

CHARLOTTE CODE

PART 1: CITY COUNCIL

CHAPTER 3:

DECISION-MAKING AND ADMINISTRATIVE BODIES

PART 1: CITY COUNCIL

Section 3.101. Powers and duties.

The City Council 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:

- (1) To initiate and make amendments to the text of these regulations and to the Zoning Maps.
- (2) To hear, review, and adopt or reject amendments to the text of these regulations and to the Zoning Maps. A City Council member shall not vote on any rezoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member.
(Petition No. 2006-16 §3.101(2), 03/20/06)
- (3) To take such other action not delegated to the Planning Commission or Board of Adjustment as the City Council may deem desirable and necessary to implement the provisions of these regulations.

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PART 2: PLANNING COMMISSION

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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.
(Petition No. 2007-27, §3.201(5), 04/16/07)

Section 3.202. Membership; officers.

Members and officers of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall comply with the conflict of interest standards in Section 1.111.

Section 3.203. Meetings, hearings, and procedures.

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Planning Commission in accordance with these regulations and in accordance with the Interlocal Cooperation Agreement of July 2, 1984, as it may be amended from time to time.
- (2) Any rules of procedure adopted by the Planning Commission shall be kept on file at the office of the Charlotte Planning, Design and Development Department. and at the City Clerk's office and posted on the website.
- (3) No meeting or business shall be conducted by the Planning Commission without a quorum, as defined for the Planning Commission and its committees by the Interlocal Cooperation Agreement of July 2, 1984, as it may be amended from

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PART 2: PLANNING COMMISSION

time to time.

- (4) In the event that a quorum is not present at any meeting of the Planning Commission, the meeting shall be rescheduled by the Chairman to a date certain, as soon as is practical and in accordance with applicable rules of the Commission.
- (5) The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Commission, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Charlotte-Mecklenburg Planning Department as public records.

(Petition No2012-020, § 3.203, (5) 05/14/2012)

Section 3.204. Staff.

The staff for the Planning Commission shall be provided in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

Staff shall comply with the conflict of interest standards in Section 1.111.

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PART 3: BOARD OF ADJUSTMENT

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Section 3.301. Powers and duties.

The Zoning Board of Adjustment 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:

- (1) To hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator, or by his or her authorized designee.
(Petition No. 2014-087 §3.301(1), 10/20/2014)
- (1A) The Board of Adjustment shall have the authority to hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the City of Charlotte Historic District Commission.
- (2) To hear and decide petitions for variances from these regulations in accordance with the provisions of [Section 5.108](#).
- (3) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.
- (4) To assume any other duties assigned by the City Council.
- (5) The Board of Adjustment shall not have jurisdiction with respect to [Section 6.201](#) Conditional Districts except as provided in this section. The Board of Adjustment shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the Board prior to the approval of a conditional district. In addition, the Board of Adjustment may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. At no time shall the Board of Adjustment have authority to consider a variance relating to the number of or size of permissible signs in a conditional district.
- (6) The Board of Adjustment shall not have authority to grant variances for use changes.
(Petition No. 2006-16 §3.301(6), 03/20/06)

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PART 3: BOARD OF ADJUSTMENT

Section 3.302. Membership; officers.

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the City Council procedures. Each member shall comply with the conflict of interest standards in Section 1.111.

Section 3.303. Meetings, hearings and procedures.

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Board of Adjustment in accordance with these regulations.
- (2) Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the office of the Zoning Administrator and at the office of the City Clerk, and posted on the Charlotte Planning, Design & Development Department website. A current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (3) No meeting, hearing, or action shall be conducted by the Board of Adjustment without a quorum, as defined for the Board of Adjustment rules of procedure.
- (4) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Board of Adjustment, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Zoning Administrator as public records.
- (5) The concurring vote of a simple majority of the Board of Adjustment shall be necessary to grant a zoning variance, as per special legislation. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
(Petition No. 2014-087 §3.303(5), 10/20/2014)
- (6) In determining appeals of administrative decisions and variances, the Board of Adjustment shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.

Section 3.304. Staff.

The staff for the Board of Adjustment shall be provided by the Zoning Administrator.

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PART 3: BOARD OF ADJUSTMENT

Staff shall comply with the conflict of interest standards in Section 1.111.

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PART 4: HISTORIC DISTRICT COMMISSION

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Section 3.401. Powers and duties.

The Historic District 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:

- (1) To hear, review, and decide on applications for certificates of appropriateness under Chapter 10, Part 2.
- (2) To develop standards for development within designated historic districts.

Section 3.402. Membership: officers.

Members and officers of the Historic District Commission shall be appointed and removed in accordance with the resolutions adopted by the Charlotte City Council and the Mecklenburg Board of County Commissioners. Each member shall comply with the conflict of interest standards in Section 1.111.

Section 3.403. Meetings, hearings, and procedures.

- (1) All meetings and hearings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the Historic District Commission in accordance with these regulations and in accordance with the resolutions adopted by the City Council from time to time.
- (2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission, at the office of the City Clerk, and posted on the Charlotte Planning, Design, and Development website.
- (3) No meeting, hearing, or action shall be conducted by the Historic District Commission without a quorum, as defined for the Historic District Commission by the resolutions adopted by the City Council from time to time.
- (4) In the event that a quorum is not present at any meeting of the Historic District Commission, the meeting shall be rescheduled by the Chairman to a date certain as soon as is practical and in accordance with applicable rules of the Historic District Commission.

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- (5) The Historic District Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Historic District Commission, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Historic District Commission as public records.
- (6) In determining certificates of appropriateness, the Historic District Commission shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.
- (7) All decisions of the Historic District Commission in granting or denying a certificate of appropriateness may be appealed to the Board of Adjustment. A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party within thirty (30) days of the receipt of the written notice of the determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 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.

Section 3.404. Staff.

Staff for the Historic District Commission shall be provided in accordance with the resolutions adopted by the Charlotte City Council and the Mecklenburg Board of County Commissioners.

Staff shall comply with the conflict of interest standards in Section 1.111.

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PART 5: PROFESSIONAL STAFF

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Section 3.501. Charlotte Planning Commission Staff: powers and duties.

In addition to any authority granted to the staff of the Charlotte Planning Department staff by other laws and ordinances, the Planning Director and the employees under his or her control 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 §3.501, 06/20/05)

(Petition No. 2012-020, § 3.501, 05/14/2012)

- (1) To serve as staff to the City Council, and the Planning Commission, with regard to their functions under these regulations, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, and amendments to the Zoning Maps, the preparation, adoption, and updating of land use plans, or any other matters brought before them.
- (2) To maintain the text of these regulations and the Zoning Maps.
- (3) To maintain development review files and other public records related to the administration and enforcement of these regulations.
- (4) To review applications for building permits in conditional zoning districts filed under these regulations.
- (5) To recommend and comment on proposed amendments to these regulations and to the Zoning Maps.
- (6) To establish such rules of procedure as are necessary and proper for the administration of their responsibilities under these regulations.
- (7) To determine street classifications not otherwise specified on the adopted Charlotte-Mecklenburg Thoroughfare Plan.
- (8) To review rezoning petitions for zoning compliance with these regulations.
- (9) To serve as staff to the Zoning Board of Adjustment with regard to its function under these regulations and inform such body of all facts and information at its disposal with respect to appeals and variances, or any other matter brought before it under these regulations.

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- (10) To maintain development review files and other public records related to the administration and enforcement of these regulations.
- (11) To inform applicants in order to facilitate and expedite their compliance with the requirements of these regulations.
- (12) To render interpretations of the provisions of these regulations and the district boundaries indicated on the Zoning Maps.
- (13) Any such other duties and responsibilities transferred from the County to the City as per the Interlocal Cooperation Agreement as amended May 2005.
- (14) To comply with the Conflict of Interest standards in Section 1.111.

Section 3.502. Land Use and Environmental Services Agency (LUESA): powers and duties.

In addition to any authority granted to the Land Use and Environmental Services Agency (LUESA) by other laws and ordinances, the Land Use and Environmental Services Agency 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 §3.502, 06/20/05)

- (1) To distribute applications for building permits, and certificates of occupancy as required by these regulations.
- (2) To review applications for building permits, and certificates of occupancy, and issue building permits and certificates of occupancy as required by City and County ordinances.
- (3) To maintain files and other public records related to the administration of these regulations.
- (4) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.
- (5) Any such other duties and responsibilities delegated by the city to the county.
(Petition No. 2006-116 §3.502(5), 01/16/07)

Section 3.503 Engineering and Property Management: powers and duties.

In addition to any authority granted to Engineering and Property Management by other laws and ordinances, Engineering and Property Management shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

(Petition No. 2005-78 §3.503, 06/20/05)

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- (1) To conduct inspections and enforce the provisions of the Zoning Ordinance.
(Petition No. 2006-116 §3.503(1), 01/16/07)
- (2) To review rezoning petitions to determine compliance of the proposed development with the Zoning Ordinance requirements and other applicable city ordinances, including Soil Erosion and Sedimentation Control Ordinance, Subdivision Ordinance, Storm Water Ordinance, Tree Ordinance, and any other applicable ordinances that may be adopted by the City Council.
- (3) To review applications for building permits to determine compliance of the proposed development with city land development requirements as set forth in applicable city ordinance, including Soil Erosion and Sedimentation Control Ordinance, Subdivision Ordinance, Storm Water Ordinance, Tree Ordinance, and any other applicable ordinances that may be adopted by the City Council.
- (4) To distribute applications for zoning permits, change of use permits, signs, and other miscellaneous zoning permits as required by these regulations.
- (5) To review zoning permit applications and plans for residential and non-residential land development and perform subsequent field inspections and monitoring to ensure compliance with the Zoning Ordinance, and other applicable city ordinances, including Soil Erosion and Sedimentation Control Ordinance, Subdivision Ordinance, Storm Water Ordinance, Tree Ordinance, and any other applicable ordinances that may be adopted by the City Council.
- (6) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.
- (7) Any such other duties and responsibilities delegated by the County to the City.
(Petition No. 2006-116 §3.503(7), 01/16/07)

Section 3.504. Utility Department; powers and duties.

In addition to any authority granted to the Charlotte-Mecklenburg Utility Department by other laws and ordinances, the Charlotte-Mecklenburg Utility Department shall have the powers and duties in accordance with these regulations, which include, but are not limited to, the following:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of proposed development on the demand for public water and sewer facilities intended to serve that development.

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- (2) When requested, to review applications for building permits and rezoning petitions to determine compliance of any water and sewer facilities and improvements to be provided by the developer.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with applicable standards and regulations.

Section 3.505. Parks and Recreation Department: powers and duties.

In addition to any authority granted to the Parks and Recreation Department by other laws and ordinances, the Parks and Recreation Department shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of the proposed development on the demand for public recreational lands and facilities intended to serve that development.
- (2) When requested, to review applications for building permits to determine the compliance of any public recreational lands and facilities to be provided by the developer with applicable standards and regulations.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

Section 3.506. Department of Health: powers and duties.

In addition to any authority granted to the Health Department by other laws and ordinances, the Health Department shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

- (1) To review applications for rezoning petitions to evaluate the impact of the proposed development on septic tank usage and public health.
- (2) When requested, to review applications for building permits to evaluate septic tank usage for compliance with applicable standards and regulations.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

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Section 3.507. Department of Environmental Protection: powers and duties.

In addition to any authority granted to the Environmental Protection Department by other laws and ordinances, the Environmental Protection Department shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

- (1) To review applications for rezoning petitions to evaluate the impact of proposed development on air quality, water quality, public water supplies, and the transportation and disposal of solid and hazardous wastes.
- (2) When requested, to review applications for building permits for compliance with applicable standards and regulations.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

Section 3.508. Fire Department: powers and duties.

In addition to any authority granted to the Fire Department by other laws and ordinances, the Fire Department shall have the powers and duties, which include, but are not limited to, the following:

- (1) When requested, to review applications for building permits and rezoning petitions to evaluate the proposed development's risk for fire hazards and accessibility for fire fighting equipment, to determine the compliance of water supplies with applicable standards and regulations to meet fire fighting needs, and to determine the compliance of any hydrants or other fire fighting equipment to be provided by the developer with applicable standards and regulations.
- (2) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

Section 3.509. Charlotte-Mecklenburg Schools Staff: powers and duties.

In addition to any authority granted to the staff of the Charlotte-Mecklenburg Schools by other laws and ordinances, the Superintendent of Schools and the employees under his or her control 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:

- (1) When requested, to review applications for rezoning petitions to evaluate the impact of the proposed development on the demand for school facilities.

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- (2) When requested, to review building permits to determine the compliance of any school land or facilities to be provided by the developer with applicable standards and regulations.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provision of these regulations.

Section 3.510. Department of Transportation: powers and duties.

In addition to any authority granted to the Charlotte Department of Transportation by other laws and ordinances, the Department of Transportation shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

- (1) When requested, to review applications for building permits and rezoning petitions to determine whether the proposed development complies with the standards in these regulations regarding parking, loading and unloading, internal traffic circulation, and connections to public street rights-of-way.
- (2) To evaluate the traffic generated by a proposed development and any improvements to be provided by the developer to ameliorate the impact of that traffic.
- (3) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.

Section 3.511 Neighborhood Development: powers and duties.

In addition to any authority granted Neighborhood Development by other laws and ordinances, Neighborhood Development shall have the powers and duties, in accordance with these regulations, which include, but are not limited to, the following:

(Petition No. 2005-78 §3.511, 06/20/05)

- (1) To enforce the provisions of Zoning Ordinance regulations and conduct inspections.
- (2) To review rezoning petitions to determine compliance of the proposed development with the Zoning Ordinance requirements and other City ordinances.
- (3) To distribute applications for zoning permits, change of use permits, customary home occupations, signs, and other miscellaneous zoning permits as required by these regulations.

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- (4) To review zoning permit applications and plans for residential land development projects (excluding planned multi-family projects) and subsequent field inspections and monitoring through construction to ensure compliance with the Zoning Ordinance.
- (5) To provide the City Council and Planning Commission with reports and recommendations, at their direction, with respect to matters before those bodies under the provisions of these regulations.
- (6) Any such other duties and responsibilities delegated by the County to the City.
(Petition No. 2006-116 §3.511(6), 01/16/07)

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PART 6: ALTERNATIVE COMPLIANCE REVIEW BOARD

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(Petition No. 2018-169 §Part 6, 04/15/2019)

Section 3.601: Establishment, powers, and duties.

An Alternative Compliance Review Road is hereby established. The Alternative Compliance Review Board shall have the following powers and duties to be carried out in accordance with Chapter 15, which include, but are not limited to the following:

- (1) To review submittals for alternative compliance, receive applicant and public input on submittals, and make recommendations to the Charlotte Planning, Design and Development Director based on Chapter 15 criteria and expertise.
- (2) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with these regulations.
- (3) To submit an annual written report to the City Clerk for distribution to the Mayor and City Council's information, as per adopted City Council policy for administering Boards.

Section 3.602: Membership and officers.

- (1) Members and officers of the Alternative Compliance Review Board shall be appointed and removed in accordance with City Council adopted policies and procedures for Boards. Each member shall comply with the conflict of interest standards in Section 1.111.
- (2) The Board shall be composed of seven members and two alternates who shall be appointed according to the following disciplines (the determination that an appointee meets the relevant discipline shall be made by the City Council whose determination shall be conclusive):
 - (a) Four members involved in the real estate development industry including architects, landscape architects, civil engineers, urban designers, contractors and other real estate development industry experts.
 - (b) Three community representatives.
 - (c) One alternate real estate development industry representative.
 - (d) One alternate community representative.

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PART 6: ALTERNATIVE COMPLIANCE REVIEW BOARD

Section 3.603: Terms of office.

The terms of office shall be for three (3) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the City Council shall appoint a person to serve the unexpired terms of the vacant position.

Section 3.604: Quorum, attendance, and vacancies.

- (1) Five voting members shall constitute a quorum.
- (2) No meeting or action shall be conducted by the Alternate Compliance Review Board without a quorum. From time to time, the quorum may be changed for the Alternative Compliance Review Board by resolutions adopted by the City Council.
- (3) In the event a quorum is not present at any meeting of the Alternative Compliance Review Board, the meeting shall be rescheduled by the Chairman to another date and time as soon as is practical and in accordance with the applicable rules of the Alternative Compliance Review Board.
- (4) Members are required to attend meetings in accordance with Board attendance policies adopted by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (5) Members shall be subject to removal from the Board with or without cause by the City Council.

Section 3.605: Meetings and procedures.

- (1) All meetings shall be open to the public as required by law and shall be conducted in accordance with the procedures set forth in these regulations, City Council policies for Boards, and rules of procedure adopted by the Alternative Compliance Review Board.
- (2) Any rules of procedure adopted by the Alternative Compliance Review Board shall be kept on file at the office of the Charlotte Planning, Design and Development Department, at the City Clerk's office, and posted on the Department website.
- (3) The Alternative Compliance Review Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating the fact that a member is absent or is excused from voting under the rules of the Alternative Compliance Review Board. The Board shall keep records of its official recommendations, all of which shall be filed immediately in the Charlotte Planning, Design and Development Department as public records.

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PART 6: ALTERNATIVE COMPLIANCE REVIEW BOARD

Section 3.606: Staff.

- (1) Staff for the Alternative Compliance Review Board shall be provided by the Charlotte Planning, Design and Development Department.
- (2) Staff shall file attendance reports with the City Clerk, pursuant to the schedule established by the City Clerk.
- (3) Staff shall comply with the Conflict of Interest standards in Section 1.111.