

Petition #: 2011-038
 Petitioner: Charlotte-Mecklenburg Planning Commission

ORDINANCE NO. _____

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

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

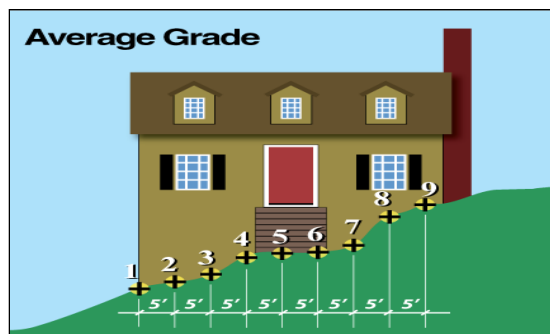
- a. Amend Section 2.201, "Definitions" by modifying the definition of "height" and adding a new definition for "average grade". The revised and new definitions shall read as follows:

Height.

The vertical distance between the average grade at the base of a structure and the highest part of the structure, but not including firewalls, chimneys, sky lights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building and any device (no more than five feet in height) used to screen only the immediate area around a roof top structure or equipment.

Average grade.

The average grade is calculated by adding the lowest point and highest point along the base of the structure and dividing the total by two. Each building elevation along a building line will have an average grade. The average grade along a building line may also be calculated by adding all points, at five-foot intervals, starting at the corner along the base of the building and dividing the total by the number of points.



B. CHAPTER 7: NONCONFORMITIES

1. Amend Section 7.103, “Nonconforming structures”, item (7) by modifying the length of time a permit may be issued for residential structures damaged or destroyed by acts of God, as a result of this text amendment. The remaining items shall remain unchanged. The revised item (7) shall read as follows:

- (7) Where a nonconforming structure is destroyed or damaged by fire, flood, wind, other act(s) of God, the structure may be repaired or restored to its original dimensions and conditions as long as a building permit for the repair or restoration is issued within 12 months of the date of the damage. Any residential building lawfully existing on the date the height restrictions of petition 2011-038 became effective (January 1, 2012) may be repaired or restored to its original height dimensions as long as a building permit for the repair or restoration is issued within 24 months of the date the building was destroyed or damaged.

C. CHAPTER 9: GENERAL DISTRICTS

1. PART 2: SINGLE FAMILY DISTRICTS

- a. Amend Section 9.205(1)(f) , “Minimum side yards”, and (g) “Minimum rear yards” by creating separate yard requirements for nonresidential buildings within single family zoning districts. Also modify subsection (j), “Maximum height” to refer to Table 9.205(1)(j) to indicate a base maximum average height and a maximum height for both residential and nonresidential buildings. All remaining subsections remain unchanged. The revised subsections shall read as follows:

Section 9.205. Development standards for single family districts.

All uses and structures permitted in the R-3, R-4, R-5, R-6 and R-8 districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>R-6</u>	<u>R-8</u>
(f) Minimum side yard (feet) ⁴	6	5	5	5	5
- <u>Residential</u>	6	5	5	5	5
- <u>Non-residential</u>	20	20	20	20	20
(g) Minimum rear yard (feet)	45	40	35	30	20
- <u>Residential</u>	45	40	35	30	20
- <u>Non-residential</u>	45	40	35	35	35
(j) Maximum height (feet) ⁶	40	40	40	40	40
	<u>-----See Tables Below-----</u>				

Table 9.205(1)(j)(A)

<u>MAXIMUM HEIGHT FOR RESIDENTIAL USES⁶</u>			
<u>Type of Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Average Height at the Front Building Line (feet)</u>	<u>Height Ratio</u>
<u>All Residential Uses</u>	<u>R-3 and R-4: 40' - Measured at the required side yard line.</u> <u>R-5, R-6, and R-8: 35' - Measured at the required side yard line.</u>	<u>R-3 and R-4: 48'</u> <u>R-5, R-6, and R-8: 40'</u>	<u>One additional foot of height is allowed for each additional one foot in distance the portion of the building is from the required side yard line.</u>

Maximum Building Envelope Examples for Table 9.205(1)(j)(A) – Residential Uses

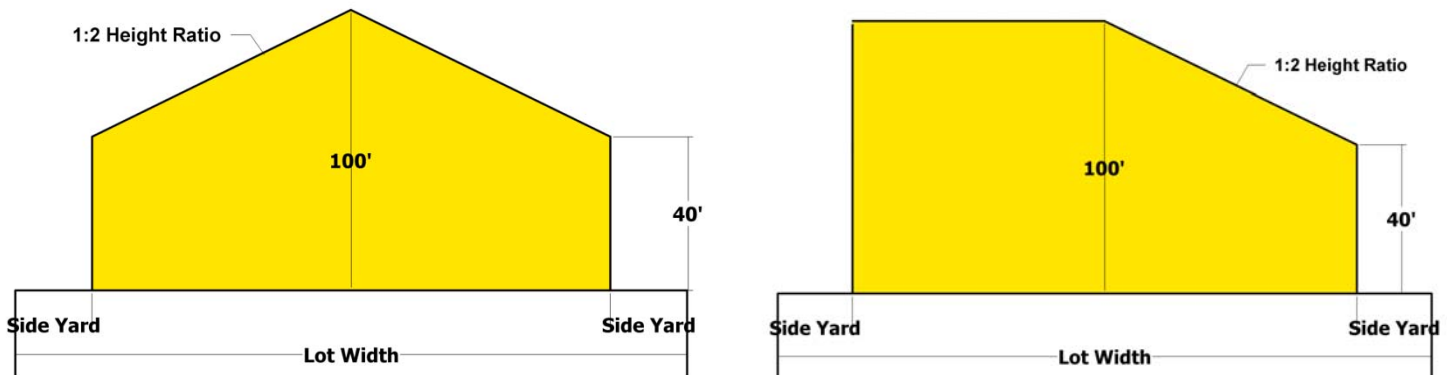


Table 9.205(1)(j)(B)

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS⁶</u>			
<u>Adjacent* Zoning District(s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u>	40' - Measured at the required setback side, and rear yard line	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear yard lines located along all boundary(s) adjacent to a single family zoning district
<u>R-3, R-4, R-5, R-6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

Maximum Building Envelope Examples for Table 9.205(1)(j)(B) – Nonresidential Buildings



- b. Amend Section 9.205(1), footnote #6 by deleting the first two sentences. The remaining footnotes remain unchanged. The revised footnote shall read as follows:
 6. ~~A building in any of the designated districts may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet of building height in excess of 40 feet. However, a building which abuts a residential use or zoning district may not be erected to a height in excess of 40 feet unless the side and/or rear yard abutting the residential use or zoning district is increased 1 foot for every foot of building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.~~

2. PART 3: MULTI-FAMILY DISTRICTS

- a. Amend Section 9.305, “Development standards for multi-family districts”, subsection (1), “Area, yard and bulk regulations”, subsection (f), “Minimum side yards” by rearranging the categories, modifying the side yard requirements and adding new categories. Also modify subsection (j) “Maximum height” to refer to Table 9.305(1)(j) to indicate a base maximum average height and a maximum height for both residential and nonresidential buildings. All remaining subsections remain unchanged. The revised sections shall read as follows:

	<u>R-8MF</u>	<u>R-12MF</u>	<u>R-17MF</u>	<u>R-22MF</u>	<u>R-43MF</u>
(f) Minimum side yard (feet) ⁴					
- Detached, duplex, triplex and quadraplex dwellings	5	5	5	5	5
- All other buildings, including planned multi-family developments (except as required below)	10	10	10	5	5
- Planned multi-family developments adjoining single family developed or zoned land ⁵	20	20	10	10	10
- <u>Non-residential buildings adjoining single family zoning districts</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>
- <u>All other planned multi-family developments and all other nonresidential buildings⁵</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>5</u>	<u>5</u>
(j) Maximum height (feet) ⁷	40	40	40	40	40
	<u>-----See Tables Below-----</u>				

Table 9.305(1)(j)(A)

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN R-8MF AND R-12MF ZONING DISTRICTS⁷</u>			
<u>Building Type</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Average Height at the Front Building Line (feet)</u>	<u>Height Ratio</u>
<u>Residential</u>	<u>40' Measured at the required side yard line.</u>	<u>48'</u>	<u>One additional foot of height is allowed for each additional one foot in distance the portion of the building is from the required side yard line .</u>

Maximum Building Envelope Example for Table 9.305(1)(j)(A) – Residential Buildings in R-8MF and R-12MF

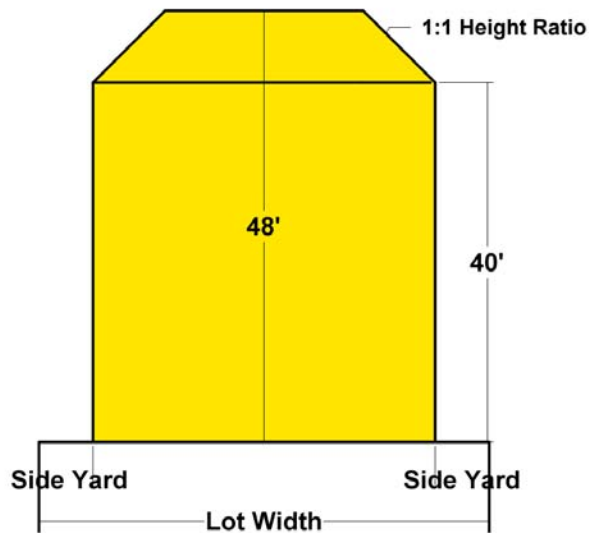


Table 9.305(1)(j)(B)

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN R-17MF, R-22MF, and R-43MF⁷</u>			
<u>Adjacent* Zoning District(s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from the Lowest Point to the Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u> *	40' Measured at the required setback, side and rear yard lines	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear yard lines located along all boundary(s) adjacent to a single family zoning district
<u>R-3, R-4, R-5, R- 6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

**Maximum Building Envelope Examples for Table 9.305(1)(j)(B) –
Residential Buildings in R-17MF, R-22MF and R-43MF**

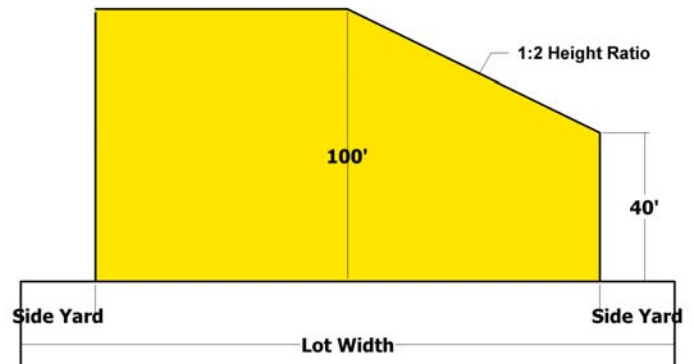
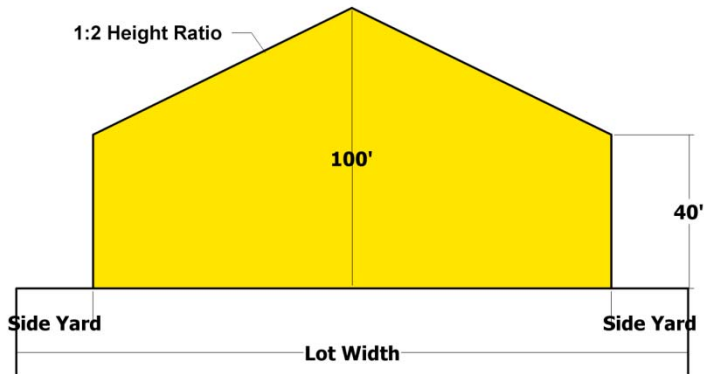
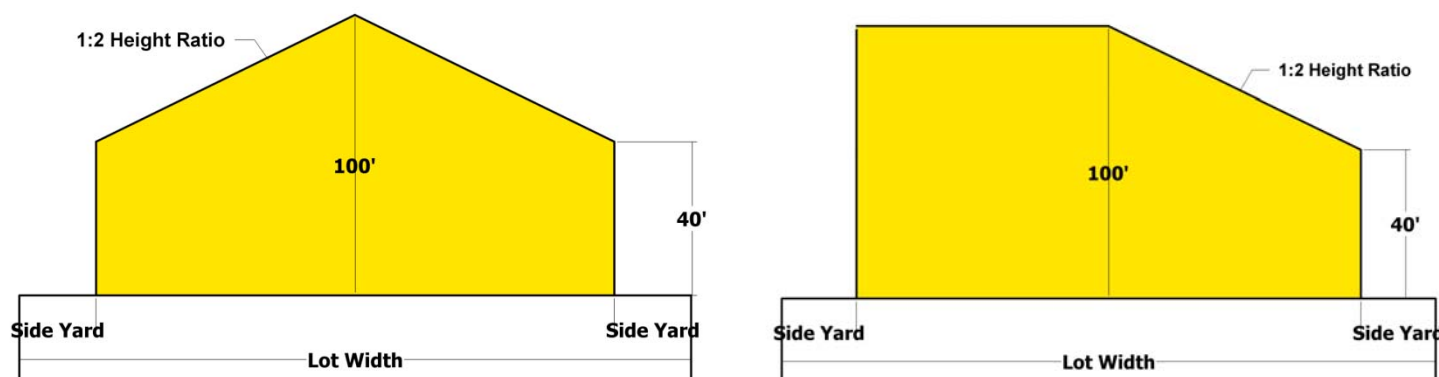


Table 9.305(1)(j)(C)

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN ALL MULTI-FAMILY DISTRICTS⁷</u>			
<u>Adjacent* Zoning District (s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from the Lowest Point to the Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u>	40' - Measured at the required setback, side, and rear yard lines	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side and rear yard lines located along all boundary(s) adjacent to a single family zoning district
<u>R-3, R-4, R-5, R-6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

Maximum Building Envelope Examples for Table 9.305(1)(j)(C) – Nonresidential Buildings in Multi-Family Districts



- b. Amend Section 9.305(1), footnote 7 by deleting the first three sentences. The revised section shall read as follows:

FOOTNOTES TO CHART 9.305(1):

- ⁷ ~~A building in any of the designated districts may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet in building height in excess of 40 feet. If a building abuts a single family residential use or zoning district, it may not be erected to a height in excess of 40 feet unless the side and/or rear yard abutting the single family use or zoning district is increased 1 foot for every foot of building height in excess of 40 feet. However, any building over 60 feet in height and abutting a single family residential use or zoning district must~~

~~increase any side and/or rear yard upon which a building shadow is cast 1½ feet for each foot above 60 feet.~~ Height requirements for other permitted structures are set forth in Section 12.108.

3. PART 4: URBAN RESIDENTIAL DISTRICTS

- a. Amend Section 9.406, “Urban Residential Districts; area, yard and height regulations”, subsection (1), “UR-1”, subsection “Maximum height (feet)” by adding a new Table 9.406(1) that modifies the height regulations. The remaining text remains unchanged. The revised subsection shall read as follows:

- (1) UR-1: Dimensional requirements for the UR-1 district are listed below:

Maximum height (feet)² 40 -----See Tables Below-----

Table 9.406(1)(A)

MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN UR-1²			
<u>Building Type</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Average Height at the Front Building Line (feet)</u>	<u>Height Ratio</u>
<u>Residential</u>	<u>40' - Measured at the required side yard line.</u>	<u>48'</u>	<u>One additional foot of height is allowed for each additional one foot in distance the portion of the building is from the required side yard line.</u>

Maximum Building Envelope Example for Table 9.406(1)(A) – Residential Buildings in UR-1

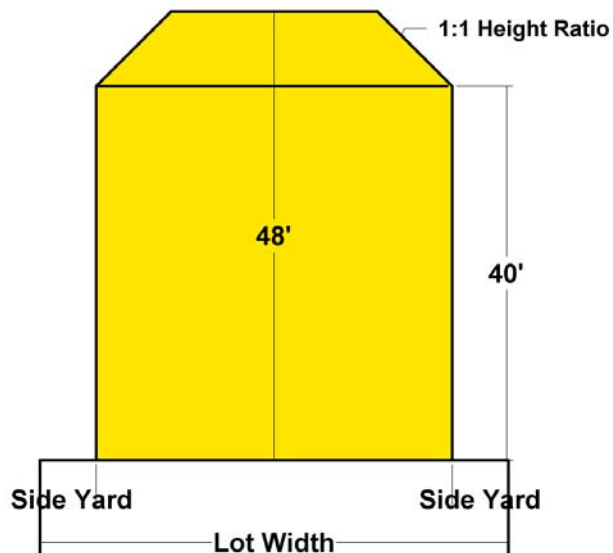
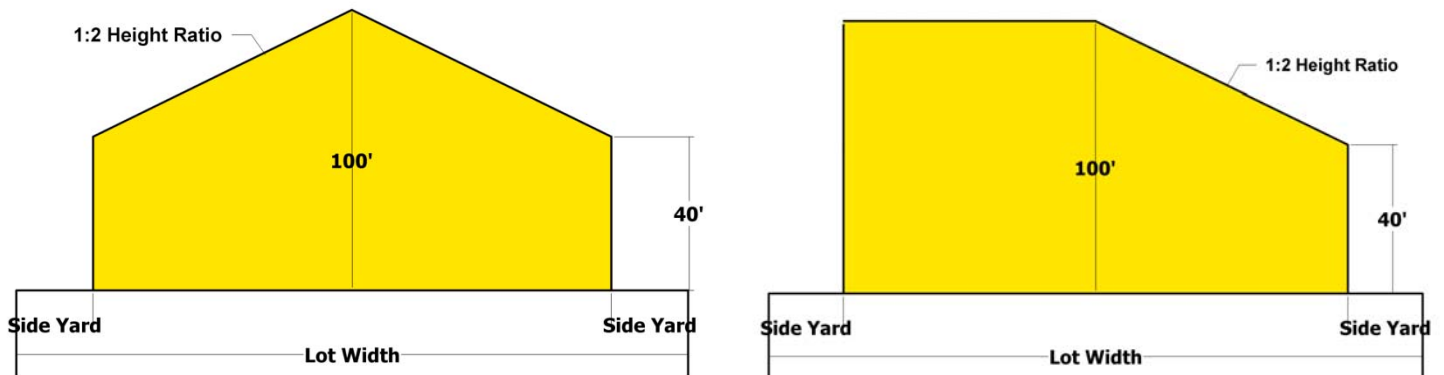


Table 9.406(1)(B)

MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN UR-1²			
<u>Adjacent* Zoning District(s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from the Lowest Point to the Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u>	40' - Measured at the required setback, side, and rear yard lines	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side and rear yard lines located along all boundary(s) adjacent to a single family zoning district.
<u>R-3, R-4, R-5, R-6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

Maximum Building Envelope Examples for Table 9.406(1)(B) – Nonresidential Buildings in UR-1



- b. Amend Section 9.406, “Urban Residential Districts; area, yard and height regulations”, subsection (1), “UR-1”, footnote 2 by deleting the first sentence and providing a cross-reference to Chapter 12. The remaining footnotes remain unchanged. The revised footnote shall read as follows:

² ~~Maximum height may be increased above 40 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.~~
Height requirements for other permitted structures are set forth in Section 12.108.

- c. Amend Section 9.406 “Urban Residential Districts; area, yard and height regulations”, subsection (2), “UR-2”, subsection “Maximum height (feet)” by adding a new Table 9.406(2) that modifies the height regulations. The remaining text remains unchanged. The revised subsection shall read as follows:

- (2) UR-2: Dimensional requirements for the UR-2 district are listed below:

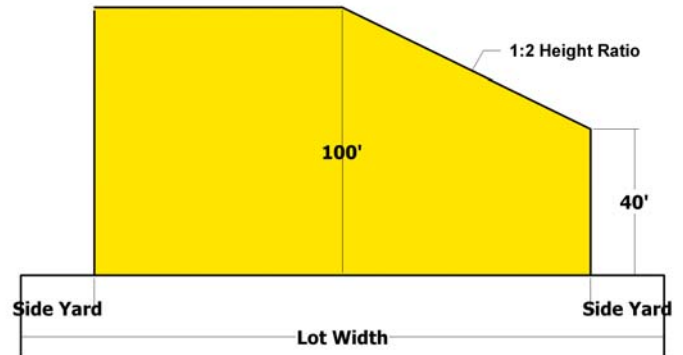
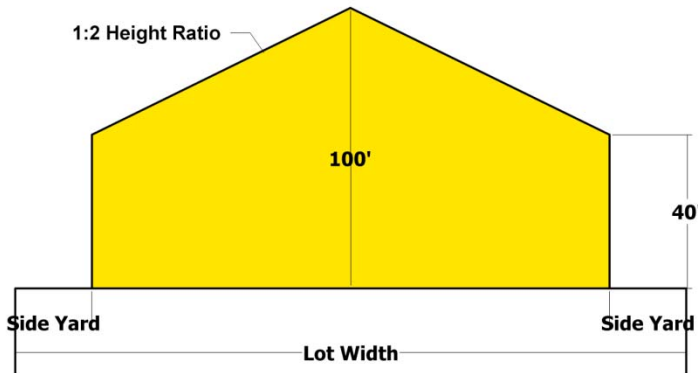
Maximum height (feet)[†] 40 -----See Table Below-----

Table 9.406(2)(A)

<u>MAXIMUM HEIGHT FOR BUILDINGS IN UR-2¹</u>			
<u>Adjacent* Zoning District(s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u>	40' - Measured at the required setback, side, and rear yard lines	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear yard lines located along all boundary(s) adjacent to a single family zoning district.
<u>R-3, R-4, R-5, R-6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

Maximum Building Envelope Examples for Table 9.406(2)(A) – Buildings in UR-2



- d. Amend Section 9.406, “Urban Residential Districts; area, yard and height regulations”, subsection (2), “UR-2”, footnote 1 by deleting the first sentence and replacing it with a cross-reference to Chapter 12. The remaining footnotes remain unchanged. The revised footnote shall read as follows:

¹ ~~Maximum height may be increased above 40 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet.~~ Height requirements for other permitted structures are set forth in Section 12.108.

- e. Amend Section 9.406, “Urban Residential Districts; area, yard and height regulations”, subsection (3), “UR-3”, subsection “Maximum height (feet)” by adding a new Table 9.406(3) that modifies the height regulations. The remaining text remains unchanged. The revised subsection shall read as follows:

- (3) UR-3: Dimensional requirements for the UR-3 district are listed below:

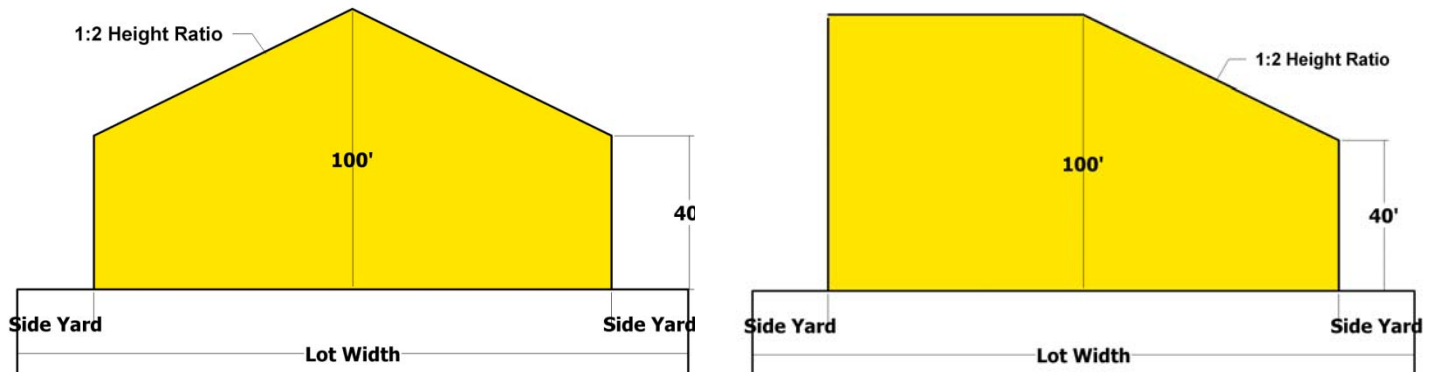
Maximum height (feet)⁺ 60 -----See Table Below-----

Table 9.406(3)(A)

<u>MAXIMUM HEIGHT FOR BUILDINGS IN UR-3¹</u>			
<u>Adjacent* Zoning District(s) and Use</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>	<u>Height Ratio</u>
<u>R-3, R-4, R-5, R-6, & R-8 with a residential use</u>	40' - Measured at the required setback, side, and rear yard lines	100'	One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear yard lines located along all boundary(s) adjacent to a single family zoning district.
<u>R-3, R-4, R-5, R-6, & R-8 with a non-residential use</u>	N/A	100'	N/A
<u>All other zoning districts with any use</u>	N/A	100'	N/A

*Exemption for street rights-of-way that exceed 100 feet in width.

Maximum Building Envelope Examples for Table 406(3)(A) – Buildings in UR-3



- f. Amend Section 9.406, “Urban Residential Districts; area, yard and height regulations”,

subsection (3), “UR-3”, footnote 1 by deleting the first sentence and replacing it with a cross-reference to Chapter 12. The remaining footnotes remain unchanged. The revised footnote shall read as follows:

- ¹ ~~Maximum height may be increased above 40 feet provided all required side and rear yards are increased 1 foot for every 10 feet of building height over 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.~~

D. CHAPTER 11. CONDITIONAL ZONING DISTRICTS

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

- a. Amend Section 11.205, “Development standards for MX-1, MX-2, and MX-3 districts” by adding a new subsection (4) and (5) setting maximum height regulations. The remaining subsections shall remain unchanged. The new subsections shall read as follows:

Section 11.205. Development standards for MX-1, MX-2 and MX-3 districts.

- (4) Single family, duplex, triplex, and quadraplex residential development within the MX districts shall meet the R-3 residential base maximum average height and the maximum average height listed in Section 9.205 for the residential portion only.
- (5) Multi-family residential development within the MX-1 district shall meet the R-8MF base maximum average height and the maximum average height regulations listed in Table 9.305(1)(j)(A) for the multi-family residential portion only. Multi-family residential development within the MX-2 and MX-3 districts, shall meet the R-17MF base maximum average height and maximum height regulations listed in Table 9.305(1)(j)(B) for the multi-family residential portion only.
- b. Amend Section 11.208, “Innovative development standards” by adding a new item (12), titled, “Height”. The remaining numbered items remain unchanged. The new item shall read as follows:

(12) Height.

E. CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY

1. PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS

- a. Amend Section 12.106, “Uses and structures prohibited and allowed in required setbacks and yards”, by modifying subsection (2)(a) to address the height requirements for accessory structures for residential uses in certain districts. The revised text shall read as follows:

- (2) (a) No accessory structures, including architectural features, as cited in five

(5) below, shall be located within any setback or side yard required of these regulations, or located within three (3) feet of a lot line in the established rear yard. No accessory structure shall be located within any established setback in any residential district, except as otherwise provided. If an accessory structure exceeds a height of 24 feet in the single-family, multi-family, urban residential and mixed use districts, it must be located at least 15 feet from the rear and side property lines. In all zoning districts, except as provided for in Section 12.108, if the accessory structure exceeds the height of the principal structure, it must meet the minimum side yard of the principal structure and be located at least 15 feet from the rear property line. In addition, no accessory structure shall exceed the total square footage of the heated area located on the first floor of the principal structure.

(Petition No. 2009-079, § 12.106(2)(a), 1/19/10)

This section notwithstanding, no elderly or disabled housing, guest houses, or employee quarters shall be located within 15 feet of a rear property line or along any side property line within the required side yard dimension. In the RE-1, RE-2, and BP districts, a security gate or guard station may be located within the required setback. Piers, docks, and other water-dependent accessory structures may be located in any required setback or yard on lots, which abut a body of water. A fence, wall, mailbox, utility pole, light-pole, or patio at grade, paths, walkways, or berm may be located in any required setback or yard. Signs may be located in a required setback or yard provided that they are in accordance with Chapter 13 of these regulations. Bus stops shelters may be located in any setback or yard, which abuts a street in accordance with Section 12.513.

- b. Amend Section 12.108, “Height limitations” by updating the height regulations for buildings located in the residential zoning districts. Subsections (6), (7) and (8) shall remain unchanged. The revised section shall read as follows:

Section 12.108. Height limitations.

Height limitations are established to allow maximum development potential without adversely impacting the character of established single family neighborhoods and ensuring the development respects and complements the surrounding development.

No structure shall exceed a height of 40 feet, except as provided in this Section or elsewhere in these regulations.

- (1) ~~Except as provided for in this Section, A~~ A building that is not in or adjacent to a residential in any district, may be erected to a height in excess of 40 feet, provided the minimum side yard is increased 1 foot for every 2 feet of building height in excess of the 40 feet.
- (2) A building located in any zoning district, except the residential districts, which abuts a residential use or residential zoning district ~~may~~ shall not be erected to a height in excess of 40 feet, unless the side and/or rear yard abutting the residential use or zoning district is increased 1 foot for every foot of building height in

excess of 40 feet.

- (3) ~~High rise buildings in multi family districts cannot exceed a height of 60 feet, unless any side and/or rear yard abutting a single family residential use or zoning district upon which a building shadow will be cast is increased 1½ feet for every foot of building height in excess of 60 feet. Reserved.~~
- (4) The height limitations established in subsection (1) above shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, firewalls, chimneys, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- (5) The following structures are permitted above the height limit on lots in the research, institutional, office, business, and industrial districts which do not abut lots in any residential district: towers, steeples, flagpoles, firewalls, chimneys, water tanks or similar structures. If this type of structure is on a lot, which abuts a residential district, then the part of the structure above the height limit must be separated from any such abutting lot line by a distance equal to its height measured from the ground.
- (9) The height limitations established in this section shall not apply to structures located in the PED, UI, UMUD or UR-C, districts unless the districts are located next to a single family use or district as provided for in Chapter 9, Parts 4, 9 and 10.

Section 2. That this ordinance shall become effective January 1, 2012.

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 _____, 2011, 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 _____, 2011.
