

Petition No: 2010-078
Petitioner: Charlotte-Mecklenburg Planning Department

FEB 21 2011

ORDINANCE NO. _____ **AN ORDINANCE AMENDING APPENDIX A
OF THE CITY CODE – ZONING ORDINANCE**

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 "Heating, ventilation or air conditioning equipment", in alphabetical order. The new definition shall read as follows:

Heating, Ventilation, or Air Conditioning Unit.

Equipment that is used to heat, cool, or ventilate a structure. Such equipment is considered to be part of the structure.

B. CHAPTER 4: DEVELOPMENT APPROVAL

1. Amend Section 4.107, "Delegated authority for development approval based upon existing conditions", subsection (2), "Yard, Buffers, and Appurtenant Encroachments" by 1) removing the term "appurtenant" from the title, 2) removing references to "air conditioning units" from the text and updating it to "heating, ventilation or air conditioning units", and 3) updating the name of various City Departments. The revised section shall read as follows:

(2) Yard, Buffers, and Encroachments.

The Zoning Administrator shall also have the administrative authority to approve deviations from yard and buffer requirements. To approve a deviation, the Zoning Administrator must determine that there has been a surveying error, a misunderstanding about a property line, an action of Land Use and Environmental Services Agency (LUESA), Neighborhood & Business Services, Engineering and Property Management, and/or the Planning Department, or other similar basis that demonstrates an inadvertent error. Any approval for a reduction shall not exceed two feet, except an approval for heating, ventilation, or air conditioning units, which shall not exceed three feet. The Zoning Administrator shall have the authority to apply subsection (1) or (2) but not both sections. The Zoning Administrator shall have the authority to attach any condition for a fence, screening, or a similar requirement, if deemed necessary.

C. CHAPTER 7: NONCONFORMITIES

1. Amend Section 7.103, “Nonconforming structures” by adding a new subsection (9) to address nonconforming utility structures, backflow preventers, and heating, ventilation or air conditioning equipment. The new subsections shall read as follows:

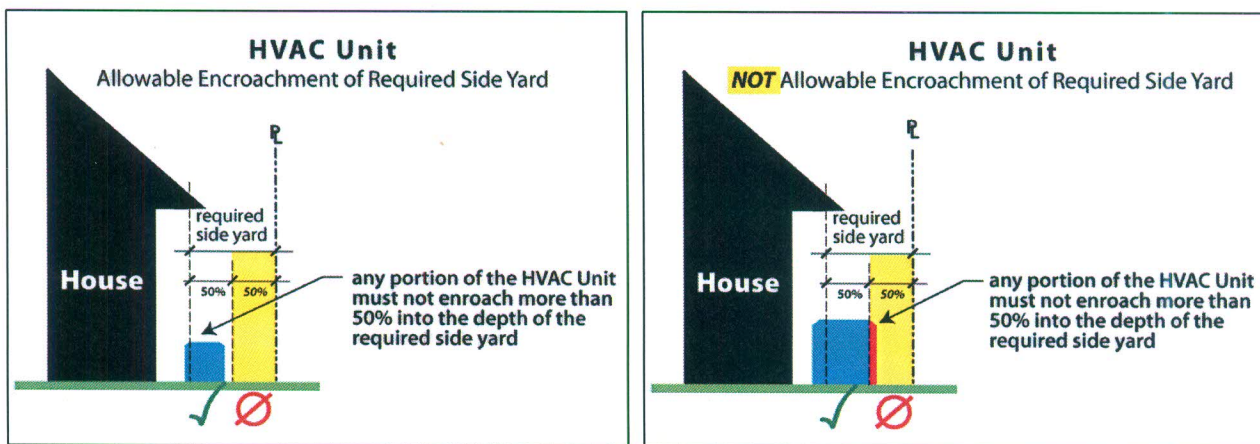
(9) An existing, nonconforming heating, ventilation, or air conditioning unit, backflow preventer, or accessory utility structure may be replaced provided the replacement structure does not increase the existing nonconforming side or rear yards. Nor may the replacement heating, ventilation, or air conditioning unit, backflow preventer or accessory utility structure exceed 42 inches in height if located in the required setback or the required side or rear yard along a public street.

D. CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY

1. PART 1: Supplemental Development Standards

a. Amend Section 12.106, “Uses and structures prohibited and allowed in required setbacks and yards”, by adding a new subsection (2)(d) to allow heating, ventilation and air conditioning equipment to encroach into the required side or rear yard. All remaining subsections shall remain unchanged. The new subsection shall read as follows:

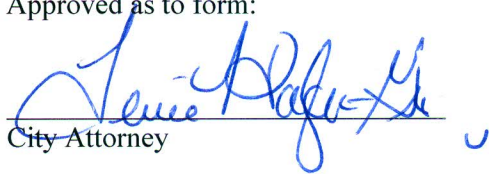
(d) Heating, ventilation, or air conditioning equipment are considered to be part of a structure and shall not be located in any setback, sight distance triangle, or required buffer or screening. Heating, ventilation, or air conditioning equipment may encroach into the required side yard or rear yard by no more than 50 percent of the required yard.



b. Delete Section 12.112, “Existing Nonconforming Accessory Utility Structures” in its entirety. The regulations will be relocated into Chapter 7.

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 21st day of February, 2011, 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 _____, 2011.
