

Petition No. 2011-005

Petitioner: Charlotte-Mecklenburg Planning Commission

**AN ORDINANCE AMENDING APPENDIX A
OF THE CITY CODE –ZONING ORDINANCE**

ORDINANCE NO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

A. CHAPTER 6: AMENDMENTS

1. PART 1: Provisions of General Applicability

- a. Modify Section 6.110, "Hearing", by modifying subsection (3) to add regulations that make it unlawful to make land use decisions that discriminate based upon the fact that affordable housing is contained in the development. All other subsections remain unchanged. The revised subsection shall read as follows:

Section 6.110. Hearing.

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

In making its written recommendation, the Planning Commission shall also advise and comment on whether the rezoning petition is consistent with the purposes, goals, and objectives and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property.

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

recommendation by the Planning Commission based on considerations of limiting high concentrations of affordable housing is permissible.

- b. Modify Section 6.111, "Action by City Council", by adding a new subsection (4) and renumbering the remaining subsections. The new subsection will add regulations that make it unlawful to make land use decisions that discriminate based upon the fact that affordable housing is contained in the development. All other subsections remain unchanged. The revised subsection shall read as follows:

Section 6.111. Action by City Council.

- (1) The City Council, after receiving the report and recommendation of the Planning Commission, shall consider the reports and recommendations of the Planning Commission, the Planning Commission staff, and other departments. Within a reasonable time the City Council shall either reject the proposed amendment or adopt an ordinance enacting the proposed amendment with or without modifications.
- (2) In considering any petition to reclassify property, the City Council shall consider the following items:
 - (a) Whether the proposed reclassification is consistent with the purposes, goals, objectives, and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property;
- (3) In considering any petition to reclassify property, the City Council may consider, although is not required to, the following:
(Petition No. 2006-16 §6.111(3), 03/20/06)
 - (a) Whether the proposed reclassification is compatible with the overall character of existing development in the immediate vicinity of the subject property;
 - (b) The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and wastewater treatment and garbage services; and
 - (c) Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.
- (4) Per G.S. 41A-4 and G.S 41-A-5(a), the City Council, in considering any petition to reclassify property, shall not discriminate against affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. Reclassification of property by the City Council based on considerations of limiting high concentrations of affordable housing is permissible.

- (45) In approving an amendment to reclassify property to a district other than a conditional zoning district, or with the consent of the petitioner in the reclassification to a conditional zoning district, the City Council may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested, to a classification or classifications between the existing and the requested classifications, or to any higher classification in the hierarchy of zoning districts established in Section 9.102. This action may occur without the withdrawal or modification of the petition or further public hearings. In the case where a petitioner requests a text amendment, the City Council may modify any proposed text amendment upon adoption of an ordinance enacting the amendment without the withdrawal or modification of the petition or further public hearings.
- (56) In approving a rezoning petition, the City Council shall adopt a statement describing whether its action is consistent with the purposes, goals, objectives, and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property, and provide an explanation why the action taken is reasonable and in the public interest. This statement shall not be subject to judicial review.

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, 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 _____ day of _____, 2010, the reference having been made in Minute Book _____, and recorded in full in Ordinance Book _____, Page(s) _____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this _____ day of _____, 2010.
