

CHARLOTTE CODE

PART 9: TRANSIT SUPPORTIVE OVERLAY DISTRICT

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(Petition No. 2004-128, 02-21-05)

Section 10.901. Purpose.

The Transit Supportive (TS) overlay district is established to 1) introduce transit supportive and pedestrian oriented development regulations and uses, 2) encourage properties to transition to more transit supportive development and uses up to one-half (1/2) mile walking distance from a transit station. The purpose of this overlay district is to create a set of additional standards designed to accommodate the continued existence and minor expansion of existing uses while transitioning to a more compact, high intensity, transit supportive mix of uses that complement adjacent neighborhoods.

Section 10.902. Applicability

The Transit Supportive (TS) overlay district shall be applied to select transit station areas with an approved station area plan, but shall not be applicable in the Mixed Use Development District (MUDD), Uptown Mixed Use District (UMUD), and the Transit Oriented Development Districts (TOD-R, TOD-E, TOD-M).

Section 10.903. Conflicts.

If the regulations and standards of this district conflict with those of the underlying district, those of this district shall apply.

Section 10.904. Rezoning to a Transit Supportive Overlay District (TS).

Amendment(s) for the reclassification of property to TS may be initiated in a number of ways. The City Council or Planning Commission, on its own motion, or a non-owner may initiate an amendment for reclassification of property to TS after a station area plan has been approved. Any owner with a legal interest in a piece of property, or anyone else authorized in writing to act on the owner's behalf, may initiate an amendment or reclassification to TS prior to the approval of a station area plan, in accordance with the procedures set forth in Chapter 6. A City/County Department may initiate an amendment for reclassification of property to TS to implement a public project.

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Section 10.905. Uses.

- (1) All uses permitted in the underlying Zoning District by right or under prescribed conditions are permitted with the exception that the following uses are not allowed in the TS overlay district:
 - (a) Automobile or truck washing facilities.
 - (b) Vehicle sales such as tractor-trucks and accompanying trailer units.
 - (c) Boat or ship sales, repairs, dry storage.
 - (d) Body shops, free-standing. (Body shops that are an accessory to automotive sales and service establishments are permitted as an accessory use).
 - (e) Building material sales and service
 - (f) Cemeteries.
 - (g) Cold storage plants.
 - (h) Contractor storage.
 - (i) Distributive businesses greater than 10,000 square feet.
 - (j) Funeral homes, internment services, embalming, and crematories.
 - (k) Hazardous materials storage and treatment.
 - (l) Heavy Industrial uses permitted by right or under prescribed conditions including, but not limited to: abrasive and asbestos products; aircraft and parts; agricultural chemicals; alcoholic beverages; asphalt paving and roofing materials; brick, tile, and clay products; chemical manufacture, refining and processing; concrete, gypsum and plaster products; construction and related machinery; cut stone and stone products; electrical distribution equipment; electrical industrial apparatus; engines and turbines; fabricated metal products; farm and garden machinery; fats and oils processing; furniture and fixtures; glass and glassware; guided missiles, space vehicles, etc.; industrial machinery; leather tanning; manufactured housing; meat products, including slaughtering and dressing; motorcycles and parts; ordinance and accessories; paper and allied products; petroleum and coal products; plastic and rubber products; railroad equipment; refrigerator and service machinery; sugar refining, textile mill products; tires and inner tubes; wire products; and other similar uses.

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- (m) Jails and prisons.
 - (n) Manufactured home sales and repair.
 - (o) Mining and extraction establishments.
 - (p) Outdoor storage of any type, occupying more than 1 acre.
 - (q) Quarries.
 - (r) Retail equipment sales, service, rental and/or leasing.
 - (s) Tire recapping and retreading.
 - (t) Towing services.
 - (u) Truck and freight transportation services.
 - (v) Truck stops and/or terminals.
 - (w) Waste incinerators.
 - (x) Wholesale distribution of petroleum products, heating fuel, propane, alternative fuels, etc.
 - (y) Wholesale sales establishments greater than 10,000 square feet.
- (2) The following use, which is not permitted in some of the underlying districts, shall be permitted:
- (a) Residential uses, subject to the standards of this overlay district.

Section 10.906. Accessory Uses

Accessory uses and structures clearly incidental and related to the principal use or structure on the lot are allowed, with the following exception:

- (1) Drive-through service lanes are only permitted if allowed in the underlying zoning district. Drive-through windows shall only be located on the same site as the principal use, and shall be located to the rear of the principal use, to minimize visibility along public rights-of-way. Freestanding drive-through lanes are prohibited. Principal uses with drive-through service windows shall meet the following requirements:

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- (a) For professional business and general office uses, no more than four (4) drive-through service lanes shall be permitted per individual use.
- (b) For retail uses, no more than one (1) drive-through service window with no more than two (2) service lanes shall be permitted per individual use.

Section 10.907. Development Standards.

The following requirements apply to all buildings or uses in TS unless specified otherwise in Section 10.909:

- (1) Minimum setback
 - (a) The minimum building setbacks along particular streets shall be determined by the adopted station area plan. When a station area plan does not exist, or does not specify a specific setback, the minimum setback shall be sixteen (16) feet.
 - (b) The minimum setback shall be measured from the back of all existing or future curb lines, whichever is greater. If the existing right-of-way is greater than the minimum setback from the back of existing or future curb lines, the right-of-way line shall become the minimum setback. If the existing curb line varies, the setback shall be measured from the widest section. Curb lines are to be determined jointly by the Charlotte Department of Transportation (CDOT) Director, or his designee, and the Planning Director, or his designee.
 - (c) If new construction incorporates an existing structure located within the required setback, the CDOT Director or his designee, and the Planning Director or his designee, may allow the setback for the addition to be reduced to the established setback. In no event shall the setback of any portion of the new structure be less than ten (10) feet from the back of the curb line.
 - (d) For the purposes of this section, the minimum setback applies to all street frontages, not just to the street toward which the structure is oriented.
 - (e) All above ground, at ground, and below ground structures associated with underground electric, natural gas, telecommunications or cable television distribution lines, pipes, or conduits, shall be located behind the minimum setback. This includes as air vents, vaults, and backflow preventers.
 - (f) No new doors shall be permitted to swing into the minimum setback, except for emergency exit doors.
 - (g) Walls and fences are not permitted in the minimum setback, except for

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outdoor seating areas. Outdoor seating areas may be surrounded with walls and fences, subject to an approved encroachment agreement with CDOT if the wall or fence will be located in the right-of-way or sidewalk, and subject to approval by the Planning Director, if located within the minimum setback.

- (h) No canopies or signs are permitted in the minimum setback, except as provided for in 10.908 (6) and Section 10.908 (7).
- (i) Driveways may cross the setback, but shall be as near as possible to perpendicular to the street, so as to minimize intrusion into area, and for pedestrian safety.
- (j) Balconies may project up to 2' in the minimum setback, subject to an approved sidewalk encroachment agreement with CDOT. Balconies shall have a minimum clearance of 10' from grade.
- (k) Sidewalk arcades may be located within the sidewalk portion of the minimum setback, at sidewalk level, subject to an approved sidewalk encroachment agreement with CDOT. Sidewalk arcades shall maintain a minimum 10' clear, unobstructed space between arcade supports, and a minimum overhead clearance of 10'. No arcade support shall be located closer than 14' from the back of the existing or future curb line, whichever is greater.

(2) Minimum side and rear yards

None required, except if a side or rear yard is provided, the minimum width shall be five (5) feet, with the following exceptions:

- (a) When a lot abuts an existing residential structure or a single family, multi-family, or urban residential zoning district, (excluding TS or TOD zoned property) then a minimum side yard of five (5) feet and/or a minimum rear yard of twenty (20) feet shall be required.
- (b) When a lot abuts a rapid transit corridor, a minimum rear yard setback shall be required, as specified in an adopted station area plan. If a station area plan has not been adopted, then the minimum yard setback from the centerline of the rapid transit corridor shall be a minimum of 35 feet, or the width of the right-of-way, whichever is greater.

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The permitted maximum height shall be determined by the distance of the structure to the boundary line of the nearest single-family residential districts (R-3, R-4, R-5, R-6, and R-8). This distance shall be the shortest measurable distance between the building footprint edges and nearby single-family residential district boundaries.

The base height for the TS district shall be 40 feet. Height increases for portions of the building that are a further distance from single-family residential zoning districts, are allowed at a rate of one additional foot of height for every 10 feet of additional distance the portion of the building is from the edges of nearby single-family zoning districts. The intent of this standard is to allow the height of a portion of a structure to increase the further away it is from nearby single-family residential zoning districts, resulting in a building with varying heights. The maximum height shall be 120 feet.

(4) Minimum residential density

- (a) Residential development, and the residential component of multi-use developments shall have a minimum density of twelve (12) dwelling units per acre if an adopted station area plan exists. When a station area plan has not been adopted, the minimum density shall be ten (10) dwelling units per acre. Densities shall be based on the residential portion of the site.

For large or phased projects, the residential density for each phase shall meet or exceed the minimum density requirements. If phases cannot meet this requirement, but the overall Master Plan meets or exceeds the minimum density requirements, approval may be granted by the Planning Director for phases that meet at least 80% of the minimum residential density requirements, or the applicant may choose to rezone to the optional TS-O zoning district, which allows variations in the TS standards. (See Section 10.912)

- (b) The residential component of mixed-use developments shall meet the Floor Area Ratio (FAR) requirements of Section 10.907(5).

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(5) Floor Area Ratio

- (a) The total minimum floor area ratio of buildings on a development site shall not be less than .50 square feet of floor area to 1 square foot of the development site (.50 FAR) if an adopted transit station area plan exists. If a transit station area plan has not been adopted, development shall have a minimum FAR of .35. The FAR shall apply to the following uses:
1. All non-residential uses [except those excluded in Section 10.907(5)(e)]
 2. Non-residential uses of multi-use developments.
 3. Residential uses of mixed-use developments.
- (b) For large or phased projects, the minimum FAR for each phase shall meet or exceed the minimum FAR requirements. If phases cannot meet this requirement, but the overall Master Plan meets or exceeds the minimum FAR requirements, approval may be granted by the Planning Director for phases that meet at least 80% of the minimum FAR density requirements, or the applicant may choose to rezone to the optional TS-O zoning district, which allows variations in the TS standards. (See Section 10.912)
- (c) Plazas, arcades, courtyards, galleries, outdoor cafes, rooftop gardens, and widened public sidewalks that enhance pedestrian spaces and amenities can be credited toward meeting the minimum required FAR. If the pedestrian spaces/amenities are available to the public then the square footage shall be credited at 100%; if private, then the square footage shall be credited at 50%. In no instance shall more than 20% of the pedestrian area be credited toward the required FAR.
- (d) An FAR credit shall be given for structured parking facilities that devote at least 75% of the linear street level frontage of the building to retail, office, civic, institutional, or residential uses. Similarly, an FAR credit shall be allowed for structured parking facilities that provide such uses above the street level, and/or on any other side of the building. See Section 10.907(6)(l) for credit amounts.

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- (e) Certain principal uses are exempt from meeting the minimum FAR requirements:
1. Transit stations (bus or rail), parking facilities, and bus shelters.
 2. Private parking decks (principal use only) and surface parking facilities.
 3. Existing development and expansions of existing development.
 4. Freestanding group homes for up to 10 residents.
 5. Public and private recreation parks and playgrounds.
 6. Utility and related facilities.
 7. Electric and gas substations.

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(6) Parking standards

- (a) New permitted uses within this zoning overlay district shall be required to meet the minimum/maximum number of off-street parking spaces as follows: All square footage is measured as “gross footage”.

USE	MINIMUM/MAXIMUM NUMBER OF PARKING SPACES
Residential	Maximum of 2 parking spaces per dwelling unit.
Office	Maximum of one (1) parking space per 225 square feet of office space. Mixed-use developments and multi-use developments of residential and office uses may share parking spaces as per Section 12.203.
Restaurants/ Nightclubs	Minimum of one (1) parking space per 125 square feet of restaurant/nightclub space, but no more than one (1) space per 75 square feet.
Retail	Maximum of one (1) space per 185 square feet.
All Other Non- Residential Uses	The maximum number of parking spaces permitted is the minimum amount required in Table 12.202, per non-residential use, plus 25%.

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1. The required number of parking spaces for any building within the district, including mixed use buildings, shall be the sum total of the requirements for each use in the building calculated separately.
 2. Parking maximums may be exceeded by up to a total of 30% of the maximum, under the following circumstances, if one or more of the following is provided:
 - a. If structured or underground parking is provided on site, parking maximums may be exceeded by 25%
 - b. If a shared parking agreement is executed, the parking maximum may be exceeded by 20%.
 - c. If all parking spaces are located behind the building and are not visible from the public right-of-way, parking maximums may be exceeded by 10%.
 - d. If driveways and access points are shared by at least two adjacent properties, parking maximums may be exceeded by 10%
 - e. If a provision is made for combining or interconnecting adjacent parking lots and pedestrian access points, parking maximums may be exceeded by 10%.
 3. A 25% parking reduction in the minimum number of parking spaces required is allowed if the principal use is located within 800 feet of a parking facility available to the general public or within 800 feet of public transit park-and-ride facilities with an approved joint use agreement. This section in combination with Section 12.202(2) allows for no more than a 25% parking reduction of the minimum requirements.
- (b) The provisions for parking standards shall conform to the general requirements of Chapter 12, Part 2, OFF STREET PARKING AND LOADING, except as provided for in this section.

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- (c) 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. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible to minimize intrusion into the landscaped area, and for pedestrian safety.
- (d) 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, have a dimension of at least 22 feet in length, and be located in areas approved by the Charlotte Department of Transportation (CDOT). However, on-street parking directly across the street from the use may be counted if that parking abuts property that is undevelopable because of physical constraints.

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.

On-street parking spaces shall not be counted in calculating maximum parking spaces.

- (e) All recessed on-street parking shall comply with Charlotte's Urban Street Design Guidelines, when adopted.
- (f) The vehicular parking requirements may be met on-site or off-site at a distance of up to 800 feet from the permitted use. Off-site parking to meet the requirements of this section may be provided through a lease, subject to the review and approval of Engineering and Property Management (for commercial and planned multi-family projects, change of use permits) or Neighborhood Development (for all other residential projects, and change of use permits).
(Petition No. 2005-78, § 10.907(6)(f), 06/20/05)
- (g) Parking that is located to the rear of the primary structure may extend the entire width of the lot, with the exception of any required screening or landscaped areas. Parking that is located to the side of the primary structure shall not cover more than 35% of the total lot width.
- (h) Shared parking shall be permitted and encouraged pursuant to the regulations of Section 12.203.
- (i) Bicycle parking facilities shall be required as per Chapter 12, Part 2.

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- (j) All surface parking shall conform to the internal planting requirements for parking areas in the *Charlotte Tree Ordinance*.
- (k) All parking areas for more than 10 motorized vehicles (except for parking areas for detached duplex, triplex or quadraplex dwellings on a single lot) shall provide screening which consists of either a 5-foot wide planting strip consisting of evergreen shrubbery according to the provisions of Section 12.303(2), or a 2 ½ -foot minimum to a 3 foot maximum masonry wall that shall be 40%-50% open and finished, or an alternative as approved by the Planning Director. However, a wall cannot be substituted for the planting strip along any public street or transitway unless supplemented by landscaping in a minimum 3-foot wide planting strip.

If a wall is provided, then the area devoted to 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.

- (l) Any new or expanded structured parking facility shall meet the following requirements:
 - 1. At least fifty (50%) of the linear street level frontage of the facility shall be devoted to retail, office, civic, institutional, or residential uses. If 75% or more of the linear street frontage is devoted to such uses, then the total square footage of the uses shall be credited at 200% toward the required FAR minimums.
 - 2. If retail, office, civic, institutional, or residential uses are constructed on the side or rear of the building, or above the ground floor on the street frontage of the building, then the total square footage of these uses shall be credited at 200% toward the required FAR minimums.
 - 3. Underground parking structures are permitted. Subsurface parking located in the minimum setback shall be permitted, with an 8' clearance from the top of the subsurface structure to the sidewalk, subject to an approved encroachment agreement with CDOT. No ventilation shall be allowed in the setback.

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4. A minimum 9-foot clearance shall be maintained on the first level and any additional level that provides disabled parking spaces. A minimum 7-foot clearance shall be maintained throughout the remainder of the parking structure to ensure the safe movement of vans and emergency vehicles.
- (m) Parking lots (temporary surface lots), over one (1) acre, shall meet the following requirements:
1. An operator of a temporary parking lot shall apply for a permit from Engineering and Property Management. A permit shall not be issued until the Planning Director, or his or her designee has been consulted and supports approval. The permit shall authorize a temporary parking lot for a period of ten (10) years from the date the permit is issued.
(Petition No. 2005-78, § 10.907(6)(m)(1), 06/20/05)
 2. Temporary, surface parking lots shall not be permitted when the lot adjoins a residentially used parcel of land, not zoned TS, TOD-R, TOD-E, TOD-M, unless the parking lot will be located on a major thoroughfare.
 3. The use shall not require the construction of a permanent building.
 4. Any signage, which identifies the use, shall be in accordance with Section 10.908 (7).
 5. Parking and maneuvering shall observe the minimum setbacks determined in each adopted station area plan for particular streets, and be located outside the site distance triangle. If an adopted station area plan does not specify a setback, or if there is not an adopted station area plan, the minimum setback shall be 20 feet.
 6. The operator is responsible for the removal of any vestiges upon cessation of the temporary parking lot, including signage.

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(7) Loading standards

- (a) Non-residential buildings and structures, excluding parking structures, subject to the provisions of this Part shall provide a minimum number of off-street service/delivery loading spaces. These spaces shall be designed and constructed so that all parking maneuvers can take place entirely within the property lines of the premises. These loading spaces shall 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 loading spaces shall be a minimum of 10 feet by 25 feet and be provided in accordance with the following:

Non-residential uses with gross floor area:

Less than 50,000 square feet:	None required
50,000 – 150,000 square feet:	One (1) space
Each additional 100,000 square feet:	One (1) space

Existing buildings are exempt from these loading standards.

- (b) No loading spaces shall be permitted within any required or established setback, nor between the permitted use and the required setback, except that driveways providing access to the loading area may be installed across these areas.

(8) Screening standards.

- (a) All service entrances and utility structures associated with a building and loading docks or spaces shall be screened from the abutting property and from public view from a public street or from a transitway. Such screening shall consist of a 5-foot wide planting strip, consisting of evergreen shrubbery sufficient to visually separate these uses, or an alternative as approved by the Planning Director.

An optional wall or fence may be located in the 5-foot planting strip, but shall be no higher than 2 ½ - 3 feet in height, and shall be constructed to be between 40% - 50% open, for safety purposes. Walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT).

- 1. Any fences or walls used for screening shall be constructed in a

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durable fashion of brick, stone, other 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 be located within a setback. Nor shall a chain link or barbed wire fence be permitted.

2. 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 transitway unless supplemented by landscaping in a minimum 3-foot wide planting strip.
 3. Shrubs used for screening shall be evergreen, 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 Appendix 1. Walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT).
 4. The minimum height for walls and fences abutting a residential district shall be 6'. The minimum height for screening shall be whatever shall be sufficient to visually separate the uses, but not less than 4'.
- (b) Dumpsters, recycling containers, compactors, 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 a closeable gate that shall be 40% - 50% open for safety and security. In no instance shall a chain link fence or a barbed wire fence be permitted. Dumpsters are not allowed in any minimum setback or yard space.
- (c) Parking areas and structures shall provide screening in accordance with Section 10.907(6)(k).

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(9) Buffer Standards

- (a) All uses, other than single-family detached units, shall provide landscaping along all property lines abutting residentially zoned property (single-family, multi-family and urban residential zoning districts) located adjacent to the Transit Supportive overlay zoning district. This requirement also applies in situations where an alley with a right-of-way width of 25' or less, separates uses in the TS district from residential property in other zoning districts other than the TOD and TS districts. Landscaping shall be provided along all property lines abutting the alley. However, multi-family developments zoned TS are exempt from this landscaping requirement when they abut other multi-family uses or undeveloped multi-family zoning districts.
- (b) Such landscaping shall consist of a 10' wide planting strip. The planting strip shall consist of a combination of evergreen trees and evergreen shrubs. Plant materials shall be provided at a minimum of 6 trees and 20 shrubs per 100 linear feet in accordance with Section 12.302(9)(b), (c), (d) and (e). The 10' planting strip may be reduced to 8' feet and the shrubs need not be planted if a masonry wall with a height of between 6' to 8' in a side yard or between 8' to 10' in a rear yard is installed. No more than 25% of the wall surface shall be left open. Shrubs and walls may be reduced in height to 30 inches within sight triangles as required by the Charlotte Department of Transportation (CDOT). This landscaping area may be interrupted with a gate/pedestrian access way or a driveway to an adjacent alley.

In no instance shall a chain link or barbed wire fence be permitted.

(10) Outdoor lighting standards.

- (a) All outdoor lighting fixtures for parking lots, and pedestrian activity areas shall be classified as full cut-off, cutoff or semi-cutoff. In addition, any building light fixtures used to illuminate parking and pedestrian areas, and service areas shall be classified as full cutoff, cutoff or semi-cutoff.
- (b) No outdoor lighting fixture or building light fixtures shall cause glare on public travel lanes or on adjacent residentially used or zoned property. All fixtures shall be screened in such a way that the light source shall not cast light directly on public travel lanes or on adjacent residentially used or zoned property.
- (c) The lighting of signs shall be in accordance with standards of Chapter 13.

(11) Connectivity and Circulation.

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Transit oriented development uses shall be integrated with the surrounding community, easily accessible, and have a good internal circulation system for a variety of travel modes.

- (a) A pedestrian sidewalk system shall meet the following standards:
 - (1) Internal sidewalk connections are required between buildings and from buildings to all on site facilities (parking areas, bicycle facilities, urban open space, etc.) in addition to the sidewalk requirements of Section 10.908(8)(e). All internal sidewalks shall be hard-surfaced and at least 6' in width.
 - (2) External sidewalk connections are required to provide direct connections from all buildings on site to the existing and/or required sidewalk system, and to adjacent multi-use trails, parks, and greenways. The connection shall be no longer than 120% of the straight-line distance from all buildings to the existing or proposed sidewalk, or no more than 20' longer than the straight-line distance, whichever is less. Sidewalks shall be hard-surfaced and at least six (6) feet in width. The sidewalk width can be reduced to 4' in width, if the internal sidewalk serves less than four (4) dwelling units.

The Planning Director shall have the authority to modify this requirement when unusual circumstances exist, such as topographical problems or compliance with ADA standards.
 - (3) The on-site pedestrian circulation system shall be lighted to a level where employees, residents, and customers can safely use the system at night.
- (b) Bicycle parking and storage facilities shall be provided in accordance with Chapter 12, Part 2 of this Ordinance.

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(12) Urban open spaces.

- (a) Urban open spaces for public congregation and recreational opportunities shall be required for all new buildings with a gross floor area greater than 50,000 square feet. Such buildings shall provide useable open space behind the required setback and on private property proportionate to the building square footage according to the following schedule:

<u>Lot Size</u>	<u>Open Space Requirement</u>
0 - 20,000 sq. ft. (gross)	1 square foot/200 sq. ft.
20,001 – 40,000 sq. ft. (gross)	1 square foot/150 sq. ft.
40,001 + sq. ft. (gross)	1 square foot/100 sq. ft.

- (b) Open space may be located on the roofs of buildings, or enclosed on the ground floor. A maximum of 30% of the required open space may be provided on an enclosed ground floor level. All open space shall be easily observed from the street or pedestrian areas.
- (c) All required open space shall be accessible to the users of the building and improved with seating, plantings, and amenities, and be visible from the street or pedestrian areas.
- (d) Floor Area Ratio credits are allowed for all new developments as per Section 10.907(5)(c) when the pedestrian space is available for use by the public, including widened sidewalk areas.

Section 10.908. Urban design standards.

All buildings and uses developed in this overlay district shall meet the following minimum standards:

(1) Street Walls.

- (a) All retail and office buildings fronting directly on a street shall be designed so that the first floor street facade of the building(s) along all streets includes clear glass windows and doors. 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.

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- (b) For all other uses, buildings shall be designed so that the first floor street facade along all streets includes the use of clear glass windows and doors arranged to 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 facade to animate and enliven the streetscape. 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 facade 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 or emergency exit doors located on the first floor street facade(s) shall be decorative and part of the overall building design.
- (2) Base of High Rise Buildings. (Buildings exceeding five (5) stories.)
- (a) The first three (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 facade, 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 facade 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.

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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 encouraged.

(3) 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.

(4) Building Entrances and Orientation.

- (a) At least one or more operable pedestrian entrance per building shall be provided in at least two of the following circumstances:
1. When a lot abuts a public street right-of-way, at least one entrance shall be provided along all building facades fronting all public right-of-ways.
 2. When a lot abuts an existing or proposed public open space, multi-use trail, or greenway, an entrance shall be provided on the building facade closest to public open space, multi-use trail, or greenway.
 3. When an adopted station area plan depicts a required sidewalk not specified in the subsections above, an entrance shall be provided on the building facade closest to the required sidewalk.

If all three (3) of these circumstances exist, only two (2) entrances shall be required, with the third being optional.

Distances shall be measured in a straight line from the closest point of the property line to the closest point of the right-of-way, public open space, transit station platform.

- (b) Such entrances shall be distinguishable from the rest of the building to provide a sense of entry and to add variety to the streetscape. No doors shall be permitted to swing into the minimum setback, except for emergency exit doors.
- (c) On corner lots, buildings may provide one main entrance oriented to the corner or facing either of the streets.

(5) Structured Parking Facilities.

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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 or transitway, or abutting residentially zoned and/or used property. Decorative elements such as grillwork or louvers shall be utilized to accomplish this objective.

Openings at the street level are limited to vehicular entrances, pedestrian access to the structure, and ventilation openings. All openings shall be decorative and shall be an integral part of the overall building design.

(6) 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, and may not be closer than 2' to the back of the curb line. 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 minimum setback, 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 the State shall be required.

(7) Signs, Banners, Flags and Pennants.

Where signs, banners, flags and pennants for identification or decoration are provided, they shall conform to the requirements of Chapter 13, except for the following:

- (a) Wall signs shall meet the specifications of Section 13.108a, with the exception that signs located on any building wall shall have a maximum sign surface area not to exceed 5% of building wall area to which the sign(s) is attached, up to a maximum of 100 total square feet. Wall signs may be increased by 20 square feet per sign in lieu of a ground mounted or monument sign. A bonus of 4 square feet in size (20%) shall be allowed if the sign is lit 100% by neon light.
- (b) Signs are permitted to project up to 6' feet into the minimum setback as measured from the building. Under no circumstance shall a sign project more than 4' feet from the back of the curb line. A minimum overhead clearance

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of 8' from the sidewalk shall be maintained.

- (c) Marquee signs are permitted.
- (d) Ground mounted or monument signs are allowed as follows:
 - 1. Signs shall not exceed 5 feet in height and 20 square feet in area. A bonus of 4 square feet in size (20%) shall be allowed if the sign is lit 100% by neon light.
 - 2. Signs shall be located behind the right-of-way and out of any sight distance triangle prescribed by the Charlotte Department of Transportation (CDOT).
 - 3. Signs shall be located behind the minimum setback.
- (e) No free-standing pole signs shall be permitted.
- (f) No outdoor advertising signs shall be permitted.

(8) Streetscape Standards

- (a) A continuous perimeter planting strip (excluding driveways) shall be required whenever property abuts a curb line. The width of the planting strip, or alternative amenity zone, shall be determined by the adopted station area plan. If an adopted station area plan does not exist, or if the plan does not specify a planting strip width or amenity zone, an 8' wide planting strip shall be constructed. The planting strip shall be located between the curb line and sidewalk. If the right-of-way width varies along the street frontage, the planting strip shall be aligned along the widest right-of-way section.

If the adopted station area plan does not adequately define the curb line, then the curb line shall be determined by jointly by the Charlotte Department of Transportation (CDOT) Director, or his designee, and the Planning Director, or his designee.
- (b) Curb lines shall be located adjacent to the perimeter planting strip, unless specified otherwise in an adopted station area plan. If the right-of-way varies along the street frontage, the planting strip shall be aligned along the widest right-of-way section.
- (c) Trees shall be planted in the continuous perimeter planting strip, as per the standards found in the *Charlotte Tree Ordinance* and in the *Charlotte-Mecklenburg Land Development Standards Manual*. Tree pits or trees in

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grates, with irrigation and sub-drainage are optional, in lieu of a planting strip, as per the requirements of Section 21-14(c)(3)(a)(2) of the *Charlotte Tree Ordinance*. In instances where a 12' perimeter planting strip is required, the trees shall be centered no more than 4' from the edge of the sidewalk.

- (d) *Charlotte Tree Ordinance* regulations for tree protection and replacement shall be applicable within this overlay district.
- (e) Sidewalks shall be located and constructed as specified in an adopted station area plan. This may include sidewalks along transit corridor right-of-ways. If sidewalk widths are not specified, or if a station area plan has not been adopted, then the sidewalk shall be 8' in width. Typically, sidewalks along street right-of-ways should abut the perimeter planting strip, and be located on the side closest to the building to encourage pedestrian activity. Sidewalks shall meet the standards for concrete sidewalks in accordance with the Charlotte-Mecklenburg Land Development Standards Manual.

Sidewalk easements 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 10.908(8), 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 line, where appropriate for on-street parking (e.g. handicap parking areas, loading zones).

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Section 10.909. Exceptions.

All new development in this district shall be subject to the development and urban design standards of Section 10.907 and 10.908, with the following exceptions:

- (1) Change of Use, Non-Residential to Non-Residential With No Expansion
 - (a) If the change of use in an existing building does not require more than five (5) additional parking spaces based on the minimum/maximum number of parking spaces required in Section 10.907(6)(a), then the requirement to provide the additional parking spaces is waived. Parking in excess of the maximum may remain.
 - (b) If additional parking spaces are added, the new parking area shall meet the parking standards, internal planting requirements, and parking lot screening of Section 10.907(6)(b) through (l).
 - (c) If sidewalks and a perimeter planting strip with trees are non-existent along street frontages, the streetscape requirements of Section 10.908(8) shall be required.
 - (d) The sign, banner, flags and pennant requirements of Section 10.908(7) shall apply.
 - (e) The connectivity and circulation requirements of Section 10.907(11) shall apply.
- (2) Change from a Residential Use to a Non-Residential Use With No Expansion
 - (a) All the requirements of Chapter 10, Part 9 shall apply with the exception of the urban design standards of Section 10.908(1) through (4).
 - (b) Any non-conforming parking located in the required setback shall be eliminated and replaced with landscaping, patios, and/or related amenities.
- (3) Expansions of Existing Uses.
 - (a) Building expansions (for both conforming and non-conforming uses) are permitted up to 10% (total) of the gross floor area in existence at the effective date the property was reclassified to TS. Expansions shall be subject to the following:

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1. The building expansion shall meet the minimum setback, yard and height requirements of Section 10.907(1), (2), and (3).
 2. The parking standards of Section 10.907(6)(a) shall be met. If there are parking spaces in excess of the maximum permitted, they may remain. The creation of new parking spaces in excess of the maximum is not permitted.
 3. No exterior improvements shall make the building non-conforming in any way, or add to its non-conformity.
- (b) Building expansions (for both conforming and non-conforming uses) are permitted for between 10% to 20% (total) of the gross floor area in existence at the effective date of the reclassification of the property. Expansions shall be subject to the following:

1. The building expansion shall meet the minimum setback, yard, and height requirements of Section 10.907(1), (2), and (3).
2. The urban design standards of Section 10.908 (1) through (4) shall apply to the new facade.
3. The expansion shall be located between the existing building and the street, but shall not encroach into the required setback. If the expansion cannot be made without encroachment into the required setback, then the portion of the expansion that would encroach into the setback can be located elsewhere on the site.

A waiver of the location of the building expansion may be granted by the Planning Director if the expansion meets the intent of the TS district and the following conditions are both met:

- a. Any non-conforming parking located between the building and the setback shall be eliminated. Any such elimination shall not require additional parking even if the site is rendered non-conforming with regard to parking, and
 - b. There will be an addition of outdoor cafes, patios, plazas, courtyards, open space, pedestrian seating areas, or other pedestrian oriented amenities on the site.
4. The streetscape requirements of Section 10.908(8) shall be met.

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5. The connectivity and circulation requirements of Section 10.907 (11) shall apply.
 6. The sign, banner, flags and pennant requirements of Section 10.908(7) shall apply for any new signs.
- (c) Building expansions over 20%, are permitted for conforming uses only, and shall be subject to the development and urban design standards of Section 10.907 and 10.908.
 - (d) Nonconforming uses of land (such as outdoor storage areas or junk yards) shall not enlarge, intensify, increase, or extend the use to occupy any additional lot area than was occupied at the effective date the property was reclassified to TS. Nor shall the use be moved in whole, or in part, to any other portion of the lot or parcel occupied by such use at the effective date the property was reclassified.
 - (e) Conforming uses of land associated with outdoor sales or outdoor storage areas may expand onto abutting properties.
- (4) Creation or expansion of outdoor seating
- (a) Additional parking spaces shall not be required unless such outdoor -seating requires more than 5 additional spaces based on the TS minimum/maximum parking standards of Section 10.907(6)(a).
 - (b) If additional parking area is provided, the new parking area shall meet the parking standards, internal planting requirements, and parking lot screening of Section 10.907(6)(b) through (l).
 - (c) If outdoor seating is located within an existing right-of-way or public sidewalk, an encroachment agreement shall be approved by CDOT.
- (5) Major facade improvements to existing buildings (including buildings with non-conforming uses).

New exterior improvements (beyond paint and general maintenance such as roof or window repair or replacement) whose value exceeds 25% of the current listed tax value of the entire property shall be allowed for both conforming and non-conforming uses, subject to the following:

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- (a) The setback, yard and height requirements of Section 10.907(1) (2), and (3) shall be met.
 - (b) The urban design standards of Section 10.908(1) through (4) shall apply to the new facade improvements.
 - (c) The streetscape requirements of Section 10.908(8) shall be required if sidewalks and a perimeter planting strip with trees are non-existent along street frontages.
 - (d) No exterior improvements shall make the building nonconforming, or more non-conforming in any manner.
 - (e) Any existing, non-conforming parking shall be eliminated from the required setback. Such elimination shall not require any additional parking even if the site is rendered non-conforming, with respect to parking.
 - (f) The connectivity and circulation requirements of Section 10.907(11) shall apply.
- (6) Additional parking for existing development
- (a) The additional parking spaces shall not exceed the maximum number of spaces permitted under Section 10.907(6)(a).
 - (b) The additional parking area shall meet the parking standards of Section 10.907(6)(b) through (l), plus structured parking facilities shall meet the urban design requirements of Section 10.908(5).
 - (c) The additional parking area shall meet the outdoor lighting standards of Section 10.907(10).
 - (d) If there is any non-conforming parking located in the required setback, it shall be eliminated and replaced with landscaping, patios, and/or related amenities. Any such elimination shall not require additional parking even if the site is rendered non-conforming with regard to parking.
 - (e) If an existing buffer or screening area is removed for more than five (5) additional parking spaces, then a perimeter planting strip, landscaping and sidewalk shall be provided, as per Section 10.908(8), if they are non-existent.

Section 10.910. Administrative Approval.

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To offer some degree of flexibility, the Planning Director has the authority to administratively alter any of the development and urban design standards by 5% in this overlay district. If administrative approval is required for parking, or an item normally subject to approval by CDOT, the Planning Director shall only grant this approval after a determination by the CDOT Director in conjunction with the Planning Director. 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 TS zoning district.

Any approval shall meet the following criteria:

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

Section 10.911. Board of Adjustment

The Zoning Board of Adjustment shall have the following powers and duties to be carried out in accordance with these regulations:

- (1) The Board shall have jurisdiction to hear and decide appeals from, and to review any specific order, requirement, decision, interpretation, or determination made by the Zoning Administrator about the development and urban design standards of Section 10.907 and 10.908.
- (2) The Board shall not have jurisdiction to hear and decide petitions for variances from the development and urban design standards of Section 10.907 or Section 10.908.

A deviation from a development or urban design standard, however, can be obtained as a result of administrative approval pursuant to Section 10.910 or as a result of a City Council approved rezoning to TS-Optional.

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Section 10.912. Transit Supportive Overlay District (Optional)

- (1) Purpose. The Transit Supportive (TS) overlay district establishes minimum standards for development. However, circumstances may arise which those regulations do not address or did not foresee. 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 TS.

The optional Transit Supportive overlay district or TS-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 TS. It also serves as a mechanism for altering or modifying the minimum standards as they relate to a specific development.

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

- (2) Application. Petitions for a zoning map amendment to establish a TS-O shall be submitted to the Charlotte-Mecklenburg Planning Commission. In order to expedite the rezoning process, TS-O applications shall not count toward the maximum number of cases that the City hears each month.

A TS-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.

- (3) Approval. The establishment of the TS-O 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 TS 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 setback.
- (4) 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 10.904.

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Section 10.913. Preliminary review.

Applicants planning any development or redevelopment in a TS area are required to meet with the Charlotte-Mecklenburg Planning staff, 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 (2) during the design development stage to ensure that the plans meet the desired objectives and the minimum standards for the district.

Building permits shall not be issued until the Planning Commission staff approves the proposal as in conformance with this ordinance.