest the assessment as specified in section 21-126.~~ file an appeal in accordance with Sec. 21-16 of this Chapter. If payment of assessed penalties is not received within 30 days after it is due, or if no request for an appeal hearing has been made as provided in accordance with section 21-126 Sec. 21-16 of this Chapter, the assessment shall be considered a debt due and owing owed to the City, and the matter shall be referred to the City Attorney for institution of a civil action to recover the amount of the debt. The civil action may be brought in the Mecklenburg County Superior Court or in any other court of competent jurisdiction.
- (e) Civil Action for Unpaid Assessment. If payment of assessed penalties is not received within 30 days after it is due, or if no request for an appeal hearing has been made in accordance with Sec. 21-16(c), the assessment shall be considered a debt due and owned to the City, and the matter shall be referred to the City Attorney for institution of a civil action to recover the amount of the debt. A civil action must shall be filed within three years of the date the assessment was due. An assessment that is not contested appealed is due when the violator is served with a notice of assessment. An assessment that is contested appealed is due at the conclusion of the administrative and judicial review of the assessment.
- ~~(f) Use of civil penalties collected. Civil penalties collected pursuant to this chapter shall be credited to the general fund as a nontax revenue and shall be used to further the purposes, intent and requirements of this chapter. The commission shall be consulted with regard to use of collected funds.~~
- ~~(g) Criminal penalties. Any person who knowingly or willfully violates any section of this chapter shall be guilty of a Class 2 misdemeanor and may, upon conviction thereof, be subject to punishment as provided in section 2-21. This remedy is in addition to any civil penalties that may be assessed.~~

(Ord. No. 4521, § 1, 9-27-2010) (2021-113; 6-21-21)

~~Sec. 21-125. Injunctive relief.~~

- ~~(a) Whenever the city has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, or any term, condition or provision of an approved permit, it may, either before or after the institution of any other action or proceeding authorized by this chapter, authorize the city attorney to institute a civil action in the name of the city for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the county superior court or any other court of competent jurisdiction.~~
- ~~(b) Upon determination of a court that an alleged violation is occurring or is threatened, the court shall enter such orders or judgments as are necessary to abate the violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of this chapter.~~

(Ord. No. 4521, § 1, 9-27-2010)

- (g) Injunctive Relief. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate this Chapter or any rule or order adopted or issued pursuant to this Chapter, or any term, condition or provision of an approved permit, it may, either before or after the institution of any other action or proceeding authorized by this Chapter, authorize the City Attorney to institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the county superior court or any other court of competent jurisdiction.

Upon determination of a court that an alleged violation is occurring or is threatened, the court shall enter such orders or judgments as are necessary to abate the violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of this Chapter.

- (h) Order to Take Corrective Action

- (1) If the owner or occupant of such property does not perform the duties set out in Sections 21-8, the City may order the pruning, removal, or treatment of trees on private property that cause obstructions, present insect, or disease problems, or otherwise present a danger to public health, safety, or welfare. The order shall be in writing and provided by personal delivery, email, or first-class mail to the property owner or occupant responsible for such condition and shall be acted upon within 30 days from the time of the receipt of the order. Orders provided by first-class mail are deemed received on the third business day following deposit of the order for mailing with the U.S. Postal Service. The staff person, or person providing the order shall certify to the City that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.
- (2) If, after 30 days, the owner or occupant has not responded or acted to prune, remove, or treat the trees, the City shall have the authority to enter upon the property to perform the work necessary to correct the condition and bill the owner or occupant for the actual costs incurred. In situations deemed critical to the public health, safety, or welfare, the City may act without prior notification to the property owner or occupant.

Sec. 21-15. - Tree advisory commission.

- (a) Powers and Duties

- (1) To serve in an advisory role in developing tree-related policy.
- (2) To review and provide guidance on best practices and education to sustain Charlotte's Tree Canopy.
- (3) To select and award recognition to exemplary trees and efforts to sustain tree canopy across the City of Charlotte.
- (4) To adopt bylaws necessary for the administration of its responsibilities not inconsistent with these regulations.
- (5) In determining appeals of administrative decisions and variances related to non-land development items regulated by this Chapter, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec.160D-406.

- (b) Membership, Hearings, and Procedures

- (1) The Charlotte Tree Advisory Commission shall be composed of 12 members, a majority of whom shall be residents of the City.
- (2) Seven of the members shall be appointed by the City Council.
- (3) Three of the members shall be appointed by the Mayor.
- (4) The remaining two members shall be representatives of the Charlotte Planning, Design and Development Department and Department of General Services and shall be ex officio (non-voting) members. These members shall be the Chief Urban Forester or their designee and the City Arborist or their designee.

- (c) The Commission shall nominate prospective members to City Council and the Mayor based on the following experience and background:

- (1) Professional horticulturist or landscape contractor with five years of experience.

- (2) Registered landscape architect with five years of experience.
- (3) Professional with five years of experience in city planning, urban design, government ordinance and regulations.
- (4) Member of a natural resources advocacy group.
- (5) Member of the International Society of Arboriculture.
- (6) Representative of sustainable development community.
- (7) Representative of citizen interest group.
- (8) Representative of public utilities.
- (9) Representative of neighborhood group.

Those members appointed by the Mayor and City Council shall serve three years, and no member appointed by the Mayor and City Council shall be eligible to serve more than two consecutive full terms. Member terms shall be appointed on a staggered basis so that no more than five of the ten appointed seats become vacant at one time.

(d) Meetings

- (1) Regular meetings shall be held periodically at a time and place determined by the Charlotte Tree Advisory Commission.
- (2) The adopted bylaws, where not inconsistent with this Ordinance, shall govern the procedures for meetings. The tree advisory commission shall keep minutes of its proceedings as required by G.S. Sec.160D- 308.

(e) Each member shall take an oath of office before starting their duties as required by G.S. Sec. 160D-309.

(f) Each member shall comply with the conflict of interest standards as specified in G.S. Sec. 160D-109 and Section 1.111 of the City of Charlotte zoning ordinance.

(Ord. No. 4521, § 1, 9-27-2010) (Ord. 2021-113 adopted 6-21-21)

Sec. 21-12616. - Hearings and appeals.

(a) *Quasi-judicial procedure.* In determining appeals of administrative decisions and variances, the ~~tree advisory~~ commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec. 160D-406.

The commission shall vote in accordance with state law. Vacant positions on the commission 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 commission for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(b) *Requests for variance.* Procedures for a request for a variance from this eChapter are as follows:

- (1) An application for a variance from the requirements of this eChapter shall entitle the person submitting the application (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission. As soon as possible after the receipt of the request, the chair of the commission will set a date, time and place for the hearing and notify the petitioner of the hearing by mail. The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. The hearing shall be conducted by the commission in accordance with subsection (e).
- (2) As per G.S. Sec. 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 eCity 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 commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, 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.

- (3) The commission may grant a variance from the requirements of this eChapter upon a finding that:
 - a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships 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. 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 is not a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
 - (4) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
 - (5) Variance approvals attach to and run with the land pursuant to G.S. Sec. 160D-104.
- (c) *Appeals of decisions, notices of violation and assessments of civil penalties.* Any party dissatisfied with a decision of the eCity adversely affecting such party in the application or enforcement of this eChapter, including notices of violations and assessments of civil penalties, may request a public hearing before the commission. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the commission as specified in G.S. Sec. 160D-405(f), unless the eCity staff member who made the decision certifies to the commission, after notice of appeal has been filed that because of the 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 the enforcement of this eChapter. In that case, enforcement shall not be stayed except by a restraining order, which may be granted by a court. Procedures for appeal hearings are as follows:
- (1) The issuance of a decision, including a notice of violation or assessment of a civil penalty by the eCity, shall entitle the person subject to the decision or responsible for the violation (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission within 30 days of the receipt of a decision, notice of violation or assessment of a civil penalty. In the absence of evidence to the contrary, notice given pursuant to G.S. Sec. 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.
 - (2) As soon as possible after the receipt of the request, the chair shall set a date, time and place for the hearing and, as specified in G.S. Sec. 160D-406, shall mail notices to (1) the person or entity whose appeal 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 eCity 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.

The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. The hearing shall be conducted pursuant to G.S. Sec. 160D-406 and subsection (e).

- (d) *Petition for review of commission's decision.* Every quasi-judicial decision of the commission shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. Sec. 160D-1402. Any petition for a review of the commission'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.
- (e) *Hearing procedure.* The following shall be applicable to any hearing conducted by the commission pursuant to subsection (a) or (b):
 - (1) At the hearing, the petitioner and the eCity shall have the right to:
 - a. Be present and be heard;
 - b. Be represented by counsel; and
 - c. Present evidence through witnesses and competent testimony relevant to the issues before the commission.
 - (2) Rules of evidence shall not apply to a hearing conducted pursuant to this section, and the commission may give probative effect to competent, substantial and material evidence.
 - (3) At least seven days before the hearing, the parties shall exchange a list of witnesses intended to be present at the hearing and a copy of any documentary evidence intended to be presented. Additional witnesses or documentary evidence may not be presented except upon consent of both parties or upon a majority vote of the commission.
 - (4) Staff shall transmit to the commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, a copy is also provided to the petitioner and to the property owner if that person is not the petitioner. 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 the hearing.
 - (5) Witnesses shall testify under oath or affirmation to be administered by the court reporter or another duly authorized official.
 - (6) 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.
 - (7) 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.
 - (8) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant, competent, substantial and material evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing. Both the representative for the eCity and for the petitioner shall have the right to cross examine

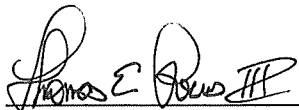
witnesses.

- (9) At the conclusion of the hearing, the commission shall render its decision on the evidence submitted at such hearing and not otherwise.
 - a. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the eCity's actions are true and substantiated, the commission shall, as it sees fit, uphold the eCity's action.
 - b. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the eCity's actions are not true and substantiated, the commission may, as it sees fit, reverse or modify any order, requirement, decision or determination of the eCity. The commission bylaws will determine the number of concurring votes needed to reverse any order, requirement, decision or determination of the eCity.
- (10) The commission shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to vote. The decision of the commission shall be based on findings of fact and conclusions of law to support its decision and shall be based upon competent, material, and substantial evidence in the record. The decision shall be reduced to writing, reflect the commission's determination of contested facts and their application to the applicable standards, and be approved by the commission and signed by the chair or other duly authorized member of the commission.
- (11) The decision of the commission shall be delivered by personal delivery, electronic mail, or by first-class mail to the petitioner, 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. If either party contemplates an appeal to a court of law, the party may request and obtain, at his own cost, a transcript of the proceedings.
- (12) The decision of the commission shall constitute a final decision.

(Ord. No. 4521, § 1, 9-27-2010) (2021-113; 6-21-21)

Section 2. Articles I, II, III, IV, and V of Chapter 21 of the Charlotte City Code shall be effective on June 1, 2023.

Approved As To Form

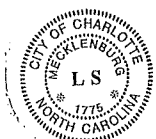
Sr. Asst 
City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 181-211.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 22nd day of August 2022.





O-4

ORDINANCE NO. 376-X

AN ORDINANCE TO AMEND ORDINANCE NUMBER 318-X, THE 2022-2023 BUDGET ORDINANCE, PROVIDING AN APPROPRIATION OF \$3,836,054.57 IN FUNDS FOR EMERGENCY RENTAL AND HOUSING STABILITY ASSISTANCE.

BE IT ORDAINED, by the City Council of the City of Charlotte:

Section 1. That the sum of \$3,836,054.57 is hereby estimated to be available from the United States Department of Treasury from the following source:

Emergency Rental Assistance Program

Section 2. That the sum of \$3,836,054.57 is hereby appropriated in the General COVID-19 Assistance Fund (2698) into the following project:

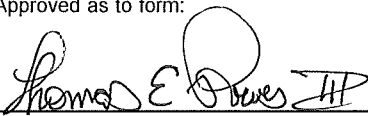
6110100137 - Emergency Rental Assistance

Section 3. That the existence of this project may extend beyond the end of the fiscal year. Therefore, this ordinance will remain in effect for the duration of the project and funds are to be carried forward to subsequent fiscal years until all funds are expended or the project is officially closed.

Section 4. That all ordinances in conflict with this ordinance are hereby repealed.

Section 5. That this ordinance shall be effective upon adoption.

Approved as to form:


Sr. Asst City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 212.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 22nd day of August 2022.





Stephanie C. Kelly, City Clerk, MMC, NCCMC

ORDINANCE


AN ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 3820 NORTHAVEN DRIVE PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 19, PART 6, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA, SAID BUILDING BEING THE PROPERTY OF JOSE S. EUCEDA 5710-2 ORR ROAD, CHARLOTTE, NC 28213

WHEREAS, the dwelling located at 3820 Northaven Drive in the City of Charlotte has been found by the Code Enforcement Official of the City of Charlotte to be in violation of the Housing Code of the City of Charlotte and the owners thereof have been ordered to demolish and remove said dwelling; and

WHEREAS, said owner(s) have failed to comply in a timely fashion.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that the Code Enforcement Official of the City of Charlotte is hereby ordered to cause the demolition and removal of the dwelling located at 3820 Northaven Drive in the City of Charlotte in accordance with the Housing Code of the City of Charlotte. This Ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:


Sr. Asst. Senior Assistant City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of August 2022, the reference having been made in Minute Book 157, and recorded in full in Ordinance Book 65, Page(s) 213.

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Stephanie C. Kelly, City Clerk, MMC, NCCMC