

**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:

A. CHAPTER 3: DECISION-MAKING AND ADMINISTRATIVE BODIES

1. PART 3: BOARD OF ADJUSTMENT

- a. Amend Section 3.310, "Powers and Duties", subsection (5) by deleting the last sentence that does not allow the Board of Adjustment to have authority to consider variances related to the number of, or size of, permissible signs in a conditional district. The revised text shall read as follows:

(5) The Board of Adjustment shall not have jurisdiction with respect to Section 6.201 Conditional Districts except as provided in this section. The Board of Adjustment shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the Board prior to the approval of a conditional district. In addition the Board of Adjustment may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. ~~At no time shall the Board of Adjustment have authority to consider a variance relating to the number of or size of permissible signs in a conditional district.~~

B. CHAPTER 5: APPEALS AND VARIANCES

- 1. Amend Section 5.101, "Authority of City of Charlotte", subsection (4) by deleting the last sentence that does not allow the Board of Adjustment to have authority to consider variances related to the number of, or size of, permissible signs in a conditional district. The revised text shall read as follows:

(4) The Board of Adjustment shall not have jurisdiction with respect to Section 6.201 Conditional Zoning Districts except as provided in this section. The Board of Adjustment shall have jurisdiction with respect to conditional zoning districts if the request pertains to a variance from specified minimum

requirements of the zoning ordinance and is filed with the Board prior to the approval of a conditional zoning district. In addition the Board of Adjustment may also hear and decide on various petitions for approved conditional zoning district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. ~~At no time shall the Board of Adjustment have authority to consider a variance relating to the number of or size of permissible signs in a conditional zoning district.~~

C. CHAPTER 9: GENERAL DISTRICTS

1. PART 8.5: MIXED USE DEVELOPMENT DISTRICT

- a. Amend Section 9.8508, “Mixed Use Development District Optional”, by deleting the last sentence referring to variances. The revised section shall read as follows:

Section 9.8508. Mixed Use Development District (Optional): purpose.

The Mixed Use Development District (MUDD) establishes minimum standards for design and development in the uptown area. Those standards, however, might not at all times be appropriate to the particular development. Also, there might be unforeseen circumstances that the MUDD regulations do not address which impede appropriate site development.

MUDD-Optional is an alternative process that addresses new development concepts, innovative design, special problems, public/private ventures, and other unique circumstances that MUDD cannot accommodate. The MUDD standards, however, shall be guidelines for the development of MUDD-O rezoning petitions. The Board of Adjustment shall ~~not~~ only have jurisdiction to grant variances from the following MUDD design standards, if not specified on an approved conditional plan:

<u>STANDARD</u>	<u>SECTION NUMBER</u>
<u>Minimum setback</u>	<u>9.8505(2)</u>
<u>Minimum side yards</u>	<u>9.8505(3)</u>
<u>Minimum rear yard</u>	<u>9.8505(4)</u>
<u>Maximum height</u>	<u>9.8505(5)</u>
<u>Maximum size and location of signs, banners, flags and pennants</u>	<u>9.8506(2)(c)</u>
<u>Minimum vehicle and bicycle parking requirements</u>	<u>9.8507</u>
<u>Minimum loading requirements</u>	<u>9.8507</u>

2. PART 9: UPTOWN MIXED USE DISTRICT

- a. Amend Section 9.908, “Uptown Mixed Use District (Optional); purpose” by deleting the last sentence referring to variances. The revised section shall read as follows:

Section 9.908. Uptown Mixed Use District (Optional); purpose.

The Uptown Mixed Use District (UMUD) establishes minimum standards for design and development in the uptown area. However, circumstances may arise which those regulations do not address or did not foresee. The Uptown Mixed Use District (Optional), or UMUD-O, is established to provide a mechanism to review and address new development concepts, innovative design, special problems, public/private ventures, and other unique proposals or circumstances, which cannot be accommodated by the standards of the UMUD. The UMUD standards shall be guidelines in the development of UMUD-O rezoning petitions. The Board of Adjustment shall ~~not~~ only have jurisdiction to grant variances from the following UMUD design standards if not specified on an approved conditional plan:

<u>STANDARD</u>	<u>SECTION NUMBER(S)</u>
<u>Minimum setback</u>	<u>9.905(2)</u>
<u>Minimum side yards</u>	<u>9.905(3)</u>
<u>Minimum rear yard</u>	<u>9.905(3)</u>
<u>Maximum height</u>	<u>9.905(4)</u>
<u>Maximum size and location of signs, banners, flags and pennants</u>	<u>9.906(2)(e)</u>
<u>Minimum vehicle and bicycle parking requirements</u>	<u>9.907(1); and 9.907(3)</u>
<u>Minimum loading requirements</u>	<u>9.907(2)</u>

3. PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS

- a. Amend Section 9.1211, “Board of Adjustment”, by deleting the title and text and replacing the title with “Reserved”. The revised section shall read as follows:

Section 9.1211. Board of Adjustment

~~The Board of Adjustment shall have no jurisdiction to grant variances from the development and urban design standards of Section 9.1208 and Section 9.1209. A deviation from a development or urban design standard, however, can be obtained as a~~

~~result of administrative approval pursuant to Section 9.1210. The Board shall have no jurisdiction with respect to an interpretation of, or decision about the development standards found in Section 9.1208 or the urban design standards found in Section 9.1209 except as a result of notice of zoning violation for which an appeal can be filed to the Board. The Board of Adjustment shall only have jurisdiction to grant variances from the following TOD standards:~~

<u>STANDARD</u>	<u>SECTION NUMBER(S)</u>
<u>Minimum setback</u>	<u>9.1208(1)</u>
<u>Minimum side yards</u>	<u>9.1208(2)</u>
<u>Minimum rear yard</u>	<u>9.1208(2)</u>
<u>Maximum height</u>	<u>9.1208(3)</u>
<u>Minimum and Maximum vehicle and bicycle parking requirements</u>	<u>9.1208(6)</u>
<u>Minimum loading requirements</u>	<u>9.1208(7)</u>
<u>Maximum size and location of signs, banners, flags and pennants</u>	<u>9.1209(7)</u>

D. CHAPTER 10: OVERLAY DISTRICTS

1. PART 8: PEDESTRIAN OVERLAY DISTRICT

- a. Amend Section 10.804, “Board of Adjustment” by deleting text and allowing the Board of Adjustment to have jurisdiction to grant variances from specified development standards. The revised text shall read as follows:

Section 10.804. 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. A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section 10.803 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 development and urban design standards except as a result of notice of zoning violation for which an appeal can be filed to the Board. The Board of Adjustment shall only have jurisdiction to grant variances from the following PED standards:~~

<u>STANDARD</u>	<u>SECTION NUMBER(S)</u>
<u>Minimum setback</u>	<u>10.812(1)</u>
<u>Minimum side yards</u>	<u>10.812(1)</u>
<u>Minimum rear yard</u>	<u>10.812(1)</u>
<u>Maximum height</u>	<u>10.812(1)</u>
<u>Minimum and Maximum vehicle and bicycle parking requirements</u>	<u>10.812(2)</u>
<u>Minimum loading requirements</u>	<u>10.812(3)</u>
<u>Maximum size and location of signs, banners, flags and pennants</u>	<u>10.813(1)(f)</u>

2. PART 9: TRANSIT SUPPORTIVE OVERLAY DISTRICT

- a. Amend Section 10.911, “Board of Adjustment”, by modifying the text to allow the Board of Adjustment to have jurisdiction to hear and decide petitions for variances from specified standards. The revised section shall read as follows:

Section 10.911. Board of Adjustment.

The Zoning Board of Adjustment shall have the following powers and duties to be carried out in accordance with these regulations:

- (1) The Board shall have jurisdiction to hear and decide appeals from, and to review any specific order, requirement, decision, interpretation, or determination made by the Zoning Administrator about the development and urban design standards of Section 10.907 and 10.908.
- (2) The Board shall ~~not only~~ have jurisdiction to hear and decide petitions for variances from ~~the development and urban design standards of Section 10.907 or Section 10.908~~ the following standards: the following TS standards:

<u>STANDARD</u>	<u>SECTION NUMBER(S)</u>
<u>Minimum setback</u>	<u>10.907(1)</u>
<u>Minimum side yards</u>	<u>10.907(2)</u>
<u>Minimum rear yard</u>	<u>10.907(2)</u>
<u>Maximum height</u>	<u>10.907(3)</u>
<u>Minimum and Maximum vehicle and bicycle parking requirements</u>	<u>10.907(6)</u>
<u>Minimum loading requirements</u>	<u>10.907(7)</u>
<u>Maximum size and location of signs, banners, flags and pennants</u>	<u>10.908(7)</u>

A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section 10.910 or as a result of a City Council approved rezoning to TS-Optional.

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 ____, 2012, 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 _____, 2012.