

Petition #: 2011-039
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. TABLE OF CONTENTS

- a. Amend the Table of Contents section related to Chapter 10, Part 8, “Pedestrian Overlay District” and add the new page number references. The text shall read as follows:

Part 8: Pedestrian Overlay District

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B. CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION

1. PART 2: DEFINITIONS

- a. Amend Section 2.201, “Definitions” by adding new definitions for “Active Uses”, “Outdoor Storage” and “Urban Open Space”. The ~~revised and~~ new definitions shall read as follows:

Active Uses

Uses that are permitted by right or under prescribed conditions except parking.

Outdoor Storage.

The temporary or permanent storage of products, supplies, and equipment located outside of a building. Outdoor storage of any type is considered an accessory use.

Urban Open Space.

Spaces for private or public congregation and recreational opportunities designed to be easily observed from the street, pedestrian circulation areas or common areas.

C. CHAPTER 10: OVERLAY DISTRICTS

1. PART 8: PEDESTRIAN OVERLAY DISTRICT

Delete Chapter 10, Part 8 in its entirety. Replace with the following text. The regulations have been reorganized and renumbered. For ease of understanding the modifications, new inserted text is shown with underlining, while text proposed for deletion is shown with strikethroughs.

Section 10.801. Purpose.

The purpose of the Pedestrian Overlay District (PED) is to reestablish an urban fabric by promoting a mixture of uses in a pedestrian-oriented setting of moderate intensity and to support economic development along business corridors. The district encourages the reuse of existing ~~buildings~~ structures, particularly those that contribute to the unique character or history of the area. The standards also encourage high quality design, mixed use development, the use of public transit, and development, which complements adjacent neighborhoods.

Section 10.802 ~~5.~~ Applicability.

The PED will be applied to selected corridors as an overlay to existing zoning districts, but will

not be applicable to the Mixed Use Development District (MUDD), Uptown Mixed Use District (UMUD), and the Neighborhood Services District (NS). If the regulations and standards of this Pedestrian Overlay District conflict with those of the underlying district, those of this overlay district shall apply, with one exception. If the regulations and standards of this Pedestrian Overlay District conflict with those of an Historic Overlay District, then Historic Overlay District regulations and standards for exterior features as described in Section 10.204 shall take precedence over the PED regulations and standards. (*Petition No. 2007-119, § 10.805, 11/19/07*)

A PED is not established until a rezoning petition is approved designating the boundaries for the particular corridor and a streetscape plan is approved by the City Council. The designated PED shall be shown on the official zoning maps. The development and urban design standards for a PED are stated in Sections 10.812 ~~10.804~~ and 10.813 ~~10.805~~ respectively.

Section 10.803 6. Administrative Approval.

To offer some degree of flexibility the Planning Director, or designee, has the authority to administratively alter any of the development and urban design standards by 5% in this overlay district. If administrative approval is for parking, the Planning Director, or designee, will only grant this approval after consulting with ~~the~~ CDOT. On matters that do not involve quantitative measurements, the Planning Director, or designee, may also make minor alterations if ~~he/she~~ it is determined that such changes would be an innovative design approach to development and/or would be in keeping with the general intent of the PED.

~~Any approval must meet the following criteria~~ Administrative approvals shall be considered under the following circumstances:

- (1) ~~Incorporates~~ Incorporation of existing buildings, trees, topographic features, or other existing elements consistent with the PED intent; ~~and~~
- (2) ~~Provides~~ Provision of urban open space, seating, fountains, accent landscaping, or other similar urban pedestrian amenities consistent with the intent of the PED, or;
- (3) Difficulty implementing PED standards due to site constraints such as lot configuration, lot size, lot width, mature trees, topography, number of streets or other physical constraints.

Section 10.804 7. Board of Adjustment.

The Board of Adjustment shall have no jurisdiction to grant variances from the development and urban design standards of Sections 10.812 and 10.813 ~~10.804~~. A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section ~~10.803~~ 10.806 or as a result of a Council-approved Pedestrian Overlay District (Optional). The Board shall have no jurisdiction with respect to an interpretation of, or decision about, Section 10.812 or 10.813 ~~10.803's or 10.804's~~ development and urban design standards except as a result of notice of zoning violation for which an appeal can be filed to the Board.

Section 10.805 08. Pedestrian Overlay District (Optional); Purpose.

The Pedestrian Overlay District (PED) establishes 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 the PED.

The Pedestrian Overlay District (Optional), or PED-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 the PED. It also serves as a mechanism for altering or modifying of these minimum standards as they relate to a specific development.

The PED standards form the basic framework as guidelines that will be used to evaluate a PED-O proposal, but any of the standards in the PED may be modified in the approval of the PED-O application.

Section 10.806 09. Pedestrian Overlay District (Optional); Application.

Petitions for a zoning map amendment to establish a PED-O should be submitted to the Charlotte-Mecklenburg Planning ~~Department~~ Commission. A PED-O classification will be considered only upon application of the owner of the subject property or his duly authorized agent. Applications must be accompanied by a schematic plan and by any supporting text that becomes a part of the amending ordinance.

Section 10.80710. Pedestrian Overlay District (Optional); Review and Approval.

The establishment of the Pedestrian Overlay District (Optional) shall be in accordance with the procedures of Section 6, Part 2: Conditional Zoning Districts. The City Council will also consider the extent to which the basic standards of the PED 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.

Section 10.80811. Pedestrian Overlay District (Optional); Effect of Approval; Alterations.

Changes to approved plans and conditions of development will be treated the same as changes to the Zoning Map and will be processed in accordance with the procedures in Section 10.803, 10.806, "Administrative Approval".

Section 10.80912. Preliminary review.

Applicants planning any development or redevelopment in a PED area are required to meet with the Charlotte-Mecklenburg Planning staff, 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 to interpret the approved streetscape plan for that area, and (2) during the design development stage to insure that the plans meet the desired objectives and the minimum standards for the district. The Pedestrian Overlay District (Optional) process does not exempt applicants from this preliminary review. Building permits will not be issued until the Planning Department ~~Commission~~ staff approves the proposal as in conformance with this ordinance.

Section 10.810. Exceptions to Applicability.

New development within areas designated as PED is subject to the development and urban design standards of PED, with the following exceptions:

- (a) Change of Use, Non-Residential to Non-Residential With No Expansion
 - (1) A change of use in an existing building from a non-residential use to another non-residential use that does not require more than five (5) additional parking spaces based on the PED parking standards will require screening of existing and expanded parking. However, none of the other PED requirements will apply.
 - (2) A change of use in an existing building from a non-residential use to another non-residential use that requires more than five (5) additional parking spaces based on the PED parking standards must provide all of the additional required parking and streetscape improvements. Existing parking must comply with the parking lot screening requirements of PED. Any additional parking must conform to the requirements of the PED, but none of the other PED requirements are applicable.

- (b) Change from a Residential Use to a Non-Residential Use With No Expansion
(Petition No. 2009-011, § 10.805(b), 02/16/09)

If a residential use is changed to a non-residential use with no expansion, the use is exempt from the PED requirements except the following shall apply:

- (1) Implement streetscape requirements of Section 10.813(1)(g) ~~10.804(1)(f)~~.
 - (2) Remove any existing parking that may be in conflict with the provision of the streetscape requirements of Section 10.813(1)(g) ~~10.804(1)(f)~~.
 - (3) Meet buffering and screening requirements of Section 10.812(4) and (5) ~~10.803(8) and (9)~~.
 - (4) Provide required parking as per Section 10.812(2) ~~10.803(6)(a)~~.
 - (5) Provide a 5' sidewalk connection between the building and the sidewalk on all adjoining public streets.
- (c) Expansions of less than 5% 25% of the building area or 1,000 square feet, whichever is less, are exempt from the PED requirements except:
 - (1) Such expansion must meet the minimum setback, yard and height requirements of PED.
 - (2) Provide any required additional parking according to the PED standards for the amount of the expansion.

(3) The amount of expansion is cumulative as of the adoption of this text amendment (XX/XX/2011).

(d) Expansions of more than 5% 25% or 1000 square feet, whichever is less:
(Petition No. 2009-011, § 10.805(d), 02/16/09)

- (1) Implement streetscape requirements of Section 10.813(1)(g) ~~10.804(1)(f)~~.
- (2) Remove any existing parking that may be in conflict with the provision of the streetscape requirements of Section 10.813(1)(g)~~10.804(1)(f)~~.
- (3) Meet buffering and screening requirements of Section ~~10.803(8) and (9)~~.
10.812(4) and (5).
- (4) Provide required parking as per Section ~~10.803(6)(a)~~ 10.812(2).
- (5) Provide a 5' sidewalk between the building and the sidewalk on all adjoining public streets.

(e) Creation or expansion of outdoor seating

- (1) Creation or expansion of outdoor seating is not considered an expansion of the building area.
- (2) Additional parking spaces shall not be required unless such outdoor seating requires more than 5 added spaces based on the PED parking standards. Any additional parking must conform to the requirements of the PED, but none of the other PED requirements are applicable.
- (3) Outdoor seating within an existing right-of-way or public sidewalk easement must have an encroachment agreement approved by the CDOT.

~~(f) Major facade improvements to existing buildings:~~
(Petition No. 2009-011, § 10.805(f), 02/16/09)

~~New exterior improvements (beyond paint and general maintenance such as roof or window repair or replacement) that exceed 25% of the current listed tax value of the entire property shall be subject to the following:~~

- ~~(1) Meet the streetscape and screening requirements of Section 10.804(1)(f) and Section 10.803(8).~~
- ~~(2) Remove any existing parking that may be in conflict with the provision of the streetscape requirements of Section 10.804(1)(f).~~

~~(f)(g) Additional parking for existing development~~

~~No additional parking areas may be developed in the established setback.~~

(g)(h) Removal of Required Buffer for Additional Parking

If an existing buffer or screening area is removed for more than five (5) additional parking spaces, an equal number of existing non-conforming parking spaces within the established setback must be removed and replaced with landscaping, patios and/or other related amenities, in addition to the requirements of Section 10.812(1)(g)~~10.804(1)(f)~~. The additional parking must meet the requirements of this overlay district. (*Petition No. 2002-147, § 10.805(h), 1/21/03*)

Section 10.81102. Uses

The uses permitted in the PED shall include those permitted by right and under prescribed conditions in the underlying district, except outdoor storage, outdoor advertising signs, and drive-through service windows for restaurants or retail uses. All permitted accessory uses will also be allowed except drive-thru windows for restaurants and retail establishments and outdoor advertising signs. (*Petition No. 2009-011, § 10.802, 02/16/09*)

In addition the following uses shall be permitted subject to the following requirements:

- (1) Dwellings, mixed use, subject to the standards of PED.
- (2) Drive-through service windows for offices must be located to the rear of the building, and are limited to no more than four (4) drive-through stations, including lanes servicing Automatic Teller Machines (ATM's). (*Petition No. 2002-147, § 10.802(2), 01-21-03*)
- (3) Nightclubs, bars and lounges as a principal use, shall be subject to the standards of this overlay district, and be at least 400 feet from any residential use in a residential district or from a residential district. This separation distance may be reduced by a streetscape plan approved by the City Council.
- (4) Off street parking lots, that are not an accessory use, with 5 or more spaces shall be subject to the PED streetscape and screening standards.

The following use, which is not permitted in the underlying district, shall be permitted:

- (1) Residential uses in an underlying industrial district, subject to the standards of this overlay district.

Section 10.81203. Development standards.

The following PED Overlay standards and requirements have precedence over the underlying zoning district standards and requirements, with one exception. If the regulations of PED conflict with those of a Historic Overlay District, then Historic Overlay District regulations and standards for exterior features as described in Section 10.204 shall take precedence over the PED regulations and standards. The PED development standards shall apply to all buildings or uses in PED unless specified otherwise in Section 10.802 ~~10.805~~. (*Petition No. 2007-119, § 10.803, 11/19/07*)

(1) Areas, yard and bulk regulations shall be as follows:

Table 10.812(1)

<u>Minimum Lot Area</u>	<u>None</u>
<u>Maximum Floor Area Ratio (FAR)</u>	<u>None</u>
<u>Minimum Setback (feet)¹⁻⁶</u>	<u>Varies</u>
<u>Minimum Side Yard (feet)</u>	
- <u>Abutting residential use or zoning</u>	<u>5 feet</u>
- <u>All other conditions</u>	<u>None</u>
<u>Minimum Rear Yard (feet)</u>	
- <u>Abutting residential use or zoning</u>	<u>20 feet</u>
- <u>All other conditions</u>	<u>5 feet</u>
<u>Base Height</u>	<u>40 feet</u>
<u>Maximum Height (feet)⁷⁻⁹</u>	<u>100 feet</u>

Table 10.812(2) Footnotes

<u>Setback Footnotes</u>	
<u>¹Minimum Building Setback</u>	<p>For the purposes of this section, the setback applies to all street frontages, not just to the street toward which the structure is oriented.</p> <p>The minimum building setback will be specified in a streetscape plan approved by the City Council. The minimum setback will be measured from the back of all existing or future curbs, whichever is greater.</p> <p>If new construction incorporates an existing structure located within the required setback, the Charlotte Department of Transportation (CDOT) and Planning Department staff may allow the setback for the addition to be reduced to the established setback. In no event shall the setback of any portion of the new structure be less than ten (10) feet from the back of the curb.</p> <p>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 will 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 by the Charlotte Department of Transportation (CDOT) in conjunction with the Planning Department staff.</p>
<u>²Architectural Features</u>	<p>For 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), one story screened or open air porches and stoops may encroach into the setback up to 8 feet, but shall be located behind the required sidewalk. Architectural features such as eaves, steps and cornices may encroach up to 3 feet into the setback.</p>
<u>³Charlotte Tree Ordinance</u>	<p>The “Charlotte Tree Ordinance” will be applicable in addition to any approved streetscape plan.</p>
<u>⁴Doorways</u>	<p>No new doors shall be allowed to swing into the minimum setback, except for emergency exit doors.</p>
<u>⁵Utilities</u>	<p>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.</p>
<u>⁶Fences</u>	<p>Fences and walls may also be located in the setback, behind the required sidewalk, but shall not exceed 3 feet 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</p>

	<u>other materials specifically designed as fencing materials or any combination thereof.</u>
Height Footnotes	
⁷ Base Height	<p><u>The base height for this district is 40 feet.</u></p> <p><u>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 minimum setback line.</u></p> <p><u>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.</u></p> <p><u>For all other parcels, the permitted maximum height shall be determined by the distance from the building to the boundary line of the nearest single family residential district (R-3, R-4, R-5, R-6, and R-8). The height may increase one foot in height, over 40 feet, for every 10 feet in distance the portion of the building is from single family zoning district(s).</u></p>
⁸ Maximum Height	<u>The permitted maximum height shall be determined by the distance from the building to the boundary line of the nearest single-family residential district.</u>
⁹ Proximity to Single Family Zoning	<u>For buildings located across the street from single family zoning the height shall be measured from the setback line of the PED zoned property.</u>

~~(6)~~(2) Parking standards

Provisions for parking and loading shall conform to the general requirements of CHAPTER 12, PART 2, OFF-STREET PARKING AND LOADING, except as provided for in this section.

Table 10.812(3) Number of Parking Spaces

<u>Use</u>	<u>Minimum/Maximum Number of Parking Spaces</u>
<u>Hotels and motels</u>	<u>Minimum 0.5 spaces per room</u>
<u>Religious institutions</u>	<u>Maximum One (1) space per 8 seats</u> <i>(Petition No. 2002-147, § 10.803(6)(a), 01-21-03)</i>
<u>Residential</u>	<u>Minimum One (1) space per dwelling unit.</u> <u>Minimum .25 spaces per unit for Multi-Family Elderly or Disabled</u>
<u>Restaurants/Nightclubs</u>	<u>Minimum One (1) space per 125 square feet</u>
<u>All Other Non-Residential Uses</u>	<u>Minimum One (1) space per 600 square feet</u>

~~(a)(b)~~ The required number of parking spaces for any building within the district, including mixed use buildings, is the sum total of the requirements for each use in the building calculated separately.

(b) A 25% parking reduction is allowed if the property is located within 400

feet of a parking facility available to the general public. (Such facility must be wholly available provide at least 25% of the parking spaces for public use.) This section in combination with Section 12.202(2) allows for no more than a total of 25% parking reduction.

~~(e) For new parking, the minimum stall and aisle dimensions must conform to those of the current Charlotte Mecklenburg Land Development Standards Manual. At least 75% of the required spaces must be full sized spaces.~~

~~(cd)~~ No surface parking or maneuvering space is 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.

~~(de)~~ Underground parking structures are permitted, except within any required setback.

~~(ef)~~ 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(s) of the street as the use, have a dimension of at least 22 feet in length, and be in locations 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, which is undevelopable because of physical constraints. On-street parking or recessed parking entirely within the public right-of-way is permitted in locations approved by the Charlotte Department of Transportation (CDOT). Such parking may be counted toward meeting the minimum number of parking spaces as required by this ordinance if they are located on the same side(s) of the street and abutting the use.

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 will not be required to make up the difference and will not be made non-conforming.

~~(f) All recessed on-street parking shall have a minimum width of 8 feet measured from face of curb. Reserved~~

~~(g)~~ The parking requirements (for new spaces) of the district 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 Director of Engineering and Property Management, ~~(for commercial and multi-family projects, change of use permits)~~ and the Zoning Administrator, or the Director of Neighborhood Development (for residential projects, and

~~change of use permits), or their designee(s).~~
(Petition No. 2005-78, § 10.803(6)(g), 06/20/05)

(i) 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 planting strips. Parking and driveways ~~that is~~ located to the side of the primary structure may cover no more than 35% of the total lot width.

(j) The five-foot planting strip or wall as required under Section 10.812(4)(a) ~~10.803(8)(a)~~ may be eliminated if between abutting parking lots that are combined or interconnected with vehicular and pedestrian access. If a wall is provided, then the area devoted to the wall shall be wide enough to allow for its maintenance. Surface parking lots shall conform to the “Charlotte Tree Ordinance”.
(Petition No. 2002-147, § 10.803(6)(i), 1/21/03)

(k) The bicycle parking standards of Section 12.202 and Section 12.202A are applicable in this district.
(Petition No. 2005-013, § 10.803(6)(j), 3/21/05)

(l) For multi-family buildings (three or more units) located across from or adjacent to single family zoning on local streets:

(1) Parking pads and driveways for individual multi-family residential units shall not be permitted along public or private streets, except for corner lots and lots at least fifty (50) feet in width.

(2) Corner lots may have driveway access to a public street from the side yard.

(3) Shared driveways accessing multiple garages or parking areas, and garages or parking areas accessed by alleys are permitted if the garages are to the rear of the structure.

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

~~(7)~~(3) Loading standards

(a) Non-residential buildings and structures, excluding parking structures, subject to the provisions of this Part must provide a minimum number of off-street service/delivery parking spaces. These spaces must be designed and constructed so that all parking maneuvers can take place entirely within the property lines of the premises. These parking spaces must 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 parking spaces must 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 without expansion are exempt from these loading standards.

- (b) No loading spaces may 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. It is the intent that these driveways are as nearly perpendicular to the street right-of-way as possible.
- (c) Loading and service areas shall not be located across from single family zoning or abutting single family zoning on the same side of the street.

~~(8)~~(4) Screening.

- (a) All surface parking lots for more than 10 vehicles, service entrances or utility structures associated with a building, loading docks or spaces and outdoor storage of materials, stock and equipment must be screened from the abutting property and view from a public street or from a transitway as designated by an adopted plan. Such screening shall consist of either a 5-foot wide planting strip consisting of evergreen shrubbery according to the provisions of Section 12.303(2), or a 3-foot high minimum to a 3.5-foot high maximum solid and finished masonry wall or 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. Screening may be reduced in height to 30 inches within sight triangles as required by the CDOT.
- (b) Dumpsters or trash handling areas must always be screened from adjacent property and from public view with a minimum 6-foot high solid and finished masonry wall with a solid and closeable gate. A solid wooden fence may be substituted if the dumpsters or trash handling areas are not visible from a public street or transitway. Dumpsters are not allowed in any required setback or yard space.
- (c) The Planning Director, or his or her authorized designee, shall have the authority to modify the screening requirements, including modification of the 5' wide planting strip, as long as the intent of this section is met.
(Petition No. 2009-011, § 10.803(8)(c), 02/16/09)

~~(9)~~(5) Buffers.

- (a) All uses in the PED, other than single-family detached units, must provide buffering along all edges abutting residential districts. In addition, uses in PED, which are separated from a residential district by an alley of 25 feet or less, must also provide buffering along all edges abutting the alley. However, multi-family developments abutting multi-family uses or undeveloped multi-family zoning districts are exempt from this buffering requirement.
- (b) Such buffering shall consist of a 10-foot wide planting strip. The planting strip shall consist of a combination of evergreen trees and evergreen shrubs. Plant materials will be provided at a minimum of six (6) trees and twenty (20) shrubs per 100 linear feet in accordance with Section 12.302(9)(b), (c), (d) and (e). The 10-foot wide planting strip may be reduced to 8 feet and the shrubs need not be planted if a masonry wall with a minimum height of 6 to 8 feet in a side yard or 8 to 10 feet in a rear yard is installed. This buffering area may be interrupted with a gate/pedestrian access way to an adjacent site.

(6) (10) Outdoor lighting.

- (a) The maximum height of the light source (light bulb) detached from a building shall be 20 feet.
- (b) All outdoor lighting will be screened in such a way that the light source cannot be seen from any adjacent residentially used or zoned property.

(11)(7) Urban open spaces.

- (a) All new development on lots one acre or more in size must provide urban 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, or other amenities.
 - (3) Located on the ground floor or first level of the development, a roof or terrace level, balconies, patios, 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, 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:

Table 10.812(4) Open space

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

Section 10.813 04. Urban design standards.

- (1) Design Standards.

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

- (a) Street Walls. The first floor of all buildings must be designed to encourage and complement pedestrian-scale interest and activity.

(1) The first floor of all buildings fronting a public street must be designed and/or used for ~~retail or office~~ active uses. ~~fronting directly to a street.~~ These uses must include transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 50% of the length of the first floor building elevation along the first floor street frontage.

(2) Expanses of blank walls may not exceed 20 feet in length. A blank wall is a facade that does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation.

~~For all other uses it is intended that this be accomplished principally by the use of transparent 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 architectural elements must be used on the building facade and/or in relationship to the building at street level, to animate and enliven the streetscape. These design e~~Elements may include, but are not limited to: ~~the following:~~ ornamentation; molding; string courses; belt courses; changes in material or color; architectural lighting;

works of art; ~~fountains and pools; street furniture; landscaping and garden areas; and display areas;~~ porches, or stoops.

- (3) Ventilation grates or emergency exit doors located at the first floor level in the building facade oriented to any public street must be decorative.

(b) Street walls across from or next to single family. For buildings across from single family zoning or abutting single family zoning on the same side of the street the following standards shall be met:

- (1) Roof line variation every 30 feet is required. This can be accomplished by using vertical offsets in ridge lines, gables, cornices, dormers, roof top patios, material changes, and/or other architectural features such as trellises, portals or porches.
- (2) 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.
- (3) 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.
- (4) 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.

(b)(c) Structured Parking Facilities. Structured parking facilities must also be designed to encourage and complement pedestrian scale interest and activity.

- (1) The first floor of structured parking facilities fronting a public street must be designed and/or used for active uses. These uses must include transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 50% of the length of the first floor building elevation along the first floor street frontage.
- (2) Structured parking facilities must be designed so that the only openings at the street level are those to accommodate vehicular entrances and pedestrian access to the structure. In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, they must be decorative and must be an integral part of the overall building design. These openings, as well as pedestrian and vehicular entrances, must be designed so that cars parked inside are not

visible from the street or transitway.

(3) The remainder of the street or transitway level frontage must be either available for commercial or residential space or an architecturally articulated facade designed to screen the parking areas of the structure and to encourage pedestrian scale activity. If fronting on a Class III (major arterial) or Class IV (minor arterial) street the portion of the first level along the thoroughfare frontage must be available for retail, office, or residential space.

(4) Cars on all levels of a structured parking facility must be screened from view from the street utilizing decorative elements such as grillwork or louvers.

~~(e)~~(d) Canopies. Canopies, awnings and similar appurtenances are encouraged at the entrances to buildings and in open space areas. Such features may be constructed of rigid or flexible material designed to complement the streetscape of the area. Any such facility may extend from the building to within two (2) feet of the back of the curb. Supports for these canopies are not allowed in the minimum setback. If this extension would reach into the public right-of-way, an encroachment agreement from the City or State is required.

(e) Building Entrances.

(1) At least one operable pedestrian entrance per building must face a street or transitway and be distinguishable from the rest of the building. Such entrances must be recessed into the face of the building with a minimum 15 square foot area to provide a sense of entry and to add variety to the streetscape. No new doors will be allowed to swing into the minimum setback, except for emergency exit doors.

(2) Single family and townhouse units are only required to have an entrance on one building façade fronting a street. On corner lots, single family dwellings and town homes may provide one main entrance oriented to the corner or facing either of the streets.

(3) To provide a level of comfort and security for residents on the first floor of residential buildings on major thoroughfares, the first floor shall 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.

~~(f)~~(e) Signs, Banners, Flags and Pennants. Where signs, banners, flags and pennants for identification or decoration are provided, they must conform to the requirements of Chapter 13, except for the following:

- (1) Specifications for permanent signs shall be according to Section 13.108a, except for signs located on any building wall of a structure shall have a maximum sign surface of all signs on one wall not to exceed 5% of building wall area to which the sign is attached, up to a maximum of 100 square feet. Wall signs may be increased by 10% per sign in lieu of a ground mounted or monument sign.
(Petition No. 2002-147, § 10.804(e)(1), 1/21/03)
- (2) No permanent detached pole signs shall be permitted in PED.
- (3) Ground mounted or monument signs are allowed as follows:
 - a. Not to exceed 5 feet in height and 20 square feet in area.
 - b. Located behind the right-of-way and out of any sight distance triangle prescribed by the Charlotte Department of Transportation (CDOT).
 - c. Signs must be located a minimum of 14 feet from the existing or future curb, whichever is greater.
- (4) No outdoor advertising signs will be permitted.
- (5) Marquee and message center signs are allowed.
- (6) Signs are allowed to project nine (9) feet into the required setback or one-half the width of the required setback, whichever is less. A minimum overhead clearance of eight (8) feet from the sidewalk must be maintained.

(g)(f) Streetscape Requirements. The streetscape requirements of the Pedestrian Overlay District (PED) are as follows:
(Petition No. 2009-011, § 10.804(1)(f), 02/16/09)

- (1) Sidewalks and trees will be installed in accordance with a streetscape plan approved by the City Council.
- (2) Trees must be planted in accordance with the "Charlotte Tree Ordinance" as per the "Charlotte-Mecklenburg Land Development Standards Manual".
- (3) The Planning Director, or his or her authorized designee, with the affirmative recommendation of the City Arborist/ Urban Forester shall have the authority to modify the above streetscape requirements, including the modification of the planting strip, sidewalk location and width in order to preserve existing trees and buildings.

(h)(g) Valet Parking service standards. A valet parking service may be incorporated into the parking plan, and shall be reviewed on a case-by-case basis. If utilized, the

following requirements shall be met:
(Petition No. 2002-147, § 10.804(1)(g), 02/18/08)

- (1) The valet parking service can be located in the following areas:
 - a. For valet parking services that utilize the public right-of-way, the service may be located at the back of the existing curb of a street or thoroughfare as long as the existing curb line is not modified to provide an inset for the valet parking service or to reduce the width of the required sidewalk or planting strip.
 - b. On private property the valet parking service area shall be located to the side or rear of the structure or building, but shall not be located between the building and the street.
- (2) The parking area for the valet parking service shall be incorporated into the parking lot or parking structure design, if provided.
- (3) The valet parking service and associated structures shall not disrupt the flow of pedestrian and vehicular traffic.
- (4) For valet parking services that are located on a public street or thoroughfare, or where the right-of-way is utilized by the service, a valet parking permit shall be obtained from the Charlotte Department of Transportation (CDOT). See the Charlotte Municipal Code, Article XII. "Valet Parking", Sections 19.321 through 19.325 for permit information and criteria.

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 _____, 2011, 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 _____, 2011.