

Petition No. 2014-021

Petitioner: Charlotte-Mecklenburg Planning Department

**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 2: DEFINITIONS AND RULES OF CONSTRUCTION

1. PART 2: DEFINITIONS

- a. Amend Section 2.201, "Definitions" by adding a new definition for "mobile produce market", in alphabetical order. The new definition shall read as follows:

Mobile produce market.

A mobile vehicle (excluding passenger cars), or trailer, commercially licensed by a Department of Motor Vehicles, from which fruits and vegetables (fresh or commercially prepared and packaged) are sold, excluding alcoholic beverages.

B. CHAPTER 9: GENERAL DISTRICTS

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

- a. Amend Section 9.101, "Table of Uses" by making modifications to the Use Table under the headings, "Other Uses" (for principal uses) and "Accessory Uses and Structures" and as shown. The amended table shall read as follows:

PRINCIPAL USE										
Other Uses										
	R-3	R-4	R-5	R-6	R-8	R-8MF	R12MF	R17MF	R22MF	R-43MF
Outdoor fresh produce stands and <u>mobile produce markets</u>	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC

PRINCIPAL USE											
Other Uses											
	UR-1	UR-2	UR-3	UR-C	MX-1	MX-2	MX-3	INST	O-1	O-2	O-3
Outdoor fresh produce stands <u>and mobile produce markets</u>	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC

PRINCIPAL USE										
Other Uses										
	RE-1	RE-2	RE-3	B-1	B-2	B-D	B-P	CC	NS	MUDD
Outdoor fresh produce stands <u>and mobile produce markets</u>	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC

PRINCIPAL USE							
Other Uses							
	UMUD	TOD-R	TOD-E	TOD-M	U-I	I-1	I-2
Outdoor fresh produce stands <u>and mobile produce markets</u>	PC	PC	PC	PC	PC	PC	PC

2. PART 2: SINGLE FAMILY DISTRICTS

- a. Amend Section 9.203, “Uses permitted under prescribed conditions”, by modifying item (12.1), “Outdoor fresh produce stands” by adding “and mobile produce market”. The revised entry shall read as follows:

(12.1) Outdoor fresh produce stands, and mobile produce market, subject to the regulations of Section 12.539.

3. PART 3: MULTI-FAMILY DISTRICTS

- a. Amend Section 9.204, “Uses permitted under prescribed conditions”, by adding “and mobile produce market” to item (17.1), “Outdoor fresh produce stands”. The revised entry shall read as follows:

(17.1) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

4. PART 4: URBAN RESIDENTIAL DISTRICTS

- a. Amend Section 9.404, “Urban Residential Districts; uses permitted under prescribed conditions”, by modifying item (3.1), “Outdoors Fresh Produce Stands” by removing the “s” in “outdoors”, adding “and mobile produce market”. The revised entry shall read as follows:

(3.1) ~~Outdoors-Fresh Produce Stands~~, and Mobile Produce Market, subject to the regulations of Section 12.539.

5. PART 5: INSTITUTIONAL DISTRICT

- a. Amend Section 9.503, “Uses permitted under prescribed conditions” by modifying item (13.1), “Outdoor fresh produce stands” by adding, “and mobile produce market”. The item is located in the wrong section. The deleted item is as follows:

(13.1) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

6. PART 6: RESEARCH DISTRICTS

- a. Amend Section 9.603, “Uses permitted under prescribed conditions” by modifying item (14) titled, “Outdoor fresh produce stands” to include “and mobile produce market”. The revised item shall read as follows:

(14) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

7. PART 7: OFFICE DISTRICTS

- a. Amend Section 9.703, “Uses permitted under prescribed conditions” by modifying item (20.2), “Outdoor fresh produce stands” to include “and mobile produce market”. The revised item shall read as follows:

(20.2) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

8. PART 8: BUSINESS DISTRICTS

- a. Amend Section 9.803, “Uses permitted under prescribed conditions” by 1) modifying item (26.1), “Outdoor fresh produce stands” by adding “mobile produce market” and 2) renumbering item (26.1) as (25.5) to place it in alphabetical order. The revised item shall read as follows:

~~(26.1)~~(25.5) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

9. PART 8.5: MIXED USE DEVELOPMENT DISTRICT

- a. Amend Section 9.8503, “Mixed Use Development District; uses permitted under prescribed conditions” by modifying “Outdoor fresh produce stands” by adding “mobile produce market”. The revised item shall read as follows:

Outdoor fresh produce stands and mobile fresh produce market, subject to the regulations of Section 12.539.

10. PART 9: UPTOWN MIXED USE DISTRICT

- a. Amend Section 9.903, “Uptown Mixed Use District; uses permitted under prescribed conditions” by modifying item (14.4), “Outdoor fresh produce stands” by adding “mobile produce market. The revised item shall read as follows:

(14.4) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

11. PART 10: URBAN INDUSTRIAL DISTRICT

- a. Amend Section 9.1003, “Urban Industrial District; uses permitted under prescribed conditions” by modifying item (6.01), “Outdoor fresh produce stands” by adding “mobile produce market”. The revised item shall read as follows:

(6.01) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

12. PART 11: INDUSTRIAL DISTRICTS

- a. Amend Section 9.1103, “Uses permitted under prescribed conditions” by modifying item (35.1), “Outdoor fresh produce stands” by adding “and mobile produce market”. The revised item shall read as follows:

(35.1) Outdoor fresh produce stands, and mobile produce market, subject to the regulations of Section 12.539.

13. PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS

- a. Amend Section 9.1206, “Uses permitted under prescribed conditions” by modifying item (7.1), “Outdoor fresh produce stands” by adding “and mobile produce market”. The revised item shall read as follows:

(7.1) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

C. CHAPTER 11: CONDITIONAL ZONING DISTRICTS

1. PART 2: MIXED-USE DISTRICTS (MX-1, MX-2, AND MX-3)

- a. Amend Section 11.203, “Uses permitted under prescribed conditions” by modifying item (12.1), “Outdoor fresh produce stands” by adding “and mobile produce market”. . The revised item shall read as follows:

(12.1) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

2. PART 4: COMMERCIAL CENTER DISTRICT

- a. Amend Section 11.403, “Uses permitted under prescribed conditions” by amending item (8.1), “Outdoor fresh produce stands” by adding “and mobile produce market”. The revised item shall read as follows:

(8.1) Outdoor fresh produce stands and mobile produce market, subject to the regulations of Section 12.539.

D. CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY

1. PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES

- a. Modify Section 12.539, “Outdoors Fresh Produce Stands” by removing the “s” in “outdoors” and modifying the section to include “mobile produce markets” and modifying the prescribed conditions. The revised section shall read as follows:

Section 12.539. Outdoors Fresh Produce Stands or Mobile Produce Market

~~Because~~ Outdoors fresh produce stands and mobile fresh produce markets 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.~~

Outdoors fresh produce stands and mobile produce market vendor(s) 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, fresh herbs, 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. Outdoor fresh produce stands or mobile produce markets are not intended to include the sale of Christmas trees, Halloween pumpkins, plants or flowers, which are regulated in Section 12.519.

~~As a principal use, outdoor fresh produce stands are allowed in all zoning districts except residential, office and institutional zoning districts. As a principal use, outdoor fresh produce stands located in a permanent structure are subject to the standards of the underlying zoning district and the regulations of Chapter 4, "Development Approval".~~

However, if a permanent structure is not utilized, then the following prescribed conditions shall be met.

- ~~(1) — Each vendor selling fresh produce must obtain zoning permit(s) for the outdoor fresh produce stand(s) and any associated canopies or tents from the Zoning Administrator or designee. The permit for an outdoor fresh produce stand shall be valid from January 1 to December 31, unless a shorter duration is noted.~~
- ~~(2) — The owner of the property, if not the same as the outdoor fresh produce stand vendor(s), shall give written permission to each vendor.~~
- ~~(3) — Outdoor seasonal fresh produce stands may operate all year.~~
- ~~(4) — A zoning use placard must be posted in a visible location on the produce stand, while in use.~~
- ~~(5) — Temporary fabric covered canopies or tents are permitted, if removed daily.~~
- ~~(6) — The produce stand vendor is responsible for the removal of all trash and spoiled product on a daily basis, and, at the conclusion of the season or termination of the permit, the operator must remove all vestige of the operation, including, but not limited to, canopies, tents, tables, counters, coolers, trailers and signs.~~
- ~~(7) — All other applicable Federal, State and Local Codes shall be met for the use and items sold.~~

~~As an accessory use, outdoor fresh produce stands are allowed in all zoning districts, subject to the following prescribed conditions:~~

- ~~(1) — Each vendor selling fresh produce must obtain zoning permit(s) for the outdoor fresh produce stand(s) and any associated canopies or tents from the Zoning Administrator or designee. The permit for an outdoor fresh produce stand shall be valid from January 1 to December 31, unless a shorter duration is noted.~~
- ~~(2) — Residential Districts: The use shall only be allowed in residential districts as an accessory use to a religious institution, school, university, college, or hospital located on a lot abutting a major thoroughfare, not to exceed 750 square feet of the lot area for all stand(s). The lot must be a legal conforming lot that is in compliance with all zoning regulations.~~
- ~~(3) — Office and Institutional Districts: The use shall be allowed in institutional and office zoning districts as an accessory use to a religious institution, school, university, college, hospital or to an office use, not to exceed 1500 square feet of the lot for all stand(s). The lot must be a legal conforming lot that is in compliance with all zoning regulations.~~
- ~~(4) — All other Districts: The use shall be allowed only on lot occupied by another non-residential use, and shall not exceed 1500 square feet of the lot for all stand(s). The lot must be a legal conforming lot that is in compliance with all zoning regulations.~~
- ~~(5) — The owner of the property, if not the same as the outdoor fresh produce stand vendor(s), shall give written permission to each vendor.~~
- ~~(6) — Outdoor seasonal fresh produce stands may operate all year.~~
- ~~(7) — Five off-street parking spaces shall be provided for all outdoor fresh produce stand(s) on the same parcel. Shared parking agreements are permitted, as per Section 12.203~~
- ~~(8) — In the residential, office, or institutional zoning districts, no buildings are permitted in association with fresh produce stands.~~
- ~~(9) — Hours of operation shall be from one half hour after sunrise to one half hour after sunset.~~
- ~~(10) — Signage is only allowed on the stand. 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. No detached signs are allowed.~~
- ~~(11) — The setback for all sale items and parking shall be the minimum setback approved on a conditional site plan, or the setback of the district if there is not an approved site plan, but not less than 20~~

~~feet from the right-of-way.~~

- ~~(12) In all zoning districts, temporary fabric covered canopies or tents are permitted, if removed daily.~~
- ~~(13) A zoning use placard must be posted in a visible location on the produce stand, while in use.~~
- ~~(14) The produce stand vendor is responsible for the removal of all trash and spoiled product on a daily basis, and, at the conclusion of the season or termination of the permit, the operator must remove all vestige of the operation, including, but not limited to, canopies, tents, tables, counters, coolers, trailers and signs.~~
- ~~(15) Outdoor Fresh Produce Stand(s) or Periodic Retail Sales Event (either off-premise), or Outdoor Seasonal Sales event may not occupy the same lot at the same time. Any change of use of the property requires a new permit, and any previous permit(s) become null and void.~~
- ~~(16) All other applicable Federal, State and Local Codes shall be met for the use and items sold.~~

1. Principal and accessory outdoor fresh produce stands and mobile produce markets are subject to the following prescribed conditions:

- (a) The property owner shall obtain a zoning permit for the outdoor fresh produce stand(s) or mobile produce market. The permit shall be valid for 365 consecutive days.
- (b) The owner of the property, or designated agent, shall give written permission to each vendor.
- (c) Two off-street parking spaces shall be provided for each outdoor fresh produce stand or mobile produce market, on the same parcel. Shared parking agreements are permitted, as per Section 12.203.
- (d) The lot must be a legal conforming lot .
- (e) The vendor is responsible for the removal of all trash and spoiled product on a daily basis.
- (f) The setback for all sale items and parking shall comply with the required minimum setback of the district, or any approved site plan, but shall not be less than 20 feet from the right-of-way. The use must also be located outside of any required buffer or sight distance triangle.
- (g) All other applicable Federal, State and Local Codes shall be met

for the use and items sold.

(h) Violations are subject to Section 8.105, “Citations”. Violations may result in the revocation of the zoning use permit.

2. **Principal** outdoor fresh produce stand(s) or principal mobile produce markets are subject to the following additional prescribed conditions:

(a) Allowed in the UR-C, RE-1, RE-2, RE-3, B-1, B-2, B-D, BP, CC, NS, MUDD, UMUD, TOD-E, TOD-M, U-I, I-1 and I-2 zoning districts and

(b) Temporary fabric-covered canopies or tents are permitted if removed daily. Canopies or tents exceeding 12’ in any dimension require a permit from Neighborhood & Business Services.

3. **Accessory** outdoor fresh produce stands or accessory mobile produce markets are subject to the following additional prescribed conditions:

(a) Allowed in all zoning districts.

(b) Outdoor fresh produce stand(s) or a mobile produce market may not occupy the same lot at the same time in the residential and institutional zoning districts.

(c) **Residential Districts:** The outdoor fresh produce stand or mobile produce market shall only be allowed in residential districts as an accessory use to a religious institution, school, university, college, or hospital located on a lot abutting a major thoroughfare, minor thoroughfare or collector street, subject to the following additional prescribed conditions:

i. Outdoor fresh produce stand(s) may not exceed 750 square feet of the lot area for all stand(s) in the residential districts.

ii. If the mobile produce market utilizes a large commercial vehicle, it is exempt from meeting the requirements of Section 12.218(4) and may park in a residential district as an accessory use on a site with a religious institution, school, college, university or hospital.

iii. Hours of operation shall be from 7:00 a.m. to 9:00 p.m.

iv. One attached identification sign shall be allowed for each outdoor produce stand and shall not exceed 15 square feet.

v. Temporary fabric-covered canopies or tents are limited to one 12’ X 12’ tent in residential districts.

vi. Permanent buildings are not permitted.

(d) **Office and Institutional Districts:** Outdoor fresh produce stand(s) or a mobile produce market shall be allowed in institutional and office zoning districts as an accessory use to a religious institution, school, university, college, hospital or to an office use, subject to the following additional prescribed conditions:

i. Outdoor fresh produce stand(s) shall not exceed 1500 square feet of the lot for all stands.

ii. Permanent buildings are not permitted.

iii. One attached identification sign shall be allowed for each produce stand, not to exceed 15 square feet, in the institutional and office districts.

(e) **All Other Districts:** Outdoor fresh produce stand(s) or mobile produce markets are allowed as an accessory use to a non-residential use. Outdoor fresh produce stand(s) shall not exceed 1500 square feet of the lot for all stand(s).

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 ____, 2015, 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 _____, 2015.
