

HIRD DRAFT TEXT AMENDMENT

12-1-10

Petition #: 2011-
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 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.

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 2011-0XX became effective (MONTH, DAY,

2011) 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
	-----See Tables Below-----				

<u>MAXIMUM HEIGHT FOR RESIDENTIAL USES IN ALL SINGLE FAMILY DISTRICTS⁶</u>		
<u>Building Type</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Average Height at the Front Building Line (feet)</u>
<u>Principal building</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>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>	<u>R-3 and R-4: 48'</u> <u>R-5, R-6, and R-8: 40'</u>
<u>Accessory Structure for a Single Family Residential Use</u>	<u>N/A</u>	<u>24'</u>

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN ALL SINGLE FAMILY ZONING DISTRICTS⁶</u>		
<u>Adjacent Property</u>	<u>Base Maximum Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District</u>	40' - Measured at the required setback side, and rear yard line <u>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>	<u>100'</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District Where: A nonresidential building is located on the adjacent property, or The single family district is located across a thoroughfare classified as a major arterial or greater</u>	<u>N/A</u>	<u>100'</u>
<u>Boundary(s) Adjacent to Other Zoning Districts</u>	<u>N/A</u>	<u>100'</u>

- 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:

(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
	-----See Tables Below)-----				

<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>Principal Residential Building(s)</u>	40' - Measured at the required side yard line. 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.	48'
<u>Accessory Structure for a Single Family Residential Use</u>	N/A	24'

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN R-17MF, R-22MF, and R-43MF⁷</u>		
<u>Adjacent Property</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>Boundary(s) Adjacent to a Single Family Zoning District</u>	40' - Measured at the required setback, side, and rear yard lines One additional foot of height is allowed for every additional two feet in distance the portion of the building is from the required	100'

	<u>setback, side and rear lines located along all boundary(s) adjacent to a single family zoning district</u>	
<u>Boundary(s) Adjacent to a Single Family Zoning District Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN ALL MULTI-FAMILY DISTRICTS⁷</u>		
<u>Adjacent Property</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>Boundary(s) Adjacent to a Single Family Zoning District</u>	<u>40' - Measured at the required setback, side, and rear yard lines</u> <u>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 lines located along all boundary(s) adjacent to a single family zoning district</u>	<u>100'</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

- 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-----

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN UR-1²</u>		
<u>Building Type</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>
<u>Principal Building</u>	40 - Measured at the required side yard line. 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>48</u>
<u>Accessory Structure for a Single Family Residential Use</u>	<u>N/A</u>	<u>24</u>

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN UR-1²</u>		
<u>Adjacent Property</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>Boundaries Adjacent to a Single Family Zoning District</u>	40' - Measured at the required setback, side, and rear yard lines One additional foot of height	<u>100'</u>

	<u>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>	
<u>Boundary(s) Adjacent to a Single Family Zoning District Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

- 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 Tables Below-----

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN UR-2¹</u>		
<u>Adjacent Property</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District</u>	<u>40' - Measured at the required setback, side, and rear yard lines</u> <u>One additional foot of height is</u>	<u>100'</u>

	<u>allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear lines located along all boundary(s) adjacent to a single family zoning district.</u>	
<u>Boundary(s) Adjacent to a Single Family Zoning District</u> <u>Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN UR-2¹</u>		
<u>Adjacent Property</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>Boundary(s) Adjacent to a Single Family Zoning District</u>	<u>40' - Measured at the required setback, side, and rear yard lines</u> <u>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 lines located along all boundary(s) adjacent to a single family zoning district.</u>	<u>100'</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District</u> <u>Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

- 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)⁺ 40 -----See Table Below)-----

<u>MAXIMUM HEIGHT FOR RESIDENTIAL BUILDINGS IN UR-3¹</u>		
<u>Adjacent Property</u>	<u>Base Maximum Average Height (feet)</u>	<u>Maximum Height from Lowest Point to Highest Point of the Building (feet)</u>
<u>Boundary(s) Adjacent to a Single Family Zoning District</u>	<p>40' - Measured at the required setback, side, and rear yard lines</p> <p>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 lines located along all boundary(s) adjacent to a single family zoning district.</p>	100'
<p><u>Boundary(s) Adjacent to a Single Family Zoning District Where:</u></p> <p><u>A nonresidential building is located on the adjacent property, or</u></p> <p><u>The single family district is located across a thoroughfare classified as a major arterial or greater</u></p> <p><u>Boundary(s) Adjacent to all Other Zoning Districts</u></p>	N/A	100'

<u>MAXIMUM HEIGHT FOR NONRESIDENTIAL BUILDINGS IN UR-3¹</u>		
<u>Adjacent Property</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>Boundary(s) Adjacent to a Single Family Zoning District</u>	<p>40' - Measured at the required setback, side, and rear yard lines</p> <p>One additional foot of height is</p>	100'

	<u>allowed for every additional two feet in distance the portion of the building is from the required setback, side, and rear lines located along all boundary(s) adjacent to a single family zoning district.</u>	
<u>Boundary(s) Adjacent to a Single Family Zoning District</u> <u>Where:</u> <u>A nonresidential building is located on the adjacent property, or</u> <u>The single family district is located across a thoroughfare classified as a major arterial or greater</u> <u>Boundary(s) Adjacent to all Other Zoning Districts</u>	N/A	<u>100'</u>

- 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 residential development within the MX districts shall meet the R-3 residential base maximum average height and the maximum average height for the residential portion only.
- (5) Multi-family residential development within the MX-1 district shall meet the R-8MF maximum height regulations for the multi-family residential portion only. Multi-family residential development within the MX-2 and MX-3 districts, shall meet the R-17MF maximum height regulations 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 12.108, "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 building in ~~any district~~ all zoning districts except the residential 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 the 40 feet.
- (2) A building in all zoning districts, except the residential districts, which abuts a residential use or residential 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.
- (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, 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, ~~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 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 _____, 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.
