

AN ORDINANCE

ADDING NEW SECTION 5-19, UPPER 52-78 OVERLAY, TO THE CITY OF NORTH CHARLESTON CODE OF ORDINANCES, APPENDIX A, ZONING REGULATIONS, TO INCORPORATE A NEW OVERLAY DISTRICT FOR THOSE PROPERTIES IN THE CITY OF NORTH CHARLESTON NORTH OF DURANT AVENUE FRONTING RIVERS AVENUE AND UNIVERSITY BOULEVARD

WHEREAS, the City of North Charleston is empowered to regulate to provide for the health, safety, and welfare of its citizens; and

WHEREAS, the City is statutorily authorized to pass zoning and land use regulations; and

WHEREAS, the properties from Durant Avenue north to the Ladson Fairgrounds that front along Rivers Avenue and University Boulevard exhibit unique characteristics; and

WHEREAS, the recently adopted PRIME North Charleston Comprehensive Plan recommends enhancing the character and design of corridors; and

WHEREAS, the Planning Commission of the City of North Charleston has considered the amendment and made a recommendation to City Council.

Now, therefore, be it ordained and enacted by the Mayor and Council that certain provisions of the Zoning Ordinance, as amended, be further amended as follows in Exhibit A, attached hereto and incorporated herein.

THE WITHIN ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON ITS RATIFICATION BY CITY COUNCIL.

Ordained in City Council this 15th day of July, 2021
in the year of our Lord, and in the 245th year of
Independence of the United States of America.


R. KEITH SUMMEY, MAYOR

ATTEST:


SANDY L. BROWN, MUNICIPAL CLERK

APPROVED AS TO FORM:


LEGAL COUNSEL

**NORTH CHARLESTON CITY COUNCIL
AGENDA ITEM**

Meeting of July 15, 2021

DATE: June 17, 2021

ITEM TITLE: Ordinance – Final Reading
An Ordinance Adding New Section 5-19, Upper 52-78 Overlay , to the City of North Charleston Code of Ordinances, Appendix A, Zoning Regulations, to Incorporate a New Overlay District for those properties in the City of North Charleston North of Durant Avenue fronting Rivers Avenue and University Boulevard

SUBMITTED BY: Planning Commission

CONTACT PERSON: Gwen Moultrie, Planning and Zoning Director (843) 740-2572

SUMMARY EXPLANATION:

In order to provide design standards and prepare for redevelopment along the upper portion of the Rivers Avenue Corridor, staff feels that an overlay district would be appropriate along Rivers Avenue from Durant Avenue north to the Ladson Fairgrounds (see attached map). Staff has drafted an overlay district that pulls in existing framework from the existing Dorchester Road Corridor I overlay district and the newly adopted Rivers Avenue South Overlay to incorporate design standards that are appropriate along this portion of the corridor.

Similar to the Rivers Avenue South overlay recently adopted, the proposed Upper 52-78 Overlay includes the following:

- Building Orientation: The overlay would require new construction or additions greater than 20% to orient the building to Rivers Avenue/University Boulevard and parking in the rear
- Affordable Housing: When multi-family housing is proposed, there would be no minimum lot size for developments that incorporate 20% of the units to be rented to households at or below 80% of the average median income, with an affordability period of 20 years
- Sidewalks: A minimum of a 12-foot sidewalk is required in the overlay to facilitate an urban corridor that promotes pedestrian activity and connectivity
- Use Restrictions – Open yard sales; used auto parts & tires, storage facilities, and used car sales are prohibited and conditions for structured & surface parking; gas stations; and drive-thru are proposed
- Overlay District Boundary – The proposed overlay boundary would increase when adjacent parcels are combined with parcels within the district; or if parcels are subdivided

New Item within Upper 52-78 Overlay:

Backage Road: Backage roads provide alternative access to properties along a thoroughfare thereby helping to remove turn movements from corridor traffic which allows traffic on the main thoroughfare to move more freely and with less disruption, providing a safer environment with fewer variables for the motorists. Additionally, the removal of curb cuts along the thoroughfare creates a safer environment for pedestrians and bicyclists. The overlay proposes to require a 30' easement and payment for a future backage road where identified on a separate "Upper 52-78 Corridor Overlay District Infrastructure, Access Management, and Connectivity Map" (attached for reference)

STAFF RECOMMENDATION:

Approval

BOARD, COMMISSION, COMMITTEE RECOMMENDATIONS:

On June 14, 2021, the Planning Commission held a public hearing and voted unanimously to recommend **contingent approval** contingent upon legal review of the backage road requirements (8-0-0).

COUNCIL COMMITTEE RECOMMENDATION:

The Public Safety Committee met prior to the City Council meeting on July 15, 2021.

COUNCIL ACTION:

On July 8, 2021 Mayor Summey stated that without objection, this item will be referred to the Public Safety Committee on July 15, 2021 for further review and a recommendation.

___ Resolution X Ordinance ___ Contract ___ Exhibits
___ Minutes X Plan/Map ___ Transfer of Funds X Other

Section 5-19. – Upper 52-78 Overlay District:

A. Purpose: The Upper 52-78 overlay district is intended provide a framework for cohesive development design, safe multi-modal access, and walkable environment.

B. District Boundaries:

(1) The overlay district shall consist of all parcels of land having frontage along Rivers Avenue or University Boulevard as shown on the attached map.

(2) Any subsequent plat which combines a parcel within the overlay with a parcel currently outside the overlay and has frontage along Rivers Avenue or University Boulevard shall increase the boundary of the overlay by including the area that was outside the overlay prior to the plat.

(3) Any subsequent plat which subdivides a parcel in the overlay and creates a parcel that no longer has frontage along the corridor's main roads shall not have the effect of removing the new parcel from the district boundaries.

(4) The Upper 52-78 overlay district overlaps both the University Boulevard overlay district and the Ladson Road overlay district; parcels that are located within the Upper 52-78 overlay district and one of the other overlay districts, both districts shall be valid, but the Upper 52-78 district shall supersede the other overlay district where the regulations are in conflict.

C. Uses: As an overlay district, permitted uses shall be those of the underlying zoning district classification, as modified herein.

1. Prohibited Uses: The following prohibited uses may not be located within the Upper 52-78 overlay district, except at sites located within the overlay district that were lawfully occupied by these uses at the time of the passing of this ordinance:

- a. Open yard sales;
- b. Used auto parts sales, including used tire sales;
- c. Storage facilities as a primary use; and,
- d. Used car sales lots.

2. Conditional uses:

a. Structured parking as a primary use provided that:

i. Ground floor uses: Parking structures must have at least seventy-five (75%) percent of the ground floor frontage along any street or designated pedestrian way consisting of active business uses other than parking, such as offices, retailing, services and entertainment.

ii. There are no blank façades in excess of fifteen (15) feet in length.

1. Windows and doors shall serve as break points for a façade

2. Unbroken façades in excess of fifteen feet shall be adorned with vegetative growth (vertical gardens or green walls must remain green throughout the year).
 3. Structured parking facilities are required to have flat levels which would allow for the structure to be repurposed if the parking use were no longer desired.
- b. Surface parking may be used as a primary use on properties that are contiguous or within 300 feet of a transit stop.
 - c. Gas stations and related convenience stores including a one-bay car wash, provided that:
 - i. The property is not within the University Boulevard Overlay District;
 - ii. Conditions required in the underlying zoning are met;
 - iii. The building is located between the pumps and the corridor's main road(s);
 - iv. Neither overnight nor truck parking is allowed; and
 - v. Vehicle repair is not allowed.
 - d. Drive-thru services provided that:
 - i. Either the drive-thru is contained within the building envelope or located at the rear of the building and out of the viewshed from the public right of way; and
 - ii. Vehicle queuing and circulation does not impact the pedestrian realm.

D. Site and Design Requirements:

1. Applicability: New construction and expansion of buildings by twenty (20) per cent or more shall be required to meet the minimum overlay requirements.
2. Signage: In addition to the City's existing sign code, the following special regulations shall apply:
 - i. Freestanding signs: Must be "monument" or "pedestal" in design, not to exceed fifty (50) square feet per sign face and ten (10) feet in height from the ground to the bottom of the sign face. One (1) sign per major road frontage.
 - (a) Shopping center freestanding signs: A shopping center may erect one (1) "monument" or "pedestal" freestanding sign per street frontage, provided the street has a right of way width of greater than 80 feet, subject to a limit of two (2) signs per center. One (1) square foot of freestanding signage will be permitted per each linear foot of shopping center building frontage, up to a maximum of one hundred fifty (150) square feet per sign.
 - (b) Illumination of freestanding signs: Internally illuminated, flashing, and/or moving signs shall not be permitted within the overlay district. External illumination shall be full cut-off and fully shielded fixtures.
 - ii. Wall signs and window signs (commercial): One (1) square foot of wall and window signage combined will be permitted per each linear foot of building frontage, along the

entirety of the building's orientation, up to and not exceeding fifteen (15) per cent of the area of the building façade on which the sign is to be displayed. Window signage shall not exceed 25% of the window area.

- iii. Materials of Signs: Exterior signs shall be fabricated of solid materials such as brick, wood, or concrete or metal.
- iv. Prohibited signs: Off-premises signs, portable signs, and temporary signs shall be prohibited within the corridor. Nothing in this section shall be construed to prevent the on-premises display of a for-sale sign not to exceed eight (8) square feet in residential areas and thirty-two (32) square feet in commercial areas.

3. Required buffers:

- i. Front buffers: As the overlay intends to create a pedestrian-oriented environment, a front buffer will not be required.
- ii. Side and rear buffers:
 - (a) Developments in the overlay district that abut single-family residential uses shall maintain a Type B buffer along the boundary with the single-family residential use, however an opaque eight (8) foot wall or fence may be substituted for the Type B buffer.
 - (b) Fences and walls which face adjacent commercial properties or can be seen from the right of way: Facades in excess of fifteen (15) feet in length shall be adorned with either vegetative growth (vertical gardens or green walls must remain green throughout the year), decorative elements, or artistic murals, so long as the mural is not a sign or advertisement.

4. Required screening:

- i. Loading zones: Loading areas shall be oriented so that they are in no manner visible from single-family residentially developed properties, or existing and planned future public or private rights of way. Loading areas may be oriented toward adjoining developed properties, or toward adjoining properties eligible for future development if and only if they are entirely screened from view by the use of opaque fencing or appropriate landscaping.
- ii. Parking: Off-street parking areas shall not be located between the structure and Rivers Avenue or University Boulevard.
- iii. Mechanical Equipment: Mechanical equipment, whether ground level, raised, or rooftop shall be shielded and screened from public view.

5. Building materials:

- i. Prohibited materials:

- a. Unadorned masonry units – Unadorned masonry units are not permitted to be visible from existing and planned future public or private rights of way.
- b. Corrugated and/or sheet metals – Corrugated and/or sheet metals , are not allowed for any façade oriented towards a street frontage and in no manner shall such materials be visible from existing and planned future public or private rights of way; this shall not prohibit the use of architectural metal cladding to be included into the overall building composition.
- c. Chain link fencing – Chain link fencing is only allowed on property occupied by single-family residential development.
- d. Mesh or Tarp – Mesh or tarp is prohibited as a material to use for screening.
- e. Paint and/or similar finish shall not be considered adornment.

E. Supplemental development standards:

In an effort to promote safe and walkable connectivity and facilitate mobility along the Upper 52-78 corridor, the following supplemental development standards shall apply to all proposed uses or alterations of existing uses and lands within the established Upper 52-78 overlay district as defined by Section 5-19.B.

1. Building massing and orientation:

- i. Primary entry. The primary entry must be from Rivers Avenue or University Boulevard or a plaza that fronts on the corridor with display windows on all street facades for retail buildings. Second floor and above, with a separate access point from the main first floor entrance, shall have primary entrance from Rivers Avenue or University Boulevard, when feasible. Buildings, businesses, and residences facing side streets should have entrances onto the facing side street. Secondary entrances from the rear of a store are permitted; however, this area may not be designed to the same scale as the primary entry.
- ii. Front setbacks: New development or improvements to existing development that meet the thresholds stated in Section 5-19.D.1 shall be setback five (5) feet from Rivers Avenue or University Boulevard to provide an additional space between the building and the right of way to provide for future sidewalk width expansion as the built environment transitions. Where there is an existing 12' sidewalk, the front setback may be waived.
 - a. Buildings may increase the standard 5-foot setback up to one fifth (1/5) of the proposed building height, up to forty (40) feet. (for example: a proposal for a 100-foot tall building could have a setback ranging from 5 to 20 feet) provided the front area between the right of way and building is used as an activity zone for pedestrian activity.

- i. An Activity Zone shall be considered an open space for pedestrian activities which shall include landscaping, public art, tables, seating, bike racks, or other pedestrian and active amenities.
- ii. Allowable activities in the Activity Zone are limited to the following:
 - aa. Open air streetside dining,
 - bb. Outdoor merchandise display that is consistent with the business it is located in front of, and
 - cc. Pushcarts.
- iii. A hardscape and softscape plan of activities within the Activity Zone shall be submitted with the development plan and based on the proposed uses along the street frontage and/or the cohesive expansion of the Activity Zone based on the previous redevelopment of adjacent properties in the overlay district.
- iv. Activities within the activity zone shall not encroach two-feet from the right-of-way.

2. Backage Road:

A Backage road along the corridor will greatly reduce the number of curb cuts on Rivers Avenue and University Boulevard, which will have the effects of enhancing bicycle and pedestrian safety by reducing the number of points of conflict with motorized vehicles, limiting turn movements in and out of the travel lanes on the corridor, improving traffic flow on the corridor, and improving the visual landscape along the corridor.

- i. All new development or improvements to existing development that meet the thresholds stated in Section 5-19.D.1 shall provide:
 - a. A thirty (30) foot easement in the location identified on the map entitled “Upper 52-78 Corridor Overlay District Infrastructure, Access Management, and Connectivity Map” if the map shows a proposed backage road that intersects the proposed development parcel.
 - b. Payment into a Backage Road Development fund (at a per linear foot rate determined by the City’s Public Works Department) or build a portion of the backage road to enable the development of a twenty-two (22)-foot wide road and eight (8)-foot sidewalk to provide rear access to the properties along the Rivers Avenue North corridor.
- ii. The initial easement location for any section of the connectivity plan may be determined during site plan review by the first to redevelop along the corridor in coordination with the City’s Public Works and Planning and Zoning Departments, and future adjacent developments will be required to align the easement across their property with the existing easement on the adjacent property.

- iii. Developments that are fronted on the newly created backage roads or other rights of way located within the Upper 52-78 overlay district shall observe the setback regulations of 5-19(E)(1)(ii).
4. In developments with multiple uses, the more active uses, based on parking requirements, should be oriented toward the pedestrian realm, and clearly defined and visible walkways or courtyards shall link the building entrances to and through the activity zone and into the pedestrian realm of the right of way.
5. Developments with 9 or more residential units shall be required to include street level retail/commercial uses occupying at least fifty (50) percent of the gross first floor area.
6. No blank wall shall be permitted to face the public street, sidewalks, or other public spaces, such as plazas. Canopies, decks, railings, windows, green walls defined by vegetative growth, approved public art murals, and/or other architectural features are to be used. No signs of any form shall satisfy this requirement.
7. Lot requirements: The minimum lot area per dwelling unit shall be one thousand two hundred (1200) square feet and may be waived if twenty (20) percent of the dwelling units for the proposed development are dedicated for affordable housing at or below eighty (80) percent of the area median income (AMI) for a period of 20 years.
8. Parking standards:
 - a. General: No permit for the construction, reconstruction, extension, repair, or alteration of any building, structure, or use of land and no building or land or any part of any building or land, may be occupied or used until compliant parking has been provided in accordance with the requirements of the City of North Charleston's Code of Ordinances.
 - b. Where multiple primary uses are proposed for a development, as determined by the zoning administrator, the automobile parking requirements may be reduced by as much as ten (10) percent.
 - c. Parking agreements and shared parking: Off-street parking requirements may be met on-site or the requirements may be met using a shared parking agreement or through a leasing contract with a structured parking facility.
 1. Shared Parking:
 - i. A shared parking agreement must be approved by the zoning administrator upon finding that execution of the agreement will achieve efficiency of land use, coordination between the users will not result in conflict or shortage of parking for either party, and safe pedestrian circulation has been addressed through proper access walkways.

- ii. The parcel that has the shared parking spaces must be located within five hundred (500) feet of the parcel on the same side of the street where the user contracting for the parking is located.
 - iii. An agreement providing for the shared use of parking areas, executed by the parties involved, must be filed with the zoning administrator, in a form approved by the city attorney. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking. Evidence of an agreement is required that includes acknowledgement of termination of use should parking rights lapse.
 - iv. The minimum term for a shared parking agreement shall be ten (10) years. The parking agreement shall require that both parties to the parking agreement shall notify the City at least thirty (30) days prior to termination.
 2. Parking agreements: Off-street parking requirements may also be satisfied with a parking lease with a structured parking facility provided that:
 - i. The parking facility must be on a parcel on the same side of the street and with a boundary within five hundred (500) feet of the parcel where the user with a parking need is located.
 - ii. Leased spaces in the parking facility must be clearly marked so that the general public would know not to park in the spaces if they were vacant.
 - iii. Leased spaces may not be shared by any other user at any time or contracted to any other entity for times when the lessee will not use the spaces.
 - iv. Parking space lease agreements must be for a minimum term of ten (10) years.
9. Curb cuts: Curb cuts provide necessary access from the street right of way, across the pedestrian realm, into the interior of the lot where vehicles can be parked. In congested areas where curb cuts have not been regulated, the street environment is often dangerous and unwelcoming to pedestrians and other non-motorized forms of transportation. The purpose of this section is to maintain the critical vehicular access to properties along the Upper 52-78 overlay district while also limiting those vehicular turning and crossing movements within the activity zone and the pedestrian realm so as to create a safer and more accessible street environment for all users regardless of ability, age, mode of transportation, or otherwise.

- a. Creation of rear alleys for vehicular access through the Backage Road Development Fund will lead to the long-term reduction of most curb cuts in the district.
 - b. Parcels having less than one hundred (100) feet of street frontage must share a curb cut access with an adjacent parcel. Interconnectivity of the parking areas through cross access easements between the parcels is encouraged. In all instances; connectivity shall supersede buffer requirements and any other circumstances that may conflict with connectivity.
 - c. Only parcels that have frontage on more than one right of way may have two (2) curb cuts into the property.
 - d. Curb cuts shall have a maximum width of thirty-six (36) feet, however a curb cut of greater than twenty (20) feet will have to be justified by a traffic impact analysis report, and all curb cuts shall have clearly defined markings where they intersect the pedestrian realm.
 - e. Curb cuts of less than five (5) feet in width shall be permitted as passive solutions for stormwater runoff collection.
 - f. Curb cuts must be set at least seventy-five (75) feet from the edge of pavement of any street intersections. These minimum spacing requirements shall be increased if a right-turn deceleration lane is required and shall equal the length of the turn lane and taper plus an additional distance of fifty (50) feet.
 - g. Applicability: New construction and expansion of buildings by twenty (20) per cent or more shall be required to meet the minimum overlay requirements.
10. Utilities: All utilities, including, but not limited to electric utilities, telecommunications, fiber, or cable providers, shall be placed underground. All junction and access boxes shall be screened with sufficient evergreen vegetation so as to obscure them from view. All small wireless facilities shall utilize concealment elements, and disguised as a hardscaped or softscaped amenity, such as benches; flower boxes, or decorative poles when located in the Activity Zone or in the Rivers Avenue or University Boulevard right of way. All utility pad features and meters shall be shown on the site plan and are subject to building setbacks.
11. Sidewalks: The Upper 52-78 overlay district shall require sidewalks along both sides of all rights of way; individual developments shall only be responsible for installing (or upgrading to the standards of this section) sidewalks adjacent to their parcel(s).
- a. Sidewalks shall be a minimum of twelve (12) feet in width along Rivers Avenue and University Boulevard.

- b. Sidewalks along the intersecting streets to the corridor or newly developed rights of way within the Upper 52-78 overlay district shall be a minimum of eight (8) feet wide.
 - c. Clear markings on the sidewalk shall indicate all curb cuts; these markings shall provide both visual and physical cues to the pedestrians.
 - d. Walkways a minimum of five (5) feet wide shall connect building entrances to the sidewalks in the public right of way.
 - e. The private use of public sidewalks is prohibited.
 - f. These requirements shall supersede Section 18-52 of the Subdivision Regulations.
- F. Variance and Appeals: Variances and appeals shall be handled through the board of zoning appeals as provided within Article VII of the Zoning Ordinance of the City of North Charleston. Where the requirements of this overlay district conflict with the requirements, conditions, or permits of other regulatory agencies, the zoning administrator may (but shall not be required to) administratively permit a reasonable modification without the necessity of a variance being obtained.
- G. Severability. If any subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Upper 52-78 Corridor Overlay District

Infrastructure, Access Management, and Connectivity Map

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