

CHARLOTTE CODE

CHAPTER 1:

PURPOSE AND APPLICABILITY

Section 1.101. Title.

These regulations shall be known and may be cited as the Zoning Ordinance of the City of Charlotte, North Carolina.

Section 1.102. Authority and purpose.

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

- (1) These zoning regulations have been designed to promote the public health, safety, and general welfare. To that end, the regulations address, among other things, the following public purposes: to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks and other public facilities and services.
(Petition No. 2006-16, § 1.102(1), 05/20/06)
- (2) The zoning districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the general plan or more detailed plan or policy for the development of the community, as well as with due consideration of existing development and uses of land in the City of Charlotte.
- (3) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the

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public welfare through the regulation of land use and the process of land development.

Section 1.103. Jurisdiction.

These regulations govern the development and use of all land and structures in the City of Charlotte. No building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of these regulations for the district in which it is located and other applicable regulations, except as otherwise provided by these regulations.

Section 1.104. Zoning Maps.

The City Council, upon the recommendation of the Planning Commission, may adopt a series of Zoning Maps, which shall set out and delineate the zoning districts established in Chapters 9, 10, and 11 for all land within the jurisdiction of these regulations. These Zoning Maps are produced from the Planning Department's digital zoning database stored in the Geographical Information System (GIS). The Zoning Maps and the Planning Department's digital zoning database stored in the GIS are hereby designated, established, and incorporated as a part of these regulation and the originals thereof, which are on file at the offices of the Planning Department, shall be as much a part of these regulations as if they were fully described in these regulations. The Zoning Maps shall be reviewed and may be amended from time to time through the amendment process, as provided in Chapter 6 of these regulations, to be consistent with the objectives and policies of the "Generalized Land Plan", district plans, area plans, and other public policies related to land development adopted by the City Council provided, however, that nothing herein shall limit the authority of the City Council to approve any petition for reclassification of property in accordance with the procedures set out in the "District Plan General Policies", as the same may be amended from time to time.

(Petition No. 2003-28, § 1.104, 5/19/03) (Petition No2012-020, § 1.104, 05/14/2012)

Section 1.105. Exceptions to applicability.

- (1) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. 160D-403(f) and 160D-1115. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12

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months, the permit shall immediately expire pursuant to G.S. Sec. 160D- 403(c) and 160D-1111 and any further work shall be subject to these regulations.

- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. 160D-403(c) and 160D-1111 and the building permit has not been revoked pursuant to G.S. Sec. 160D- 403(f) and 160D-1115 or (b) a vested right has been established pursuant to [Section 1.110](#) and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. 160D-403 and 160D-1110 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. 160D-403(c) and 160D-1111 and G.S. Sec. 160D-403(f) and 160D-1115 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.
- (3) These regulations shall not be applicable or enforced without the consent of the owner with regard to uses previously approved as 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) or approved pursuant to a special use permit, except as provided in subsection (4) below. Development of those uses, cited above, will be governed by the previously approved site plans and the regulation in effect at time that such uses were approved, except that, if such uses are subject to a Pedestrian Overlay District (“PED”), described in Chapter 10, Part 8, then those uses must comply with the streetscape improvements that are required for a PED. Any amendments to these approved uses, which cannot be approved administratively, will be subject to the requirements of these regulations. An exception is that an adult establishment shall not be a permitted use as a vested right unless the site-specific development plan explicitly provides that the adult establishment is a permitted use or the site meets the standards of Section 12.518.

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- (4) Those uses previously approved as 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) or special use permit that are located within a Watershed Overlay District and that have not met the requirements of subsections (1) or (2) above, may be developed if they comply with the minimum State watershed regulations (G.S. §143-214.5) adopted by the North Carolina Environmental Management Commission. Amendments to the previously approved site plan in order to comply with the adopted minimum State watershed regulations may be approved administratively by the Planning Director in accordance with [Section 6.207](#) of these regulations.

Section 1.106. Relation to other ordinances.

It is not intended that this ordinance will in any way repeal, annul or interfere with the existing provisions of any other law or ordinance except the zoning ordinance, which this ordinance replaces. In addition, it is not intended that this ordinance will in any way repeal, annul or interfere with any rules, regulations or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this ordinance will interfere with any easements, covenants or other agreements between parties. However, if the provisions of this ordinance impose greater restrictions or higher standards for the use of a building or land, or for yards or size of structures than is called for by other ordinances, permits, easements or agreements, then the provisions of this ordinance will take precedence over the others and will control the use or development, except as otherwise provided under [Section 1.105](#).

Section 1.107. Relation of this ordinance to any pending actions.

The adoption of this ordinance will not affect any action, suit or proceeding which may be pending at the time the ordinance is adopted. With respect to the subject matter of any pending action, all rights and liabilities that have been received or created under any previous zoning ordinances which have been superseded by this ordinance are still valid and may be preserved and enforced.

Section 1.108. Separability.

If any section or specific provision or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision,

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standard, or district boundary of these regulations, except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Section 1.109. Effective date.

These regulations shall become effective on January 1, 1992.

Section 1.110. Procedures for establishing a vested right and permit choice.

(1) Vested Rights

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

- (a) site-specific vesting plans (including conditional zoning district plans);
- (b) multi-phased developments pursuant to G.S. Section 160D-108(f);
- (c) development permits in accordance with N.C.G.S. 143-755; and
- (d) the terms of development agreements authorized by N.C.G.S 160D, Chapter 10.

(2) Period of Validity.

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

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The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum, up to a period of five years where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations.

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

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development.

Development permits (including zoning permits, site plan approvals):
Development approvals are valid for 12 months, unless work authorized by the permit is substantially commenced.

- (c) Modifications or amendments to an approved site-specific plan or multi-phased development does not extend the period of vesting unless specifically so provided by the City Council when it approves the modification or amendment.
- (3) Effect of a Vested Right.
 - (a) A vested right, once established, precludes any action by the City Council that would modify, alter, impair, prevent, diminish, or delay the development or use of the property allowed by the applicable zoning regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.
 - (b) The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.
 - (c) A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property, except for the use of land for outdoor

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advertising governed by G.S. 136-136.1 and G.S. 131.2 in which case the rights granted run with the owner of the permit issued by the North Carolina Department of Transportation.

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

(4) Expiration of a Vested Right

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

(5) Permit Choice

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

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

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

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

Section 1.111. Conflicts of Interest.

- (1) **Governing Board.** – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (2) **Appointed Boards.** – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) **Administrative Staff.** – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- (4) **Quasi-Judicial Decisions.** – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member

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having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

- (5) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (6) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.