



JOHN J. TECKLENBURG
MAYOR

City of Charleston
South Carolina

VANESSA TURNER-MAYBANK
CLERK OF COUNCIL

Clerk of Council Department

**SPECIAL
COMMUNITY DEVELOPMENT COMMITTEE AGENDA**

A meeting of the Community Development Committee will be held at **4:30 p.m., Thursday, July 11, 2019** at 80 Broad Street, 2nd Floor City Hall Council Chamber. The agenda will be as follows:

- Invocation
- a. **Public Participation**
- b. **Approval of Minutes**
 1. May 23, 2019
- c. **New Business:**
 1. Re-review of the Opportunity Zone Ordinance
- d. **Old Business**

None

Miscellaneous Business

Adjourn

If you have a conflict with this meeting, and will not be present, please call the Clerk's Office at 724-3726. Thank you for your cooperation in this matter.

VANESSA TURNER MAYBANK
CLERK OF COUNCIL

cc: Councilmember Robert Mitchell., Chairman
Councilmember Carol Jackson, Vice-Chair
Councilmember William D. Gregorie
Councilmember Gary White
Councilmember James Lewis, Jr,
Councilmember Perry K. Waring
Mayor John J. Tecklenburg
Mike Whack, Quality of Life
Geona Johnson, Housing and Community Development
Susan Herdina, Legal Department

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.

AN ORDINANCE

TO AMEND PART 15 (MIXED USE 1 - WORKFORCE HOUSING DISTRICT MIXED USE 2 - WORKFORCE HOUSING DISTRICT) OF ARTICLE 2 (LAND USE REGULATIONS) OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA (ZONING ORDINANCE), TO IMPLEMENT THE FEDERAL OPPORTUNITY ZONE PROGRAM, BY CREATING CERTAIN INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF “OPPORTUNITY UNITS” FOR HOUSEHOLDS WITH INCOMES LESS THAN OR EQUAL TO 60% OF THE AREA MEDIAN INCOME (AMI).

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS IN CITY COUNCIL ASSEMBLED:

Section 1. Part 4 of Article 3 of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby amended to read as follows:

PART 15 – WORKFORCE HOUSING DISTRICTS AND OPPORTUNITY ZONES

Sec. 54-297. - Findings.

- a. City Council finds that its urban areas have traditionally included mixed use developments that incorporate housing opportunities for persons of varying means and incomes, along with complementary nonresidential uses. City Council finds that these mixed use developments have contributed significantly to the economic success and unique fabric of its urban environment by enhancing diversity and providing job opportunities, and that it is in the public interest that incentive-driven districts be established to encourage the continued development of mixed use projects.
- b. City Council finds that opportunity zones, which were added to the federal tax code by the Tax Cuts and Jobs Act (the “Act”) on December 22, 2018, provide for preferential tax treatment for new investments in economically-distressed areas, including areas within the City designated as qualified opportunity zones under the procedures set forth in the Act.

Sec. 54-298. - Purpose.

- a. The MU-1/WH and MU-2/WH base zoning districts are intended to promote a mixture of housing opportunities within a single development, along with appropriate nonresidential uses, by providing incentives for the creation of such developments in urban areas of the City where on street parking or other public parking is customary and can be reasonably accommodated.
- b. The creation of qualified developments in areas of the City designated as qualified opportunity zones is intended to take advantage of the Act and the economic

development tools provided therein to spur economic development and job creation in distressed communities, while ensure appropriate housing is provided in these areas.

Sec. 54-299. – Availability.

- a. Except as set forth in Sec. 54-299.b, the MU-1/WH and MU-2/WH districts, being incentive based, are only available to owners who apply for the district designation.
- b. Subject to the terms, conditions, and restrictions set forth in this Part, notwithstanding Sec. 54-299.a, any owner may apply for the incentives applicable to the MU-1/WH or MU-2/WH districts, as modified by Sec. 54-299.8 through Sec. 54-299.10, without applying for the district designation, by demonstrating to the Zoning Administrator that the proposed development on the owner's property meets all of the following criteria: (1) the development is funded wholly or in part by a qualified opportunity zone fund; (2) the development lies wholly or in part within a designated qualified opportunity zone; and (3) the development will occur on property lying entirely in at least one of the following base zoning districts: LB, GB, CT, GO, LI, or HI.

Sec. 54-299.1. – Definitions.

Terms in this Part shall be defined as follows:

- a. Owner occupied workforce housing unit: A dwelling unit where at least one occupant is an owner, and where all occupants have, in the aggregate, household income less than or equal to one hundred twenty (120%) percent of the area median income (AMI) for owner occupied units.
- b. Rental workforce housing unit: A dwelling unit, where occupants have, in the aggregate, household income less than or equal to eighty (80%) percent of the area median income (AMI) for rental units.
- c. Qualified household: Households where occupants have, in the aggregate, (1) a household income less than or equal to one hundred twenty (120%) percent of the area median income (AMI) for owner occupied workforce housing units; (2) a household income less than or equal to eighty (80%) percent of the area median income (AMI) for rental workforce housing units; or (3) a household income less than or equal to sixty (60%) percent of the area median income (AMI) for opportunity units.
- d. Initial maximum allowable sales price:
 - i. Except as provided in Sec. 54-299.1.d.ii, the initial maximum allowable sales price is an amount equal to three (3) times one hundred twenty (120%) percent of AMI, plus any subsidy available to the purchaser.

- ii. With respect to opportunity units, the initial maximum allowable sales price shall be an amount equal to three (3) times sixty percent (60%) of AMI, plus any subsidy available to the purchaser.
- e. Affordable rent: An amount equal to thirty (30%) percent of eighty (80%) percent of the annual AMI. Affordable rent for efficiency/studio units is the High HOME rents as published annually by the United States Department of Housing and Urban Development, or its successor, for the Charleston-North Charleston Metropolitan Statistical Area, as may be adjusted by the City of Charleston Department of Housing and Community Development, or their successors. In the absence of such information, the total annual rent charged by the owner shall not exceed thirty (30%) percent of the annual household income.
- f. Household income: All sources of financial support, both cash and in kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependent Children or other public assistance welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, and awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the household members' families for medical, personal or educational needs.
- g. Area Median Income (AMI). Area median income (AMI) shall be as determined annually by the United States Department of Housing and Urban Development, as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.
- h. Designated qualified opportunity zone: A designated qualified opportunity zone is a qualified opportunity zone, as defined in subsection (a) of Section 1400Z-1 of Title 26 of the United States Code, that has received a designation pursuant to that section.
- i. Qualified opportunity zone fund: The term "qualified opportunity zone fund" is defined in subsection (d) of Section 1400Z-2 of Title 26 of the United States Code.
- j. Opportunity unit: A dwelling unit where occupants have, in the aggregate, household income less than or equal to sixty (60%) percent of the area median income (AMI).
- k. Qualified development: A development satisfying the criteria in Sec. 54-299.b, as determined by the Zoning Administrator; except that, for the purpose of Sec. 54-299.10 only, a "qualified development" shall mean a development satisfying only criteria (1) and (2) in Sec. 54-299.b, as determined by the Zoning Administrator.

1. Opportunity rent: An amount equal to thirty (30%) percent of sixty (60%) percent of annual AMI. In the absence of such information, the total annual rents charged by an owner shall not exceed thirty percent (30%) of the annual household income.

Sec. 54-299.2. – Land uses for MU-1/WH and MU-2/WH districts.

[The provisions of the current Sec. 54-299.2 are incorporated fully herein by reference]

Sec. 54-299.3. – Parking and loading for MU-1/WH and MU-2/WH districts.

[The provisions of the current Sec. 54-299.3 are incorporated fully herein by reference]

Sec. 54-299.4. – Height, area and setback regulations.

- a. The height, area and setback regulations for the MU-1/WH and MU-2/WH districts are listed under Part 1 (Height, Area and Setback Regulations) of Article 3 (Site Regulations) of this Chapter in Table 3.1 (Height, Area and Setback Regulations).
- b. The height, area and setback regulations for the MU-1/WH and MU-2/WH districts, as set forth in Table 3.1, shall also apply within qualified developments.

Sec. 54-299.5. - Affordable/workforce housing account.

There is hereby created a City of Charleston Affordable/Workforce Housing Account. Fees contributed to the account per Sec. 54-299.2(c) and per Sec. 54-299.8.g, along with all interest earnings, shall be used solely for the purpose of creating and/or improving opportunity units and/or workforce and/or affordable housing, including but not limited to improving or redeveloping existing housing stock, the acquisition of land, costs and fees for design and construction of such units or housing, and loans or grants to providers of such units or housing. The terms of any assistance shall be developed by the City of Charleston Department of Housing and Community Development, or its successor, and approved by City Council.

Sec. 54-299.6. - Existing MU-1/WH and MU-2/WH classifications.

[The provisions of the current Sec. 54-299.6 are incorporated fully herein by reference]

Sec. 54-299.7. – Lot frontage requirements.

- a. New lots created in the MU-1/WH and MU-2/WH zone districts shall not be required to have frontage on a street, as set forth in Sec. 54-824.
- b. New lots created within a qualified development shall not be required to have frontage on a street, unless such frontage would be required on a new lot created in the MU-1/WH and MU-2/WH zone districts.

Sec. 54-299.8. – Opportunity Units.

With respect to a qualified development, the following standards shall apply to opportunity units in lieu of the standards in Sec. 54-299.2:

- a. Every qualified development that has five (5) or more dwelling units must include opportunity units. Every qualified development that has less than five (5) dwelling units must include (i) at least one (1) opportunity unit; or (ii) a ground level food store or produce market facing the street, in accordance with Sec. 54-299.8.f.
- b. The number of opportunity units required for a qualified development shall be twenty percent (20%) of the number of dwelling units within the qualified development, rounded up to the next whole number. Notwithstanding the foregoing, the number of opportunity units for a qualified development shall be at least one (1). This required ratio shall apply to all dwelling units within the qualified development, up to the maximum number of dwelling units which would be permissible under the base zoning districts applicable to the property within the qualified development.
- c. For qualified developments exceeding the total number of dwelling units that would be permissible under the base zoning districts applicable to the property within the qualified development, the number of opportunity units required within the qualified development shall be fifty percent (50%) of the number of dwelling units which exceeds the maximum number of dwelling units which would be permissible under the base zoning districts applicable to such property, rounded down to the nearest whole number; provided, however, the number of required opportunity units under this Sec. 54-299.8.c shall not be less than one (1).
- d. Opportunity units shall be sized, in terms of square footage and number of bedrooms, in a manner comparable and proportional to the size, in terms of square footage and number of bedrooms, of market rate units in the qualified development as a whole. The smallest opportunity unit shall have at least the same square footage as the smallest market rate unit with the same number of bedrooms in the qualified development.
- e. Opportunity units shall be integrated and intermixed with market rate units in the qualified development, such that opportunity units are not clustered together or separated from market rate units within the qualified development. Without limiting the foregoing, qualified developments that include more than one building with multi-family dwelling units shall incorporate opportunity units into each such building. The exterior finishes of opportunity units shall be of comparable type and quality as market rate units within the qualified development.
- f. Qualified developments that use food stores or produce markets in lieu of opportunity units must dedicate to such uses the greater of (1) fifty percent (50%)

of the square footage of the ground level for buildings within the qualified development; or (2) 1,500 square feet.

- g. Fee in Lieu. In lieu of providing opportunity units within the qualified development, the owner of the qualified development may choose to contribute a fee to the City's Affordable/Workforce Housing Account, as set forth in Sec. 54-299.5, in accordance with the following provisions:
- i. The owner may contribute a fee for any or all of the number of opportunity units required for the qualified development.
 - ii. The fee per unit shall equal the cost of constructing two (2) opportunity units which would otherwise be required under this Part for households with the same AMI for each opportunity unit not constructed within the qualified development. A schedule of the costs for constructing such opportunity units shall be determined by the City of Charleston Department of Housing and Community Development, or its successor, and published annually in advance on the City's website.
 - iii. Square footage used solely as a food store or produce market may be excluded from gross square footage for purposes of calculating the fee; provided, however, if at any time during the period of twenty-five (25) years after the issuance of a certificate of occupancy for the last building or unit within the qualified development, the use of the square footage as a food store or produce market lapses for a period of twelve (12) or more consecutive months, or is utilized for any other purpose, then the owner of the qualified development shall be required, as a condition of occupancy of such space, to pay a sum equal to the difference between the fee per unit that would have been payable had the space not been excluded from the per unit calculation and the fee per unit initially.
 - iv. Fees shall be calculated at the time of a building permit application based on the schedule provided in Sec. 54-299.8.g.ii, and paid in full prior to the issuance of a certificate of occupancy for any part of the qualified development.
- h. Land donation in lieu of units. Upon approval of City Council, and in its sole discretion, land may be donated to the City for opportunity units to satisfy some or all of the requirements for opportunity units for the qualified development. The size, configuration and location of any land proposed for donation shall be capable and appropriately zoned to support, at a minimum, the number of opportunity units it is intended to replace, and is subject to the sole approval of City Council, which may be withheld for any or no reason. Should the City elect to accept a land donation in lieu of construction of opportunity units, the owner shall be wholly responsible for the costs of acquisition of the land and transfer to the City, including but not limited to costs of surveys, plats, environmental investigation, title

insurance, City attorneys' fees and recording costs. Title to the land proposed for donation shall be transferred to the City by general warranty deed prior to the issuance of a building permit for any part of the qualified development.

- i. Prior to receiving a building permit for any portion of a qualified development, the owner thereof shall provide, in writing, to the satisfaction of the City of Charleston Department of Housing and Community Development, or its successor, information identifying the total number of bedrooms and square footage for each dwelling unit and for each opportunity unit, as well as the location of the opportunity units within the qualified development. Prior to the issuance of a certificate of occupancy for any portion of a qualified development, the owner thereof shall identify, in writing, to the City of Charleston Department of Housing and Community Development, or its successor, the units designated as opportunity units.
- j. Covenants.
 - i. Prior to the issuance of a certificate of occupancy for any portion of a qualified development, the owner shall execute covenants approved, in writing, by (1) the City's Director of Housing and Community Development; and (2) the City's Corporation Counsel, that identifies the opportunity units and that restricts such units to occupancy, and, if applicable, ownership, by qualified households for a period of no less than twenty-five (25) years. Prior to the issuance of a certificate of occupancy, for any portion of a qualified development, and once approved by the City, the covenants shall be recorded by the owner and a recorded copy submitted to the City's Director of Housing and Community Development.
 - ii. For owner-occupied opportunity units, the covenants shall identify the initial maximum allowable sales price and provide that the initial maximum allowance sales price will be adjusted annually for inflation based on the increase in the area median income (AMI) or Consumer Price Index, whichever is greater. Each owner of such units, prior to initial occupancy, shall be required to submit to the City of Charleston Department of Housing and Community Development, or its successor, a verified income report of household income of all members of the household. The covenants shall require notice to the City of Charleston Department of Housing and Community Development, or its successor, of any transfer of the owner occupied opportunity units and verification that the purchaser is a qualified household. Opportunity units shall be subject to resale restrictions for no fewer than twenty-five (25) years from date of initial sale of the unit. The covenants will be recorded as deed restrictions.
 - iii. For opportunity units which will be rented, the covenants shall require the owner to provide proof to the City of Charleston Department of Housing and Community Development, or its successor, at inception of every

tenancy, and on an annual basis thereafter, that no more than opportunity rent is being charged for the unit(s), and verified income reports of household income of all occupants of such opportunity units. Such opportunity unit shall be subject to these covenants for no fewer than twenty-five (25) years from the date of initial occupancy of each opportunity unit.

- iv. The covenants for opportunity units to be rented shall also provide:
 - (a) If an opportunity unit is converted from a rental unit to an owner-occupied unit during the term of the covenants, the opportunity unit shall be subject to the owner occupied opportunity unit requirements as set out in subsection j (ii) (to include the initial maximum sales price) for a term of months equal to the number resulting when subtracting from 300 months the number of months the unit has been subject to covenants for rental opportunity units.
 - (b) Conversion of an opportunity unit from owner-occupied to a rented opportunity unit shall not be permitted.
 - (c) Written notice shall be provided to the City's Department of Housing and Urban Development prior to any conversion taking place.
- v. The covenants shall accord the City, or its assignee, rights to enforcement by any legal and/or equitable means, including the revocation of a certificate of occupancy.
- k. If a qualified development is to be phased, each phase shall include opportunity units concurrently with the market rate units in the particular phase. A phasing plan that brings the opportunity units on line at the end of build out is not permitted.
- l. The upkeep of rented opportunity units shall be of the same quality as the upkeep of the other market rate rental units within the qualified development.

Sec. 54-299.9. – Parking in Qualified Developments.

The following off-street parking requirements shall apply to qualified developments in lieu of those set forth in Sec. 54-299.3, and these off-street requirements shall modify or replace any conflicting standards set forth in Part 4 (Off-Street Parking Requirements) of Article 3 (Site Regulations) of this Chapter:

- a. Off-street parking requirements for opportunity units shall be one (1) space per two (2) opportunity units.

- b. Off-street parking requirements for market-rate dwelling units within a qualified development shall be one (1) space per dwelling unit.
- c. Uses permitted as part of new construction or renovations located on the second finished floor of any building within a qualified development shall be exempt from the minimum number for required off-street parking spaces set forth in Table 3.3 (Off-Street Parking Requirements) in this Chapter, except that this exemption shall not apply to restaurants, bars, residential uses, and accommodations uses.
- d. Uses permitted as part of new construction or renovation within a qualified development shall be partially exempt from the requirements in Table 3.3 (Off-Street Parking Requirements) in this Chapter, under the following circumstances:
 - i. The use is categorized as “Institutional and Community Service,” “Business, Entertainment, and Office,” “Industrial,” or “Recreational” in Table 3.3 (collectively, “Exempt Uses”); provided, however, restaurants and bars shall not be considered Exempt Uses.
 - ii. For Exempt Uses requiring four (4) or more off-street parking spaces under Table 3.3, only fifty percent (50%) of the square footage of the use shall be exempt from the minimum off-street parking spaces required in Table 3.3.
 - iii. For Exempt Uses requiring three (3) or fewer off-street parking spaces under Table 3.3, no off-street parking shall be required.
 - iv. No permit shall be granted exempting more than fifteen (15) off-street parking spaces within the qualified development under this subsection.

Sec. 54-299.10. – Permitted Uses for Qualified Properties.

- a. Qualified Property. For the purpose of this Sec. 54-299.10 only, a “qualified property” shall mean a property within a qualified development satisfying the following criteria, as established by the owner and determined by the Zoning Administrator: (1) the property lies entirely within one or more qualified zoning districts; (2) the property fronts on two or more public rights-of-way; and (3) the property contains or is eligible for no more than two dwelling units.
- b. Qualified Zoning District. For the purpose of this Sec. 54-299.10 only, a “qualified zoning district” means any of the following base zoning districts: SR-1, SR-2, SR-3, SR-4, SR-5, SR-6, SR-7, SR-8, DR-1, DR-1F, DR-2, DR-2F, DR-3, DR-4, DR-6, DR-9, or DR-12.
- c. Permitted Uses. Within a qualified development, a qualified property may be renovated in the interior only to permit any of the uses listed as a permitted, conditional, or special exception use within the RO or GO zone districts in Table 3.1 (Table of Permitted Uses), subject to the special exceptions and conditions

applicable to such uses as referenced in Table 3.1; provided, however, the property shall continue to contain at least one (1) dwelling unit thereon.

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this ___ day of _____ in the year of Our Lord, 2019, in the _____ Year of the Independence of the United States of America.

By:

John J. Tecklenburg, Mayor
City of Charleston

ATTEST:

By:

Vanessa Turner Maybank
Clerk of Council