

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

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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. The district encourages the reuse of existing buildings 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. Uses

The uses permitted in the PED shall include those permitted by right and under prescribed conditions in the underlying district, except outdoor storage and outdoor advertising signs. All permitted accessory uses will also be allowed except drive-thru windows for restaurants and retail establishments and outdoor advertising signs.

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.

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

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

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

Section 10.803. Development standards.

The following PED Overlay standards and requirements have precedence over the underlying zoning district standards and requirements. The PED development standards shall apply to all buildings or uses in PED unless specified otherwise in Section 10.805.

(Petition No. 2002-147, § 10.803, 01-21-03)

(1) Minimum lot area

None required.

(2) Floor Area Ratio

No maximum.

(3) Minimum setback

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. 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 Commission staff.

However, if new construction incorporates an existing structure located within the required setback, the CDOT and the Planning Commission 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.

The “Charlotte Tree Ordinance” will be applicable in addition to any approved streetscape plan. For the purposes of this section, the setback applies to all street frontages, not just to the street toward which the structure is oriented. All new transformer vaults, utility structures, air vents, backflow preventers, or any other similar devices, including these facilities when located below grade, must be behind the setback. No new doors shall be allowed to swing into the minimum, setback, except for emergency exit doors.

No walls or fences are permitted in the established setback, except as screening for parking as provided for in Section 10.803.(8) Screening.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

(4) Minimum side and rear yards

None required. However, a 5-foot minimum side yard and/or a 20-foot minimum rear yard is required where the lot abuts an existing residential structure or a residential zoning district. If side and rear yards are provided, the minimum shall be five (5) feet.

(5) Maximum height

The permitted height shall be determined by the distance of the structure from property used and/or zoned for residential purposes. The base height for this district is 40 feet. The building height may increase one foot in height, over 40 feet, for every 10 feet in distance from the property line of the nearest site used and/or zoned for residential purposes, except for property zoned PED, MUDD, or UMUD. For purposes of this Ordinance, distances shall be measured in a straight line from the closest edge of the PED property to the nearest residentially used/zoned property. The intent of this standard is to allow the height of a portion of a structure to increase as the distance from residential properties increases. The maximum height shall be 100 feet.

(Petition No. 2002-147, § 10.803(5), 01-21-03)

(6) 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.

- (a) Permitted uses within this overlay district shall be required to provide off-street parking spaces for new uses as follows:

Religious institutions: one (1) space per 8 seats
(Petition No. 2002-147, § 10.803(6)(a), 01-21-03)

Residential uses: one (1) space per dwelling unit

Restaurants/nightclubs: one (1) space per 125 square feet

Hotels and motels: 0.5 space per room

For all other non-residential uses: one (1) space per 600 square feet

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.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

A 25% parking reduction is allowed if located within 400 feet of a parking facility available to the general public. (Such facility must be wholly available for public use.) This section in combination with Section 12.202(2) allows for no more than a total of 25% parking reduction.

- (b) 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.
- (c) 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.
- (d) Underground parking structures are permitted, except within any required setback.
- (e) 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. 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.
(Petition No. 2002-147, § 10.803(6)(f), 1/21/03)
- (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) 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)

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

- (h) 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 that is located to the side of the primary structure may cover no more than 35% of the total lot width.
 - (i) The five-foot planting strip or wall as required under Section 10.803(8)(a) may be eliminated if abutting parking lots 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)
 - (j) 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)
- (7) 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 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.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

(8) 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.

(9) 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.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

- (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 can not be seen from any adjacent residentially used or zoned property.

Section 10.804. 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 floors of all buildings must be designed to encourage and complement pedestrian-scale interest and activity. The first floor of all buildings designed and/or used for retail or office uses fronting directly to a street 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. 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 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 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.

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

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

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

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.

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.

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.

- (c) 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.
- (d) Building Entrances. 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.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

- (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.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

- (f) Streetscape Requirements. The streetscape requirements of the Pedestrian Overlay District (PED) are as follows:
- (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 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.
(Petition No. 2002-147, § 10.804(f)(3), 1/21/03)
- (g) Valet Parking standards. Valet parking 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:
- (1) Valet parking shall be located at the existing curb.
 - (2) Valet Parking plans shall be submitted to the Charlotte Department of Transportation (CDOT) for review. Approval of the valet parking plan shall be obtained from CDOT.
 - (3) Valet parking is not permitted on streets or thoroughfares where on-street parking/loading is not permitted.
 - (4) No reduction in the width of the sidewalk or the planting strip is allowed for valet cutouts. If special valet parking is desired, it shall be incorporated into the parking lot or parking structure area.
(Petition No. 2002-147, § 10.804(g), 1/21/03)

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

Section 10.805. 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.

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 10.804 and 10.805 respectively.

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. 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**

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 PED
- (2) Remove any non-conforming parking and provide required parking of PED
- (3) Meet buffering and screening requirements of PED

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

(c) Expansions of less than 5% 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.

(d) Expansions of more than (c) above:

The entire site must be brought up to the PED requirements, except any existing building which will become non-conforming may remain.

(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:

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) Eliminate any non-conforming parking from the required setback. Such elimination will not require any additional parking even if the site is rendered non-conforming.
- (2) Streetscape improvements and screening according to the PED standards will be required.

(g) Additional parking for existing development

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

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

(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 10.804(1)(f). The additional parking must meet the requirements of this overlay district.

(Petition No. 2002-147, § 10.805(h), 1/21/03)

Section 10.806. Administrative Approval.

To offer some degree of flexibility the Planning Director 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 will only grant this approval after consulting with the CDOT. On matters that do not involve quantitative measurements, the Planning Director may also make minor alterations if he/she determines 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:

- (1) Incorporates existing buildings, trees, topographic features, or other existing elements consistent with the PED intent; and
- (2) Provides urban open space, seating, fountains, accent landscaping, or other similar urban pedestrian amenities consistent with the intent of the PED.

Section 10.807. Board of Adjustment

The Board of Adjustment shall have no jurisdiction to grant variances from the development and urban design standards of Section 10.804. A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section 10.806 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 10.803's or 10.804's urban design standards except as a result of notice of zoning violation for which an appeal can be filed to the Board.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

Section 10.808. 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 10.809. Pedestrian Overlay District (Optional); Application.

Petitions for a zoning map amendment to establish a PED-O should be submitted to the Charlotte-Mecklenburg Planning 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 10.810. 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 10.811. 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 Section 10.806, Administrative Approval.

CHARLOTTE CODE

PART 8: PEDESTRIAN OVERLAY DISTRICT

Section 10.812. 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 Commission staff approves the proposal as in conformance with this ordinance.