

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 160A, Article 19, 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 public welfare through the regulation of land use and the process of land development.

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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. 160A-422. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire pursuant to G.S. Sec. 160A-418 and any further work shall be subject to these regulations.

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- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. 160A-418 and the building permit has not been revoked pursuant to G.S. Sec. 160A-422, or (b) a vested right has been established pursuant to Section 1.110 and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. 160A-417 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. 160A-418 and G.S. Sec. 160A-422 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, 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.

Pursuant to G.S. § 160A-385.1, “Vested Rights”, a vested right to undertake and complete the development and use of the property under the terms and conditions as approved shall be established with respect to any property zoned as follows:

- (a) 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) and
- (b) special use permit.

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

A right, which has been vested as provided for in this section, shall remain vested for a period of from two to five years. The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the City Council when it approves the modification or amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. A right, which has been vested as provided in this Section 1.110, shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.