

Petition # 2005-068
Petitioners: Howard White, David White,

Approved by City Council
June 20, 2006

ORDINANCE NO. _____

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

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

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

A. CHAPTER 9: GENERAL DISTRICTS

1. PART 1: TABLE OF USES AND HIERARCHY OF DISTRICTS.

- a. Amend Table 9.101 by adding a new use titled “Outdoors Seasonal Fresh Produce Stands” and adding a “PC” in columns for UR-C, B-1, B-2 and CC.

2. PART 4: URBAN RESIDENTIAL DISTRICTS (UR-1, UR-2, UR-3, UR-C)

- a. Amend Section 9.404: “Uses permitted under prescribed conditions” by adding a new subsection (3.1) to read as follows:

(3.1) Outdoors Seasonal Fresh Produce Stands (UR-C only), subject to the regulations of Section 12.536.

3. PART 8: BUSINESS DISTRICTS (B-1, B-2, B-D AND BP)

- a. Amend Section 9.803: “Uses permitted under prescribed conditions” by adding a new subsection (26.1) to read as follows:

(26.1) Outdoors Seasonal Fresh Produce Stands (B-1 and B-2 only), subject to the regulations of Section 12.536.

B. CHAPTER 11: CONDITIONAL DISTRICTS

1. PART 4: COMMERCIAL CENTER DISTRICT (CC)

- a. Amend 11.403, “Uses permitted under prescribed conditions” by adding a new subsection (8.1) to read as follows:

(8.1) Outdoors Seasonal Fresh Produce Stands, subject to the regulations of Section 12.536.

C. CHAPTER 12: DEVELOPMENT STANDARDS

1. PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES

- a. Amend Section 12.519, “Outdoors Seasonal Sales” by amending the first paragraph to clarify that “Outdoor Seasonal Fresh Produce Stands” are not included in “Outdoor Seasonal Sales”. The current text reads as follows:

Section 12.519 Outdoor Seasonal Sales.

Outdoors seasonal sales are temporary uses, which include but are not limited to Christmas tree sales, pumpkin sales, plant sales, fresh produce sales and similar uses. Outdoors seasonal sales are not intended to include the sale of manufactured items such as furniture, bedding, automobile parts, or household goods. Such sales are permitted in all nonresidential zoning districts as a use by right subject to the standards of the underlying zoning district. Outdoors seasonal sales shall be permitted in all residential districts subject to the following conditions.

The revised text shall read as follows:

Section 12.519 Outdoor Seasonal Sales.

Outdoors seasonal sales are temporary uses, which include but are not limited to Christmas tree sales, pumpkin sales, plant sales, fresh produce sales (Outdoors Seasonal Fresh Produce Stands are not considered to be Outdoor Seasonal Sales, nor an Outside Open Market), and similar uses. Outdoors seasonal sales are not intended to include the sale of manufactured items such as furniture, bedding, automobile parts, or household goods. Such sales are permitted in all nonresidential zoning districts as a use by right subject to the standards of the underlying zoning district. Outdoors seasonal sales shall be permitted in all residential districts subject to the following conditions.

- b. Add a new Section 12.536, titled, “Outdoors Seasonal Fresh Produce Stands”, that adds prescribed conditions for outdoor seasonal fresh produce stands to read as follows:

Section 12.536: Outdoors Seasonal Fresh Produce Stands

Because outdoors seasonal fresh produce stands encourage greater consumption of fruits and vegetables, thereby improving the quality of life in the communities within the city and contributing to the nutritional health of the people of Charlotte, they are treated as a special case in the Charlotte Zoning Code. Regulations for these activities are specific. Furthermore, the 90-day limit at a site, which is associated with “temporary use,” is expanded to 180 days (April 15 to October 15) for, and only for, outdoors seasonal fresh produce stands.

Outdoors seasonal fresh produce stands are limited to the natural season time-span, and may sell all types of fresh produce, including but not limited to tomatoes, squash, corn, cucumbers, beans, berries, melons, apples, pears, peaches, citrus fruit, root vegetables, green vegetables, pie pumpkins, nuts, or other fruits or vegetables. In addition to fresh produce, up to 10% of the total sales area may be used to sell fruit or vegetable derived products or baked goods. Outdoor seasonal fresh produce stands are not intended to include the sale of Christmas trees, Halloween pumpkins, plants or flowers, which are regulated in Section 12.519. Outdoors seasonal fresh produce stands shall be subject to the following prescribed conditions:

- (1) The produce stand operator must obtain a permit from the Zoning Administrator, which describes the type of sales involved, the location, and the duration of the sales operation.
- (2) Outdoors seasonal fresh produce stands are permitted in the UR-C, B-1, B-2 and CC zoning districts.
- (3) The outdoors seasonal fresh produce stand operator/owner must be located on a lot occupied by another non-residential use.
- (4) The owner of the property, if not the same as the outdoor seasonal fresh produce stand operator/owner, shall give written permission to the operator/owner.
- (5) The use shall be located on a Class III, III-C, or IV street.
- (6) Outdoor seasonal fresh product stands may operate at a site for up to 180 days, but only between April 15 and October 15.
- (7) The use shall not involve or require the construction of a permanent building.
- (8) Five off-street parking spaces shall be provided for the use. Shared parking agreements are permitted, as per Section 12.203.
- (9) The produce stand must not exceed 360 square feet in area, but may include awnings that extend up to 5 feet beyond the base area.

- (10) The produce stand shall be open on two or more sides and shall be consistent with the design and architecture of surrounding structures.
- (11) Customers shall purchase from the outside perimeter of the stand, while only operators are permitted inside.
- (12) Permitted produce stand designs for stands allowed up to 90 days include 1) a grouping of display counters, without walls, that are sheltered by a fabric-covered roof, or tent, and 2) a stand mounted on a licensed and road-worthy trailer (wheels may remain in place, but the towing hitch and tongue shall be covered or removed so it does not pose a safety hazard and is not visible on the perimeter of the stand).
- (13) Permitted produce stand designs allowed up to 180 days is limited to a stand mounted on a licensed and road worthy trailer. The following requirements apply to the produce stand:
 - (a) The stand portion shall consist of a finished wooden structure with a pitched roof, built on a steel trailer with wheels and axles remaining in place.
 - (b) During setup, the towing hitch and tongue shall be covered or removed so it does not pose a safety hazard and is not visible on the perimeter of the stand.
 - (c) During setup, finished, wooden display counters and skirting materials shall be provided to conceal tires, axles, and the tongue for a more aesthetic appearance. Finished display counters may be added around the perimeter of the trailer, in such a way that they are integrated into the design of the stand.
 - (d) The license plate shall remain visible at all times.
 - (e) A commercially manufactured refrigerator or walk-in cooler may be provided inside the stand.
 - (f) A removable or folding awning may be added or erected during setup to shield the produce from sun and rain.

- (14) Hours of operation shall be from one-half hour after sunrise to one-half hour after sunset.
- (15) One identification sign not exceeding 15 square feet may be attached to the produce stand. This sign may remain in place throughout the sales season.
- (16) The use, including all sale items, parking, and maneuvering shall observe a setback of 20 feet and shall not be located in the sight distance triangle.
- (17) There shall be only one Outdoors Seasonal Fresh Produce Stand or Periodic Retail Sales Event (either off-premise or on-premise), or Outdoor Seasonal Sales event held at any one time on a lot.
- (18) The produce stand operator is responsible for the removal of all trash and spoiled product on a daily basis, and, at the conclusion of the season, must remove all vestige of the operation, including tents, tables, counters, coolers, trailers and signs.

Section 2: That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the ____ day of _____, 2005, 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, the ____ day of _____, 2005.