

6a

Weiss Serota Helfman Pastoriza
Cole & Boniske, P.L.

Memo

To: Charter Review Board, Town of Lauderdale-By-The-Sea
From: Susan L. Trevarthen, Town Attorney
Cc: Connie Hoffmann, Town Manager
Date: July 11, 2012
Re: **Follow-up analyses of Section 7.1 of the Charter**

Plain English Charter

The attached document (**Exhibit 1**) provides the existing Charter language for Section 7.1- Maximum height for buildings established; referendum vote required for increase in zoned residential-district height limits. The document provides a section by section, side by side view of 1) the existing Charter language; 2) comments, interpretive issues and rules utilized; and 3) a Plain English statement of the existing Charter language.

Rezoned for any other use

We were also asked to address the interpretation and resulting limitations of the term “Rezoned for any other use” found in section 7.1(9). This issue is addressed the Plain English Charter beginning on page 8 of the spreadsheet in columns 2 and 3, “Comments re Bolded Language in Current Text” and “Plain English version”.

Exhibit 1

File: T:\Charter Review Board\7-11-12 Charter Meeting\7-11-12 Plain English Charter Agenda Memo.DOC

SB
7-8-12

Analysis of Town of Lauderdale-By-The-Sea Charter for Charter Review Board

ARTICLE VII. - PLANNING AND ZONING.

Sec. 7.1. - Maximum height for buildings established; referendum vote required for increases in zoned residential-district height limits.

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>(1) No building within the jurisdictional boundaries of the Town, as they existed on March 20, 2006, shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet</p> <p>(a) Above grade, as defined in the Florida Building Code, or</p> <p>(b) Above a horizontal plane eighteen inches above the crown if the roadway at the highest point adjoining the property on which the building is located, or</p> <p>(c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,</p> <p>Whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other</p>	<p>A grammatically correct reading of the first sentence of (1) would construe the date to apply to the Town boundaries and not to a building, because the clause incorporating the date uses the plural form as does the reference to boundaries. However, such an interpretation would not be meaningful. The Town boundaries have not changed since 2006; they are the current Town limits. Moreover, no annexation areas are adjacent to the Town, so it is not readily apparent how such a distinction could ever matter, unless the Town were somehow to merge with an adjacent municipality and still remain a Town. Also, such an interpretation essentially nullifies the second part of (1) referring to "all other buildings," because there are no buildings within the control of the Town's charter which are not in the Town boundaries. This violates a principle of statutory construction: that the interpretation should give effect to every part of the language if possible.</p> <p>Therefore, it appears that this section could be construed so that the first part applies to buildings in existence on March 20, 2006, and the second part applies to buildings that are constructed after that date. This interpretation is reflected in the Plain English</p>	<p>(1) <i>Limit on height and number of stories of buildings.</i></p> <p>(a) <i>Definition.</i> For purposes of this section, "roofline" is defined as follows:</p> <p>(i) the highest point on a flat roof, or</p> <p>(ii) the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof.</p> <p>(b) <i>Limits applicable to buildings constructed on or prior to March 20, 2006.</i> All buildings shall have no more than four stories and shall not exceed 44 feet. The number of stories and the height shall be measured from grade to the roofline. As used in this subsection (1)(b), "grade" is defined as the higher of the following two alternatives:</p> <p>(i) grade as defined in the Florida Building Code, or</p> <p>(ii) the level of the crown of the adjacent road plus eighteen inches.</p> <p>(c) <i>Limits applicable to buildings constructed after March 20, 2006.</i> All buildings shall not exceed 33 feet in height. The height shall be measured from the highest of the following locations to the roofline:</p> <p>(i) grade as defined in the Florida Building Code, or</p> <p>(ii) the level of the crown of the adjacent road plus eighteen inches, or</p> <p>(iii) the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations.</p> <p>(d) <i>Measurement of height of roof structures.</i> The following are</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>roofs structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height.</p>	<p>version of this section.</p> <p>The heights in (1) are addressed further in (8)-(9). For clarity, those provisions have been added to (1), so all related matters are in the same subsection.</p> <p>Redevelopment of certain legal nonconforming structures is addressed in greater detail in subsection (3). The height limit of three stories or 33 feet was first created by the voters in 1973 and the majority of the more detailed height, use and parking restrictions were created in 1998. Further limits were added in 2006. Therefore, an individualized analysis of a particular structure would be necessary in order to determine whether it or its use are legally non-conforming, based on the date of construction, the nature of the nonconformity and whether or not it is located in the annexation area.</p> <p>The section (9) limitations on the Town Commission's powers to change these provisions are already applicable as a matter of law. Only a vote of the people can change the charter, so (f) of the Plain English version could be omitted.</p>	<p>excluded from the measurements of height under subsections (b) and (c):</p> <ul style="list-style-type: none"> (i) bulkheads and penthouses used solely to enclose stairways, (ii) tanks, (iii) elevator machinery or shafts, and (iv) ventilation or air conditioning apparatus. <p>All other roof structures, including parapet walls, are permitted to exceed the applicable height limit by up to four feet.</p> <p>(e) <i>Preservation of more restrictive Code provisions.</i> The height limits established herein supersede any existing zoning ordinance or land development regulation to the extent that it establishes any greater maximum building height limit. This section shall not be construed to affect any existing zoning ordinance or land development regulation that establishes any lower maximum building height limit.</p> <p>(f) <i>Prohibition on Town Commission granting variances or amending by ordinance.</i> The Town Commission may not increase, by ordinance or by variance, the height limits established herein.</p>
<p>(2) In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall be used for parking, either with or without toll collection booths. The first story may also be used for storage, refuse, security,</p>	<p>This section refers to "any building." Below in this section it talks about "proposed buildings." A later section addresses existing nonconforming buildings that are redeveloped.</p>	<p>(2) <i>Limits on use of stories and parking for buildings over three stories or 33 feet in height.</i> Buildings over three stories or 33 feet in height are subject to the following limitations.</p> <p>(a) <i>Level of first story.</i> The first story shall be at grade. "At</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>registration, maintenance, and/or access, either with or without a lobby, provided that at least one-half (½) of the square footage of the first story is used for parking. Only within districts of the Town zoned for business ("B") use, the first story of buildings having more than three (3) stories above grade may also be devoted to non-residential commercial uses, provided that dedicated parking required by Town ordinance or code for the proposed buildings is provided off-street at a location on or adjacent to the property on which the buildings are situate, and designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. For the purposes of this provision of the Charter, a story is at grade level if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one (1) or more subterranean stories below grade, provided, however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.</p>	<p>The scope is unclear. For the Plain English version, the interpretation that this section applies to "any building" is utilized.</p> <p>This section contains details that are usually found in a Code.</p> <p>This section could be greatly simplified by stating that uses of first stories are limited to whatever non-habitable uses are allowed by the zoning district. But that clarification would broaden the scope of the listed uses for residential zoning districts.</p> <p>The section (9) limitations on the Town Commission's powers to change these provisions are already applicable as a matter of law. Only a vote of the people can change the charter, so (g) of the Plain English version could be omitted.</p>	<p>grade" means that the floor is at or below grade and the ceiling is above grade, or that the floor and ceiling are both above grade.</p> <p>(b) <i>Use in residential zoning districts.</i> At least one half of the square footage of the first story must be used for parking. The remainder of the first story may only be used for one or more of the following uses:</p> <ol style="list-style-type: none"> 1. parking, either with or without toll collection booths, 2. storage, 3. refuse, 4. security, 5. registration, 6. maintenance, 7. access, either with or without a lobby. <p>(c) <i>Use in business zoning districts.</i> The first story may be used for any of the uses listed in (b). It may also be used for commercial uses if the Code-required off-street parking is provided on or adjacent to the property.</p> <p>(d) <i>Underground stories.</i> Underground stories are allowed, but their uses are limited in accordance with the applicable zoning district, as detailed above in (b) and (c).</p> <p>(e) <i>Off-site parking.</i> If the Code required parking is not provided on the property, the building must have dedicated off-street parking adjacent to the property.</p> <p>(f) <i>Back-out parking.</i> All parking must be designed to allow parked vehicles to leave the parking space without having to back out into traffic.</p> <p>(g) <i>Prohibition on Town Commission granting variances or amending by ordinance.</i> The Town Commission may not increase, by ordinance or by variance, the use and parking requirements</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>(3) Buildings which exceed thirty three (33) feet above grade, and which exceed thirty three (33) feet above the horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, but which are nevertheless allowed under subparagraph (1)(c) of this Section, and which do not include a non-habitable first floor with ample parking as required by Town ordinance or code, in accordance with the number and type of units in those buildings, must have dedicated off-street parking at a location on or adjacent to the property on which the buildings are situate. Parking for buildings in this category must be designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic.</p>	<p>This has been combined into (2) in the plain English version.</p> <p>As noted in (1) above, (1)(c) is part of a section that may be interpreted to apply to buildings constructed after March 20, 2006. (2) applies to any building, without a date restriction. So what buildings are not "any building" that can be affected by this sentence?</p> <p>The reference to "units" suggests that this provision is intended to apply to residential buildings, but it nowhere states this explicitly. It has been added as (2)(e) and (f) and applies to both residential and non-residential uses.</p>	<p>established herein.</p> <p>See (2)(e) above.</p>
<p>(4) All existing buildings within the Town that were legally in compliance with existing height and use restrictions on March 20, 2006, or were grandfathered on that date, but that either exceed the maximum building height limit established in paragraph (1), above, of this section of the Charter, or that fail to comply, where applicable, with the restrictions on use established in paragraph (2), above, of this section of the Charter, (hereinafter referred to as "Non-conforming Buildings") shall be considered legal, but non-conforming.</p>	<p>(4) is just a definition, and the related regulations are in the following sections. All of the related provisions of (4) and (5) have been combined into (3) of the Plain English version.</p>	<p>(3) <i>Nonconforming buildings.</i></p> <p>(a) <i>Definition.</i> For purposes of this section, nonconforming buildings means all buildings within the Town that were legally in existence on March 20, 2006, and that either:</p> <ul style="list-style-type: none"> (i) exceed the applicable height limit established in (1) or (ii) fail to comply with the use requirements of (2).
<p>(5) Notwithstanding the maximum building height limit established in paragraph (1), above, of this section of the Charter, an existing non-conforming building may be replaced by a new nonconforming building when, and only when:</p>	<p>The explicit statements about being able to build less than the maximum are not necessary because the charter provides for a maximum allowable amount, not a maximum required amount.</p>	<p>(b) <i>Limitation on replacement of nonconforming buildings.</i></p> <p>(i) <i>Definitions.</i></p> <p>A. "Habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>(a) The existing non-conforming building has:</p> <p>(i) Been destroyed by fire, natural disaster, or other act of God; and</p> <p>(ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and</p> <p>(iii) Construction of the replacement building is commenced within twelve (12) months of the date of destruction; or</p> <p>(b) The existing non-conforming building is:</p> <p>(i) Demolished as part of a Town approved redevelopment of the property; and</p> <p>(ii) Prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building; and</p> <p>(iii) Construction of the replacement building is commenced within six (6) months of the date of site plan approval.</p> <p>(c) The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs (5)(a)(iii) and (5)(b)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.</p> <p>(d) All new non-conforming buildings constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall comply, where applicable, with the restrictions on use established in paragraph (2), above, and the</p>	<p>The section (9) limitations on the Town Commission' s powers to change these provisions are already applicable as a matter of law. Only a vote of the people can change the charter, so those parts of (vi) and (vii) of the Plain English version could be omitted.</p> <p>The phrase "Town approved redevelopment of the property" is not defined. Standing alone, subsection (i) could indicate that basic site plan approval for redeveloping an existing non-conforming building is all that is required. However, subsection (ii) specifically addresses site plan approval. This may mean that (a) the redevelopment approval referenced in subsection (i) is in addition to site plan; or, (b) based on the phrasing, subsection (ii) may simply be intended to establish the required timing of site plan approval in order to qualify for redevelopment under this section - prior to demolition of the existing non-conforming building. The second interpretation is applied in the "Plain English" version; the reference to Town approved redevelopment of the property is construed as an application, prior to demolition of the existing structure, for a site plan to redevelop the property, and not to a different form of approval.</p> <p>Under either interpretation, if site plan approval is obtained after demolition, the site would be treated as a vacant lot required to conform to all the requirements of the code and charter.</p>	<p>temporary, by one (1) or more persons.</p> <p>B. "Habitable square feet" means any square footage that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.</p> <p>C. "Replacement building" means a new building that is allowed to be constructed without full compliance with this section, as provided herein.</p> <p>(ii) <i>Eligibility.</i> Nonconforming buildings generally must come into compliance with this section if replaced. However, a nonconforming building may be replaced with a replacement building if either:</p> <p>A. <i>Destruction.</i> The existing non-conforming building has been destroyed by fire, natural disaster, or other act of God, and construction of the replacement building is commenced within twelve (12) months of the date of destruction; or</p> <p>B. <i>Redevelopment.</i> The existing non-conforming building is demolished as part of a Town approved redevelopment of the property; and construction of the replacement building is commenced within six (6) months of the date of site plan approval.</p> <p>(iii) <i>Procedure.</i> The property owner must apply for and receive Town approval of a site plan depicting the replacement building (prior to planned demolition, if any).</p> <p>(iv) <i>Use and parking.</i> The replacement building must comply, where applicable, with the restrictions on use and parking of subsection (2).</p> <p>(v) <i>Extensions of time.</i> The applicant may seek one (1) or more six (6) month extensions to the time periods for commencement of construction of a replacement building from the Town Commission by submitting a written application to the Town Clerk prior to the expiration of the original (or extended) timeframe.</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>provisions for parking availability established in paragraph (3), above, of this section of the Charter.</p> <p>(e) The maximum allowable height of any new non-conforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the charter) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building. Nothing in this section of the Charter shall be construed to prevent a new non-conforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original non-conforming building which it replaces. For the purposes of this provision of the Charter, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.</p> <p>(f) The maximum allowable square footage of any new nonconforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original square footage of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the Charter) may be necessary to obtain the same number of habitable square feet as was contained in the original non-</p>		<p>(vi) <i>Height.</i> The maximum allowable height of any replacement building shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2)) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building. The Town Commission may not increase, by ordinance or by variance, the height limits established herein.</p> <p>(vii) <i>Square footage.</i> The maximum allowable square footage of any replacement building shall not exceed the original square footage of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2)) may be necessary to obtain the same number of habitable square feet as was contained in the original non-conforming building. The Town Commission may not increase, by ordinance or by variance, the square footage limits established herein.</p> <p>(viii) <i>Reductions in size.</i> A replacement building may be shorter or have fewer square feet than the original nonconforming building without coming fully into compliance with this section.</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>conforming building. Nothing in this section of the Charter shall be construed to prevent a new nonconforming building from being constructed either with less total square footage or with less habitable square footage than that of the original non-conforming building which it replaces. For the purposes of this section of the Charter, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.</p>		
<p>(6) The maximum building height limits, the restrictions on use and the maximum allowable square footage, and the provisions governing parking established in paragraphs (1), (2), (3) and (5), above, of this section of the Charter, shall be applicable to all real property located within the boundaries of the Town as the boundaries exist on March 20, 2006.</p>	<p>Again, a distinction is drawn based on the Town boundaries, which have not changed. Therefore, the language applies to the entire Town ("all real property"). This section seems to support the alternative interpretation of (1), that the date applies to the boundaries and not to the buildings. However, if that interpretation applies, the 33 foot provisions are nullified.</p> <p>Because the language does not add anything to the previous sections, it is not carried over into the Plain English version.</p>	
<p>(7) Every resident of the Town shall have the standing to enforce the maximum building height limits and the maximum allowable square footage established in paragraphs (1), (2) and (5), above, of this section of the Charter, by means of a suit in equity seeking either mandamus; prohibition; or any combination thereof, but nothing in this provision of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.</p>	<p>Paragraph (2) contains several use and parking restrictions, yet this language only refers to the height and square footage limits.</p>	<p>(4) <i>Resident standing to enforce.</i> Every resident of the Town shall have the standing to enforce the maximum building height limits and the maximum allowable square footage established in this section of the Charter by bringing a lawsuit in equity seeking mandamus and prohibition. This section shall not be construed to:</p> <p>(a) create a cause of action at law for money damages, or</p> <p>(b) authorize a court of equity to award money damages as an incident to equitable relief, or</p> <p>(c) authorize an award of attorney's fees to the prevailing</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
		party or to any other party.
<p>(8) The maximum building height limit established in paragraph (1), above, of this section of the Charter, supersedes any existing zoning ordinance or land development regulation to the extent that said zoning ordinance or land development regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraph (1), above, of this section of the Charter, but nothing in this section of the Charter shall be construed to supersede, modify or repeal any existing zoning ordinance or land development regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraph (1), above, of this section of the Charter.</p>	<p>Because this relates to (1), it has been moved to (1).</p>	
<p>(9) The Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph (2), above, or the provisions for parking availability established in paragraphs (2), (3) or (5), above, of this section of the Charter, nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph (5), above, of this section of the Charter. The maximum height limits established for residential zoning districts including, but not limited to, R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD in the Town's land development code as of March 20, 2006, may be increased, or such districts re-zoned for any other use whatsoever, only by a referendum vote of the</p>	<p>The limitations on the Town Commission's power to change provisions of this charter have been placed where each of those limitations are established in the Plain English version for clarity. However, as noted above, they are not necessary because as a matter of law the Town Commission does not have this power.</p> <p>The limitations on the Town Commission's ability to change the land development regulations are quite different. The Commission does have this power, and these provisions limit that power. They are placed in section (5) of the Plain English version.</p> <p>"Rezoned for any other use whatsoever" can be interpreted in different ways. It modifies the word districts, not properties. The phrase</p>	<p>(5) <i>Limit on Town Commission power to amend land development regulations.</i></p> <p>(a) <i>Definition.</i> "Residential zoning districts" shall include but not be limited to, R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD in the Town's land development code as of March 20, 2006.</p> <p>(b) <i>Referendum required.</i> A referendum vote, in the manner established in Article IV, Section 4.7 of this Charter for the repeal or amendment of initiated ordinances, is required to make the following changes to the Town's land development regulations:</p> <p>(i) <i>Residential zoning district height limits.</i> The maximum height limits established for residential zoning districts may be increased only by a referendum.</p> <p>(ii) <i>Rezoning of districts to another use.</i> A property in a residential zoning district may be rezoned to a different</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>registered voters of the Town in the manner established in Article IV, Section 4.7 of this Charter for the repeal or amendment of initiated ordinances. The Town may not create new categories of zoning without approval of such categories by a similar referendum vote; and all provisions of such new categories of zoning must be submitted to the voters for approval.</p>	<p>could refer to a complete rezoning of an entire zoning district, or to a rezoning of a property or multiple properties located in one district to another district. For example, this could mean that the RM-25 district as a whole could not be changed to the B-1 district without a referendum. Or it could mean that a particular property that is shown on the zoning map as RM-25 could not be rezoned to B-1 without a referendum. For purposes of this analysis, the plain English version applies the interpretation that it restricts the rezoning of individual properties to another zoning district.</p> <p>“Rezoned for any other use whatsoever” may also be interpreted to mean any change to the text of the regulations for a zoning district which adds a use not currently listed or removes a listed use, because either type of change would result in a different set of uses being available in that zoning district. However, the language is expansive rather than restrictive -- “any other” (as in additional) use.” Therefore, the Plain English version applies the interpretation that the charter restricts the addition of uses to, but does not restrict the removal of uses from, a residential zoning district.</p> <p>“New categories of zoning” is also open to interpretation. It is not limited to the residential zoning districts, as the other phrases are. There are two kinds of zoning districts: overlay and regular. A property can only have one regular zoning district; they are</p>	<p>zoning district only by a referendum.</p> <p>(iii) <i>Creation of new categories of zoning.</i> New zoning districts, including all the regulations related to those districts, may be adopted only by a referendum.</p> <p>(iv) <i>Addition of uses to a zoning category.</i> New uses may be added to existing residential zoning districts only by a referendum.</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
	<p>mutually exclusive. Overlay districts, in contrast, are designed to preserve the regular underlying zoning district but modify certain aspects of it for certain properties in ways that are not suitable to the entire zoning district. For purposes of this analysis, the Plain English version applies the interpretation that a new category is a regular zoning district and not an overlay district.</p>	
<p>(10) The maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, may be increased only by an amendment to or by repeal of this section of the Charter. The restrictions on use established in paragraph (2), above, and the provisions governing parking availability established in paragraphs (2), (3) and (5), above, of this section of the Charter, may be modified, amended or repealed only by an amendment to or by repeal of this section of the Charter. The maximum allowable square footage established in paragraph (5), above, of this provision of the Charter, may be increased only by an amendment to, or by repeal of this section of the Charter. Except as expressly provided below, this section of the Charter may be amended or repealed only by means of a majority vote of the registered voters of the Town at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal general election. The amendment or repeal of this section of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal general election is expressly prohibited, except that a special election or special election by mail may be held to correct, to</p>	<p>The first three statements are true as a matter of law and need not be included.</p> <p>The limitations on how this section may be amended by the voters are meaningful, and are incorporated in the Plain English version.</p>	<p>(6) <i>Limitation on amendments to this section of the Charter by the voters.</i> This section of the Charter may be amended or repealed only by a majority vote of the registered voters of the Town at a referendum election held either on the same day as a regularly scheduled November general election or a March municipal general election. If a provision of this section of the Charter is finally adjudged by a court of competent jurisdiction, after all appeals have been exhausted, to violate the State or Federal Constitution or any valid state or federal law, then a special election may be held for the sole purpose of correcting, to the minimum practicable extent, such violation. Such special election may be held on a different day, or may be conducted by mail.</p>

Current Text	Comments re Bolded Language in Current Text	Plain English version
<p>the minimum practicable extent, a provision adjudged by a court of competent jurisdiction to violate the State or Federal Constitution or any valid state or federal law, but only after such adjudication is affirmed on appeal. Amendments approved at a special election may include no elements not directly related to such court adjudication.</p>		
<p>(11) These provisions of the Charter shall be effective immediately upon adoption by a majority of the registered voters of the Town voting in a referendum to amend the Charter so as to include these provisions. Upon adoption, the maximum building height limits, the restrictions on use, the maximum allowable square footage and the provisions governing parking availability established in paragraphs (1), (2), (3) and (5), above, of this section of the Charter, shall immediately apply to all real property located within the boundaries of the entire Town. Upon adoption of these provisions, and pending amendment of any portion or portions of the Town's Code of Ordinances inconsistent with this section of the Charter, the more stringent provisions of this section shall apply.</p>	<p>This language is an effective date clause from the charter amendment in which these changes were adopted. It no longer has applicability because the current charter already became effective.</p> <p>The final sentence is still meaningful because it addresses conflicting provisions of the Town Code.</p>	<p><i>(7) Preservation of stricter Code provisions.</i> Pending amendment of any portion or portions of the Town's Code of Ordinances inconsistent with this section of the Charter, the more stringent provisions of this section shall apply.</p>