

**APPROVED BY  
CITY COUNCIL**

Petition #: 2011-018  
Petitioner: University City Partners

MAY 23 2011

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

**ORDINANCE NO. 4658-Z**

**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. TABLE OF CONTENTS

1. Amend the Table of Contents, Chapter 9, Part 6, and "Research Districts" by adding two new subsections. Renumber the pages accordingly. The revised Table of Contents shall read as follows:

Part 6: Research Districts (RE-1 and RE-2)

9.601. Research districts established; purposes	9-
9.602. Uses permitted by right	9-
9.603. Uses permitted under prescribed conditions	9-
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9.605. Development standards for research districts	9-
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9.607. Administrative Approval	9-

2. Amend Table of Contents, Chapter 11, Part 7, "RE-3 Research District" by adding New subsections. The revised Table of Contents shall read as follows:

Part 7: RE-3 Research District

11.701. Purpose	11-
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11.703. Uses permitted under prescribed conditions	11-
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11.705. Development standards	11-
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B. CHAPTER 6: AMENDMENTS

1. PART 2: Conditional Zoning Districts

- a. Amend Section 6.201, "Purpose" by adding references to the RE-3 zoning district into subsection (2), and updating subsections (3) and (4) to include references to other conditional zoning districts already established. The revised section shall read as follows:

**Section 6.201. Purpose.**

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

- (1) Parallel conditional zoning districts (A parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name.)
- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured Housing Development, Commercial Center District, Neighborhood Services District, and Hazardous Waste District, and Research 3 District.
- (3) Mixed Use Development District (Optional), Uptown Mixed Use District (Optional), and Transit Oriented Development (Optional) described in Chapter 9, Parts 8.5, 9, and 12 respectively, and RE-3 (Optional) described in Chapter 11, Part 7.
- (4) Pedestrian Overlay District (Optional) and Transit Supportive (Optional) described in Chapter 10, Parts 8 and 9, respectively.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted "Generalized Land Plan", and adopted district and area plans. The review process established in this Part provides for the accommodation of such uses by a

reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

C. CHAPTER 9: GENERAL DISTRICTS

1. PART 1. Table of Uses and Hierarchy of Districts.

- a. Amend Table 9.101, "Table of Uses", by deleting the entire "Institutional and Research" table on page 1-4. Replace it with two separate tables, one titled, "Institutional", and one titled, "Research". The new "Institutional" table contains no revisions and shall read as follows:

<b>TABLE 9.101</b>		<b>INSTITUTIONAL</b>	
		<i>Institutional District</i>	
		<b>INST</b>	
<b>RESIDENTIAL USES:</b>			
Dormitories			PC
Dwellings, active adult retirement community			PC
<b>INSTITUTIONAL USES:</b>			
Adult care centers			PC
Child care centers			PC
Child care centers, large			PC
Civic, social service, and fraternal facilities			X
Conference centers including facilities for corporate meetings, training, retreats, and other meetings			X
Cultural facilities			X

Elementary and secondary schools	X
Government buildings, up to 300,000 square feet	X
Government buildings, over 300,000 square feet	X
Group homes, up to 10 residents	X
Health institutions	PC
Jails and prisons	PC
Nursing homes, rest homes, homes for the aged, and elderly and disabled housing	PC
Recreation centers	X
Religious institutions	X
Short-term care facilities	PC
Stadiums and arenas	PC
Universities, colleges, and junior colleges	X
Vocational schools	X
<b>OFFICE &amp; BUSINESS USES:</b>	
Clinics, medical, dental & optical	X
Clinics, veterinary	X
Funeral homes	PC
Offices, up to 300,000 square feet	PC
Offices, over 300,000 square feet	PC
Restaurants	PC
Retail establishments	PC
Single room occupancy (SRO) residences	PC
Subdivision sales offices	PC
<b>OTHER USES:</b>	
Accessory shelter	PC
Beneficial fill site	PC
Bus stop shelters	PC
Cemeteries	PC
Day labor service agencies	PC
Donation drop-off facility	PC

Emergency shelter	PC
Farms	X
Highways and railroad rights-of-way	X
Homeless shelter	PC
Indoor recreation	X
Land clearing and inert debris (LCID) landfill: off-site	PC
Nonconforming structures and uses	PC
Open space recreational uses	PC
Outdoor recreation	PC
Outdoor seasonal sales	X
Parks, greenways, and arboretums	X
Public utility structures	PC
Public utility transmission/distribution lines	PC
Radio, telephone, cellular telephone and telephone masts, towers, antennae and similar structures	PC
Temporary buildings and storage of materials	PC
<b>ACCESSORY USES &amp; STRUCTURES</b>	
Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot	X
Drive-in windows as accessory to the principal use	PC
Dumpsters, trash handling areas, and service entrances	PC
Fences and walls	X
Guest accommodations at a conference center	PC
Helistops, limited	PC
Land clearing and inert landfill (LCID): on-site	PC
Outdoor lighting	PC
Petroleum storage, accessory to a permitted principal use or building	PC
Vending machines for cigarettes, candy, soft drinks, and coin-operated laundries within an enclosed building as an accessory to the uses in the principal building(s)	PC

- b. Amend Table 9.101, "Table of Uses" by adding new uses, deleting uses, and modifying the zoning districts they are permitted in, and if they are allowed by right, or by prescribed conditions. All other entries remain unchanged. The revised table is as follows:

<b>TABLE 9.101</b>		<b>RESEARCH</b>		
<b>Note: The RE-3 zoning district is a Conditional District. All uses must be approved.</b>				
	<b>RE-1</b>	<b>RE-2</b>	<b>RE-3*</b>	
<b>RESIDENTIAL USES:</b>				
Dwellings, attached			X	
Dwellings, mixed-use			X	
Dwellings, attached and multi-family, up to 12 in a building			X	
Dwellings, planned multi-family and attached, or buildings with more than 12 units			X	
<b>INSTITUTIONAL USES:</b>				
Adult care centers	PC	PC	PC	
Child care centers	PC	PC	PC	
Child care centers, large	PC	PC	PC	
Civic, social service, and fraternal facilities	X	X	X	
Conference centers including facilities for corporate meetings, training, retreats, and other meetings			X	
Cultural facilities	X	X	X	
Elementary and secondary schools	X	X	X	
Government buildings	PC	PC	PC	
Health institutions, including hospitals and similar uses			X	
Nursing homes, rest homes, homes for the aged, and elderly and disabled housing			X	
Recreation centers	PC	PC	PC	
Religious institutions			X	
Stadiums and arenas	PC	PC	PC	
Universities, colleges, and vocational schools			X	
<b>OFFICE &amp; BUSINESS USES:</b>				
Art galleries			X	

Athletic and sports facilities			X
Auction sales of real property and such personal property as is normally located thereon for the purpose of liquidating assets.	X	X	X
Barber and beauty shops			X
Childcare centers in a residence			PC
Clinics, medical, dental & optical	X	X	X
Clinics, veterinary	X	X	X
Dry cleaning and laundry establishments			X
Family childcare homes			X
Florist, retail			X
Financial institutions	X	X	X
Hotels and motels			X
Graphics research and production facilities	X	X	X
Laboratories, applied and basic research	X	X	X
Laboratories, optical, medical, and dental	X	X	X
Laboratories, testing products, and materials	X	X	X
Merchandise showrooms	PC	PC	PC
Nightclubs, bars and lounges			PC
Offices	PC	PC	X
Printing and publishing establishments	X	X	
Radio and television stations and/or offices	X	X	X
Retail establishments and sales	PC	PC	PC
Restaurants	PC	PC	X
Structured parking decks			PC
Studios for artists or designers			X
Telecommunications and telephone switching	X	X	
Theaters, motion picture			X
Transit stations and associated parking facilities	X	X	X
Vehicle leasing offices and associated automobile parking	PC	PC	
<b>INDUSTRIAL USES:</b>			
Distribution businesses, including warehousing and repair of items stored in a building	PC	PC	PC
Manufacture of communications equipment and related devices	X	X	X

Manufacture of computer equipment and related devices	X	X	X
Manufacture of electronic equipment and related devices	X	X	X
Pharmaceutical preparation and production facilities	X	X	
Prototype production facilities and pilot plants	X	X	
Research uses	X	X	X
<b>OTHER USES:</b>			
Accessory shelter	PC	PC	PC
Bus stop shelters	PC	PC	PC
Day labor service agencies	PC	PC	PC
Donation drop-off facility	PC	PC	PC
Emergency shelter	PC	PC	PC
Farms	X	X	X
Highways and railroad rights-of-way	X	X	X
Indoor recreation	X	X	X
Open space recreational uses	PC	PC	PC
Outdoor recreation	PC	PC	PC
Outdoor seasonal sales	PC	PC	PC
Parks, greenways, and arboretums	X	X	X
Public utility structures	PC	PC	PC
Public utility transmission/distribution lines	PC	PC	PC
Radio, telephone, cellular telephone and telephone masts, towers, antennae and similar structures	PC	PC	PC
Repair or servicing of any article, the sale of which is permitted in the district,	PC	PC	PC
Temporary buildings and storage of materials	PC	PC	PC
Utility and related facilities such as distribution lines, telephone repeater stations and water storage tanks.	PC	PC	PC
<b>ACCESSORY USES &amp; STRUCTURES</b>			
Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot, except that outdoor storage will not be allowed	X	X	X
Beneficial fill site	PC	PC	PC
Drive-in and drive-through service lanes/windows.	PC	PC	PC
Dumpsters, trash handling areas, and service	PC	PC	PC



entrances			
Fences and walls	X	X	X
Helistops, limited	PC	PC	PC
Land clearing and inert debris landfill (LCID): on-site	PC	PC	PC
Manager's residence quarters, one dwelling unit per development or project, limited to 1,200 square feet of heated area	PC	PC	PC
Mobile food vending service	PC	PC	PC
Outdoor sales, accessory to a retail establishment			PC
Outdoor lighting	PC	PC	PC
Petroleum storage, accessory to a permitted principal use or building	PC	PC	PC
Satellite dishes and towers	PC	PC	PC
Security gate or station	X	X	X
Structured parking decks	PC	PC	PC
Vending machines for cigarettes, candy, soft drinks, and coin-operated laundries within an enclosed building	PC	PC	PC

2. PART 6. Research Districts

a. Amend Chapter 9, Part 6, "Research Districts" to read as follows:

**Section 9.601. Research Districts established; purposes.**

The RE-1 and RE-2 Districts are designed to provide areas in which research and related operations may be established. The standards established for these districts are designed to promote sound, permanent research installations and also to protect nearby residential areas from undesirable aspects of research operations. Research districts are oriented toward research, development and high technology manufacturing operations and similar uses that are characterized by a high degree of scientific and technical input, and the employment of professional, technical or kindred workers. While permitted uses are the same in both districts, RE-1 is designed to attract supporting uses and facilities through less stringent lot dimensions.

The RE-3 research zoning district is a conditional district. The provisions of RE-3 are set forth in Chapter 11, Part 7 of this ordinance.

**Section 9.602. Uses permitted by right.**

The following uses shall be permitted by right in the RE-1 and RE-2 districts provided that they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Auction sale of real property and such personal property as is normally located thereon for the purpose of liquidating assets.
- (2) Civic, social service and fraternal facilities.
- (3) Clinics, medical, dental, and optical.
- (4) Clinics, veterinary
- (5) Cultural facilities.
- (6) Elementary and secondary schools.  
*(Petition 2007-100, §9.602(4.5), 09/17/07)*
- (7) Farms, including retail sale of produce grown on the premise.
- (8) Graphics research and production facilities.
- (9) Financial institutions.
- (10) Highway and railroad rights-of-ways.
- (11) Indoor recreation.
- (12) Laboratories, applied and basic research.
- (13) Laboratories, optical, medical, and dental.
- (14) Laboratories for testing products and materials.
- (15) Manufacture of electronic, computing and communications equipment and related devices.
- (16) Parks, greenways and arboretums.
- (17) Pharmaceutical preparations and production facilities.
- (18) Printing and publishing establishments.
- (19) Prototype production facilities and pilot plants.
- (20) Radio and television stations and/or offices.
- (21) Research uses.
- (22) Telecommunications and telephone switching.
- (23) Transit stations and associated parking facilities.

**Section 9.603. Uses permitted under prescribed conditions.**

The following uses shall be permitted in the RE-1 and RE-2 districts if they meet the standards established in this Section and all other requirements of these regulations:

- (1) Adult care center, subject to the regulations of Section 12.502.
- (2) Bus stop shelters, subject to the regulations of Section 12.513.
- (3) Childcare centers, subject to the regulations of Section 12.502.
- (4) Day Labor Service agency, subject to regulations of Section 12.530.
- (5) RESERVED.
- (6) Distribution businesses, including warehousing and repair of items stored in a building, up to 5,000 square feet.
- (7) Donation drop-off facility, subject to the regulations of Section 12.532.  
*(Petition No. 2004-39, § 9.603(3.5), 09/20/04)*
- (8) Government buildings *(Petition 2005-63, §9.602 (6), 06/20/05)*
- (9) Large childcare centers, subject to the regulations of Section 12.502.  
*(Petition No. 2003-008, §9.603(4.1), 2-17-03)*
- (10) Merchandise showrooms, up to 5,000 square feet.
- (11) Offices, up to 300,000 square feet.
- (12) Offices and government buildings, over 300,000 square feet, provided that:
  - (a) Primary vehicular access to the use will not be by way of a residential local (Class VI) street;
  - (b) The use will be separated by a buffer from any abutting property located in a residential district, or from any abutting residential use or low-intensity institutional use outside the Research districts (See subsection 9.605(5)); and
  - (c) Submission of traffic impact analysis in accordance with the provisions of subdivision 9.703(17)(c) to identify any needed on-site transportation improvements.
- (13) Open space recreational uses, subject to the regulations of Section 12.516.
- (14) [RESERVED]

- (15) Outdoor recreation, subject to the provisions of Section 12.540.  
*(Petition No. 2006-169, § 9.603(8), 02/19/07)*
- (16) Outdoor seasonal sales, subject to the provisions of Section 12.519.
- (17) Public utility structures, subject to the regulations of Section 12.504.
- (18) Public utility transmission and distribution lines, subject to the regulations of Section 12.509.
- (19) Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures, subject to the regulations of subsection 12.108(7) or subsection 12.108(8).
- (20) Recreation Centers up to 30,000 square feet.  
*(Petition 2005-63, §9.602 (6), 06/20/05)*
- (21) Repair or servicing of any article, the sale of which is permitted in the district, within an enclosed building up to 5,000 square feet.
- (22) Retail establishments and restaurants provided that:
  - (a) The principal use of the lot is for offices, distributive businesses, research laboratories, pilot plants, prototype production plants, or other production facilities;
  - (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
  - (c) Retail establishments and restaurants will occupy no more than 10 percent of the gross floor area of all buildings on the lot and under no circumstances exceed 25 percent of the ground floor area, except a restaurant use may occupy up to 50 percent of the ground floor;
  - (d) If the proposed use is to be located within the same building as the principal use, then there will be no direct public entrance to the proposed use from outside the building except for a restaurant use;
  - (e) If the proposed use is to be located in a building separate from the principal use, then the proposed use will be designed and intended primarily for the use of persons who are employed by the principal use;
  - (f) No display of merchandise shall be permitted outside the building; and
  - (g) One wall sign is permitted to identify all internal commercial uses, provided that it is no larger than 16 square feet.

- (23) Shelters  
*(Petition No. 2005-35, §9.603(15), 04/18/05)*
- (a) Accessory Shelter, subject to the regulations of 12.536.
  - (b) Emergency Shelter, subject to the regulations of 12.537.
- (24) Stadiums and arenas of no more than 5,000 seats, provided that:
- (a) All parking areas will meet the landscaping standards set out in Chapter 12, Part 2;
  - (b) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street;
  - (c) No direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential district, an abutting residential use or low intensity institutional use;
  - (d) Off-street parking areas and access ways will be designed to allow direct public transit service to the use;
  - (e) All building and off-street parking areas and service areas will be separated by a buffer from any abutting property in a residential district, or an abutting residential use or institutional use outside the Research district (See subsection 9.605(3)); and
  - (f) Stadiums and arenas shall be located a minimum of 100 feet from any exterior property lines.
- (25) Temporary buildings and storage of materials, provided that:
- (a) The use is in conjunction with construction of a building on the same lot where construction is taking place or on adjacent lots. Such temporary uses are to be terminated upon completion of construction.
- (26) Utility and related facilities such as distribution lines, telephone repeater stations, and water storage tanks, subject to the regulations of 12.108.
- (27) Vehicle leasing offices and associated automobile parking provided that:
- (a) Vehicle leasing offices will occupy no more than 50 percent of the gross floor area of the building in which such use is located;
  - (b) Only typical office functions permitted as a principal use within Research Districts shall occur within buildings located on the premises. No direct in-person customer

transactions related to vehicle rentals shall be permitted and customers will not take possession of vehicles directly from the vehicle leasing office.

- (c) No vehicle maintenance, repair, preparation or cleaning (other than minor exterior washing) shall be permitted;
- (d) The accessory automobile parking areas shall be limited to passenger vehicles, trucks and vans. No construction-related equipment, no vehicles with over two axles, no vehicles greater than 24 feet in length, and no inoperable or wrecked vehicles of any type are permitted in the accessory parking areas. Trucks and vans may only be parked in an accessory parking area located within 200 feet of a manufacturing, distribution or production use taking place on the site, and such manufacturing, distribution or production use must exist at the time of issuance of the permit associated with the parking of trucks and/or vans vehicles;
- (e) Accessory automobile parking shall take place in designated, paved parking areas that shall not exceed a total combined area of one (1) acre in size. Such parking area(s) shall be designed and maintained in accordance with Chapter 12, Part 2. Individual parking spaces located in the designated accessory automobile parking areas shall not be readily visible from public streets and shall not be counted toward meeting the minimum number of off-street parking spaces required in Section 12.202 for the vehicle leasing office.
- (f) The vehicles parked in the accessory automobile parking areas shall be parked in the permitted parking areas on a short term basis, provided, however, that parking of replacement vehicles may continue in the permitted parking areas on a continuous basis subject to the restrictions set forth in this Section; and
- (g) The accessory automobile parking associated with vehicle leasing offices uses set forth in this Section shall be permitted on lots having a minimum size of twenty (20) acres.

**Section 9.604. Permitted accessory uses and structures.**

The following uses shall be permitted in the RE-1 and RE-2 districts as accessory uses and structures, subject to the applicable criteria in this Part and Chapter 12 of these regulations:

- (1) Accessory uses and structures clearly incidental and related to the permitted principal use or structure on the lot, except that outdoor storage shall not be allowed.
- (2) Beneficial fill sites, subject to the regulations of Section 12.523.
- (3) Drive-in windows, subject to the regulations of Section 12.413. Service lanes shall not be permitted between the front façade of the principal structure and the public or private street to which it is oriented.

- (4) Dumpsters, trash handling areas and service entrances, subject to the regulations of Section 12.403.
- (5) Fences and walls.
- (6) Helistops, limited, subject to regulations of Section 12.415.
- (7) Land clearing and inert debris landfill (LCID): on-site, subject to the regulations of Section 12.405.
- (8) Manager's residence quarters, one dwelling unit/development or project, limited to 1,200 heated square feet.
- (9) Mobile food vending, subject to section 12.510.
- (10) Outdoor lighting, subject to the regulations of Section 12.402.
- (11) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.
- (12) Satellite dishes and towers, subject to height regulations of Section 12.108, provided that:
  - (a) Such dishes and towers may not be located within the setback area of any lot or within the established street side yard of a corner lot; and
  - (b) Screening shall be installed on the exterior sides of such dishes and towers in accordance with Section 12.303. If walls are chosen for this screening, materials must be compatible with the exterior of other buildings on the site.
- (13) Security gate or station.
- (14) Structured parking decks, subject to the regulations of Section 11.706(10).
- (15) Vending machines for cigarettes, candy, soft drinks and similar items, and coin-operated laundries located within an enclosed building.

**Section 9.605. Development standards for research districts.**

All uses and structures permitted in the RE-1 and RE-2 districts shall meet the applicable development standards established in this Section and other requirements of these regulations:

(1) <u>Area, yard and bulk regulations shall be as follows:</u>		
	<u>RE-1</u>	<u>RE-2</u>
(a) Maximum floor area ratio (%) <sup>1</sup>	.60	.60
(b) Minimum lot area (acres)	2 acres	4 acres

(c) Minimum lot width (feet)	200*	400*
(d) Minimum setbacks (feet)		
- Lots between 2 and less than 4 acres	40**	N.A.
- Lots between 4 and less than 15 acres	40**	100
- Lots between 15 and less than 20 acres	100	125
- Lots 20 acres or greater	100	150
(e) Minimum side and rear yards (feet)		
- Lots between 2 and less than 4 acres	25***	N.A.
- Lots between 4 and less than 15 acres	25***	35
- Lots between 15 and less than 20 acres	25***	40
- Lots 20 acres or greater	25***	50
(f) Minimum street side yard on corner lots (feet)		
- Lots between 2 and less than 4 acres	40	N.A.
- Lots between 4 and less than 15 acres	40	75
- Lots between 15 and less than 20 acres	40	85
- Lots between 20 acres or greater	40	100
(g) Maximum height (feet) <sup>2</sup>	40	40

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\*Lots having any part of their frontage on the circular portion of a cul-de-sac right-of-way may use 100 feet in RE-1 and 200 feet in RE-2 as the minimum lot width.

\*\*Minimum setback shall be 100 feet on thoroughfares and collectors.

\*\*\*Minimum side yard shall be 35 feet when abutting a residential district.

N.A. - Not Applicable

FOOTNOTES TO CHART 9.605(1):

<sup>1</sup> If a parking deck is constructed as part of a building, the allowable FAR may be increased by 50 percent.

<sup>2</sup> A building in a designated district may be erected to a height in excess of 40 feet, provided the minimum side yard is increased one (1) foot for every two (2) feet in building height in excess of 40 feet. If a building abuts a residential zoning district, it may not be constructed above the 40 feet unless the side and/or rear yard which adjoins the residential zoning district is increased one (1) foot for each foot in building height in excess of 40 feet. Height requirements for other permitted structures are set forth in Section 12.108.



- (2) Parking and Loading. Development of any use in the research districts must conform to the parking and loading standards in Chapter 12, Part 2 except that:
- (a) No surface parking or maneuvering space shall be permitted within any required setback, except that driveways providing access to the parking area may be installed across these areas.
  - (b) 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 of the street as the use, and be located in areas approved by the Charlotte Department of Transportation (CDOT).

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 shall not be required to make up the difference and shall not be made non-conforming, with respect to parking.

- (3) Buffers and Screening. Buffers and screening are required for all uses in accordance with the following:
- (a) The buffer requirements of Section 12.302 shall be met.
  - (b) The screening requirements of Section 12.303 shall be met.
- (4) Open space.
- (a) Open space shall be required for all new development in excess of four acres. Such open space shall equal, at a minimum, 20% of the gross lot area.
  - (b) A minimum of 20% of the required open space shall be improved with seating, plantings, or other amenities and accessible to the public or the users of the principal buildings on site.
  - (c) The required open space may include buffers, dedicated greenways, stormwater detention and retention facilities, water bodies, and natural areas.

#### **Section 9.606. Design Standards**

- (1) Signs. Signs are permitted in the RE-1 and RE-2 district in accordance with Chapter 13 except that no sign shall exceed 7 feet in height.

- (2) Connectivity and circulation standards. Internal sidewalk connections are required between buildings and from buildings to all publicly accessible on-site facilities (parking areas, bicycle facilities, open space, etc.). All internal sidewalks shall be hard surfaced and at least 6' in width.
- (3) Outdoor lighting. Outdoor lighting, if provided, shall meet the standards of Section 12.402, and
  - (a) The maximum height of a light source (light bulb) detached from a building shall be 20 feet.
  - (b) All outdoor lighting shall be screened in such a way that the light source cannot be seen from any abutting residentially zoned or used property.
- (4) Building Entrances and Orientation.
  - (a) At least one or more operable pedestrian entrances per building shall be provided in each of the following circumstances:
    - 1. When a lot abuts a public street right-of-way, at least one entrance(s) shall be provided along all building façade(s) fronting all public rights-of-way.
    - 2. When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to public open space, multi-use trail, or greenway.
  - (b) On corner lots, buildings may provide one main entrance oriented to the corner or facing either of the streets.
  - (c) Building entrances. Doorways must be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape. For structures less than 100,000 square feet in gross floor area, the entry way must be 1 square foot for each 1,000 square feet of gross floor area with a 15-square-foot minimum. For buildings over 100,000 square feet, the entry way must be at least 100 square feet.
- (5) Street Walls.
  - (a) All buildings fronting directly on a street and located within 100 feet of the street right-of-way shall be designed so that the first-floor street façade of the building(s) includes clear glass windows and doors to increase pedestrian interest. These openings shall be arranged so that the uses are visible from and to the street on at least 50% of the length of the first-floor street-level frontage.
  - (b) No reflective surfaces shall be permitted on street-level exterior facades.

- (c) Band windows are prohibited. Recessed windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are permitted.
- (6) Streetscape. Streetscape comprised of a planting strip with street trees and a sidewalk shall be provided along all street frontages in accordance with the following standards:
- (a) A continuous perimeter planting strip shall be required along all street frontages (excluding driveways). The width of the planting strip shall be in accordance with the City Council adopted streetscape plan. When there is no applicable streetscape plan, an 8' wide planting strip measured from the curb line shall be constructed. If there is no streetscape plan or the plan does not adequately define the curb line, then the curb line shall be determined jointly by Charlotte Department of Transportation (CDOT) Director, or his/her designee, and the Planning Director, or his/her designee.
  - (b) The perimeter planting strip shall be located adjacent to the curb, unless specified otherwise in the approved streetscape plan. If the right-of-way width varies along the street frontage, the planting strip shall be aligned along the widest section of the street (where there is the widest dimension between the backs of curbs).
  - (c) Trees shall be planted in the continuous perimeter planting strip, per the standards in the *Charlotte Tree Ordinance* and in the *Charlotte Land Development Standards Manual*. Tree pits with irrigation and sub-drainage may be installed in lieu of a planting strip, per the requirements of Section 21-13(C)(2)(a)(2) of the *Charlotte Tree Ordinance*.
  - (d) *Charlotte Tree Ordinance* regulations for tree protection and replacement shall be applicable within this zoning district.
  - (e) Sidewalks shall be located and constructed as specified in the approved streetscape plan. Typically, sidewalks along public street rights-of-way should abut the perimeter planting strip, and be located on the side closest to the building. The sidewalk width and locations shall be determined by the streetscape plan. When there is no applicable streetscape plan, then the sidewalk shall be 6' in width. Sidewalks shall meet the standards for concrete sidewalks in accordance with the *Charlotte Land Development Standards Manual*. A sidewalk easement shall be required if the sidewalk is not located within the public right-of-way.
  - (f) The Planning Director, with the affirmative recommendation of the City Arborist/Senior Urban Forester, shall have the authority to modify the requirements of Section 9.606(6), including the modification of the planting strip, sidewalk location, and width in order to preserve existing trees and to provide flexibility for a hard surface next to the curb, where appropriate for on-street parking (e.g. handicap parking areas, loading zones).

**Section 9.607. Administrative Approval.**

To offer some degree of flexibility the Planning Director has the authority to administratively alter any of the development and design standards by 5% in this 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 RE-1 and RE-2.

Any approval must meet the following criteria:

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

D. CHAPTER 11: CONDITIONAL ZONING DISTRICTS

1. PART 7. RE-3 RESEARCH DISTRICT

- a. Amend Chapter 11, Part 7, Sections 11.701 through 11.709 as follows:

**Section 11.701. Purpose.**

The RE-3 district allows for a broader range of research and other uses and more development potential than allowed in the RE-1 or RE-2 districts. (The RE-1 and RE-2 purpose statements are described in Chapter 9, Section 9.601). Development within the RE-3 district lends itself to a research employment based center with a diverse mixture of uses and attractive amenities that will facilitate the evolution of the place into a vibrant destination. More urban in character than the RE-1 or RE-2 district, the RE-3 district encourages employment uses that are well integrated into the surroundings and complement the existing adjacent and nearby uses. The RE-3 district expands upon the use mix allowed in RE-1 and RE-2 to include attached residential and services to achieve a truly mixed-use community. Development within RE-3 should furthermore be characterized by its pedestrian scale with emphasis on quality of the development, varied amenities and a well connected, multi-modal transportation network that promotes walkability.

**Section 11.702. Uses permitted by right.**

The same uses permitted by right in the RE-1 and RE-2 districts (Sections 9.602) shall be permitted by right in the RE-3 district except for the following uses which are not permitted:

- (1) Pharmaceutical preparations and production facilities.
- (2) Printing and publishing establishments.

- (3) Prototype production facilities and pilot plants.
- (4) Telecommunications and telephone switching.

The following additional uses shall be permitted provided they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Art galleries
- (2) Athletic and sports facilities
- (3) Barber and beauty shops
- (4) Conference centers
- (5) Dry cleaning and laundry establishments
- (6) Dwellings, attached
- (7) Dwellings, mixed-use
- (8) Dwellings, attached and multi-family, up to 12 in a building
- (9) Dwellings, planned multi-family and attached, or buildings with more than 12 units
- (10) Family childcare homes
- (11) Florist, retail
- (12) Health institutions, including hospitals and similar uses
- (13) Hotels and motels
- (14) Nursing homes, rest homes, homes for the aged, and elderly and disabled housing
- (15) Offices
- (16) Religious institutions
- (17) Restaurants
- (18) Studios for artists or designers.
- (19) Theaters, motion picture
- (20) Transit stations and associated parking facilities

- (21) Universities, colleges, and vocational schools.

**Section 11.703. Uses permitted under prescribed conditions.**

The same uses permitted under prescribed conditions in the RE-1 and RE-2 districts (Section 9.603) shall be permitted under prescribed conditions in the RE-3 district except for the following uses which are not permitted in RE-3:

- (1) Vehicle leasing offices and associated automobile parking.

The following additional uses shall be permitted provided they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Childcare centers in a residence, subject to the regulations of Section 12.502.
- (2) Nightclubs, bars and lounges, provided such uses are at least 400 feet from any residential district.
- (3) Retail sales permitted in B-1, up to 10,000 square feet.
- (4) Retail sales permitted in B-1, over 10,000 square feet (RE-3 – Optional only).
- (5) Structured parking decks, subject to the regulations of 11.706(10).

**Section 11.704. Permitted accessory uses and structures.**

The same accessory uses and structures permitted in the RE-1 and RE-2 districts (Section 9.604) shall be permitted in the RE-3 district in addition to the following uses:

- (1) Outdoor Sales, subject to the regulations of Section 12.417.
- (2) Drive-in windows, subject to the regulations of Section 12.413. Service lanes shall not be permitted between any façade of the principal structure and any abutting public or private street.
- (3) Structured parking subject to the regulations of Section 11.706(10).

**Section 11.705. Development standards.**

All uses and structures permitted in the RE-3 district shall meet the applicable development standards established in this Section and other requirements of these regulations:

- (1) Maximum Dwelling Units Per Acre (DUA): None.
- (2) Maximum Floor Area Ratio (FAR): None.
- (3) Minimum lot area: 10,000 square feet.
- (4) Minimum lot width: 25' for residential lots, 100' for all other lots.
- (5) Minimum setback:
  - (a) The minimum building setbacks along particular streets shall be determined by the approved City Council adopted streetscape plan. When the plan does not specify a setback, the minimum setback for all uses shall be twenty-four (24) feet.
  - (b) The minimum setback shall 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 shall become the minimum setback. If the existing curb line varies, the setback shall be aligned along the widest section of the street (where there is the widest dimension between the backs of curbs).
  - (c) For the purposes of this section, the minimum setback applies to all street frontages, not just to the street frontage toward which the structure is oriented.
  - (d) No surface parking or maneuvering space shall be 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.
  - (e) The transitional setback requirements of Section 12.103 shall not apply in the RE-3 zoning district.
- (6) Minimum side yards: None, except 35' where abutting a residential use not zoned RE-3 or a residential zoning district.
- (7) Minimum rear yard: None, except 35' where abutting a residential use not zoned RE-3 or a residential zoning district.
- (8) Maximum height: 90'.
  - (a) If a building abuts a residential zoning district or residential use that is not zoned RE-3, it shall not be erected to a height in excess of 40 feet unless the side and/or rear yard which adjoins the residential zoning district or use is increased one (1) foot for every foot of building height in excess of 40 feet.

- (b) If a building abuts a non-residential zoning district or residential use that is zoned RE-3, no increase in side/and or rear yard is required.
- (9) Parking and Loading. The requirements of Chapter 12, Part 2 shall apply with the following exceptions:
- (a) Parking Standards.
    - 1. The minimum parking requirements for the RE-3 District are as follows:
      - Residential – 1.5 space per dwelling unit
      - Hotels/Motels – 1.0 space per room
      - Nightclubs, Bars and Lounges – 1 space per 125 gross square feet
      - Restaurant – 1 space per 125 gross square feet
      - Retail – 1 space per 250 gross square feet
      - All Other Uses - 1 space per 400 gross square feet
    - 2. No surface parking or maneuvering space shall be permitted within any required or established setback, except that driveways providing access to the parking area may be installed across these areas.
    - 3. On-street parking spaces located along the portion of a public street (s) abutting the use 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, and be located in areas approved by the Charlotte Department of Transportation. In the event that any on-street parking that was allowed to count toward the minimum requirement is removed by the City or the State, the existing use will not be required to make up the difference.
    - 4. The parking requirements of the district may be met off-site at a distance of up to 800 feet from the permitted use.
    - 5. Structured parking decks and underground parking decks providing required parking for residential dwelling units in the RE-3 zoning district shall meet the following requirements:
      - a. Controlled gate locations are subject to the approval of CDOT.
    - 6. Valet parking service standards for new construction and site reconfigurations. If provided, a valet parking service (including drop-off



areas, servicing areas, and the parking areas) shall meet the following requirements:

- a. The valet parking service can be located on private property. The valet parking service area shall be located to the side or rear of the structure or building, but shall not be located between the building and the street.
- b. The parking area for the valet parking service shall be incorporated into the parking lot or parking structure design, if provided.
- c. The valet parking service and associated structures shall not disrupt the flow of pedestrian and vehicular traffic within public rights-of-way.

(b) Loading Standards. Buildings and structures, excluding parking structures, subject to the provisions of this section, 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 loading 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 provided in accordance with the following list:

1. Multi-family dwellings (1-24 units): None required
2. Multi-family dwellings (25+ units): One (1) space
3. Non-residential uses with gross floor area:
  - a. Less than 50,000 square feet: None Required
  - b. 50,000 - 150,000 square feet: One (1) space
  - c. Each additional 100,000 square feet: One (1) space
4. If a non-residential use has five (5) or more off-street service/delivery parking spaces, 40 percent of the spaces must be large enough to accommodate vehicles greater than 30 feet long.

(10) Buffers and Screening.

(a) Buffers.

1. Buffers per Section 12.302 shall be provided along all property lines where the RE-3 district abuts a property that is not zoned RE-1, RE-2, or RE-3. This requirement also applies in situations where an alley with a

right-of-way width of 25 feet or less separates uses in a RE-3 zoning district from any property that is not zoned RE-1, RE-2, or RE-3. Buffering shall be provided along all such property lines abutting the alley.

2. Multi-family developments zoned RE-3 are exempt from this requirement where they abut other multi-family uses or undeveloped multi-family zoning districts.

(b) Screening.

1. All service entrances, utility structures associated with a building, and loading docks and/or spaces shall be screened from the abutting property and from view from a public or private street or from a transit-way. Such screening shall consist of a 5-foot wide planting strip, consisting of evergreen shrubbery sufficient to visually screen these uses, or an alternative as approved by the Planning Director. An optional wall or fence may be used in lieu of the 5-foot planting strip. Walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT). Berms shall not be used to satisfy screening requirements.
  - a. Any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other finished masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Zoning Administrator. The finished side of the fence shall face the abutting property. In no instance shall a fence or wall used for screening be located within a setback. Nor shall a chain link or barbed wire fence be permitted.
  - b. The composition of the screening material and its placement on the lot shall be left up to the discretion of the property owner, as long as the intent of this Ordinance is met. However, a wall cannot be substituted for the planting strip along any public street or transit-way unless supplemented by landscaping in a minimum 3-foot wide planting strip.
  - c. Shrubs used for screening shall be evergreen and at least 2 to 2 ½ feet tall with a minimum spread of 2 feet when planted and no further apart than 5 feet. Shrubs shall be adequately maintained so that an average height of 5 to 6 feet can be expected as normal growth within 4 years of planting. The average expected height may be reduced to 4 feet for screening along public streets. Shrubs and trees shall be on the approved plant list in the "Approved Plant Species" matrix in the Charlotte Land Development Standards Manual. Walls shall be reduced in height to 30 inches within sight

triangles as required by the Charlotte Department of Transportation (CDOT).

- d. The minimum height for walls and fences abutting a residential district shall be 6', or whatever is sufficient to visually screen the use. The minimum height for screening shall be whatever is sufficient to visually screen the uses, but not less than 4'.
- (2) Dumpsters, recycling containers, compactors, large above-ground utility structures and solid waste handling areas are not permitted in any setback or yard and shall be screened from adjacent property and from public view with a minimum 6-foot high solid and finished masonry wall, with closeable gate that shall be 40% - 50% open for safety and security purposes. In no instance shall a chain link fence or a barbed wire fence be permitted. Dumpsters are not permitted in any required setback or yard space.
  - (3) All parking areas for more than 10 motorized vehicles (except for parking areas for duplex, triplex or quadruplex dwellings on a single lot) shall provide screening which consists of either a 5-foot wide planting strip consisting of evergreen shrubbery to sufficient to visually separate land uses, or a finished masonry wall that is a minimum of 2 ½ feet in height, up to a maximum height of 3 feet, and that shall be 40% - 50% open for safety and security purposes, or an alternative as approved by the Planning Director. Evergreen shrubbery shall meet the requirements of Section 12.303(g). However, a wall cannot be substituted for the planting strip along any public street unless supplemented by landscaping in a minimum 3-foot wide planting strip. Berms shall not be used to satisfy screening requirements.

If a wall is provided, then the area on either side of the wall shall be wide enough to allow for its maintenance.

The 5' planting strip or the wall may be eliminated if abutting parking lots are combined or interconnected with motor vehicular and pedestrian access.

Shrubs and walls may be reduced in height to 30 inches when located within sight triangles as required by the Charlotte Department of Transportation (CDOT). In no instance shall a chain link fence or a barbed wire fence be permitted.

- (4) Any expansion or change of use to a property will require that all screening requirements be met. If an existing parking area is located in the planting strip required for screening, a masonry wall shall be constructed outside of any public right-of-way to meet the screening requirement.

- (5) If the screening requirements cannot be met, the Planning Director shall have the authority to modify the screening requirements, as long as the intent of this section is met.

(11) Urban Open Spaces.

- (a) All new development on lots of greater than 20,000 square feet must provide urban open space. Such open space shall be either private open space and/or public open space.
- (b) Private open space is defined as an area that is:
  - 1. Accessible and visible to residents, tenants, and/or users of the development.
  - 2. Improved with seating, plantings, and/or other amenities.
  - 3. Located on the ground floor or first level of the development, or on a roof or terrace level, or in an interior courtyard area of the development, or a combination of these locations.
  - 4. Out of doors, or in the open air (may be under a roof or canopy).
- (c) Public urban open space is defined as an area that is:
  - 1. Accessible and open to the public.
  - 2. Improved with seating, plantings, and/or other amenities.
  - 3. Visible and accessible from the street or public pedestrian areas.
  - 4. Located on the ground floor or no more than five feet above or five feet below ground level.
  - 5. Out of doors, or in the open air (may be under a roof or canopy).
- (d) All required open space shall be located behind the sidewalk and on private property
- (e) Open space requirements are based on the type of use, the lot size, and the gross square footage of building floor area, in accordance with the following schedule:

Use	Private Open Space	Public Open Space
Residential use	1 sq. ft./100 sq. ft. gross floor area or 1 sq. ft./200 sq. ft. lot area, whichever is greater.	None required.
Non-residential use	None required.	1 sq. ft./100 sq. ft. gross floor area or 1 sq. ft./200 sq. ft. lot area, whichever is greater.

- (f) For developments on lots in excess of ten acres (435,600 square feet), at least fifty percent (50%) of the required open space must be centrally located on the site in a common area.

**Section 11.706. Design Standards.**

- (1) Signs. Signs are permitted in the RE-3 district in accordance with Chapter 13 except that no sign shall exceed 7 feet in height.
- (2) Connectivity and circulation standards. Uses shall be integrated with the surrounding community, easily accessible, and have an internal circulation system that accommodates a variety of travel modes. The pedestrian sidewalk system shall meet the following standards:
  - (a) Internal sidewalk connections are required between buildings and from buildings to all publicly accessible on-site facilities (parking areas, bicycle facilities, open space, etc.). All internal sidewalks shall be hard surfaced and at least 6' in width.
  - (b) The on-site pedestrian circulation system shall be lighted to a level where employees, residents, and customers can safely use the system at night. All lighting shall be shielded with full cut off fixtures.
- (3) Outdoor lighting standards. Outdoor lighting, if provided, shall meet the standards of Section 12.402, and:
  - (a) The maximum height of a light source (light bulb) detached from a building shall be 20 feet.
  - (b) All outdoor lighting visible from residentially zoned or used property will be full cut off fixtures.
- (4) Building Entrances and Orientation.
  - (a) At least one or more operable pedestrian entrances per building shall be provided in each of the following circumstances:
    - (1) When a lot abuts a public or private street, at least one entrance shall be provided on each building façade fronting a street.

- a. Townhouse units are only required to have an entrance on one building façade fronting a street.
  - b. On corner lots, buildings may provide one main entrance oriented to the corner or facing either of the streets.
- (2) When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to public open space, multi-use trail, or greenway.
- (b) No doors shall be permitted to swing into the minimum setback, except for emergency exit doors.
  - (c) Building entrances must be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape. For structures less than 100,000 square feet in gross floor area, the entry way must be 1 square foot for each 1,000 square feet of gross floor area with a 15-square-foot minimum. For buildings over 100,000 square feet, the entry way must be at least 100 square feet.
  - (d) To provide a level of comfort and security for residents on the first floor of residential buildings on major thoroughfares, the first floor should be visually and physically separated from the sidewalk with an increased setback, additional landscaping or a raised first floor.
- (5) Canopies. Canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls. Such features shall be constructed of rigid or flexible material designed to complement the streetscape of the area. Any such feature may extend from the building up to one-half of the width of the setback area in front of the building or 9', whichever is less. In no instance shall such features extend over, or interfere with the growth or maintenance of any required tree plantings. Minimum overhead clearance shall be 8'. Ground supports for these features are not permitted in the sidewalk or in the public right-of-way. If a canopy, awning, cornice, or other appurtenance extends into the public right-of-way, an encroachment agreement from CDOT or NCDOT shall be required.
- (6) Streetscape. Streetscape comprised of a planting strip with street trees and a sidewalk shall be provided along all street frontages in accordance with the following standards:
- (a) A continuous perimeter planting strip or amenity zone shall be required along all street frontages (excluding driveways). The width of the planting strip or amenity zone shall be in accordance with the City Council adopted streetscape plan. When there is no applicable streetscape plan, an 8' wide planting strip measured from the curb line shall be constructed. If there is no applicable streetscape plan or the plan does not adequately define the curb line, then the curb line shall be determined jointly by Charlotte Department of Transportation (CDOT) Director, or his/her designee, and the Planning Director, or his/her designee.

- (b) The perimeter planting strip shall be located adjacent to the curb, unless specified otherwise in the approved streetscape plan. If the right-of-way width varies along the street frontage, the planting strip or amenity zone shall be aligned along the widest section of the street (where there is the widest dimension between the backs of curbs).
  - (c) Trees shall be planted in the continuous perimeter planting strip, per the standards in the *Charlotte Tree Ordinance* and in the *Charlotte Land Development Standards Manual*. Tree pits with irrigation and sub-drainage may be installed in lieu of a planting strip, per the requirements of Section 21-13(C)(2)(a)(2) of the *Charlotte Tree Ordinance*.
  - (d) *Charlotte Tree Ordinance* regulations for tree protection and replacement shall be applicable within this zoning district.
  - (e) Sidewalks shall be located and constructed as specified in the approved streetscape plan. Typically, sidewalks along public street rights-of-way should abut the perimeter planting strip, and be located on the side closest to the building. The sidewalk width and locations shall be determined by the streetscape plan. When there is no applicable streetscape plan, then the sidewalk shall be 6' in width. Sidewalks shall meet the standards for concrete sidewalks in accordance with the *Charlotte Land Development Standards Manual*. A sidewalk easement shall be required if the sidewalk is not located within the public right-of-way.
  - (f) The Planning Director with the affirmative recommendation of the City Arborist/Senior Urban Forester shall have the authority to modify the requirements of Section 11.706(6), including the modification of the planting strip, sidewalk location, and width in order to preserve existing trees and to provide flexibility for a hard surface next to the curb, where appropriate for on-street parking (e.g. handicap parking areas, loading zones).
  - (g) An amenity zone is required in lieu of a planting strip along ground-floor, non residential uses, unless on-street parking is not permitted by CDOT or NCDOT.
- (7) Street Walls.
- (a) All retail and office buildings fronting directly on a street shall be designed so that the first-floor street façade of the building(s) along all streets includes clear glass windows and doors to increase pedestrian interest. These openings shall be arranged so that the uses are visible from and to the street on at least 50% of the length of the first floor street level frontage.
  - (b) For all other uses, buildings shall be designed so that the first-floor street façade along all streets includes the use of clear glass 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 shall be used on the building façade, or incorporated into the site design. These design elements may include but are not limited to the following: ornamentation; molding; string courses; changes in material or color; architectural lighting; works of art; fountains and pools; street furniture; stoops, landscaping and garden areas; and display areas.

- (c) The first floor façade of all buildings, including structured parking facilities, shall be designed to encourage and complement pedestrian-scale, interest, and activity.
- (d) Expanses of blank wall shall not exceed 20 continuous feet in length. A blank wall is a facade that does not add to the character of the streetscape and does not contain clear glass windows or doors or sufficient ornamentation, decoration or articulation.
- (e) No reflective surfaces shall be permitted on street-level exterior facades.
- (f) Ventilation grates on the building, or emergency exit doors located on the first-floor street façade(s) shall be decorative and consistent with the overall building design.

(8) Base of High Rise Building. (Buildings exceeding 5 stories in height)

- (a) The first 3 floors above street grade shall be distinguished from the remainder of the building with an emphasis on providing design elements that will enhance the pedestrian environment. Such elements as cornices, corbelling, molding, stringcourses, ornamentation, changes in material or color, recessing, architectural lighting and other sculpturing of the base as are appropriate shall be provided to add special interest to the base.
- (b) In the design of the building façade, attention shall be paid to the appearance both during the day and at night. Material and color changes alone do not meet the requirements of this section and design elements, which are used to meet the requirements of this section, shall be visually continuous around the building. In the event that a building façade is not visible from a public street or right-of-way then the Planning Director has the option of waiving this requirement.
- (c) Special attention shall be given to the design of windows in the base. Band windows are prohibited. Recessed windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are permitted.

(9) Top of Buildings.

- (a) All rooftop mechanical equipment on buildings over 60' in height shall be screened from public view from below by integrating the equipment into the building and roof design to the maximum extent feasible, by the use of parapet walls or similar architectural treatments. Buildings under 60' in height shall



screen all rooftop mechanical equipment from public view from above or below (based on the type of mechanical equipment utilized) by integrating it into the building and roof design to the maximum extent feasible.

(10) Structured Parking Facilities.

- (a) Structured parking facilities shall be designed to encourage and complement pedestrian-scale interest and activity, and shall be designed so that motorized vehicles parked on all levels of the facility inside are screened from the street, and/or from adjacent residentially zoned and/or used property. Decorative elements such as grillwork or louvers may be utilized to accomplish this objective.
- (b) Openings at the street level are limited to vehicular entrances, pedestrian access to the structure, and ventilation openings. All such openings shall be decorative and be an integral part of the overall building design.

**Section 11.707. Administrative approval.**

To offer some degree of flexibility the Planning Director has the authority to administratively alter any of the development and design standards by 5% in this district. If administrative approval is for parking, the Planning Director will only grant this approval after consulting with 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 RE-3.

Any approval must meet the following criteria:

- (1) Incorporates existing buildings, trees, topographic features, or other existing elements consistent with the RE-3 intent; and
- (2) Provides open space, seating, fountains, accent landscaping, or other similar urban pedestrian amenities consistent with the intent of the RE-3.

**Section 11.708. Research 3 District (Optional)**

- (1) Purpose. The Research 3 (RE-3) zoning district establishes minimum standards for development. However, circumstances may arise which those regulations do not address or did not foresee, or due to the specific requirements of the regulations and their application to a specific proposal create an undesirable or unintended outcome. 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 RE-3.

The Research 3 (Optional), or RE-3-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 RE-3. It also serves as a mechanism for altering or modifying the minimum standards as they relate to a specific development.

The RE-3 standards are the guidelines that shall be used to evaluate a RE-3-O proposal, but any of the standards of RE-3 may be modified in the approval of the RE-3-O application, with the exception that use variances shall not be allowed.

Application. Petitions for a zoning map amendment to establish a RE-3-O shall be submitted to the Charlotte-Mecklenburg Planning Department.

A RE-3-O classification shall be considered only upon application of the owner of the subject property or his duly authorized agent. Applications shall be accompanied by a schematic plan, which includes pedestrian and bicycle circulation elements, and by any supporting text, that becomes a part of the amending ordinance.

- (2) Approval. The establishment of the RE-3-Optional zoning district shall be in accordance with the procedures of Chapter 6, Part 2: Conditional Zoning Districts. The City Council shall also consider the extent to which the basic standards of RE-3 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. In no instance shall parking be permitted in the front required setback.
- (3) Alterations. Changes to approved plans and conditions of development shall be treated the same as changes to the Zoning Map and shall be processed in accordance with the procedures of Section 9.1210 or Section 9.1212

**Section 11.709. Preliminary review.**

Applicants planning any development or redevelopment in a RE-3 area are required to meet with the staffs of the Charlotte-Mecklenburg Planning, 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 RE-3 (Optional) process does not exempt applicants from this preliminary review. Building permits will not be issued until the Planning Department staff approves the proposal as in conformance with this ordinance.

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", subsection (2), subsection (b) by adding in the RE-3 district to the list of zoning districts to which this section does not apply. All other subsections remain unchanged. The revised text shall read as follows:

**Section 12.106. Uses and structures prohibited and allowed in required setbacks and yards.**

- (b) Notwithstanding the provisions of subsection (a), above ground structures (other than a back-flow preventer) connected to and associated with underground electric, natural gas, telecommunications or cable television distribution lines, pipes, or conduits may be located in the setback subject to the following:
- i. A structure of a dimension that does not exceed four (4) feet in width, four (4) feet in length, or three (3) feet in height may be located no closer than two (2) feet to the existing or proposed right-of-way based on the street classification and no closer than ten (10) feet to the back of the curb line or edge of pavement.
  - ii. A structure of a dimension that does not exceed four (4) feet in width, eight (8) feet in length, or six (6) feet in height may be located no closer than ten (10) feet to the existing or proposed road right-of-way based on the street classification.

The dimension restrictions contained in subsections (b)(i) and (ii) shall not apply to structures located in the setback prior to April 1, 2003.

This subsection shall not apply in the UR-1, UR-2, UR-3, UR-C, MUDD, UMUD, PED, RE-3, TOD, or TS zoning districts and shall not constitute a regulation of utilities in the right-of-way.

*(Petition No. 2004-128, § 12.106(2), (b), 2/21/05)*

2. PART 2: OFF-STREET PARKING AND LOADING

- a. Amend Section 12.202, "Required number of off-street parking and bicycle spaces", subsection (4) by adding RE-3 to the list of zoning districts where the requirements do not apply. All remaining subsections remain unchanged. The revised subsection shall read as follows:

**Section 12.202. Required number of off-street parking and bicycle spaces.**

- (4) The off-street motor vehicular parking requirements of this section shall not apply to the RE-3, MUDD, NS, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, UI, UMUD, and UR districts established in these regulations, however, bicycle parking shall apply in these districts with requirements based not on the zoning district, but on the table of uses.

- b. Amend the first paragraph of Section 12.212, "Parking deck standards", by adding RE-1, RE-2, and RE-3 to the list of zoning districts where this section does not apply. All subsections remain unchanged. The revised text shall read as follows:

**Section 12.212. Parking deck standards.**

This section sets forth development standards to address parking decks as a principal or accessory use within any permitted zoning district, except the RE-1, RE-2, RE-3, MUDD, PED, TOD-R, TOD-E, TOD-M, TS, UI, UMUD, and UR districts.

- c. Amend Section 12.213, "Underground parking structures" by adding RE-1, RE-2, and RE-3 to the list of zoning districts where this section does not apply. The revised text shall read as follows:

**Section 12.213. Underground parking structures.**

Underground parking structures are permitted within any required setback, side yard, and rear yard on any lot in any institutional, office, business or industrial district, provided no portion of the underground structure extends above grade more than 5 feet at any point nor more than 4 feet for 75 percent of its length along any lot line. A balustrade, parapet or railing may extend above the permitted structure height, provided it is not greater than 32 inches in height, is set back from the property line at least 3 feet and has openings equal to at least 30 percent of its surface along each side. Along any lot line abutting a street, "grade" means the elevation at the center line of the street. Along any lot line not abutting a street, "grade" means ground elevation at the property line. Such structures must conform to any corner site distance requirements which may be in effect at the time the underground structure is built. An underground parking structure may encroach upon any area set aside for the buffer, screening or other planting requirements so long as there is at least 4 feet of soil between the above ground surface and the top of the underground parking structure. The requirements of this section do not apply to the RE-1, RE-2, RE-3, MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, TS, UI, UMUD, and UR, districts. (*Petition No. 2004-128, § 12.213, 2/21/05*)

- d. Amend Section 12.218, "Commercial vehicle parking in residential areas", subsection (3), "Mixed-use districts", subsection (a) by adding the RE-3 district to the list of districts considered to be "mixed-use districts". The remaining subsections shall remain unchanged. The revised subsection shall read as follows:

**Section 12.218. Commercial vehicle parking in residential areas.**

(3) Mixed-use districts.

(a) Light and medium commercial vehicles are permitted without screening in true mixed-use developments where

residential and nonresidential uses are vertically integrated in the same building. (For the purposes of this section, mixed-use districts are the following districts: RE-3, MX-2, MX-3, NS, MUDD, UMUD, UR-2, UR-3, UR-C AND CC.)

3. PART 3: BUFFERS AND SCREENING

- a. Modify Section 12.301, "Purpose" by removing the RE-1 and RE-2 zoning districts from the list of zoning districts where buffers and screening of this Chapter will not apply. Add text to explain how buffers and screening will be addressed in the RE-3 district. The revised section shall read as follows:

**Section 12.301. Purpose.**

It is recognized that certain land uses, because of their character and intensity, may create an adverse impact when developed adjacent to other less intensive land uses. The general purposes of this Section are to establish regulations protecting and preserving the appearance, character and value of property within the City and to recognize that the transition between certain uses requires attention to protect less intensive land uses. The objectives are to identify those land use relationships that may be incompatible and to specify an appropriate buffer or screen, the function of which is to minimize any adverse impacts. These provisions will not apply to developments in the ND, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, TS, UI, UMUD, and UR districts or to certain development on school sites as provided for in Section 9.203(7)(e) and 9.303(10)(e). The buffer requirements of this section will not apply to the MUDD district.

- b. Amend Section 12.302, "Buffer requirements", Table 12.302(a), "Minimum Buffer Requirements by Use and District Categories", by modifying the row titled, "4. RESEARCH" to delete some text, and add new entries for buffers as shown. All remaining rows in the table remain unchanged.

**Table 12.302(a)  
MINIMUM BUFFER REQUIREMENTS BY USE AND DISTRICT CATEGORIES**

	EXISTING ABUTTING USES AND DISTRICTS								
	SINGLE FAMILY USE OR ZONING	MULTI-FAMILY USE OR ZONING	INSTITUTIONAL USE INTENSITY OR ZONING			OFFICE USE OR ZONING	BUSINESS USE OR ZONING	PARKS & GREENWAYS	INDUSTRIAL USE
			LOW	MEDIUM	HIGH				
DEVELOPING USES									
4. RESEARCH	B	B	C					C	

4. PART 4: ACCESSORY USES AND STRUCTURES

- a. Amend Section 12.413, "Drive-in and drive-through service lanes/windows" by clarifying the type of drive-in and drive-through service lanes/windows, and adding the RE-3 district in the list of zoning districts, in which drive-through or drive-in service lands/windows are not permitted, unless they are part of an optional classification. The revised text shall read as follows:

**Section 12.413. Drive-in and drive-through service lanes/ windows.** *(Petition No. 2002-147, §12.413, 1/21/03), (Petition No. 2003-90, § 12.413, 10/20/03, (Petition No. 2004-128, § 12.413, 2/21/05), (Petition No. 2005-98, §12.413, 05/16/05),*

- (1) Drive-in and drive-through service lanes/windows shall be permitted only as an accessory use in the UMUD, NS, PED, MX-2, MX-3, Inst., RE-1, RE-2, O-1, O-2, O-3, B-1, B-2, BP, CC, I-1, and I-2 districts.
  - (2) Drive-through or drive-in service lanes/windows are not allowed in the UR-1, UR-2, UR-3, U-C, or MUDD, zoning districts. However, drive-through and drive-in service lanes/windows may be allowed in the MUDD district as part of the establishment of, or amendment to, a MUDD-Optional classification.
  - (3) Drive-in and drive-through service windows/lanes are permitted in the RE-3 district, however, service lanes shall not be permitted between any façade of the principal structure and any abutting public or private street.
  - (4) In the TOD-R, TOD-E, and TOD-M, and TS zoning districts, drive-through service lanes are only permitted as an accessory use to professional business and general office uses located between ¼ mile to ½ mile walking distance from a transit station.
- b. Amend Section 12,415, "Helistops, limited", by adding the RE-3 district in the list of zoning districts where a helistop is permitted as an accessory use. The revised text shall read as follows:

**Section 12.415. Helistops, limited.**

A helistop, limited shall be permitted as an accessory use only in the O-1, O-2, O-3, INST, RE-1, RE-2, RE-3, B-2, B-D, BP, UMUD, CC, U-I, I-1, and I-2 districts provided it complies with all applicable Federal Aviation Administration regulations.

- c. Amend Section 12.417, "Outdoor Sales, accessory", subsection (2) by adding the RE-3 zoning district to the list of zoning districts where outdoor sales are permitted as an

accessory use to a retail establishment. The remaining subsections shall remain unchanged.

**Section 12.417. Outdoor Sales, accessory.**

- (2) In the NS, CC, MUDD(CD), UMUD(CD), B-1SCD, B-1(CD), B-2(CD), and RE-3 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:

5. PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES

- a. Amend Section 12.502, "Adult care homes, adult care centers, childcare centers, childcare centers in a residence, family childcare homes, and large childcare centers", subsection (5), by adding the research districts to the list of districts in which adult care centers are permitted under prescribed conditions. All remaining subsections and the requirements under subsection shall remain unchanged. The revised text shall read as follows:

**Section 12.502. Adult care homes, adult care centers, childcare centers, childcare centers in a residence, family childcare homes, and large childcare centers.**

- (5) Adult care centers and homes, registered with the North Carolina Department of Human Resources, may be established as a principal use or as an accessory use in the multi-family, institutional, research, office, business, UMUD, U-I and I-1 districts and as an accessory use in the I-2 district. An adult care home may be established as a permitted use in the single-family district. All facilities must meet the setback, yard and height requirements, which will be the minimum, required for the district in which it is located.

- b. Amend Section 12.532, "Donation drop-off facilities", by adding the RE-3 district to the list of districts in which these facilities are permitted under prescribed conditions. The revised text shall read as follows:

**Section 12.532. Donation drop-off facilities.**

Donation drop-off facilities are permitted in all single family and multi-family residential districts, the urban residential districts of UR-3 and UR-C, and the non-residential districts of INST, RE-1, RE-2, RE-3, O-1, O-2, O-3, B-1, B-2,

BD, BP, CC, MUDD and UMUD, I-1, and I-2, subject to the following conditions:

- c. Amend Section 12.534, "Periodic Retail Sales Events, Off-Premise" subsection (1), subsection (a) by adding the RE-3 district to the list of zoning districts in which this use is permitted, with prescribed conditions. The remaining subsections shall remain unchanged. The revised text shall read as follows:

**Section 12.534. Periodic Retail Sales Events, Off-Premise.**  
(Petition No. 2004135, § 12.534, 3/21/05)

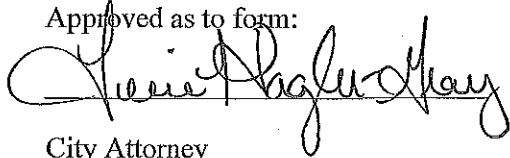
- (a) Periodic retail sales events may only be located in the UR-C, RE-3, B-1, B-2, TOD, MUDD, UMUD, and Industrial zoning districts. Periodic retail sales events shall also be permitted in the B1-SCD, B-1 (CD), B-2-CD, MX-2, MX-3, NS, and CC zoning districts, as part of a retail center, unless noted on the site plan or conditional plan that this use is restricted.
- d. Amend Section 12.538, "Homeless Shelters" by removing the RE-1, RE-2, and RE-3 zoning district from the list of districts that permit homeless shelters. All other subsections remain unchanged. The revised text shall read as follows:

**Section 12.538. Homeless Shelters.**

This ordinance provides for the location of homeless shelters in a wide variety of non-residential zoning districts: INST, B-2, B-D, B-P, UMUD, MUDD, U-I, and I-1. However, the public has an interest in assuring that a concentration of homeless shelters be minimized. Accordingly, homeless shelters are subject to the following additional requirements:

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

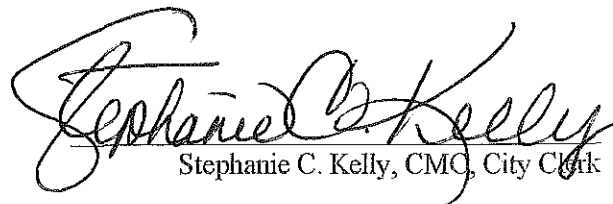


City Attorney

**CERTIFICATION**

I, Stephanie C. Kelly, 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 23<sup>rd</sup> of May, 2011, the reference having been made in Minute Book 132, and recorded in full in Ordinance Book 57, Page(s) 62-101.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15<sup>th</sup> day of July, 2011.



Stephanie C. Kelly, CMC, City Clerk



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APPROVED BY  
CITY COUNCIL

Petition No.: 2011-021  
Petitioner: Singh Development, LLC

MAY 23 2011

**ORDINANCE NO. 4659-Z**

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

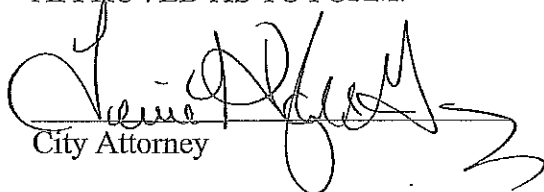
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

Section 1. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the zoning of the property described on the attached map from R-3 to R-3(CD) and INST(CD).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

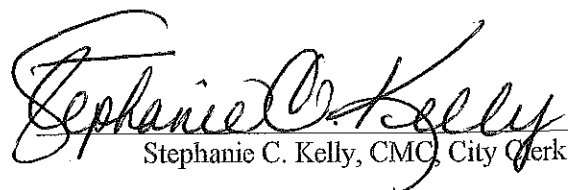
APPROVED AS TO FORM:

  
City Attorney

**CERTIFICATION**

I, Stephanie C. Kelly, 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 23<sup>rd</sup> of May, 2011, the reference having been made in Minute Book 132, and recorded in full in Ordinance Book 57, Page(s) 110-111.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15<sup>th</sup> day of July, 2011.

  
Stephanie C. Kelly, CMC, City Clerk

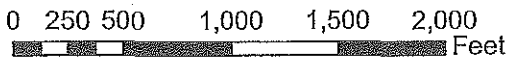
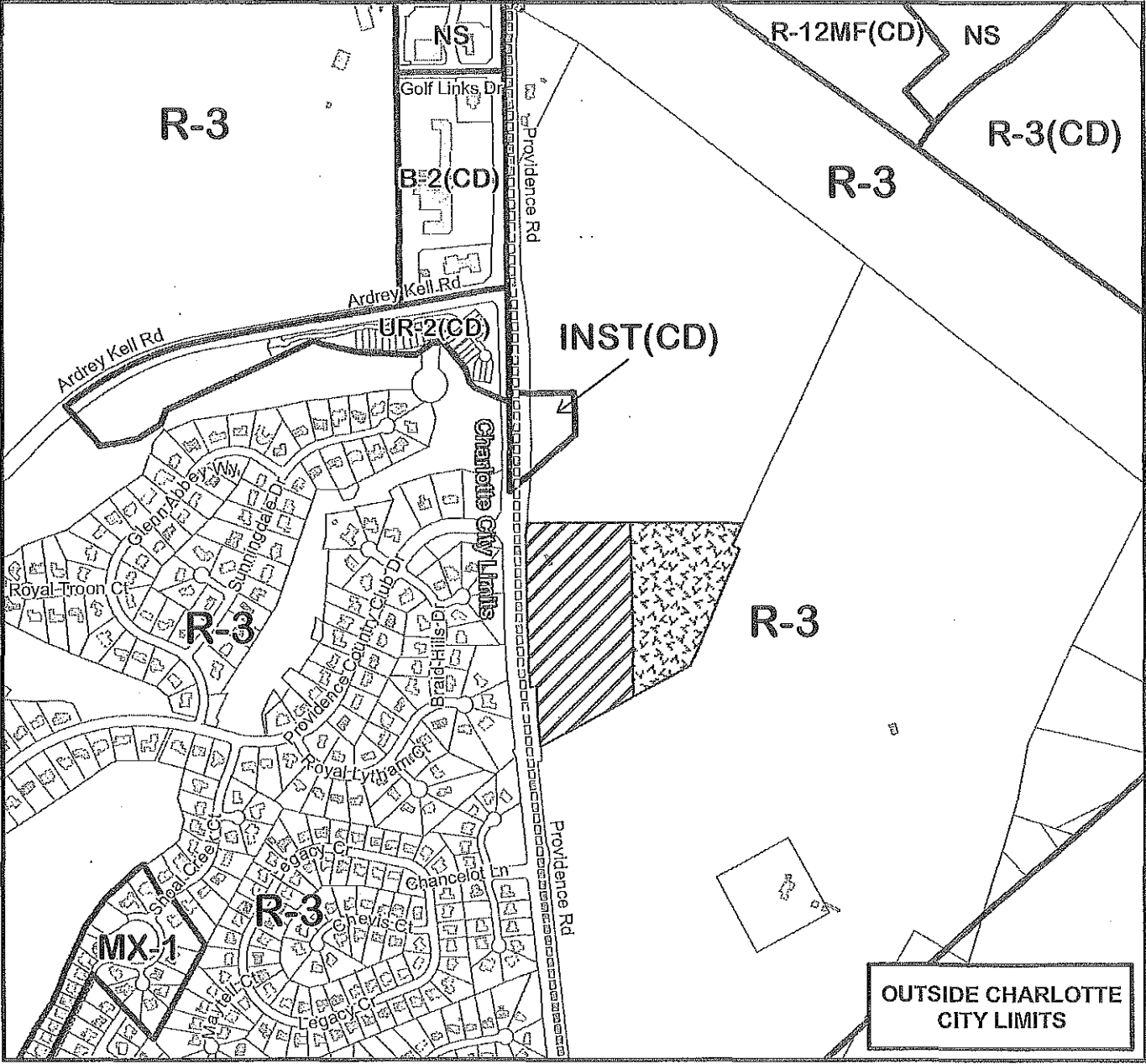
Petition #: **2011-021**

Petitioner: **Singh Development LLC**

Zoning Classification (Existing): **R-3**  
 (Single Family Residential, up to 3 dwelling units per acre)

Zoning Classification (Requested): **R-3(CD) and INST(CD)**  
 (Single Family Residential, up to 3 dwelling units per acre, Conditional and Institutional, Conditional)

Acreage & Location : Approximately 22.658 acres located on the east side of Providence Road and across from Providence Country Club Drive.



Zoning Map #(s) **180**

Map Produced by the  
 Charlotte-Mecklenburg Planning Department  
 4-14-2011

	Requested INST(CD) from R-3		FEMA flood plain
	Requested R-3(CD) from R-3		Watershed
	Existing Building Footprints		Lakes and Ponds
	Existing Zoning Boundaries		Creeks and Streams
	Charlotte City Limits		

APPROVED BY  
CITY COUNCIL

Petition No.: 2011-022  
Petitioner: Cambridge-Eastfield, LLC

MAY 23

**ORDINANCE NO. 4660-Z**

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

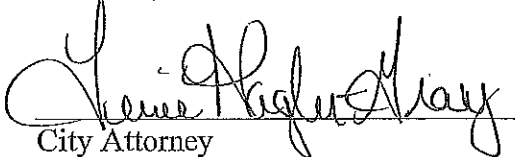
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

Section 1. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the zoning of the property described on the attached map from NS to NS (S.P.A.) Neighborhood Services; Site Plan Amendment.

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

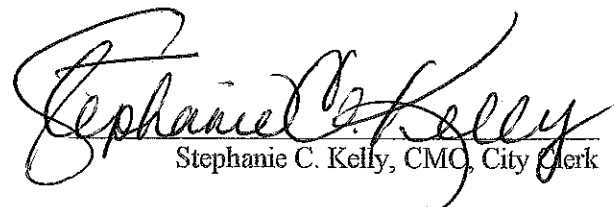
APPROVED AS TO FORM:

  
City Attorney

**CERTIFICATION**

I, Stephanie C. Kelly, 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 23<sup>rd</sup> of May, 2011, the reference having been made in Minute Book 132, and recorded in full in Ordinance Book 57, Page(s) 112-113.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15<sup>th</sup> day of July, 2011.

  
Stephanie C. Kelly, CMC, City Clerk

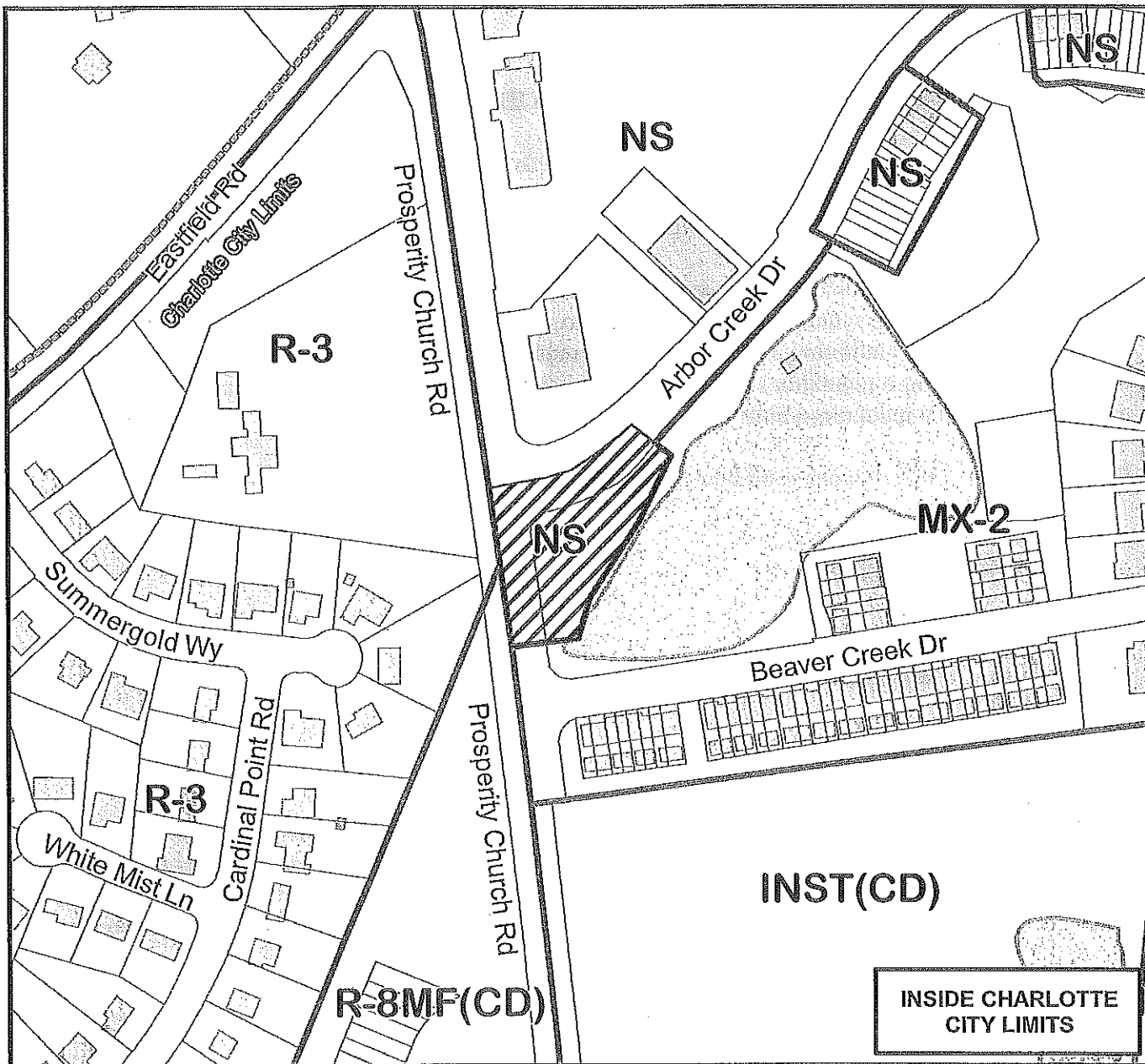
Petition #: **2011-022**

Petitioner: Cambridge-Eastfield, LLC

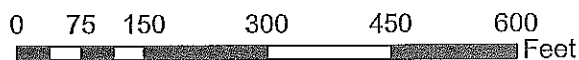
Zoning Classification (Existing): NS  
(Neighborhood Services)

Zoning Classification (Requested): NS (S.P.A.)  
(Neighborhood Services, Site Plan Amendment)

Acreage & Location : Approximately 0.557 acres located on the southeast corner of Prosperity Church Road and Arbor Creek Drive.



**INSIDE CHARLOTTE CITY LIMITS**



Zoning Map #(s) **38**

Map Produced by the  
Charlotte-Mecklenburg Planning Department  
1-27-2011

	Requested NS (S.P.A.) from NS		FEMA flood plain
	Existing Building Footprints		Watershed
	Existing Zoning Boundaries		Lakes and Ponds
	Charlotte City Limits		Creeks and Streams

APPROVED BY  
CITY COUNCIL

Petition No.: 2011-025  
Petitioner: Charlotte-Mecklenburg Housing Partnership

MAY 23 2011

**ORDINANCE NO. 4661-Z**

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

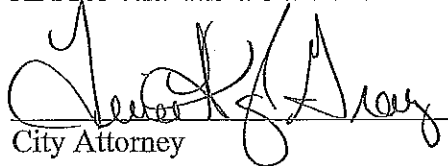
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

Section 1. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the zoning of the property described on the attached map from UR-3(CD) and UR-3(CD) (PED-O) to UR-3(CD) SPA and UR-3(CD) (PED-O) SPA.

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

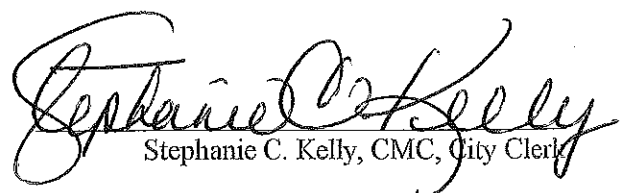
APPROVED AS TO FORM:

  
City Attorney

**CERTIFICATION**

I, Stephanie C. Kelly, 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 23<sup>rd</sup> of May, 2011, the reference having been made in Minute Book 132, and recorded in full in Ordinance Book 57, Page(s) 114-115.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15<sup>th</sup> day of July, 2011.

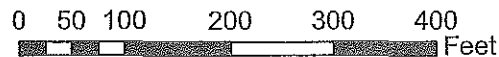
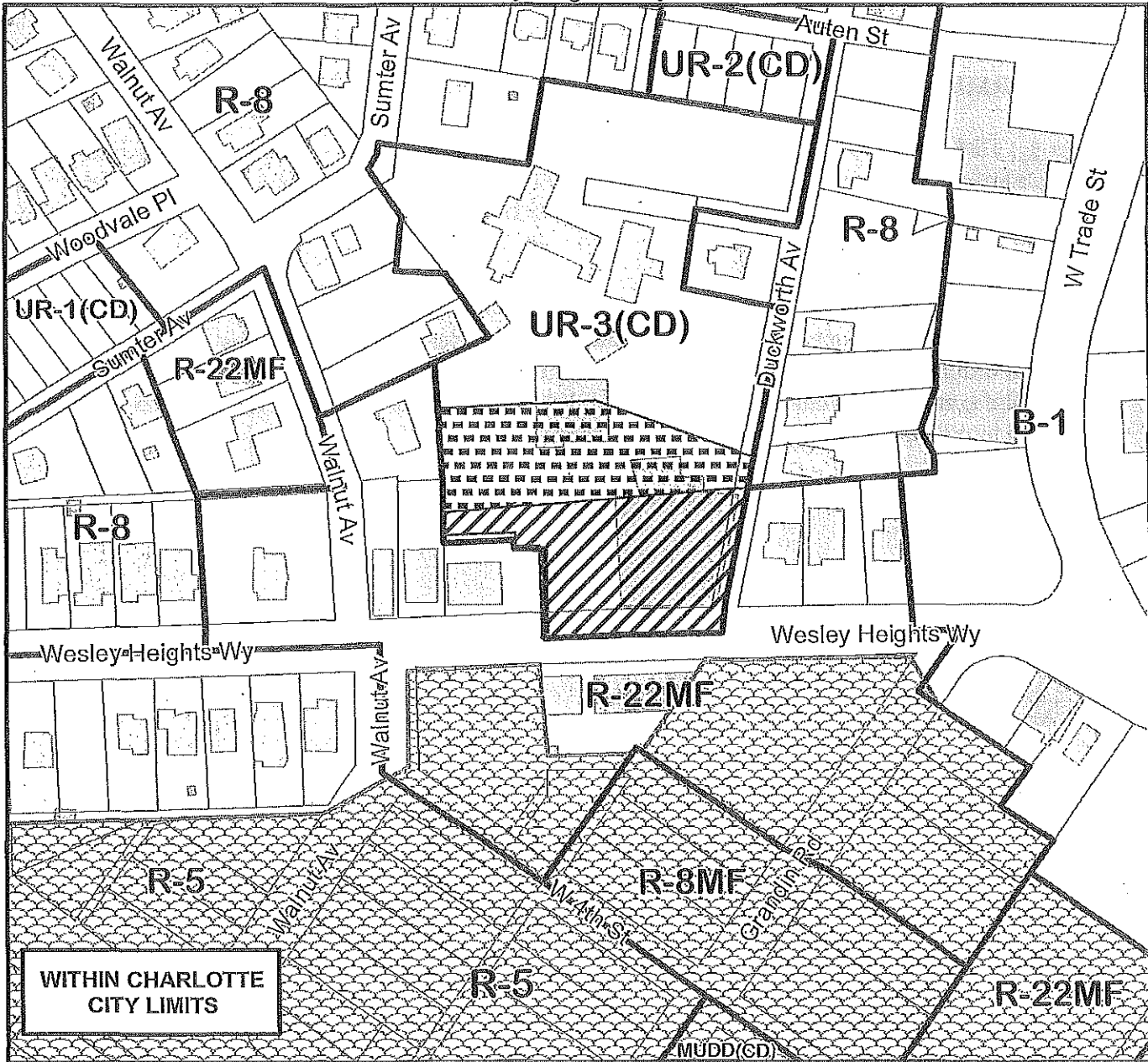
  
Stephanie C. Kelly, CMC, City Clerk

**Petitioner:** Charlotte-Mecklenburg Housing Partnership, Inc.

**Zoning Classification (Existing):** UR-3(CD) and UR-3(CD) (PED-O)  
(Urban Residential, Conditional and Urban Residential, Conditional, Pedestrian Overlay District - Optional)

**Zoning Classification (Requested):** UR-3(CD) SPA and UR-3(CD) (PED-O) SPA  
(Urban Residential, Conditional, Site Plan Amendment and Urban Residential, Conditional, Pedestrian Overlay District - Optional, Site Plan Amendment)

**Acresage & Location :** Approximately 1.6 acres located on the northwest corner at the intersection of Wesley Heights Way and Duckworth Avenue.



Zoning Map #(s) **88**

	Requested UR-3(CD) SPA from UR-3(CD)		FEMA flood plain
	Requested UR-3(CD) (PED-O) SPA from UR-3(CD) (PED-O)		Watershed
	Existing Building Footprints		Lakes and Ponds
	Existing Zoning Boundaries		Creeks and Streams
	Charlotte City Limits		Historic District
	Pedestrian Overlay District		

APPROVED BY  
CITY COUNCIL

Petition No.: 2011-026  
Petitioner: Robert D. Smith

MAY 23 2011

**ORDINANCE NO. 4662-Z**

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

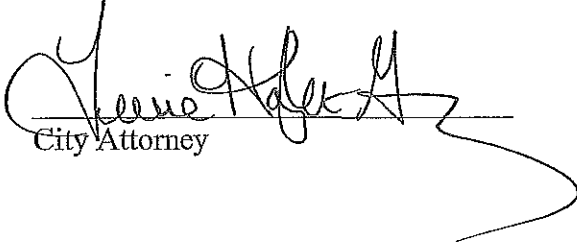
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

Section 1. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the zoning of the property described on the attached map from R-3 to INST(CD).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

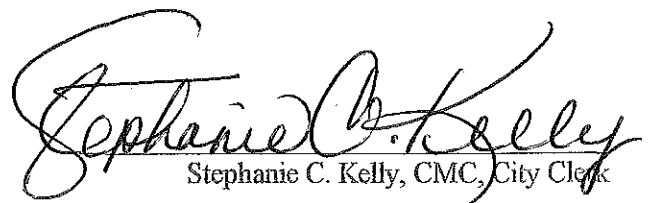
APPROVED AS TO FORM:

  
City Attorney

**CERTIFICATION**

I, Stephanie C. Kelly, 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 23<sup>rd</sup> of May, 2011, the reference having been made in Minute Book 132, and recorded in full in Ordinance Book 57, Page(s) 116-117.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15<sup>th</sup> day of July, 2011.

  
Stephanie C. Kelly, CMC, City Clerk



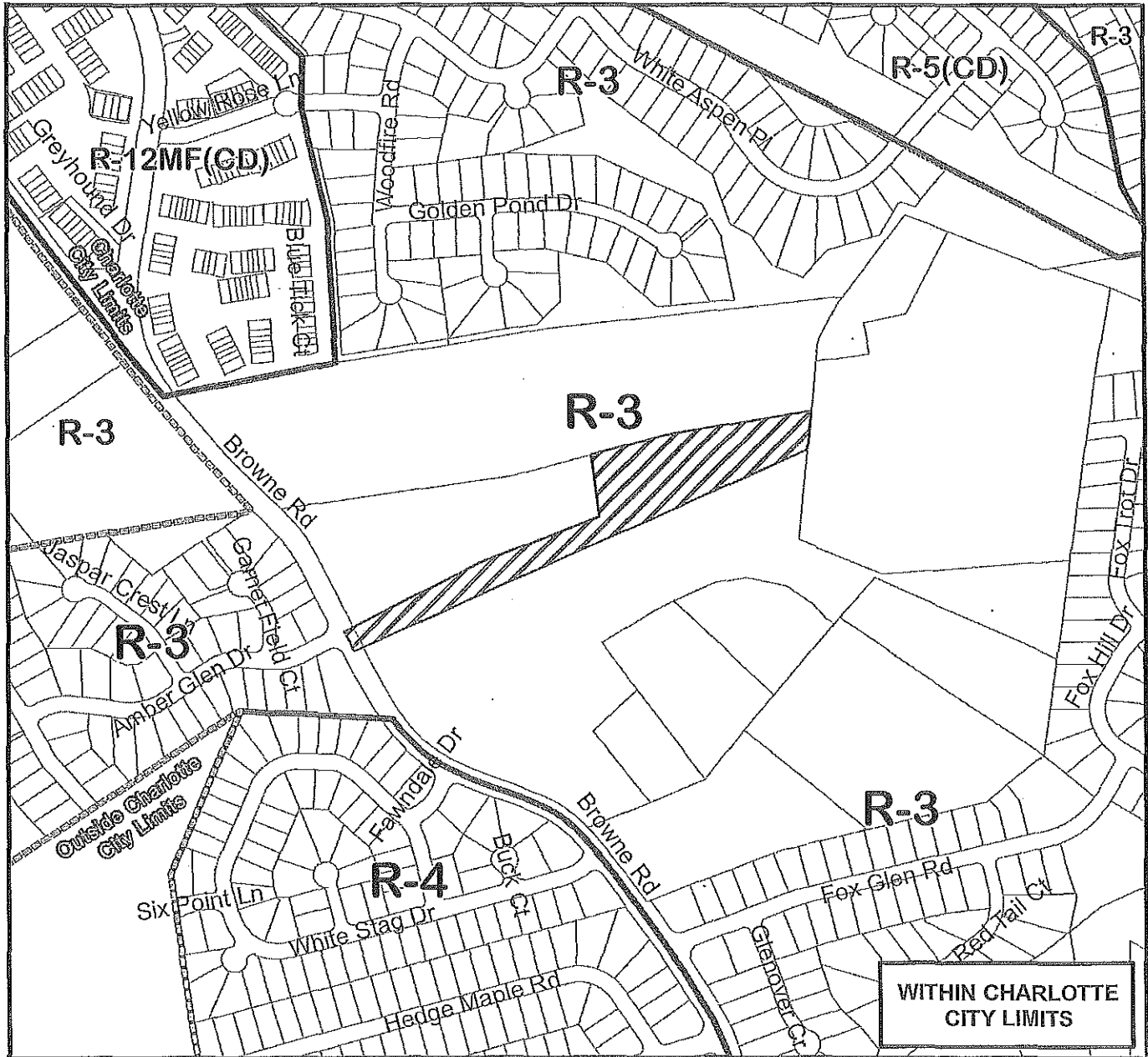
Petition #: **2011-026**

Petitioner: **Robert D. Smith**

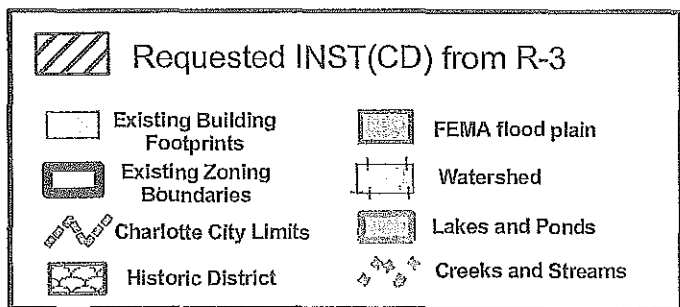
Zoning Classification (Existing):     R-3      
(Single Family Residential, up to 3 dwelling units per acre)

Zoning Classification (Requested):     INST(CD)      
(Institutional, Conditional)

Acreage & Location : Approximately 4.83 acres located on Browne Road and across from Amber Glen Drive.



Zoning Map #(s) **38, 43**



ORDINANCE NO. 4663

AMENDING CHAPTER 15

**AN ORDINANCE AMENDING CHAPTER 15 OF THE CHARLOTTE CITY CODE  
ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS"**

---

**WHEREAS**, the City Council has not conducted a review of the City's Noise Ordinance in over 25 years; and

**WHEREAS**, several issues related to noise and the Noise Ordinance have been identified by the Charlotte Mecklenburg Police Department and in the community; and

**WHEREAS**, the Council referred the Noise Ordinance to the Community Safety Committee which, over a period of approximately sixteen months, reviewed the current ordinance, considered issues and problems with the current ordinance, received and reviewed two draft proposed amended ordinances, heard public comment and received emails and other communications from citizens, and ultimately recommended this Ordinance to the full Council; and

**WHEREAS**; the Council finds that the staff-prepared "City of Charlotte Noise Ordinance Report" accurately describes identified issues, research from other cities, the Committee's process, and the proposed amendments to the Noise Ordinance; and

**WHEREAS**, the Council finds that some individuals and groups produce amplified sound in the public rights-of-way late at night and that such sound has unreasonably disturbed guests in hotels and citizens in their homes, that some individuals and groups amplifying sound in the public rights-of-way elevate their speakers in a manner that makes it difficult to measure the sound at the specified ten feet, and that some individuals who request amplified noise permits do not actually attend the event for which the permit was requested thereby making it difficult to enforce the ordinance against the permit holder; and

**WHEREAS**, the Council finds that in some locations of the city the legitimate desire for vibrant nightlife and entertainment options conflicts with the quiet enjoyment of residential life, that some businesses have offered outdoor amplified and live music at times and at a noise level that is other than neighborly, that due to ambient noise and other factors it is often difficult to enforce the current ordinance in a manner that strikes an appropriate balance, and that establishments that refuse to cooperate or demonstrate that they cannot or will not operate in a manner that is respectful of their neighbors should be subject to heightened enforcement including potentially a prohibition on outdoor music and amplified noise; and

**WHEREAS**, the Council finds that the current regulations do not appropriately regulate large outdoor music facilities which are located, designed, and operated such that tailored regulations that take into account the unique aspects of the facility and surrounding community are warranted; and

WHEREAS, the Council finds that “one size fits all” rules do not always work for unanticipated and unique commercial and industrial noise-producing activities and, therefore, a process for developing a tailored mitigation plan allows for flexibility and creativity in striking an appropriate balance between the legitimate needs of the noise producing business and the surrounding community.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article II of Chapter 15 of the Charlotte City Code is amended as follows:

**“Sec. 15-61. - Loud, disturbing noises prohibited generally.**

It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the city.

**Sec. 15-62. - Measurement.**

For the purpose of determining db(A)s as referred to in this article, the noise shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

**Sec. 15-63. - Sounds impacting residential life.**

(a) It shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any residentially occupied structure in any zone of the city:

- (1) The operation of a front-end loader for refuse collection between the hours of 9:00 p.m. and 7:00 a.m.
- (2) The operation of construction machinery between the hours of 9:00 p.m. and 7:00 a.m.
- (3) The operation of garage machinery between the hours of 9:00 p.m. and 7:00 a.m.
- (4) The operation of lawn mowers and other domestic tools out-of-doors between the hours of 9:00 p.m. and 7:00 a.m.

(b) Any mechanical noise other than that regulated in subsection (a) which registers more than ~~60~~ 70 db(A) at the nearest complainant's property line ~~will be probable cause for~~ is a violation.

(c) This section shall not apply to ~~operations which are carried on in such a manner or in such a location as not to create sounds exceeding 60 db(A) and shall not apply to:~~

- (1) emergency operations designed to protect the public health and safety; or
- (2) work by City crews or City contractors in a right-of-way or utility easement when the department responsible for the work has determined that it is necessary to undertake the work between the hours of 9:00 p.m. and 7:00 a.m.:
  - (A) in order to avoid unreasonably impacting the flow of traffic (this determination shall be made in consultation with the Charlotte Department of Transportation);
  - (B) in order to avoid unreasonably disrupting the provision of a utility service;  
or
  - (C) because of a North Carolina Department of Transportation requirement.

**Sec. 15-64. - Amplified sound.**

- (a) It shall be unlawful to:
  - (1) Operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) ~~between 9:00 a.m. and 9:00 p.m.~~ 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday or 50 db(A) ~~between 9:00 p.m. and 9:00 a.m. at any other time~~, as measured anywhere within the boundary line of the nearest residentially occupied property, ~~except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.~~
  - (2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) ~~between 9:00 a.m. and 9:00 p.m.~~ 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday or 50 db(A) ~~between 9:00 p.m. and 9:00 a.m. at any other time~~, as measured from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property, ~~except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.~~

- (3) ~~As to places of public entertainment having a capacity of 1,000 or more persons, operate or allow the operation of any sound amplification equipment so as to create sounds registering more than 65 db(A) between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.~~
- (4) ~~Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds which are unreasonably loud and disturbing or which register more than 60 db(A) at or on the boundary of the nearest public right-of-way or park.~~
- (5) ~~Operate or allow the operation for personal use of any sound amplification equipment on the public right-of-way, including streets or sidewalks, or in the public parks so as to produce sounds registering more than 60 db(A) 50 feet or more from any electromechanical speaker between the hours of 9:00 a.m. and 9:00 p.m. or 50 db(A) 50 feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.~~
- (6)(3) ~~Operate or allow the operation for personal use of any sound amplification equipment in the public right-of-way, including streets or sidewalks, or in the public City controlled parks: (i) without having actual on-site possession of a permit issued by the Charlotte-Mecklenburg Police Department; or (ii) so as to produce sounds registering more than 75 db(A) ten feet or more from any electromechanical speaker between the hours of 9:00 a.m. and 9:00 p.m. 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday or 65 db(A) ten feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.; or (iii) at times other than those specified in (ii). Sound amplification equipment operated pursuant to this subsection may not be located more than ten feet off the ground. In addition to the person operating or allowing the operation of sound amplification equipment in violation of this subsection, the person to whom the permit was issued must be present at the location and during the times permitted and shall be liable for any and all violations.~~

An application for a permit pursuant to this subsection shall: (i) be submitted to the Charlotte-Mecklenburg Police Department at least 24 hours one full business day but no more than seven calendar days before the permit time requested; and (ii) specify the proposed location of the sound amplification equipment and the date and time that the sound amplification will begin and end. Permits shall be issued on a first come, first served basis. A permit shall not be issued for a location that is within 100 feet of another location for which a permit has been

issued for the same time or in or within 100 feet of the area permitted for a public assembly pursuant to Article XI of this Chapter unless issued to the holder of the public assembly permit.

The use of mobile sound amplification equipment (e.g., a car radio, unless the vehicle is parked) shall be exempt from the permitting requirement of this subsection and the prohibition of (iii) in the first paragraph of this subpart, however sounds produced during the times otherwise prohibited in (iii) in the first paragraph of this subpart may not register more than 60 db(A) ten feet or more from the equipment. Sound amplification produced in conjunction with a city festival or parade public assembly permit shall be exempt from this entire subsection.

(b) The limitations on the operation of sound amplification equipment in subsection (a) of this section shall not apply to the operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances, or to the operation of sound amplification equipment regulated pursuant to Sec. 15-65.1 or in accordance with a permit issued pursuant to Sec. 15-65 or Sec. 15-65.2.

**Sec. 15-65. - Permits for additional amplification.**

(a) *Application.* ~~The~~ An application for a permit for additional amplification on private property under this section 15-64 shall be submitted to the Charlotte-Mecklenburg Police Department at least 15 working 10 business days in advance of the planned use except in an emergency. The application shall designate and provide contact information for an individual person who shall be in control of the sound amplification equipment and ensure that its use complies with the terms of the permit. Activities regulated under Sec. 15-64(a)(3) and Sec. 15-65.1 shall not be eligible for an additional amplification permit under this section.

(b) *Notice of tentative approval.* ~~Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to giving written notice of the name, nature, date, and time period of the event, and the name of and contact information for the permit holder to the occupants of each property within a 1,000-foot radius-1,000 feet of the facility property for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be hand delivered to each occupant or, if the occupant is unavailable, affixed to the front door of the building or business or residential unit at least 72 hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the Charlotte-Mecklenburg Police Department that such notices have actually been mailed or otherwise so delivered.~~

(c) *Limits on hours.* ~~No permit shall be issued which shall have the effect of allowing more than 20 hours of excess amplification per year at any place of public entertainment having a capacity of 1,000 or more persons or ten hours of excess amplification at any other location. Permits shall be tentatively approved and subsequently granted by the Charlotte-Mecklenburg~~

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**WHEREAS**, several issues related to noise and the Noise Ordinance have been identified by the Charlotte Mecklenburg Police Department and in the community; and

**WHEREAS**, the Council referred the Noise Ordinance to the Community Safety Committee which, over a period of approximately sixteen months, reviewed the current ordinance, considered issues and problems with the current ordinance, received and reviewed two draft proposed amended ordinances, heard public comment and received emails and other communications from citizens, and ultimately recommended this Ordinance to the full Council; and

**WHEREAS**; the Council finds that the staff-prepared "City of Charlotte Noise Ordinance Report" accurately describes identified issues, research from other cities, the Committee's process, and the proposed amendments to the Noise Ordinance; and

**WHEREAS**, the Council finds that some individuals and groups produce amplified sound in the public rights-of-way late at night and that such sound has unreasonably disturbed guests in hotels and citizens in their homes, that some individuals and groups amplifying sound in the public rights-of-way elevate their speakers in a manner that makes it difficult to measure the sound at the specified ten feet, and that some individuals who request amplified noise permits do not actually attend the event for which the permit was requested thereby making it difficult to enforce the ordinance against the permit holder; and

**WHEREAS**, the Council finds that in some locations of the city the legitimate desire for vibrant nightlife and entertainment options conflicts with the quiet enjoyment of residential life, that some businesses have offered outdoor amplified and live music at times and at a noise level that is other than neighborly, that due to ambient noise and other factors it is often difficult to enforce the current ordinance in a manner that strikes an appropriate balance, and that establishments that refuse to cooperate or demonstrate that they cannot or will not operate in a manner that is respectful of their neighbors should be subject to heightened enforcement including potentially a prohibition on outdoor music and amplified noise; and

**WHEREAS**, the Council finds that the current regulations do not appropriately regulate large outdoor music facilities which are located, designed, and operated such that tailored regulations that take into account the unique aspects of the facility and surrounding community are warranted; and

~~Police Department in the order of receipt unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-foot radius of the facility in the same calendar year, in which event the applicant shall elect whether to limit his request so as to keep the year's accumulated hours of excess amplification in that location below 20 hours or select another location. Permits for additional amplification at a property, or adjacent properties under common ownership, shall be limited to 15 hours in a calendar year. Permits issued pursuant to this section may allow additional amplification only between 8:00 a.m. and 9:00 p.m. Sunday through Thursday and between 8:00 a.m. and 11:00 p.m. on Friday or Saturday.~~

(d) *Prohibited in residentially occupied boundaries* ~~Sound limits.~~ In no event shall a permit be granted which allows the creation of sounds registering more than 70 db(A) anywhere within the boundary line of the nearest residentially occupied property.

(e) *Denial; issuance of exceptional permit.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the city manager or his designee. The city manager or his designee shall have the discretion to grant an exceptional permit waiving locational, time, and/or db(A) requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the city council.

(f) It shall be unlawful to violate the restrictions or requirements of this section or the terms of a permit issued pursuant to this section.

#### Sec. 15-65.1 – Outdoor Amplification and Music at Commercial Establishments.

(a) Except in accordance with a permit issued pursuant to Sec. 15-65.2, it shall be unlawful for any commercial establishment (including but not limited to a restaurant, bar, or nightclub) to operate or allow the operation of sound amplification equipment out of doors or directed out of doors or to allow live acoustic music out of doors or directed out of doors other than during the times listed below or so as to create sounds registering in excess of:

- (a) 85 db(A) Sunday through Thursday between 8:00 a.m. and 9:00 p.m.;
- (b) 60 db(A) Sunday through Thursday between 9:00 p.m. and 2:00 a.m. the following day;
- (c) 85 db(A) Friday or Saturday between 8:00 a.m. and 11:00 p.m.; or
- (d) 60 db(A) between 11:00 p.m. and 2:00 a.m. the following day.

An establishment may be cited for violating this section only if the enforcing authority determines that the sound being produced is, using a reasonable person standard and taking into consideration the day of week and time of day, unreasonably loud and disturbing to the quiet enjoyment and use of residentially occupied property. For purposes of this section, hotels, motels, other short-term accommodations shall be considered residentially occupied property.



(b) The decibel limits prescribed in this section shall be measured at the property line of the commercial property at which the sound is being generated.

(c) An establishment that has been determined to be Non-Cooperative pursuant to Sec. 15-65.3(e) shall be subject to enhanced civil penalties pursuant to Sec. 15-68(5) and, after two violations of this Section within one year after having been determined to be Non-Cooperative shall not operate or allow the operation of sound amplification equipment out of doors or directed out of doors or allow live acoustic music out of doors or directed out of doors for a period of eighteen months after the second violation. The eighteen month prohibition shall apply to the establishment and the property on which the establishment is located.

**Sec. 15-65.2. – Permits for Large Outdoor Music Facilities.**

(a) For purposes of this section, a “Large Outdoor Music Facility” means a facility with a capacity of 1,000 or more persons and that offers musical entertainment at least five times a year.

(b) A Large Outdoor Music Facility may, but is not required to, submit an application for a Large Outdoor Music Facility permit to Neighborhood & Business Services (N&BS). After consulting with the applicant and investigating the design and layout of the facility, its proximity to residentially zoned property, and the nature of any intervening property, N&BS shall issue a permit that contains restrictions and requirements designed to strike an appropriate balance between the legitimate use and operation of the facility and the noise impacts on residential life. These restrictions and requirements may include, but are not limited to, restrictions on days of week or hours of operation, number of events, operational rules and restrictions, self monitoring and reporting requirements, and design or structural requirements. Permits issued pursuant to this section shall be for a term of not more than one year and shall expire on December 31. In the event that Neighborhood & Business Services (N&BS) determines that the facility’s approved zoning plan adequately regulates the use and operation of the facility in terms of its potential noise impact on residential life, N&BS may incorporate the zoning plan into a permit.

(c) A facility that has been issued a permit pursuant to this section shall not be subject to the provisions of Sec. 15-65.1.

(d) It shall be unlawful for a Large Outdoor Music Facility to violate the terms of a permit issued pursuant to this section.

Sec. 15-65.3. – Chronic Commercial and Industrial Noise.

(a) The purpose of this section is to establish a collaborative process through which the City and a business that has been identified as a chronic source of objectionable noise (i.e., “Chronic Noise Producer”) will develop and implement a noise mitigation plan intended to bring the noise to acceptable levels. A Chronic Noise Producer is an establishment that, because of the sound generated by or at the business, is an annoyance to adjacent or nearby residences, lodgings, schools, businesses, or other places where people may congregate with a reasonable expectation of undisturbed activity. A business may be a Chronic Noise Producer without having violated this Article.

(b) The Chief of Police (or designee) may designate a commercial or industrial business as a “Chronic Noise Producer”. In making such a designation, the Chief of Police shall take into consideration the following factors:

- i. the number and frequency of valid noise complaints;
- ii. the proximity and physical relationship between the business and complaining locations;
- iii. the severity of sound events, both observed or measured;
- iv. the times and days of the week of sound events;
- v. the business’ history of cooperation and efforts to alleviate the problem; and
- vi. the history and context of the location, including whether the sound producing activity predates the occupation of the complaining locations and whether the sound producing location is located in what is generally recognized as an entertainment area.

Upon designation, the Chief of Police shall inform the business that it has been designated a chronic noise producer and refer the business to Neighborhood & Business Services (N&BS) along with the information that established the basis for the designation.

(c) Upon receiving a Chronic Noise Producer referral, N&BS shall schedule a mandatory initial meeting with the business that it has been designated a Chronic Noise Producer. At the initial meeting, N&BS and the business shall review the information that formed the basis for the designation and any evidence or information concerning the complained of noise provided by the business. Following the initial meeting, N&BS shall determine whether a mitigation plan is warranted. If N&BS determines that a mitigation plan is not warranted, it shall notify the business and CMPD of that determination and no further action shall be taken under this Section.

(d) If N&BS determines that a mitigation plan is warranted, N&BS and the business shall together develop and sign a noise mitigation plan. The plan may include, among other things:

- i. restrictions on days of week or hours of noise producing activity;
- ii. placement, orientation, and operation of sound producing activity or equipment;
- iii. structural changes including but not limited to sound attenuation and baffling;
- iv. self monitoring and reporting requirements;
- v. a schedule for implementation; and
- vi. a schedule for review for possible revision or termination of the plan.

(e) In the event that a business designated as a Chronic Noise Producer: (i) fails or refuses to participate in good faith in the development of a noise mitigation plan; (ii) refuses to agree to a noise mitigation plan; or (iii) fails to implement or comply with an agreed to noise mitigation plan, N&BS may designate the business as Non-Cooperative and shall notify the business and CMPD of that determination. Should a business designated as Non-Cooperative cure the basis for the designation, N&BS shall remove the designation and notify the business and CMPD of that determination.

(f) In the event that a noise enforcement action is taken against a business that has been designated a Chronic Noise Producer, evidence regarding the business' participation in the development and implementation of and compliance with the noise mitigation plan shall be relevant to any prosecution or administrative or judicial review or appeal of the enforcement action. Specifically, the business' participation and compliance shall be a mitigating factor and may, but is not required to be a justification for dismissing the enforcement action. A business that has been designated by N&BS as Non-Cooperative shall not be entitled to the benefits of this subsection unless the designation has been removed.

(g) Appeals. A business that has been designated a Chronic Noise Producer or Non-Cooperative may appeal such designation within 10 days after receiving notice of such designation. Appeals shall be heard by the city manager or the city manager's designee who shall not be an employee of CMPD or N&BS. The appellant shall have the right to present evidence at said hearing. A ruling on appeal is subject to review in the superior court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

Sec. 15-66. - Animals.

It shall be unlawful for any person to own, keep or have in his possession, or harbor, any dog, other animal or bird which, by frequent or habitually howling, yelping, barking or otherwise, causes loud noises and produces seriously annoying disturbance to any person or to the neighborhood.

Sec. 15-67. - Motor vehicles.

It shall be unlawful to operate or allow the operation of any motor vehicle in the city:

- (1) Which has had its muffler-exhaust and/or other noise-control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.
- (2) By engaging in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.
- (3) Off the boundaries of a public street for racing or other operations which create unreasonably loud and disturbing noises.

Sec. 15-68. - Enforcement and penalties.

Where there is a violation of any section of this article, the city, at its discretion, may take one or more of the following enforcement actions:

- (1) The violator may be assessed a \$100.00 civil penalty. For purposes of this subsection, a violation committed after a civil penalty has been assessed shall constitute a separate violation ~~A police officer or animal control officer may issue a notice of violation as provided in section 2-24 of this Code subjecting the violator to a civil penalty of \$100.00, which penalty may provide for a delinquency charge of \$10.00 upon nonpayment, and which penalty and delinquency charge may be recovered by the city in a civil action.~~
- (2) The violator may be charged with a misdemeanor and be subject to any penalty prescribed by section 2-21.
- (3) A civil action seeking ~~a penalty of \$500.00 per day of violation plus an injunction and order of abatement~~ may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.
- (4) A police officer may issue a notice of violation, as provided in section 2-24 of this Code, subjecting the violator of section 15-63(a)(1) to a civil penalty of \$200.00;

~~which penalty may provide for a delinquency charge of \$10.00 upon nonpayment and which penalty and delinquency charge may be recovered by the city in a civil action.~~ For the purposes of this subsection, the term "violation" means either the operator of the front-end loader; the employer of the operator; or the company, partnership, corporation or other person or entity which owns, possesses or controls the front-end loader utilized by the operator.

- (5) The violator may be assessed a \$1,000.00 civil penalty for any violation of Sec. 15-61 or Sec. 15-65.1 that occurs within one year after the commercial establishment has been determined to be "Non-Cooperative" pursuant to Sec. 15-65.3(e). After two such violations, the prohibition on sound amplification and live acoustic music established in Sec. 15-65.1(c) shall apply.

Section 2. Sec. 15-65.2 shall be effective on August 1, 2011. The remainder of this ordinance shall be effective June 15, 2011.

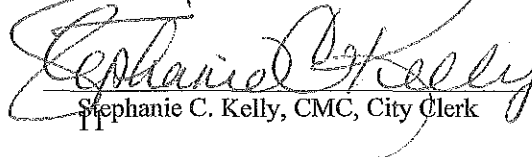
Approved as to form

\_\_\_\_\_  
City Attorney

#### CERTIFICATION

I, Stephanie C. Kelly, 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 23<sup>rd</sup> day of May, 2011 the reference having been made in Minute Book 131, and recorded in full in Ordinance Book 57, Pages (118-128).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 25<sup>th</sup> day of May, 2011.

  
Stephanie C. Kelly, CMC, City Clerk

