

Petition #: 2003-090
Petitioner: Charlotte Mecklenburg Planning Commission
City of Charlotte

**AN ORDINANCE AMENDING APPENDIX A OF THE
CITY CODE – ZONING ORDINANCE**

ORDINANCE NO. _____

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1: Appendix A, “Zoning” of the Code of the City of Charlotte is hereby amended as follows:

1. Amend CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION.

A. PART 2: DEFINITIONS, Section 2.201, Definitions:

Add the following definitions in proper alphabetical order:

Arcade.

An area contiguous to a street or plaza that is open and unobstructed to a height of not less than 10’ and that is accessible to the public at all times. Any portion of an arcade occupied by building columns, landscaping, statuary, pools, or fountains shall be considered part of the arcade for the purpose of computing floor area. The term “arcade” shall not include off-street loading areas, driveways, off-street parking areas, or open pedestrian walkways. The floor of any arcade shall be level with the sidewalk surface, courtyard, plaza, or adjacent area.

Awning.

A temporary hood or roof-type cover, made of rigid or flexible material, designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall of a structure over a window, sidewalk, door, or the like.

Balcony.

A platform enclosed by a railing or parapet, projecting from the wall of a building for the private use of tenants or for exterior access to the above-grade units. When a balcony is roofed and enclosed, it is considered part of the building it serves.

Canopy.

A permanently roofed shelter that projects from the wall of a building over a door, entrance or window or similar area, with no ground support. Canopies are used for the purpose of sheltering persons or objects from the weather. Ground

supports are not permitted. A marquee is not a canopy.

Courtyard.

An open, unobstructed space, other than a yard, partly or wholly enclosed by buildings, or walls and used primarily for providing access, light and air to abutting buildings. Trees, landscaping, and amenities such as seating, drinking and ornamental fountains, and art may be used in courtyards.

Cutoff.

Any luminaire classified as “cutoff” by the Illuminating Engineering Society of North America (IESNA). Such a luminaire has a light distribution pattern where the lamp lumens do not exceed more than 2.5% at an angle of 90 degrees or above, and where the light distribution does not exceed more than 10% of lamp lumens at a vertical angle of 80 degrees.

Cutoff, Full.

Any luminaire classified as “full cutoff” by the Illuminating Engineering Society of North America (IESNA). Such a luminaire has a light distribution pattern where there is zero light intensity at 90 degrees or above, and does not exceed more than 10% of lamp lumens at a vertical angle of 80 degrees.

Cutoff, Semi.

Any luminaire classified as “semi-cutoff” by the Illuminating Engineering Society of North America (IESNA). Such a luminaire has a light distribution pattern that does not exceed more than 5% at 90 degrees (horizontal) and does not exceed more than 20% of lamp lumens at a vertical angle of 80 degrees.

Cutoff, Non.

Any luminaire classified as “non-cutoff” by the Illuminating Engineering Society of North America (IESNA). Any light fixture that has no limitations on light distribution at or above 90 degrees (horizontal).

Mixed-use development.

Any development which includes at least two of the following uses: office, institutional, civic, residential, and retail/service uses in a pedestrian oriented, compact, mixed-use setting. In a mixed-use development, uses are integrated within the same building.

Multi-use development.

Any horizontally integrated development which includes at least two of the following uses: office, institutional, civic, residential, retail/service uses in separate but abutting buildings, and located on one tract of land, or on multiple

adjacent sites. Multi-use developments are pedestrian oriented, compact, and architecturally integrated.

Parapet

A low, protective wall at the edge of a roof, terrace, or balcony, that rises above the roof.

Patio.

A level, surfaced area directly adjacent to a principal building. A patio may be constructed of any material.

Stoop.

An exterior floor typically, but not necessarily, constructed of concrete and/or masonry, with a finished floor elevation at least six inches higher than the adjacent ground level, and utilized primarily as an access platform for the building.

Transitway.

A public transit right-of-way with guideways used by fixed-route, fixed-schedule services such as bus rapid transit (BRT), commuter rail, light rail, or heavy rail lines.

Walking Distance.

A publicly accessible route, or system of routes, that provides short, barrier-free, safe, and inviting pedestrian travel between points. This includes sidewalks and other pedestrian connections.

2. Amend CHAPTER 9: GENERAL DISTRICTS:

- A. Add a new PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS after PART 11:

PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS

Section 12.1001. Purpose.

The purpose of the Transit Oriented Development (TOD) zoning districts is to create a compact, and high intensity mix of residential, office, retail, institutional, and civic uses to promote the creation and retention of uses in areas with high potential for enhanced transit and pedestrian activity. Pedestrian circulation and transit access are especially important and have an increased emphasis in the TOD zoning districts. The development standards are designed to require compact urban growth, opportunities for increased choice of transportation modes, and a safe and pleasant pedestrian environment by ensuring an attractive streetscape, a functional mix of complementary uses, and the provision of facilities that support transit use, bicycling, and walking.

These zoning districts are meant to create high density transit supportive development around transit stations, typically the area within one-half (1/2) mile walking distance from the transit station, which represents a 10-minute walk.

Section 12.1002. Establishment of Transit Oriented Development Districts.

There are six (6) Transit Oriented Development zoning districts:

(1) Residentially Oriented (TOD-R)

This transit oriented residential district is established to support high-density residential communities that also accommodate a limited amount of retail, institutional, civic, restaurant, service, and small employment uses within a pedestrian friendly area.

Residential developments and residential components of multi-use developments shall have a minimum density of twenty (20) dwelling units per acre within ¼ mile walking distance from a transit station or a minimum density of fifteen (15) dwelling units per acre between ¼ mile and ½ mile walking distance from a transit station. The density shall be based on the residential portion of the site. The approved station area plan classifies parcels according to whether they are within the ¼ mile walking distance or between the ¼ mile to ½ mile walking distance.

Retail, institutional, civic, and office uses are permitted. Only up to 20% of the total development gross square footage that is composed of these uses may be credited toward meeting the minimum residential densities at a ratio of one (1) dwelling unit to 2,000 square feet of development.

(2) Employment Oriented (TOD-E)

This transit oriented employment district is established to accommodate high intensity office uses, office support services, or residential uses in a pedestrian oriented setting. High intensity office uses and office support services shall have a minimum FAR of .75 within ¼ mile walking distance from a transit station, or a minimum FAR of .5 between ¼ mile to ½ mile walking distance from a transit station. The approved station area plan classifies parcels according to whether they are within the ¼ mile walking distance or between the ¼ mile to ½ mile walking distance. Uses that employ relatively few workers, such as warehousing and distribution, are excluded from this district.

Office uses shall comprise a minimum of 60% of the new development project gross square footage.

Retail, institutional, and/or civic uses are permitted. Only up to 20% of the total development gross square footage that is composed of these uses may be credited toward meeting the minimum FAR standards.

Only up to 20% of the total development gross square footage may be composed of residential uses that meet one of the following standards:

- (a) The density shall be based on the residential portion of the site. The residential component shall have a minimum density of twenty (20) dwelling units per acre within $\frac{1}{4}$ mile walking distance from a transit station. Between $\frac{1}{4}$ mile to $\frac{1}{2}$ mile walking distance from a transit station a minimum density of fifteen (15) dwelling units per acre, shall be required, OR
- (b) The residential component shall meet the minimum FAR standards. The minimum floor area shall not be less than .75 square feet of floor area to 1 square foot of the development site (.75 FAR) within $\frac{1}{4}$ mile walking distance from a transit station or not less than .50 square feet of floor area to 1 square foot of the development site (.50 FAR) between $\frac{1}{4}$ mile to $\frac{1}{2}$ mile walking distance from a transit station.

- (3) Mixed-Use Oriented (Including Multi-use Developments) (TOD-M)
This transit oriented mixed-use district is established to support a blend of high density residential, high intensity employment/office, civic, entertainment, and institutional uses, as well as a limited amount of retail uses in a pedestrian friendly area.

High intensity office uses, office support services, civic, entertainment, and institutional uses shall have a minimum FAR of .75 within $\frac{1}{4}$ mile walking distance from a transit station, or a minimum FAR of .5 between $\frac{1}{4}$ mile to $\frac{1}{2}$ mile walking distance from a transit station. The approved station area plan classifies parcels according to whether they are within the $\frac{1}{4}$ mile walking distance or between the $\frac{1}{4}$ mile to $\frac{1}{2}$ mile walking distance.

Retail uses are permitted. Only up to 20% of the total development gross square footage that is composed of retail uses may be credited toward meeting the minimum FAR standards.

Residential uses (as a single use or as a development component) are permitted and shall meet one of the following standards:

- (a) The density shall be based on the residential portion of the site. The residential component shall have a minimum density of twenty (20) dwelling units per acre within $\frac{1}{4}$ mile walking distance from a transit station. Between $\frac{1}{4}$ mile to $\frac{1}{2}$ mile walking distance from a transit station a minimum density of fifteen (15) dwelling units per acre, shall be required, OR
- (b) The residential component shall meet the minimum FAR standards. The minimum floor area ratio shall not be less than

.75 square feet of floor area to 1 square foot of the development site (.75 FAR) within ¼ mile walking distance from a transit station or not less than .50 square feet of floor area to 1 square foot of the development site (.50 FAR) between ¼ mile to ½ mile walking distance from a transit station.

(4) TOD-Optional Districts (TOD-RO, TOD-EO, TOD-MO)

The TOD – Optional zoning district may be applied to any of the above three (3) zoning districts:

TOD-Residentially Oriented – Optional (TOD-RO)

TOD Employment Oriented – Optional (TOD-EO)

TOD-Mixed-Use Oriented – Optional (TOD-MO)

For more information on TOD-Optional districts, see Section 12.1012.

Section 12.1003. Rezoning to a TOD Zoning District.

As per Section 6.103(1), any amendment for the reclassification of property to a TOD zoning district may be initiated by the City Council, the Planning Commission on its own motion, by any owner with a legal interest in the property, by anyone else authorized in writing to act on the owner's behalf, or by any non-owner in accordance with the procedures set forth in Chapter 6. However, the property must be located within an approved transit station area plan or be located adjacent to TOD zoned property.

Section 12.1004 Applicability and Exceptions

The Transit Oriented Development District regulations applies to all property where TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, or TOD-MO is indicated on the official Charlotte Zoning Map.

New development within all TOD zoning districts shall be subject to the development and urban design standards of Chapter 9, Part 12, with the following exceptions.

(1) Change of Use, Non-Residential to Non-Residential With No Expansion

- (a) If the change of use in an existing building does not require more than five (5) additional parking spaces based on the minimum/maximum number of parking spaces required in Section 12.1008(6)(a), then the requirement to provide the additional parking spaces is waived. Parking in excess of the maximum may remain.
- (b) If additional parking spaces are added, the new parking area shall meet the parking standards, internal planting requirements, and parking lot screening of Section 12.1008(6)(b) through (l).

(c) If sidewalks and a perimeter planting strip with trees are non-existent along street frontages, the streetscape requirements of Section 12.1009(8) shall be required.

(d) The sign, banner, flags, and pennant requirements of Section 12.1009(7) shall apply.

(e) The connectivity and circulation requirements of Section 12.1008(11) shall apply.

(2) Change from a Residential Use to a Non-Residential Use With No Expansion

(a) All the requirements of Chapter 9, Part 12 shall apply with the exception of the urban design standards of Section 12.1009(1) through (4).

(b) Any non-conforming parking located in the required setback shall be eliminated and replaced with landscaping, patios, and/or related amenities.

(3) Expansions of less than 5% of the building area or 1,000 square feet, whichever is less, for both conforming and non-conforming uses).

(a) The building expansion shall meet the minimum setback, yard and height requirements of Section 12.1008(1), (2), and (3).

(b) The minimum/maximum parking standards of Section 12.1008(6)(a) shall be met. If there are parking spaces in excess of the maximum permitted, they may remain.

(c) No exterior improvements shall make the building non-conforming in any way, or add to its non-conformity.

(4) Creation or expansion of outdoor seating

(a) Additional parking spaces shall not be required unless such outdoor seating requires more than 5 additional spaces based on the TOD minimum/maximum parking standards of Section 12.1008(6)(a).

(b) If additional parking area is provided, the new parking area shall meet the parking standards, internal planting requirements, and parking lot screening of Section 12.1008(6)(b) through (l).

(c) If outdoor seating is located within an existing right-of-way or public sidewalk, an encroachment agreement shall be approved by CDOT.

(5) Major facade improvements to existing buildings including buildings with non- conforming uses.

New exterior improvements (beyond paint and general maintenance such as

roof or window repair or replacement) whose value exceeds 25% of the current listed tax value of the entire property shall be subject to the following:

- (a) The setback, yard and height requirements of Section 12.1008(1), (2) and (3) shall be met.
- (b) The urban design standards of Section 12.1009(1) through (4) shall apply to the new façade improvements.
- (c) The streetscape requirements of Section 12.1009(8) shall be required if sidewalks and a perimeter planting strip with trees are non-existent along street frontages.
- (d) No exterior improvements shall make the building nonconforming, or more non-conforming in any manner.
- (e) Any existing, non-conforming parking shall be eliminated from the required setback. Such elimination shall not require any additional parking even if the site is rendered non-conforming.
- (f) The connectivity and circulation requirements of Section 12.1008(11) shall apply.

(6) Additional parking for existing development

- (a) The additional parking spaces shall not exceed the maximum number of spaces permitted under Section 12.1008(6)(a).
- (b) The additional parking area shall meet the parking standards of Section 12.1008(6)(b) through (l).
- (c) The additional parking area shall meet the outdoor lighting standards of Section 12.1008(10).
- (d) If there is any non-conforming parking located in the required setback, it shall be eliminated and replaced with landscaping, patios, and/or related amenities. Any such elimination shall not require additional parking even if the site is rendered non-conforming with regard to parking.
- (e) If an existing buffer or screening area is removed for more than five (5) additional parking spaces, then a perimeter planting strip, landscaping and sidewalk shall be provided, as per Section 12.1009(8), if they are non-existent.

Section 12.1005. Uses permitted by right.

The following uses are permitted by right in all Transit Oriented Development zoning districts:

- (1) Automobile and motorcycle sales, including offices and repair facilities (TOD-E and TOD-M only)
- (2) Bed and breakfasts (B & B's).
- (3) Buildings for dramatic, musical, or cultural activities, stadiums, and coliseums.
- (4) Buildings for social, fraternal, social service, union and civic organizations, and comparable organizations.
- (5) Transit stations (bus or rail) and parking facilities, including Park-and-Ride and Kiss-and-Ride facilities.
- (6) Colleges, universities, commercial schools, schools providing adult training in any of the arts, sciences, trades and professions, and dormitories for the students of colleges, commercial schools, schools providing adult training and for the staff of hospitals.
- (7) Convention centers and halls, conference centers, exhibition halls, merchandise marts, and other similar uses.
- (8) Dwellings, detached, duplex, triplex, quadraplex, attached, multi-family and planned multi-family developments.
- (9) Group Homes, up to 10 residents.
- (10) Health institutions, including hospitals, clinics, and similar uses.
- (11) Hotels and motels.
- (12) Institutional uses such as religious institutions, churches, synagogues, parish houses, Sunday school buildings, convents, monasteries, community recreation centers, country and swim clubs, athletic and sports facilities, libraries, museums, theaters, art galleries, police and fire stations, and public and private elementary, junior and senior high schools.
- (13) Mixed-use developments or multi-use developments with a maximum of 30,000 square feet of gross floor area per floor, per single tenant.
- (14) Public and private recreational parks and playgrounds (non-commercial).
- (15) Open air, fresh food market on private or public property, not including the streets and sidewalks, for the selling of fresh food, (not consumed on the premises), and plants, but shall be subject to all applicable State laws and regulations. Such an open air, fresh food market need not comply with the development standards of Section 12.1008.

- (16) Outdoor seasonal sales subject to the requirements of Section 12.519.
- (17) Parking decks.
- (18) Parking lots (temporary surface lots), over one (1) acre, subject to the following:
 - (a) Any operator of a temporary parking lot shall apply for a permit from the Zoning Administrator, or his designee. The Zoning Administrator, or his designee shall not issue the permit until the Planning Director, or his designee has granted approved. The permit shall authorize a temporary parking lot for a period of five (5) years from the date the permit is issued.
 - (b) Temporary, surface parking lots shall not be permitted when the lot adjoins a residentially used parcel of land, not zoned TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, or TOD-MO, unless the parking lot will be located on a major thoroughfare.
 - (c) The use shall not require the construction of a permanent building.
 - (d) Any signage, which identifies the use, shall be in accordance with Section 12.1009(7).
 - (e) Parking and maneuvering shall observe the minimum setbacks determined in each approved transit station area plan for particular streets, and be located outside the site distance triangle. When a station area plan does not specify a setback the minimum setback shall be 16 feet.
 - (f) The operator is responsible for the removal of any vestiges upon cessation of the temporary parking lot, including signage.
- (19) Professional business and general offices such as banks, offices, clinics, medical, dental and doctor's offices, government and public utility office buildings, post offices, opticians' offices, and similar uses. No more than four (4) drive-through service lanes shall be permitted per individual use.
- (20) Restaurants; including open air or sidewalk cafes. No drive-through service windows permitted.
- (21) Retail sales and service establishments, multi-tenant shopping centers, and personal service establishments with less than 30,000 square feet of gross floor area per floor, per single tenant. No drive-through windows or outdoor storage is permitted.

- (22) Services such as beauty shops, barbershops, and dry cleaning establishments. No drive-through service windows permitted.
- (23) Temporary buildings and storage of materials in conjunction with construction of a building is permitted on, 1) a lot where construction is taking place, 2) an adjacent lot, or 3) an approved lot under common ownership or lease agreement, subject to administrative approval by the City of Charlotte, Department of Transportation (CDOT) and Engineering and Property Management staff to determine compliance with the following criteria:
 - (a) The storage site is located a distance of at least 200 feet from any residential land use or property with a residential zoning classification,
 - (b) Location of approved temporary access to the alternative storage site,
 - (c) Installation of temporary opaque screening to mitigate impacts to surrounding less intense land uses,
 - (d) Fencing and required signage,
 - (e) Leasing of necessary right-of-way or easements to facilitate safe movement of materials between the two sites during construction,
 - (f) A traffic control and associated operational plan for use of the site during the course of construction,
 - (g) Timetable for use of the site and the preparation of an approved site restoration plan to be implemented prior to the issuance of a certificate of occupancy for the principal use,
 - (h) Posting of any additional surety to guarantee the repair of any public improvements that may be impacted during the construction process,
 - (i) Such temporary uses shall be terminated upon the completion of construction.
- (24) Utility and related facilities such as distribution lines and railroad rights-of-way.

Section 12.1006. Uses permitted under prescribed conditions.

The following uses are permitted subject to the specific conditions governing each use as set out below:

- (1) Beneficial fill sites, subject to the regulations of Section 12.523.
- (2) Boarding houses, subject to regulations of Section 12.520.
- (3) Bus stop shelters, subject to the requirements of Section 12.513.
- (4) Commercial Rooming Houses, subject to the regulations of Section 12.531.
- (5) Child care centers, nursing homes, rest homes, and homes for the aged, in accordance with the standards of Mecklenburg County and the State of North Carolina for the licensing and operation of such facilities.
- (6) Entertainment establishments such as lounges, nightclubs, bars, taverns, and cabarets provided they are located at least 200 feet from any residential use located in a residential district, or from a residential district.
- (7) Electric and gas substations, subject to the requirements of Section 12.504.
- (8) Privately owned parking lots (off-street, principal use) under one (1) acre. The combined ownership, interest, or options on adjacent or contiguous property (including parcels across public or railroad right-of-way) shall be included in determining the total acreage of any off-street parking lot. Interest in adjoining property is defined as the same person, immediate family, entity, corporation, or any type of ownership pattern or option where at least one person in common has a financial interest or option on adjoining parcels of land.
- (9) Retail sales and service establishment and personal service establishments with more than 30,000 square feet of gross floor area per floor, per single tenant shall meet the following:
 - (a) Transparent, clear glass windows and doors shall be visible from and to the street on at least 75% of the first floor street façade of the building, and there shall be at least one entrance per street frontage; or
 - (b) The building is designed to accommodate other single tenant uses along the linear street frontages to create pedestrian interest and activity.
- (10) Single room occupancy (SRO) residences, subject to the regulations of Section 12.527.

Section 12.1007. Accessory Uses.

The following are permitted as accessory uses in the TOD zoning districts:

- (1) Accessory residential uses and structures, clearly incidental and related to the permitted principal use or structure.
- (2) Vending machines located within an enclosed building for the convenience of the occupants of the building.
- (3) Signs, bulletin boards, kiosks and similar structures that provide historical information, information for non-commercial activities or space for free use by the general public.
- (4) Land clearing and inert landfills (LCID): on-site, subject to the regulations of Section 12.405.
- (5) Wireless telecommunications facilities are only permitted atop a building or structure (other than a single family structure or other residential structure of less than two stories in height). Such facility shall not exceed 20 feet in height measured from the top of the highest point of the existing structure. Any such facility and any associated antennae located within 400 feet of a residential district shall be indiscernible from the rest of the building or structure.
- (6) Drive-through service lanes are only permitted when associated with professional business and general offices, and only when located between $\frac{1}{4}$ to $\frac{1}{2}$ mile walking distance from a transit station, as designated on the approved station area plan. Drive-through windows shall only be located on the same site as the principal use, and shall be located to the rear or side of the principal use, to minimize visibility along public rights-of-way. No more than four (4) drive-through service lanes shall be permitted per individual use. Freestanding drive-through lanes are prohibited.

Section 12.1008. Development Standards.

The following requirements apply to all buildings or uses in TOD unless specified otherwise in Section 12.1004:

- (1) Minimum setback
 - (a) The minimum building setbacks along particular streets shall be determined by the approved transit station area plan for each station. Because station area characteristics vary, setbacks within and between stations may vary. When a station area plan does not specify a setback the minimum setback for all uses shall be sixteen (16) feet.

- (b) The minimum setback shall be measured from the back of all existing or future curbs whichever is greater. If the existing right-of-way is greater than the minimum setback from the back of existing or future curbs, the right-of-way line shall become the minimum setback. If the existing curb line varies, the setback shall be measured from the widest section. Curb lines are to be determined jointly by the Charlotte Department of Transportation (CDOT) Director, or his designee, and the Planning Director or his designee.
- (c) If new construction incorporates an existing structure located within the minimum setback, the CDOT Director, or his designee, and the Planning Director or his designee may allow the setback for the addition to be reduced to the established setback.
- (d) For the purposes of this section, the minimum setback applies to all street frontages, not just to the street frontage toward which the structure is oriented.
- (e) All above ground, at ground, and below ground utility structures associated with underground electric, natural gas, telecommunications or cable television distribution lines, pipes, or conduits shall be located behind the minimum setback. This includes air vents, vaults, and backflow preventers.
- (f) No new doors shall be permitted to swing into the minimum setback, except for emergency exit doors.
- (g) Walls and fences are not permitted in the minimum setback, except for outdoor seating areas. Outdoor seating areas may be surrounded with walls or fences, subject to an approved encroachment agreement with CDOT if the wall or fence will be located in the right-of-way or sidewalk, and subject to approval by the Planning Director, if located within the minimum setback.
- (h) No canopies or signs are permitted in the minimum setback, except as provided for in Section 12.1009(6) and Section 12.1009(7).
- (i) Driveways may cross the setback, but shall be as near as possible to perpendicular to the street, so as to minimize intrusion into any landscaped area, and for pedestrian safety.
- (j) Balconies may project up to 2' into the minimum setback, subject to an approved sidewalk encroachment agreement with CDOT. Balconies shall have a minimum clearance of 10' from grade.

- (k) Sidewalk arcades may be located within the sidewalk portion of the minimum setback, at sidewalk level, subject to an approved sidewalk encroachment agreement with CDOT. Sidewalk arcades shall maintain a minimum 10' clear, unobstructed space between arcade supports, and a minimum overhead clearance of 10'. No arcade support shall be located closer than 14' from the back of the existing or future curb, whichever is greater.
- (l) The transitional setback requirements of Section 12.103 shall not apply in the TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, or the TOD-MO zoning districts.

(2) Minimum side and rear yards

None required, except if a side and/or rear yard is provided, the minimum width shall be five (5) feet, with the following exceptions:

- (a) When a lot abuts an existing residential structure or a residential zoning district not located within the TOD zoning district, then a minimum side yard of five (5) feet and/or a minimum rear yard of twenty (20) feet shall be required.
- (b) When a lot abuts a rapid transit corridor, a minimum rear yard setback shall be required, as specified in the approved station area plan. If a station area plan has not been approved, then the minimum rear yard setback from the centerline of the rapid transit corridor shall be a minimum of 35 feet, or the width of the right-of-way, whichever is greater.

(3) Maximum height

The base height for all TOD districts shall be 40 feet. The building height may increase one foot in height over 40 feet, for every 10 feet in distance from the property line of the nearest site zoned for single family residential purposes except for property zoned TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO. The maximum height shall be 120'. The intent of this standard is to allow the height of a portion of a structure to increase as the distance from residential properties increases. Distances shall be measured from the closest edge of the TOD property to the nearest single-family zoning district.

(4) Minimum residential density

- (a) Residential developments and the residential component of multi-use developments shall have a minimum density of twenty (20) dwelling units per acre within the ¼ mile walking distance from a transit station. Between the ¼ and ½ mile walking distance, the minimum density shall be fifteen (15) dwelling

units per acre Densities shall be based on the residential portion of the site.

For large or phased projects, the residential density for each phase shall meet or exceed the minimum density requirements. If phases cannot meet this requirement, but the overall Master Plan meets or exceeds the minimum density requirements, then approval may be granted by the Planning Director for phases that meet at least 80% of the minimum density requirement, or the applicant may choose to rezone to the TOD Optional zoning district, which allows variations in the TOD standards. (See Section 12.1012).

- (b) The residential component of mixed-use developments shall meet the Floor Area Ratio (FAR) requirements of Section 12.1008(5).

(5) Floor Area Ratio (FAR).

- (a) The total minimum floor area ratio of buildings on a development site shall not be less than .75 square feet of floor area to 1 square foot of the development site (.75 FAR) within ¼ mile walking distance from a transit station or not less than .50 square feet of floor area to 1 square foot of the development site (.50 FAR) between ¼ mile to ½ mile walking distance from a transit station, or as indicated on an approved station area plan. The FAR shall apply to the following uses:
 - 1. All non-residential uses (except those excluded in Section 12.1008(5)(e))
 - 2. Non-residential uses of multi-use developments.
 - 3. Residential uses of mixed-use developments.
- (b) For large or phased projects the FAR for each phase shall meet or exceed the minimum FAR requirements. If phases cannot meet this requirement, but the overall Master Plan meets or exceeds the minimum FAR requirements, approval may be granted by the Planning Director for phases that meet at least 80% of the minimum FAR requirements, or the applicant may choose to rezone to the optional TOD zoning district, which allows variations in the TOD standards. (See Section 12.1012)
- (c) Plazas, arcades, courtyards, outdoor cafes, rooftop gardens, and widened public sidewalks that enhance pedestrian spaces and amenities can be credited toward meeting the minimum required FAR. If the pedestrian spaces/amenities are available to the public then the square footage shall be credited at 100%; if

private, then the square footage shall be credited at 50%. In no instance shall more than 20% of the pedestrian area be credited toward the required FAR.

(d) An FAR credit shall be given for structured parking facilities that devote at least 75% of the linear street level frontage of the building to retail, office, civic, or institutional uses. Similarly, an FAR credit shall also be permitted for structured parking facilities that provide such uses above the street level, and/or on any other side of the building. See Section 12.1008(6)(1) for credit amounts.

(e) Certain principal uses are exempt from meeting the minimum FAR requirements:

1. Transit stations (bus or rail), parking facilities, and bus shelters.
2. Private parking decks (principal use only) and surface parking facilities.
3. Existing development and expansions of existing development.
4. Freestanding group homes for up to 10 residents.
5. Public and private recreational parks and playgrounds.
6. Utility and related facilities.
7. Electric and gas substations.

(6) Parking Standards

(a) New permitted uses within this zoning district shall be required to meet the minimum/maximum number of off-street parking spaces as follows. All square footage is measured as “gross footage”.

USE	MINIMUM/MAXIMUM NUMBER OF PARKING SPACES
Residential	Maximum of 1.6 parking spaces per dwelling unit.
Office	Maximum of one (1) parking space per 300 square feet of office space. Mixed-use developments and multi-use developments of residential and office uses may share parking spaces as per Section 12.203.
Restaurants/ Nightclubs	Minimum of one (1) parking space per 150 square feet of restaurant/nightclub space, but no more than one (1) space per 75 square feet.
Retail	Maximum of one (1) space per 250 square feet.
All Other Non- Residential Uses	The maximum number of parking spaces permitted is listed as the minimum amount required in Table 12.202, per non-residential use.

1. The required/permitted number of parking spaces for any building within the district, including mixed-use buildings, shall be the sum total of the requirements for each use in the building calculated separately.
2. Parking maximums may be exceeded by up to a total of 30% of the maximum, under the following circumstances if one or more of the following is provided:
 - a. If structured or underground parking is provided on site, parking maximums may be exceeded by 25%.
 - b. If a shared parking agreement is executed, the parking maximum may be exceeded by 20%.
 - c. If all parking spaces are located behind the building and are not visible from the public right-of-way, parking maximums may be exceeded by 10%.
 - d. If driveways and access points are shared by at least two adjacent properties, parking maximums

may be exceeded by 10%.

- e. If a provision is made for combining or interconnecting adjacent parking lots and pedestrian access points, parking maximums may be exceeded by 10%.
3. A 25% parking reduction in the minimum number of parking spaces required is allowed if the principal use is located within 800 feet of a parking facility with parking spaces available to the general public, or within 800 feet of public transit park-and-ride facilities with an approved joint use agreement. This section in combination with Section 12.202(2) allows for no more than a total of 25% parking reduction of the minimum requirements.
- (b) The provisions for parking standards shall conform to the general requirements of Chapter 12, Part 2, OFF STREET PARKING AND LOADING , except as provided for in this section.
 - (c) No surface parking or maneuvering space shall be permitted within any required or established setback, or between the permitted use and the required setback, except that driveways providing access to the parking area may be installed across these areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible to minimize intrusion into the landscaped area, and for pedestrian safety.
 - (d) On-street parking spaces located along the portion of a public street(s) abutting the use where parking is currently permitted may be counted toward the minimum number of parking spaces as required by this ordinance. Those on-street parking spaces must be located on the same side of the street as the use, have a dimension of at least 22 feet in length, and be located in areas approved by the Charlotte Department of Transportation (CDOT). However, on street parking directly across the street from the use may be counted if that parking abuts property that is undevelopable because of physical constraints.

In the event that the City or State removes any on-street parking that was allowed to count toward the minimum requirement, the existing use shall not be required to make up the difference and shall not be made non-conforming, with respect to parking.

On-street parking spaces shall not be counted in calculating maximum parking spaces.

- (e) All recessed, on-street parking shall comply with Charlotte's Urban Street Design Guidelines.

- (f) The vehicular parking requirements may be met on-site or off-site at a distance of up to 800 feet from the permitted use. Off-site parking to meet the requirements of this section may be provided through a lease, subject to the review and approval of the Zoning Administrator.
- (g) Parking that is located to the rear of the primary structure may extend the entire width of the lot, with the exception of any required screening or landscaped areas. Parking that is located to the side of the primary structure shall not cover more than 35% of the total lot width.
- (h) Shared parking shall be permitted and encouraged pursuant to the regulations of Section 12.203.
- (i) Bicycle parking facilities shall be required as per Chapter 12, Part 2.
- (j) All surface parking shall conform to the internal planting requirements for parking areas in the *Charlotte Tree Ordinance*.
- (k) All parking areas for more than 10 motorized vehicles (except for parking areas for detached duplex, triplex or quadraplex dwellings on a single lot) shall provide screening which consists of either a 5-foot wide planting strip consisting of evergreen shrubbery according to the provisions of Section 12.303(2), or a 2 ½ -foot minimum to a 3 foot maximum finished masonry wall, or an alternative as approved by the Planning Director. However, a wall cannot be substituted for the planting strip along any public street or transitway unless supplemented by landscaping in a minimum 3-foot wide planting strip.

If a wall is provided, then the area devoted to the wall shall be wide enough to allow for its maintenance.

The 5' planting strip or the wall may be eliminated if abutting parking lots are combined or interconnected with motor vehicular and pedestrian access.

Shrubs and walls may be reduced in height to 30 inches when located within sight triangles as required by the Charlotte Department of Transportation (CDOT). In no instance shall a chain link fence or a barbed wire fence be permitted.

- (l) Structured parking facilities shall meet the following additional requirements:
 1. At least fifty (50%) of the linear street level frontage of the facility shall be devoted to retail, office, civic, institutional, or residential uses. If 75% or more of the linear street frontage is devoted to such uses, then the total square footage of the uses shall be credited at 200% toward the required FAR minimums.

2. If retail, office, civic, institutional, or residential uses are constructed on the side or rear of the facility, or above the ground floor on the street frontage of the facility, then the total square footage of these uses shall be credited at 200% toward the required FAR minimums.
3. Underground parking structures are permitted. Subsurface parking located in the minimum setback shall be permitted, with an 8' clearance from the top of the subsurface structure to the sidewalk, subject to an approved encroachment agreement with CDOT. No ventilation shall be permitted in the setback.
4. A minimum 9-foot clearance shall be maintained on the first level and any additional level that provides disabled parking spaces. A minimum 7-foot clearance shall be maintained throughout the remainder of the parking deck to ensure the safe movement of vans and emergency vehicles.

(7) Loading standards

- (a) Non-residential buildings and structures, excluding parking structures, subject to the provisions of this Part shall provide a minimum number of off-street service/delivery loading spaces. These spaces shall be designed and constructed so that all parking maneuvers can take place entirely within the property lines of the premises. These loading spaces shall not interfere with the normal movement of vehicles and pedestrians on the public rights-of-way, except as permitted by Section 20-29[14-25] of the City Code. These loading spaces shall be a minimum of 10 feet by 25 feet and be provided in accordance with the following:

Non-residential uses with gross floor area:

Less than 50,000 square feet:	None required
50,000 – 150,000 square feet:	One (1) space
Each additional 100,000 square feet:	One (1) space

Existing buildings are exempt from these loading standards.

- (b) No loading spaces shall be permitted within any required or established setback, or between the permitted use and the required setback, except that driveways providing access to the loading area may be installed across these areas.

(8) Screening standards.

- (a) All service entrances, utility structures associated with a building, and loading docks and/or spaces shall be screened from the abutting property and from public view from a public street or from a transitway.

Such screening shall consist of a 5-foot wide planting strip. This area may contain any type of screening materials sufficient to visually separate these uses. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance.

1. Any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Zoning Administrator. No more than 25% of the fence shall be left open and the finished side of the fence shall face the abutting property. In no instance shall a fence or wall be located within a setback. Nor shall a chain link or barbed wire fence be permitted.
 2. The composition of the screening material and its placement on the lot shall be left up to the discretion of the property owner, as long as the intent of this Ordinance is met. However, a wall cannot be substituted for the planting strip along any public street or transitway unless supplemented by landscaping in a minimum 3-foot wide planting strip.
 3. Shrubs used for screening shall be evergreen and at least 2 to 2 ½ feet tall with a minimum spread of 2 feet when planted and no further apart than 5 feet. Shrubs shall be adequately maintained so that an average height of 5 to 6 feet can be expected as normal growth within 4 years of planting. The average expected height may be reduced to 4 feet for screening along public streets. Shrubs and trees shall be on the approved plant list in Appendix 1. Walls shall be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT).
 4. The minimum height for walls and fences abutting a residential district shall be 6', or whatever is sufficient to visually screen the use. The minimum height for screening shall be whatever is sufficient to visually screen the uses, but not less than 4'.
- (b) Dumpsters, recycling containers, compactors, and solid waste handling areas are not permitted in any setback or yard and shall be screened from adjacent property and from public view with a minimum 6-foot high solid and finished masonry wall, with a solid closeable gate. A wooden fence, with no more than 25 percent of its surface left open, or an alternative as approved by the Planning Director, may be substituted if the dumpsters or trash handling areas are not visible from a public street or transitway. In no instance shall a chain link fence or a barbed wire fence be permitted. Dumpsters are not permitted in any required setback or yard space.

- (c) Parking areas and structures shall provide screening in accordance with Section 12.1008(6)(k).

(9) Buffer Standards.

- (a) All uses, other than single-family detached units, shall provide landscaping along all property lines abutting residentially zoned property (single-family, multi-family and urban residential zoning districts) located adjacent to the Transit Oriented zoning district. This requirement also applies in situations where an alley with a right-of-way width of 25 feet or less separates uses in a TOD zoning district from non-TOD zoned residential property. Landscaping shall be provided along all property lines abutting the alley. However, multi-family developments zoned TOD are exempt from this landscaping requirement when they abut other multi-family uses or undeveloped multi-family zoning districts.
- (b) Such landscaping shall consist of a 10' wide planting strip. The planting strip shall consist of a combination of evergreen trees and evergreen shrubs. Plant materials shall be provided at a minimum of 6 trees and 20 shrubs per 100 linear feet in accordance with Section 12.302(9)(b), (c), (d) and (e). The 10' planting strip may be reduced to 8' and the shrubs need not be planted if a masonry wall with a height of between 6' to 8' in a side yard, or between 8' to 10' in a rear yard is installed. No more than 25% of the wall surface shall be left open. Shrubs and walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT). This landscaping area may be interrupted with a gate/pedestrian access way to an adjacent site, or a driveway to an adjacent alley.

In no instance shall a chain link or barbed wire fence be permitted.

(10) Outdoor lighting standards.

- (a) All outdoor lighting fixtures for parking lots, and pedestrian activity areas shall be classified as full cut-off, cutoff or semi-cutoff. In addition, any building light fixtures used to illuminate parking and pedestrian areas, and service areas shall be classified as full cutoff, cutoff or semi-cutoff.
- (b) No outdoor lighting fixture or building light fixtures shall cause glare on public travel lanes or on adjacent residentially used or zoned property. All fixtures shall be screened in such a way that the light source shall not cast light directly on public travel lanes or on adjacent residentially used or zoned property.
- (c) The lighting of signs shall be in accordance with standards of Chapter

(11) Connectivity and circulation standards.

Transit oriented development uses shall be integrated with the surrounding community, easily accessible, and have a good internal circulation system for a variety of travel modes.

- (a) A pedestrian sidewalk system shall meet the following standards:
 - (1) Internal sidewalk connections are required between buildings and from buildings to all on site facilities (parking areas, bicycle facilities, urban open space, etc.) in addition to the sidewalk requirements of Section 12.1009(8)(e). All internal sidewalks shall be hard surfaced and at least 6' in width.
 - (2) External sidewalk connections are required to provide direct connections from all buildings on site to the existing and/or required sidewalk system, and to adjacent multi-use trails, parks and greenways. The connection shall be no longer than 120% of the straight-line distance from all buildings to the existing or proposed sidewalk, or no more than 20' longer than the straight-line distance, whichever is less. Sidewalks shall be hard-surfaced and at least six (6) feet in width. The sidewalk width can be reduced to 4' in width, if the internal sidewalk serves less than four (4) dwelling units.
 - (3) The on-site pedestrian circulation system shall be lighted to a level where employees, residents, and customers can safely use the system at night.
- (b) Bicycle parking and storage facilities shall be provided in accordance with Chapter 12, Part 2 of this Ordinance.

(12) Urban open spaces.

- (a) Urban open spaces for public congregation and recreational opportunities shall be required for all new buildings with a gross floor area greater than 50,000 square feet. Such buildings must provide useable open space behind the required setback and on private property proportionate to the building square footage according to the following schedule:

<u>Lot Size</u>	<u>Open Space Requirement</u>
0-20,000 sq. ft.	1 square foot/200 sq. ft. (gross)
20,001 – 40,000 sq. ft.	1 square foot/150 sq. ft. (gross)
40,001+ sq. ft.	1 square foot/100 sq. ft. (gross)

- (b) Open space may be located on the roofs of buildings, or enclosed on the ground floor. A maximum of 30% of the required open space may be provided on an enclosed ground floor level. All open space shall be easily observed from the street or pedestrian areas.
- (c) All required open space shall be accessible to the users of the building and improved with seating, plantings, and amenities, and be visible from the street or pedestrian areas.
- (d) Floor Area Ratio credits are allowed for all new developments as per Section 12.1008(5)(c) when the pedestrian space is available for use by the public, including widened sidewalk areas.

Section 12.1009. Urban design standards

All buildings and uses developed in this zoning district must meet the following minimum standards:

(1) Street Walls.

- (a) All retail and office buildings fronting directly on a street shall be designed so that the first floor street façade of the building(s) along all streets includes clear glass windows and doors to increase pedestrian interest. These openings shall be arranged so that the uses are visible from and to the street on at least 50% of the length of the first floor street level frontage.
- (b) For all other uses, buildings shall be designed so that the first floor street façade along all streets includes the use of clear glass windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 25% of the length of the first floor street frontage. When this approach is not feasible, a combination of design elements shall be used on the building façade, or included into the site design, to animate and enliven the streetscape. These design elements may include but are not limited to the following: ornamentation; molding; string courses; changes in material or color; architectural lighting; works of art; fountains and pools; street furniture; stoops, landscaping and garden areas; and display areas.
- (c) The first floor façade of all buildings, including structured parking facilities, shall be designed to encourage and complement pedestrian-scale, interest, and activity.
- (d) Expanses of blank wall shall not exceed 20 continuous feet in length. A blank wall is a facade that does not add to the character of the streetscape and does not contain clear glass windows or doors or sufficient ornamentation, decoration or

articulation.

- (e) No reflective surfaces shall be permitted on street level exterior facades.
- (f) Ventilation grates on the building, or emergency exit doors located on the first floor street façade(s) shall be decorative and part of the overall building design.

(2) Base of High Rise Building. (Buildings exceeding 5 stories in height)

- (a) The first 3 floors above street grade shall be distinguished from the remainder of the building with an emphasis on providing design elements that will enhance the pedestrian environment. Such elements as cornices, corbeling, molding, stringcourses, ornamentation, changes in material or color, recessing, architectural lighting and other sculpturing of the base as are appropriate shall be provided to add special interest to the base.
- (b) In the design of the building façade, attention shall be paid to the appearance both during the day and at night. Material and color changes alone do not meet the requirements of this section and design elements, which are used to meet the requirements of this section, shall be visually continuous around the building. In the event that a building façade is not visible from a public street or right-of-way then the Planning Director has the option of waiving this requirement.
- (c) Special attention shall be given to the design of windows in the base. Band windows are prohibited. Recessed windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are permitted.

(3) Top of Buildings.

- (a) All rooftop mechanical equipment on buildings over 60' in height shall be screened from public view from below by integrating the equipment into the building and roof design to the maximum extent feasible, by the use of parapet walls or similar architectural treatments. Buildings under 60' in height shall screen all rooftop mechanical equipment from public view from above or below (based on the type of mechanical equipment utilized) by integrating it into the building and roof design to the maximum extent feasible.

(4) Building Entrances and Orientation.

- (a) At least one or more operable pedestrian entrances per building

shall be provided in at least two of the following circumstances:

1. When a lot abuts a public street right-of-way, at least one entrance(s) shall be provided along all building façade(s) fronting all public rights-of-way.
2. When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to public open space, multi-use trail, or greenway.
3. When an approved station area plan depicts a required sidewalk not specified in the subsections above, an entrance(s) shall be provided on the building façade closest to the required sidewalk.

Distances shall be measured in a straight line from the closest point of the property line to the closest point of the right-of-way, public open space, transit station, or light rail transit station platform.

- (b) Such entrances shall be distinguishable from the rest of the building to provide a sense of entry and to add variety to the streetscape. No doors shall be permitted to swing into the minimum setback, except for emergency exit doors.
- (c) On corner lots, buildings may provide one main entrance oriented to the corner or facing either of the streets.

(5) Structured Parking Facilities.

Structured parking facilities shall be designed to encourage and complement pedestrian-scale interest and activity, and shall be designed so that motorized vehicles parked on all levels of the facility inside are screened from the street, the transitway, and/or from adjacent residentially zoned and/or used property. Decorative elements such as grillwork or louvers may be utilized to accomplish this objective.

Openings at the street level are limited to vehicular entrances, pedestrian access to the structure, and ventilation openings. All such openings shall be decorative and be an integral part of the overall building design.

(6) Canopies.

Canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls. Such features shall be constructed of rigid or flexible material designed to complement the streetscape of the area. Any such feature may extend from the building up to one-half

of the width of the sidewalk area in front of the building or 9', whichever is less, and may not be closer than 2' to the back of the curb. In no instance shall such features extend over, or interfere with the growth or maintenance of any required tree plantings. Minimum overhead clearance shall be 8'. Ground supports for these features are not permitted in the minimum setback, sidewalk or in the public right-of-way. If a canopy, awning, cornice, or other appurtenance extends into the public right-of-way, an encroachment agreement from CDOT or the State shall be required.

(7) Signs, Banners, Flags and Pennants.

Where signs, banners, flags and pennants for identification or decoration are provided, they shall conform to the requirements of Chapter 13, except for the following:

- (a) Wall signs shall meet the specifications of Section 13.108a, with the exception that signs located on any building wall shall have a maximum sign surface area not to exceed 5% of building wall area to which the sign(s) is attached, up to a maximum of 100 total square feet. Wall signs may be increased by 20 square feet per sign in lieu of a ground mounted or monument sign. A bonus of 4 square feet in size (20%) shall be permitted if the sign is lit 100% by neon light.
- (b) Signs are permitted to project up to 6' into the minimum setback as measured from the building. Under no circumstance shall a sign project more than 4' from the back of curb. A minimum overhead clearance of 8' from the sidewalk shall be maintained.
- (c) Marquee signs are permitted.
- (d) Ground mounted or monument signs are permitted as follows:
 - 1. Signs shall not exceed 5 feet in height and 20 square feet in area. A bonus of 4 square feet in size (20%) shall be permitted if the sign is lit 100% by neon light.
 - 2. Signs shall be located behind the right-of-way and out of any sight distance triangle prescribed by the Charlotte Department of Transportation (CDOT).
 - 3. Signs shall be located behind the minimum setback.
- (e) No free-standing pole signs shall be permitted.
- (f) No outdoor advertising signs shall be permitted.

(8) Streetscape Standards.

- (a) A continuous perimeter planting strip (excluding driveways) shall be required whenever property abuts a curb. The width of the planting strip shall be determined by the approved station area plan. Because stations will have different characters and unique conditions, planting strips within each station area may vary. When a station area plan does not specify a planting strip width an 8' wide planting strip shall be constructed.

If the station area plan does not adequately define the curb line, then the curb line shall be determined jointly by Charlotte Department of Transportation (CDOT) Director, or his designee, and the Planning Director, or his designee.

- (b) Curbs shall be located adjacent to the perimeter planting strip, unless specified otherwise in the approved station area plan. If the right-of-way width varies along the street frontage, the planting strip shall be aligned along the widest right-of-way section.
- (c) Trees shall be planted in the continuous perimeter planting strip, as per the standards found in the *Charlotte Tree Ordinance* and in the *Charlotte-Mecklenburg Land Development Standards Manual*. Tree pits with irrigation and sub-drainage are optional, in lieu of a planting strip, as per the requirements of Section 21-13(C)(2)(a)(2) of the *Charlotte Tree Ordinance*.
- (d) *Charlotte Tree Ordinance* regulations for tree protection and replacement shall be applicable within this zoning district.
- (e) Sidewalks shall be located and constructed as specified in the approved station area plan. This may include sidewalks along transit corridor right-of-ways. Typically, sidewalks along public street right-of-ways should abut the perimeter planting strip, and be located on the side closest to the building to encourage pedestrian activity. The sidewalk width and locations shall be determined by the approved station area plan. If not specified, then the sidewalk shall be 8' in width. Sidewalks shall meet the standards for concrete sidewalks in accordance with the *Charlotte-Mecklenburg Land Development Standards Manual*.

Sidewalk easements shall be required if the sidewalk is not located within the public right-of-way.

- (f) The Planning Director with the affirmative recommendation of the City Arborist/Senior Urban Forester shall have the authority to modify the requirements of Section 12.1009(8), including the modification of the planting strip, sidewalk location, and width in order to preserve existing trees and to provide flexibility for a

hard surface next to the curb, where appropriate for on-street parking (e.g. handicap parking areas, loading zones).

Section 12.1010. Administrative Approval

To offer some degree of flexibility, the Planning Director has the authority to administratively alter any of the development and urban design standards by 5% in this zoning district. If administrative approval is required for parking, or an item normally subject to approval by CDOT, the Planning Director shall only grant this approval after a determination by CDOT in conjunction with the Planning Director. On matters that do not involve quantitative measurements, the Planning Director may also make minor alterations if he/she determines that such changes would be an innovative design approach to development and/or would be in keeping with the general intent of the TOD.

Any approval shall meet the following criteria:

- (1) Incorporates existing buildings, trees, topographic features, or other existing elements consistent with the TOD intent; and
- (2) Provides urban open space, seating, fountains, accent landscaping, or other similar urban pedestrian amenities consistent with the intent of the TOD.

Section 12.1011. Board of Adjustment

The Board of Adjustment shall have no jurisdiction to grant variances from the development and urban design standards of Section 12.1008 and Section 12.1009. A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section 12.1010. The Board shall have no jurisdiction with respect to an interpretation of, or decision about the development standards found in Section 12.1008 or the urban design standards found in Section 12.1009 except as a result of notice of zoning violation for which an appeal can be filed to the Board.

Section 12.1012. Transit Oriented Development Zoning Districts (Optional)

- (1) Purpose. The Transit Oriented Development (TOD) zoning districts establish minimum standards for development. However, circumstances may arise which those regulations do not address or did not foresee. Therefore, this section establishes an alternative process by which the City Council may evaluate and approve development, which does not meet the minimum standards of TOD.

The Transit Oriented Development (Optional), or TOD-O, is established to provide a mechanism to review and address new development concepts,

innovative designs, special problems, public/private ventures, and other unique proposals or circumstances, which cannot be accommodated by the standards of TOD. It also serves as a mechanism for altering or modifying the minimum standards as they relate to a specific development.

The TOD standards are the guidelines that shall be used to evaluate a TOD-O proposal, but any of the standards of TOD may be modified in the approval of the TOD-O application, with the exception that use variances shall not be allowed.

- (2) Application. Petitions for a zoning map amendment to establish a TOD-O shall be submitted to the Charlotte-Mecklenburg Planning Commission. In order to expedite the rezoning process, TOD-O applications shall not count toward the maximum number of cases that the City hears each month.

A TOD-O classification shall be considered only upon application of the owner of the subject property or his duly authorized agent. Applications shall be accompanied by a schematic plan, which includes pedestrian and bicycle circulation elements, and by any supporting text, that becomes a part of the amending ordinance.

- (3) Approval. The establishment of the TOD-Optional zoning district shall be in accordance with the procedures of Chapter 6, Part 2: Conditional Zoning Districts. The City Council shall also consider the extent to which the basic standards of TOD are proposed to be modified, the impacts of those modifications on existing and future development in the area, and the public purpose to be served by permitting the requested modifications. In no instance shall parking be permitted in the front setback.
- (4) Alterations. Changes to approved plans and conditions of development shall be treated the same as changes to the Zoning Map and shall be processed in accordance with the procedures of Section 12.1010 or Section 12.1012.

Section 12.1013. Preliminary review.

Applicants planning any development or redevelopment in a TOD area are required to meet with the staffs of the Charlotte-Mecklenburg Planning Commission, Engineering and Property Management Department, and Charlotte Department of Transportation at two points in the design process: (1) during the conceptual design process in order that the staff may offer input into urban design objectives and (2) during the design development stage to ensure that the plans meet the desired objectives and the minimum standards for the district.

Building permits shall not be issued until the Planning Commission staff approves the proposal as in conformance with this ordinance.

1. PART 1, SUPPLEMENTAL DEVELOPMENT STANDARDS.

A. Amend Section 12.106(2)(b), Uses and structures prohibited and allowed in required setbacks and yards by excluding TOD zoning districts. Section 12.106(2)(b) shall read thusly:

(b) Notwithstanding the provisions of subsection (a), above ground structures (other than a back-flow preventer) connected to and associated with underground electric, natural gas, telecommunications or cable television distribution lines, pipes, or conduits may be located in the setback subject to the following:

ii. A structure of a dimension that does not exceed four (4) feet in width, four (4) feet in length, or three (3) feet in height may be located no closer than two (2) feet to the existing or proposed right-of-way based on the street classification and no closer than ten (10) feet to the back of curb or edge of pavement.

iii. A structure of a dimension that does not exceed four (4) feet in width, eight (8) feet in length, or six (6) feet in height may be located no closer than ten (10) feet to the existing or proposed road right-of-way based on the street classification.

The dimension restrictions contained in subsections (b)(i) and (ii) shall not apply to structures located in the setback prior to April 1, 2003.

This subsection shall not apply in the UR-1, UR-2, UR-3, UR-C, MUDD, UMUD, PED, or TOD zoning districts and shall not constitute a regulation of utilities in the right-of-way.

2. PART 2, SUPPLEMENTAL DEVELOPMENT STANDARDS.

A. Amend Section 12.202, Required number of off-street parking spaces, subsection (4) to exclude application of this section to the TOD zoning districts. Section 12.202(4) shall read thusly:

(4) This Section shall not apply to the MUDD, NS, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts established in these regulations.

B. Amend Section 12.204, Size of required parking spaces and aisles, subsection (5) to exclude application of this section to the TOD zoning districts. Section 12.204 shall read thusly:

(5) This Section shall not apply to the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts established in these regulations.

C. Amend Section 12.206, Location of required parking, subsection (4) to exclude application of this section to the TOD zoning districts. Section 12.206(4) shall read thusly:

(4) This Section shall not apply to the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts established in these regulations.

D. Amend Section 12.212, Parking deck standards. Amend the first sentence of the first paragraph to exclude application of this section to the TOD zoning districts. The first paragraph shall read thusly:

This Section sets forth development standards to address parking decks as a principal or accessory use within any permitted zoning district, except the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts. Development options, which range from planting requirements to architectural treatments are proposed to lessen the impact of parking decks upon the street environment. All parking decks, unless otherwise provided, shall conform to one of the following development options:

E. Amend Section 12.213, Underground parking structures. Amend the last sentence of the paragraph to exclude application of this section to the TOD zoning districts. The last sentence shall read thusly:

The requirements of this section do not apply to the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts.

F. Amend Section 12.214, Number, size and location of loading spaces, by amending subsection (1) to exclude application of this section to the TOD zoning districts. Section 12.214(1) shall read thusly:

(1) Loading spaces of the size and number indicated shall be provided in accordance with Table 12.214. These requirements shall not apply in the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts established in these regulations.

3. PART 3, BUFFERS AND SCREENING.

A. Amend Section 12.301, Purpose. Amend the second from the last sentence to exclude application of this section to the TOD zoning districts. Section 12.301 shall read thusly:

Section 12.301. Purpose.

It is recognized that certain land uses, because of their character and intensity, may create an adverse impact when developed adjacent to other less intensive land uses. The general purposes of this Section are to establish regulations protecting and preserving the appearance, character, and value of property within the City and to recognize that the transition between certain uses requires attention to protect less intensive land uses. The objectives are to identify those land use relationships that may be incompatible and to specify an appropriate buffer or screen, the function of which is to minimize any adverse impacts. These provisions shall not apply to developments in the ND, PED, RE-1, RE-2, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts or to certain development on school sites as provided for in Section 12.203(7)(e). The buffer requirements of this section shall not apply to the MUDD district.

4. PART 4, ACCESSORY USES AND STRUCTURES.

- A. Amend Section 12.413, Drive-in service windows. Amend by excluding drive-through service windows in the TOD zoning districts. Section 12.413 shall read thusly:

Section 12.413. Drive-in and drive-through service lanes/windows.

A drive-in service lane/windows shall be permitted only as an accessory use in the UMUD, NS, PED, MX-2, MX-3, Inst., RE-1, RE-2, O-1, O-2, O-3, B-1, B-2, BP, CC, I-1, and I-2 districts. Drive-through or drive-in service lanes are not allowed in the UR-1, UR-2, UR-3, U-C, or MUDD zoning districts. In the TOD-R, TOD-E, and TOD-M zoning districts, drive-in or drive-through service lanes are only permitted as an accessory use to professional business and general office uses located between ¼ mile to ½ mile walking distance from a transit station.

5. PART 5, SPECIAL REQUIREMENTS FOR CERTAIN USES.

- A. Amend Section 12.527, Single Room Occupancy (SRO) residences. Amend the first paragraph to allow single room occupancy residences in the TOD zoning districts. The first paragraph of Section 12.527 shall read thusly:

Section 12.527. Single Room Occupancy (SRO) residences.

Single room occupancy (SRO) residences are permitted in the Institutional, B-2, UMUD, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, U-I, and I-1 districts subject to the standards of the individual district in addition to the following requirements. If any conflict should occur between the standards of the individual district and the following requirements, the following shall apply.

- A. Section 13.108, Specifications for permanent signs requiring a permit. Amend the first sentence of Section 13.108 for clarity and to exclude the application of this section to the TOD zoning districts. The first paragraph shall read thusly:

The following are general specifications applicable to the various permanent signs permitted, except for those located in the Pedestrian Overlay District (PED), Uptown Mixed Use District (UMUD), and Transit Oriented Development Districts (TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, and TOD-MO), which have applicable specifications as per Section 13.108a. Additional specifications regarding size, number, location, and permitted types of signs are set forth in Section 13.109, District Regulations.

- B. Section 13.108a, Specifications for permanent signs in the Uptown Mixed Use District and Pedestrian Overlay District requiring a permit. Amend the title of this section to read thusly:

Section 13.108a. Specifications for permanent signs in UMUD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, and TOD-MO districts requiring a permit.

- C. Section 13.108a, Specifications for permanent signs in the Uptown Mixed Use District and Pedestrian Overlay District requiring a permit. Amend the first paragraph to include references to the TOD zoning districts. The paragraph shall read thusly:

The following are specifications applicable to the various permanent signs permitted in the UMUD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, and TOD-MO zoning districts.

Section 5. CHAPTER 9, Part 1, “General Districts”

1. PART 1, GENERAL DISTRICTS

- A. Section 9.102, Hierarch of Districts. Add TOD-R, TOD-E, TOD-M and MUDD in the hierarchy list between B-2 and UMUD, in the following order:

("highest")	R-3	R-43MF	MX-2
	R-4	UR-2	CC
	R-5	UR-3	MX-3
	R-6	RE-1	B-2
	R-8	RE-2	TOD-R
	MX-1	INST	TOD-E
	R-MH	O-1	TOD-M
	R-8MF	O-2	MUDD
	R-12MF	O-3	UMUD
	R-17MF	UR-C	B-D
	R-22MF	NS	BP
	UR-1	B-1	U-I
		I-1	
			I-2 ("lowest")

Section 6. That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the __ day of _____, 2003, 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 _____, 2003.