

**AN ORDINANCE AMENDING APPENDIX A
OF THE CITY CODE –ZONING ORDINANCE**

Revision 12-11-08

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 10: OVERLAY DISTRICTS

1. PART 8: Pedestrian Overlay District

- a. Amend Section 10.802, "Uses" by modifying the first sentence of the paragraph to restrict drive-through service windows for restaurants and retail establishments when they are the principal use. The revised section shall read as follows:

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, 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.

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:

- (1) Residential uses in an underlying industrial district, subject to the standards of this overlay district.
- b. Amend Section 10.803, “Development Standards”, subsection (8), “Screening”, by (1) modifying subsection (a) to clarify a reference to Section 12.303(2)(g); (2) modifying subsection (a) to allowing the Planning Director’s authorized designee to approve an alternative material for the solid and finished wall; (3) adding a new subsection (c) that gives authority to the Planning Director, or his or her authorized designee, to modify the screening requirements. This modification will provide staff some flexibility to encourage the reuse of existing buildings. The revised section shall read as follows:

(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)(g), 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, or his or her authorized designee. 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.

- c. Amend Section 10.804, “Urban design standards”, subsection (1)(f), “Streetscape Requirements” by adding that the Planning Director, or his or her authorized designee, with the affirmative recommendation of the City Arborist/Urban Forester, will have the authority to modify the streetscape requirements for existing buildings if sufficient width does not exist to implement the streetscape requirements. This modification will allow staff some flexibility to work with developers/owners to encourage the reuse of existing buildings. The revised section shall read as follows:
- (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, 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.
- d. Amend Section 10.805, “Applicability”, subsection (a) “Exceptions to Applicability” when a change of use from one non-residential use to another non-residential use is proposed, with no expansion. The amendment to subsection (2), will now reference the section number of the screening and parking standards that are applicable. The revised text shall read as follows:
- (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~~ Section 10.803(8). Any additional parking must conform to the parking requirements of Section 10.803(6), ~~the PED~~, but none of the other PED requirements are applicable.

- e. Amend Section 10.805, “Applicability”, subsection “Exceptions to Applicability”, subsection (b), “Change of Use, Residential to Non-Residential With No Expansion”, subsection (1) and (2) to reference the applicable section numbers. In addition, in subsection (2), remove the requirement that non-conforming parking must be removed. In its place, add new language that states that any existing parking that is in conflict with the provision of streetscape requirements must be removed in order to meet the streetscape requirements. Next, move the requirement to provide parking to its own subsection (4), along with the section reference, and last, add a new subsection (5) that requires a 5’ sidewalk connection to the public street(s). The revised text shall read as follows:

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

- f. Amend Section 10.805, “Applicability”, subsection “Exceptions to Applicability”, subsection (d), “Expansions of more than (c) above”, to first re-title the subsection to “Expansions of more than 5% or 1,000 square feet, whichever is less”. In addition, add a detailed list of the PED standards, with cross references. The revised text shall read as follows:

(d) Expansions of more than 5% or 1000 square feet, whichever is less ~~(c) above~~:

~~The entire site must be brought up to the PED requirements, except any existing building which will~~

~~become non-conforming may remain.~~

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

- g. Amend Section 10.805, “Applicability”, subsection “Exceptions to Applicability, subsection (f), “Major façade improvements to existing buildings”, by deleting the requirement that non-conforming parking located in the setback must be removed. Add new language that states that any existing parking that is in conflict with the provision of streetscape requirements must be removed in order to meet the streetscape requirements. This modification will encourage the reuse of existing buildings. In addition, clarify which streetscape improvements are required, and add the section number references. The revised text shall read as follows:

(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.~~
- (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).

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 _____, 2009, 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 _____, 2009.