

Revised 3-28-07, 4-2-07, 4-16-07

**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 2: DEFINITIONS AND RULES OF CONSTRUCTION

1. PART 2: DEFINITIONS

- a. Amend Section 2.201, "Definitions" by adding a new definition for "building massing" in alphabetical order that reads as follows:

Massing, building.

The height, width and depth of a structure.

B. CHAPTER 3: DECISION-MAKING AND ADMINISTRATIVE BODIES

1. PART 2: PLANNING COMMISSION

- a. Amend Section 3.201, "Powers and duties" by adding the authorization to hear appeals to Administrative Amendments as a new subitem (5): The Section shall read as follows:

Section 3.201. Powers and duties.

The Planning Commission shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

(Petition No. 2005-78 §3.201, 06/20/05)

- (1) To initiate, review, and make recommendations to the City Council regarding amendments to the text of these regulations and to the Zoning Maps.
- (2) To review the progress of development allowed under the terms of a reclassification of property.

- (3) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.
- (4) Any such other duties and responsibilities transferred from the County to the City as per the Interlocal Cooperation Agreement as amended May 2005.
- (5) To hear appeals of administrative amendments as per Section 6.207.

C. CHAPTER 6: AMENDMENTS

1. PART 2: CONDITIONAL ZONING DISTRICTS

- a. Amend Section 6.207, “Alternations to approval” by modifying the process used to approve administrative amendment changes. The revised section shall read as follows:

Section 6.207. Alterations to approval.

- ~~(1) Except as provided in subsection two below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures in this Chapter.~~
- ~~(2) The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. An administrative amendment shall not be subject to a protest petition pursuant to Section 6.113. Any decision must be in writing stating the grounds for approval or denial.~~

~~Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less.~~

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

then the applicant can only file a rezoning petition for a public hearing and Council decision.

Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Planning Director.

If the Planning Director or designee denies approval of the requested amendment, then the applicant can appeal that decision to the appropriate committee of the Planning Commission for its review and decision, pursuant to the standard above. If appealed, this requires notification to adjacent property owners within fifteen days of the filed appeal. If the Planning Commission's Committee denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the Planning Commission's Committee within fifteen days of knowledge of the approval. Even if an adjacent property does not have knowledge of the approval, the approval shall be final after thirty days.

(1) **Changes to an approved site plan.**

Except as provided in subsection 6.207(2) below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures in this Chapter.

(2) **Administrative amendment process.**

- (a) **Application for an administrative amendment.**
Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review.

- (b) **Authority to approve an administrative amendment.** The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties.

Significant changes to an approved site plan that can not be considered through an administrative amendment include the following:

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

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

- (c) **Staff decision, notifications, appeal process.**

- (i) **Approval where there was a valid protest petition in effect on the original rezoning petition.** If an administrative amendment is approved, and a valid protest petition was

filed against the original petition on or after January 1, 2006 (even if it was withdrawn), then the Planning Director or designee shall:

1. Send written notification of the approval to adjacent property owners within 300' of the subject parcel (exclusive of rights-of-way), and
2. Send written notification of the approval to neighborhood leaders, as listed by the Planning Department, within one mile of the subject site.
3. Post a sign on the subject property, indicating that the staff has granted an administrative amendment.

Adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within 21 days from the date of the written notification. The Zoning Committee of the Planning Commission shall hear the appeal through a quasi-judicial process.

(ii) **Approval without valid protest petition in effect on the date of the original rezoning decision.** If an administrative amendment is approved, adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within 21 days of the date the decision was filed, although no notification to adjacent property owners is required.

(iii) **Denial.** If an administrative amendment is denied, then the Planning Director or designee shall send written notification of the denial to the applicant. The applicant shall have 21 days from the date of the written notification to file an appeal of the decision with the Planning Director or designee.

If the denial is appealed, then the Planning staff shall send written notification to adjacent property owners within 300' of the subject parcel (exclusive of rights-of-way), notifying them of the appeal.

The Zoning Committee of the Planning Commission shall hear the appeal through a quasi-judicial process.

d. **Zoning Committee Appeal Process.**

(i) The Zoning Committee of the Planning Commission shall hold a quasi-judicial meeting to hear the appeal. The Zoning Committee may affirm, reverse or modify the decision under appeal, making findings of fact and conclusions of law to support its decision.

(ii) Appeals of the Zoning Committee decision may be made to Superior Court.

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 _____, 2007, 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 _____, 2007.