

Petition #: 2006-020
Petitioner: Charlotte Mecklenburg Planning Commission
City of Charlotte

**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 12: SUPPLEMENTAL DEVELOPMENT STANDARDS.

1: Part 4: ACCESSORY USES AND STUCTURES

- a. Amend Section 12.417, “Outdoor Sales, accessory” to clarify that outdoor sales are permitted in the base zoning districts. The current text reads as follows:

Section 12.417. Outdoor Sales, accessory.
(Petition No. 2004-135, § 12.417, 03/21/05)

Except as provided under subsection 12.417(5), below, outdoor sales are permitted only as an accessory use to a retail establishment located in the NS, CC, MUDD(CD), UMUD(CD), B-1SCD, B-1(CD), B-2(CD) zoning districts, unless noted on the site plan or conditional plan that this use is restricted. An approved, permanent garden center component of a retail use that shares common walls with the principal building is not subject to this section. All outdoor sales shall be clearly incidental to the operation of the principal use, and shall meet the following requirements:

- (1) Outdoor sales shall be operated and maintained under the same ownership, or subject to the control of the property owner, and on the same parcel as the principal use.
- (2) Planning Director approval is required, and an administrative amendment will be required, if the additional outdoor retail sales area is located within the parking or maneuvering area and such outdoor retail sales area is not indicated on an approved conditional plan. The accessory, outdoor retail sales area shall not be counted toward the total allowed square footage.

- (3) Outdoor sales areas shall be fenced on all sides by a fence not less than 3 feet or no higher than 5 feet in height. The fence must be constructed of wrought iron, tubular aluminum, or other approved fencing material. Fencing is not required to be permanently affixed. The fence must be constructed to allow for 75% surveillance from passing vehicles and/or pedestrian traffic. Spaces between bars or slats shall be no greater than 6 inches apart. In no instance will a chain link or barbed wire fence be acceptable. Fencing shall be removed when the outdoor sales end.
- (4) Sales of retail items is allowed on the sidewalk located in front the building, but not on the public sidewalk located within any public right-of-way, however, a minimum clear zone of eight (8) feet shall be maintained for pedestrian use. The area used for sales of retail items on the sidewalk shall not exceed 50 square feet in area to be used continuously for the sale of goods and merchandise. No display of merchandise is permitted. No fencing is required for items on the sidewalk. The sales area in front of the building shall be shown on the site plan or conditional plan.
- (5) All equipment rental and leasing must occur within an enclosed building.
- (6) No tractor-trailer trucks, trailers, or other mobile storage containers, shall be used in conjunction with the outdoor sales area. Tractor trailers or other mobile storage containers may only be located near the loading dock area and shall be screened by a decorative fence from on-site parking lot(s).
- (7) The area designated for outdoor sales shall not be located in any minimum required parking area required by this ordinance. The outdoor sales area shall not require additional parking spaces.
- (8) The area(s) designated for outdoor sales shall not exceed 10% of the gross building square footage of the retail establishment for which this is an accessory use.

The revised text shall read as follows:

Section 12.417. Outdoor Sales, accessory.
(*Petition No. 2004-135, § 12.417, 03/21/05*)

- (1) **Retail establishments located in all zoning districts, except as provided in subsection 12.417(2), are permitted to have**

accessory outdoor sales, subject to the standards of the district.

- (2) **In the NS, CC, MUDD(CD), UMUD(CD), B-1SCD, B-1(CD), B-2(CD) zoning districts, outdoor sales are permitted as an accessory use to a retail establishment as long as outdoor sales is not a restricted use on the site plan or conditional plan.** An approved, permanent garden center component of a retail use that shares common walls with the principal building is not subject to this section. All outdoor sales shall be clearly incidental to the operation of the principal use, and shall meet the following requirements:
- (1) Outdoor sales shall be operated and maintained under the same ownership, or subject to the control of the property owner, and on the same parcel as the principal use.
 - (2) Planning Director approval is required, and an administrative amendment will be required, if the additional outdoor retail sales area is located within the parking or maneuvering area and such outdoor retail sales area is not indicated on an approved conditional plan. The accessory, outdoor retail sales area shall not be counted toward the total allowed square footage.
 - (3) Outdoor sales areas shall be fenced on all sides by a fence not less than 3 feet or no higher than 5 feet in height. The fence must be constructed of wrought iron, tubular aluminum, or other approved fencing material. Fencing is not required to be permanently affixed. The fence must be constructed to allow for 75% surveillance from passing vehicles and/or pedestrian traffic. Spaces between bars or slats shall be no greater than 6 inches apart. In no instance will a chain link or barbed wire fence be acceptable. Fencing shall be removed when the outdoor sales end.
 - (4) Sales of retail items is allowed on the sidewalk located in front the building, but not on the public sidewalk located within any public right-of-way, however, a minimum clear zone of eight (8) feet shall be maintained for pedestrian use. The area used for sales of retail items on the sidewalk shall not exceed 50 square feet in area to be used continuously for the sale of goods and merchandise. No display of merchandise is permitted. No fencing is required for items on the sidewalk. The sales area in front of the building shall be shown on the site plan or conditional plan.

- (5) All equipment rental and leasing must occur within an enclosed building.
- (6) No tractor-trailer trucks, trailers, or other mobile storage containers, shall be used in conjunction with the outdoor sales area. **Tractor trailers may only be located near the loading dock area and shall be screened by a decorative fence from on-site parking lot(s).**
- (7) The area designated for outdoor sales shall not be located in any minimum required parking area required by this ordinance. The outdoor sales area shall not require additional parking spaces.
- (8) The area(s) designated for outdoor sales shall not exceed 10% of the gross building square footage of the retail establishment for which this is an accessory use.

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 _____, 2005, the reference having been made in Minute Book _____, and recorded in full in Ordinance Book _____, Page(s)_____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the _____ day of _____, 2005.
