

Petition #: 2009-012

Petitioner: Charlotte Mecklenburg Planning Commission

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 12 Transit Oriented Development Districts

- a. Amend Section 9.1202, "Transit Oriented Development Districts" subsection (2), "Employment Oriented (TOD-E)" by deleting the last sentence in the first paragraph that describes uses with a low number of employees. The remainder of subsection (2) shall remain unchanged. The revised first paragraph shall read as follows:

Section 9.1202. Establishment of Transit Oriented Development Districts.

(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.

- b. Amend Section 9.1203, "Rezoning to a TOD Zoning District" by modifying when property may be reclassified to a TOD zoning district, by expanding the conditions under which property can be rezoned to TOD. The revised text shall read as follows:

Section 9.1203. 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 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 1/2 mile of a rapid transit station that is included in a project for which the Federal Transit Administration (FTA) has issued a Record of Decision or be located within the boundaries of a Council adopted transit station area plan.
(Petition No. 2004-93 §9.1203 10/18/04)

- c. Amend Section 9.1204, "Applicability and Exceptions", by adding a new subsection (7) to provide development exceptions for properties zoned TOD before March 2011. The new subsection shall read as follows:

Section 9.1204. Applicability and Exceptions

- (7) All properties zoned TOD-E, TOD-M and TOD-R on March 1, 2009 will not be subject to Ordinance #_____if site plans have been submitted for formal review by March 1, 2011.

- d. Amend Section 9.1205, “Uses Permitted by Right”, item (1) by adding moped sales as an allowable use, and removing the restriction on the maximum size of an automobile, motorcycle, or moped sales facility. Also amend item (21) by adding showrooms as an allowable use. The remaining paragraphs and subsections shall remain unchanged. The revised text shall read as follows:

Section 9.1205. Uses Permitted by Right

- (1) Automobile, motorcycle and moped sales, including offices and repair facilities, with no outdoor sales, display, or storage.

 - (21) Retail sales, showrooms 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.
- e. Amend Section 9.1206, “Uses Permitted Under Prescribed Conditions”, item (9) by adding showrooms as a use permitted under prescribed conditions. The revised text shall read as follows:

Section 9.1206. Uses Permitted Under Prescribed Conditions

- (9) Retail sales, showrooms 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 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.
- f. Amend Section 9.1208, “Development Standards”, subsection (a) to clarify that the development standards apply to both public and private streets and add text describing setback differences if TOD is across the street from or abutting single family development. Add statement in subsection (e) to exclude restriction of utilities under any City right-of-way ordinances. Delete subsection (g) and replace it with a new subsection to allow certain architectural features to encroach into the setback. The remaining paragraphs and subsections shall remain unchanged. The revised text shall and new subsections shall read as follows:

Section 9.1208. Development Standards

The following requirements apply to all buildings or uses in TOD unless specified otherwise in Section 9.1204:

(1) Minimum setback

(a) The minimum building setbacks along public and private streets shall be determined as follows:

1. New development across a local (public or private) street from, or abutting on the same side of a local street as, existing single family zoning (R-3, R-4, R-5, R-6, and R-8), shall have a minimum setback of (30) feet. This minimum setback shall apply only if the single family parcels front onto the same local street as the development parcel. This setback shall supersede the adopted streetscape plan.
2. Minimum setbacks for all other parcels shall be determined by a City Council adopted streetscape plan. If there is not an adopted streetscape plan, or when a streetscape plan does not specify a setback, the minimum setback for all uses shall be twenty-four (24) feet on major thoroughfares and sixteen (16) feet on all other streets. If on-street parking is provided, the minimum setback from back of curb may be reduced by the width of the on-street parking.

(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, except as allowed by any City right-of-way ordinances. This includes air vents, vaults, and backflow preventers.

(g) One story screened or open air porches and stoops may encroach into the setback up to 8', but shall be behind the required sidewalk. Architectural features such as eaves, steps and cornices may encroach up to an additional 3' into the setback. Fences and walls may also be located in the setback, behind the required sidewalk, but shall not exceed 36 inches in height above grade. All fences and walls shall be constructed in a durable fashion of brick, stone, other finished masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof.

g. Amend Section 9.1208, "Development Standards", subsection (2), "Minimum side and rear yards", subsection (b) to include freight rail corridors adjacent to TOD side and rear yards. The remaining paragraphs and subsections shall remain unchanged. The revised text shall read as follows:

(2) Minimum side and rear yards

(b) When a lot abuts a rapid transit corridor or a rapid transit corridor that is located within or adjacent to a freight rail 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 or does not specify a rear yard setback, 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, including the freight rail corridor, whichever is greater.

- h. Amend Section 9.1208, Development Standards” subsection (3), “Maximum height” subsection (a), to change location of height plane measurement based upon the classification of street the new development is on, and based upon whether there is existing single family zoning across the street, or adjacent to the new development. The remaining paragraphs and subsections shall remain unchanged. The revised text and new subsections shall read as follows:

(3) Maximum height

(Petition No. 2004-93 §9.1208(3) 10/18/04)

- (a) The maximum building height shall be determined as follows:
1. The base height for all TOD districts shall be 40 feet.
 2. For new development across a local (public or private) street from existing single family zoning (R-3, R-4, R-5, R-6, and R-8), the 40’ base height shall be measured at the minimum setback line. The height may increase one foot in height, over 40 feet, for every 10 feet in distance the portion of the building is from the required setback along that street.
 3. For new development abutting on the same side of a local (public or private) street as existing single family zoning (R-3, R-4, R-5, R-6, and R-8), the 40’ base height shall be measured at the required yard. The height may increase one foot in height, over 40 feet, for every 10 feet in distance the portion of the building is from the required yard.
 4. For all other parcels, the permitted maximum height shall be determined by the distance from the structure to the boundary line of the nearest single-family residential district (R-3, R-4, R-5, R-6, and R-8). This distance shall be the shortest measurable distance between the building footprint edges and nearby single-family residential district boundaries. Height increases for portions of the building that are a further distance from single-family residential zoning districts, are allowed at a rate of one additional foot of height for every 10 feet of additional distance the portion of the building is from the edges of nearby single-family zoning districts.
 5. The maximum height for all TOD districts shall be 120 feet.

- i. Amend Section 9.1208, “Development Standards” subsection (6) “Parking Standards”, subsection (a) table for residential development to establish minimum parking requirements and amend the parking standards for restaurants and nightclubs. Add text and reorganize subsection (c) to describe where parking and maneuvering is allowed. Add text in subsection (d) to require on-street parking for properties on blocks with single family zoning, and to allow on-street parking to be used to meet minimum residential parking requirements, but not maximum parking requirements. Add a new subsection (m) to disallow front loaded garages and parking

pads for individual residential units except for corner lots and lots having at least 50 feet in width. All other subsections remain unchanged. The revised text and new subsections shall read as follows:

(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	Minimum of 1 space per dwelling unit for properties on blocks with single family zoning, no parking minimum for all other properties and a 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	For all sites within 800’ of single family zoning, Minimum of one (1) parking space per 150 square feet of restaurant/nightclub space. For all other sites, no minimum. Maximum of 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 the Table 12.202, per non-residential use.

- (c) No surface parking or maneuvering space shall be permitted within any required or established setback, and no surface parking or maneuvering space is allowed between the permitted use and the required setback, except that:
1. Driveways providing access to the parking area may be installed. 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.
 2. Driveways providing access to structured parking facilities are permitted between the rail corridor setback and the building. However, the length of the driveway shall not exceed 50% of the length of the property line along the rail corridor.

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 shall be provided for properties on blocks with

single family zoning except where prohibited by CDOT or NCDOT. On-street parking may be used to meet minimum residential parking requirements but shall not be counted in calculating maximum parking spaces.

- (m) Front-loaded garages, parking pads and driveways for individual residential units shall not be permitted along public or private streets, except for corner lots and lots at least fifty (50) feet in width. Driveways located along public or private streets shall not be allowed to cross the front setback to access individual residential garages. Corner lots may have driveway access to a public street from the side yard. Shared driveways and alleys accessing multiple (two or more) individual garages are permitted if the garages are to the rear of the structure.

Front-loaded garages may be approved by the Planning Director if site shape, environmental and/or topographic challenges exist that present significant site constraints.

- j. Amend Section 9.1208, “Development Standards” subsection (7), “Loading Standards” by adding a new subsection (c) to restrict loading and service in single family areas. The remaining paragraphs and subsections shall remain unchanged. The new subsection shall read as follows:

(7) Loading standards

- (c) Loading and service areas shall not be located across from single family or abutting single family on the same side of the street.

- k. Amend Section 9.1208, “Development Standards”, “Screening Standards” subsection (a), the first paragraph, to allow a screening wall or fence to replace the 5’ planting strip. Add text to subsection (b) to include large utility structures as items to be screened. Clarify text in subsection (c) for surface parking lot screening. The remaining paragraphs and subsections shall remain unchanged. The revised text shall read as follows:

(Petition No. 2004-128 §9.1208(8)(a) 2/21/05)

(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 view from a public or private street or from a transit-way. Such screening shall consist of a 5-foot wide planting strip, consisting of evergreen shrubbery sufficient to visually screen these uses, or an alternative as approved by the Planning Director. An optional wall or fence may be used in lieu of the 5-foot planting strip. Walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT).

- 1. Any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other finished 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. The finished side of the fence shall face the abutting property. In no instance shall a fence or wall used for screening be located within a setback, nor shall a chain link or barbed wire fence be permitted.

- (b) Dumpsters, recycling containers, compactors, large above-ground utility structures 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 closeable gate that shall be 40% - 50% open for safety and security purposes. 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.

(Petition No. 2004-128 §9.1208(8)(b) 2/21/05)

- (c) Surface parking lots shall be screened in accordance with Section 9.1208(6)(k).

- l. Amend Section 9.1208, “Development Standards”, subsection (11), “Connectivity and circulation standards”, subsection (a) (3) to include full cut-off light fixtures. The remaining paragraphs and subsections shall remain unchanged. The revised text shall read as follows:

(11) Connectivity and circulation standards

- (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. All lighting shall be shielded with full cut off fixtures.

- m. Amend Section 9.1208, “Urban open spaces” subsection (12) by reorganizing this standard in its entirety to better define public and private open spaces. Add subsection (12)(f) to include design criteria for sites 10 acres and larger. The revised text and reorganized section shall read as follows:

(12) Urban open spaces

- (a) All new development on lots of greater than 20,000 square feet must provide urban open space. Such open space shall be either private open space and/or public open space.
- (b) Private open space is defined as an area that is:
 1. Accessible and visible to residents, tenants, and/or users of the development.
 2. Improved with seating, plantings, and/or other amenities.
 3. Located on the ground floor or first level of the development, or on a roof or terrace level, or in an interior courtyard area of the development, or a combination of these locations.
 4. Out of doors, or in the open air (may be under a roof or canopy).

- (c) Public urban open space is defined as an area that is:
 1. Accessible and open to the public.
 2. Improved with seating, plantings, and/or other amenities.
 3. Visible and accessible from the street or public pedestrian areas.
 4. Located on the ground floor or no more than five feet above or five feet below ground level.
 5. Out of doors, or in the open air (may be under a roof or canopy).
- (d) All required open space shall be located behind the sidewalk and on private property.
- (e) Open space requirements are based on the type of use, the lot size, and the gross square footage of building floor area, in accordance with the following schedule:

Use	Private open space	Public open space
Residential use	1 sq. ft./100 sq. ft. gross floor area <i>or</i> 1 sq. ft./200 sq. ft. lot area, whichever is greater.	None required.
Non-residential use	None required.	1 sq. ft./100 sq. ft. gross floor area <i>or</i> 1 sq. ft./200 sq. ft. lot area, whichever is greater.

- (f) For developments on lots in excess of ten acres (435,600 square feet), at least fifty percent (50%) of the required open space must be centrally located on the site in a common area.
 - (g) Floor Area Ratio credits are allowed for all new developments as per Section 9.1208(5)(c) when the pedestrian space is available for use by the public, including widened sidewalk areas.
- n. Amend Section 9.1209, “Urban Development Standards” subsection (a), “Street Walls” to include criteria for street walls fronting on public and private streets and public multi-use paths. Add new criteria for building design standards in new subsections (g) through (l). The remaining paragraphs and subsections shall remain unchanged. The revised text and new subsections shall read as follows:

Section 9.1209. 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 public or private street or fronting on a public multi-use path along a transit line and identified in an area plan shall be designed so that the first floor façade of the building(s) along all streets and pathways 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 and/or pathway on at least 50% of the length of the first floor street level frontage.
- (g) For buildings across from single family zoning or abutting single family zoning on the same side of the street, roof line variation every 30 feet is required. This can be accomplished by using vertical offsets in ridge lines, gables, exaggerated cornices, dormers, roof top patios, material changes, and/or other architectural features such as trellises, portals or porches.
- (h) For buildings across from single family zoning or abutting single family zoning on the same side of the street porches, if provided, shall be at least 6 feet in depth. A porch is defined as a covered platform, usually having a separate roof, at an entrance to a building.
- (i) For buildings across from single family zoning or abutting single family zoning on the same side of the street, entrances that face the street for ground floor units shall be provided. No more than four ground floor units shall be allowed to utilize the same entrance.
- (j) For buildings across from single family zoning or abutting single family zoning on the same side of the street, façade variations shall be provided that visually separate individual units. This can be accomplished through measures such as window arrangement and size variation, unit entrance design, roof variation, material changes, and/or offset wall planes.
- (k) The ground floor of parking structures that are across the street from single family zoning or that abut single family zoning on the same side of the street, shall be wrapped with active uses such as residential, office and retail uses.
- (l) The first floor of any new building on a street identified as a retail street or site identified for ground floor retail by a Council adopted plan must have at least 50% of the linear street frontage developed to accommodate non-residential uses but may be occupied with residential uses.

- o. Amend section 9.1209, “Urban Design Standards” subsection (4), “Building entrances and orientation” to include building entrance criteria on private streets. Add text to subsection (3) for distance requirement of building entrances to sidewalks. Add new subsection (d) requiring the first floor to be visually and physically separated from the sidewalk. The remaining paragraphs and subsections shall remain unchanged. The revised text and new subsection shall read as follows:

(4) **Building Entrances and Orientation**

- (a) At least one or more operable pedestrian entrances shall be provided in each of the following circumstances:
 - (1) When a lot abuts a public or private street, at least one entrance shall be provided on each building façade fronting a street. Single family and townhouse units are only required to have an entrance on one building façade fronting a street.
 - (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.
 - (d) To provide a level of comfort and security for residents on the first floor of residential buildings on major thoroughfares, the first floor should be visually and physically separated from the sidewalk. Examples include increasing the setback, installing additional landscaping, raising or lowering the first floor or other methods.
- p. Amend section 9.1209, “Urban Design Standards”, subsection (7), “Signs, Banners, Flags and Pennants” by deleting the last sentence in subsections (a) and (d)(1) providing bonus signage area for neon lighting. The remaining paragraphs and subsections shall remain unchanged. The revised text shall read as follows:

(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.
- (d) Ground mounted or monument signs are allowed as follows:

1. Signs shall not exceed 5 feet in height and 20 square feet in area.
- q. Amend section 9.1209, “Urban Design Standards” subsection (a), “Streetscape Standards” to include amenity zones in lieu of planting strips in certain conditions. Add a new subsection (g) to require amenity zones in certain conditions. The remaining paragraphs and subsections shall remain unchanged. The revised text and new subsection shall read as follows:

(8) Streetscape Standards

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

- (g) An amenity zone is required in lieu of a planting strip along ground-floor, non-residential uses, unless on-street parking is not permitted by CDOT or NCDOT.

- r. Amend section 9.1212, “Transit Oriented Development Zoning Districts (Optional)” subsection (1), “Purpose” to add new text expanding allowable circumstances for opting out of certain development standards. The remaining paragraphs and subsections shall remain unchanged. The revised text and new subsection shall read as follows:

Section 9.1212. 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, or due to the specific requirements of the regulations and their application to a specific proposal create an undesirable or unintended outcome. 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.

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 _____, 20____, 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 the _____ day of _____, 20__.