

ORDINANCE NO. 223-X

AN ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 2504 COLUMBUS CIRCLE PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 19, PART 6, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA, SAID BUILDING BEING THE PROPERTY OF WILHELMENIA M. KOLLOCK RESIDING AT 5020 KNOLL RIDGE COURT, CHARLOTTE, NC 28208.

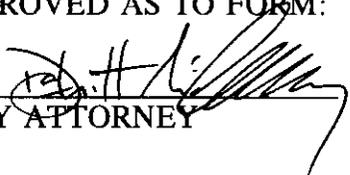
WHEREAS, the dwelling located at 2504 Columbus Circle in the City of Charlotte has been found by the Director of the Community Development Department to be in violation of the Housing Code of the City of Charlotte and the owners thereof have been ordered to demolish and remove said dwelling, all pursuant to the Housing Code of the City of Charlotte and Article 19, Part 6, Chapter 160A of the General Statutes of North Carolina; and

WHEREAS, said owner(s) have failed to comply with said order served by certified mail on August 19, 1994 and September 14, 1994.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that the Director of the Community Development Department is hereby ordered to cause the demolition and removal of the dwelling located at 2504 Columbus Circle in the City of Charlotte in accordance with the Housing Code of the City of Charlotte and Article 19, Part 6, Chapter 160A of the General Statutes of North Carolina.

This Ordinance shall become effective upon its adoption.

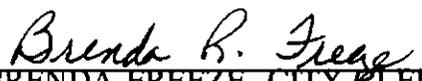
APPROVED AS TO FORM:

  
CITY ATTORNEY

CERTIFICATION

I, BRENDA FREEZE, 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 30th day of January, 1995, the reference having been made in Minute Book 107, and recorded in full in Ordinance Book 46, at Page(s) 194.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 31st day of January, 1995.

  
BRENDA FREEZE, CITY CLERK

ORDINANCE NO. 224-X

AN ORDINANCE ORDERING THE DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT TO CAUSE THE DWELLING AT 4038 FIELDCREST ROAD IN THE CITY OF CHARLOTTE TO BE REPAIRED, ALTERED OR IMPROVED, SAID BUILDING BEING THE PROPERTY OF J. R. MOORE RESIDING AT 224 N. POPLAR STREET, #9, CHARLOTTE, NC 28202.

WHEREAS, the dwelling located at 4038 Fieldcrest Road in the City of Charlotte has been found by the Director of the Community Development Department to be in violation of the Housing Code of the City of Charlotte;

WHEREAS, said dwelling was occupied/unoccupied at the time of the initial inspection in which violations of the Housing Code of the City of Charlotte were found to exist;

WHEREAS, said dwelling is located in Census Tract #38.98;

WHEREAS, pursuant to the provisions of Section 160A-443 of the North Carolina General Statutes and Section 11-28 of the Housing Code of the City of Charlotte, the owner(s) of said dwelling have been ordered by the Director of the Community Development Department to repair, alter or improve said dwelling;

WHEREAS, the owner(s) of said dwelling has failed to comply with said order to repair, alter or improve said dwelling; served upon them by certified mail on June 2, 1993; and

WHEREAS, among the Housing Code violations existing in and upon said dwelling is a violation of Section(s) 11-53(c) and 11-56(2).

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that the Director of the Community Development Department is hereby ORDERED to cause the dwelling at 4038 Fieldcrest Road in the City of Charlotte to be repaired, altered or improved as provided in the Order of the Director dated June 2, 1993 and all other repairs necessary to bring said dwelling into compliance with the Housing Code of the City of Charlotte, and to cause a lien in the amount of cost incurred in making such repairs, alterations or improvement to be placed against the real property at said location, pursuant to the provisions of Section 160A-443 of the North Carolina General Statutes and Sections 11-28 and 11-31 of the Charlotte City Code.

This Ordinance shall become effective upon its adoption.

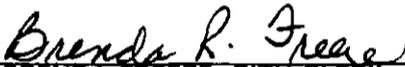
APPROVED AS TO FORM:

  
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WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 31st day of January, 1995.

  
BRENDA FREEZE, CITY CLERK

ORDINANCE NO. 225

**ARTICLE III. STORM WATER POLLUTION**

**Sec. 18-51. Definitions.**

**City.** The City of Charlotte or any duly authorized representative thereof.

**EPA.** The U.S. Environmental Protection Agency or other duly authorized official of said agency.

**Illicit Connection.** Any physical connection, actual or potential flow discharge, or other condition which could permit non-Storm Water to enter the Storm Water System.

**Improper Disposal.** The releasing of matter or fluids other than atmospheric precipitation at a location where the matter or fluid can enter the Storm Water System.

**Manager.** The person designated by the City to manage Storm Water services and who is charged with certain duties and responsibilities by this article, or that person's duly authorized representative.

**Non-Storm Water.** Any flow which is not from a form of natural precipitation.

**NPDES Permit.** National Pollution Discharge Elimination System Permit issued pursuant to the federal Clean Water Act, 33 U.S.C. 1251 *et seq.*

**Person.** Any individual, partnership, firm, association, company, trust, estate, corporation, commission, institution, utility, governmental entity or other legal entity, or their legal representatives, agents or assigns.

**Pollutant.** A man-induced substance which alters the chemical, physical, biological, thermal and/or radiological integrity of water.

**Receiving Stream.** The body of water, stream or watercourse receiving the discharge waters from the Storm Water System, or formed by the water discharged from the Storm Water System.

**State.** The State of North Carolina, North Carolina Department of Environment, Health and Natural Resources, Division of Environmental Management, or any duly authorized representative thereof.

**Storm Water.** Any flow occurring during or following any form of

natural precipitation and resulting therefrom.

**Storm Water Advisory Committee.** The Charlotte-Mecklenburg Storm Water Advisory Committee as established by the joint resolution of the Council of the City of Charlotte and the Mecklenburg County Board of County Commissioners, together with any amendments thereto.

**Storm Water System.** The network of inlets, pipes, ditches, swales, ponds, and other natural or manmade facilities and appurtenances which serve to collect and convey Storm Water through and from a given drainage area.

**Sec. 18-52. Purpose.**

The purpose of this article is to prevent Pollutants from entering the Storm Water System. The provisions of this article are supplemental to and in no way replace regulations administered by the State or federal governments.

**Sec. 18-53. Permitted incidental Non-Storm Water flows.**

Storm Water is the only discharge permitted in the Storm Water System with exception of incidental Non-Storm Water flows which do not negatively impact the quality of Receiving Stream, including:

- water line flushing,  
    except super-chlorinated water line flushing;
- landscape irrigation;
- uncontaminated groundwater infiltration;
- uncontaminated, pumped ground water
- discharge from potable water sources;
- foundation drains;
- air conditioning condensate;
- irrigation water;
- springs;
- lawn watering;
- dechlorinated swimming pool discharge;
- street wash water;
- flows from emergency fire and rescue operations other than those resulting from negligence on the part of the person who owned or controlled the pollutant.

**Sec. 18-54. General discharge prohibitions.**

(a) **Restrictions.** No Person shall discharge, cause to be discharged, directly or indirectly, or cause any Pollutant to enter into the storm drain system unless permitted by a NPDES Permit.

(b) **Actions.** When the City determines that a pollution

discharge has occurred or is imminent, the City shall employ whatever enforcement actions apply.

**Sec. 18-55. Illicit Connections.**

Pipelines, ditches and overland flow carrying non-Storm Water may not discharge into the Storm Water System with exception of incidental non-Storm Water flow which does not negatively impact the quality of Receiving Stream as described in Section 18-53 of this article or as permitted by a NPDES Permit. Prohibited discharges include, but are not limited to, wastewater lines such as those from washing machines or sanitary sewers, commercial wash water from cleaning vehicles or equipment, flushing water such as that from industrial operations, floor drains, overflowing septic systems, and misuse of fertilizers, pesticides and herbicides.

**Sec. 18-56. Improper Disposal.**

Solids and fluids which may be harmful to biological life shall not be disposed in or near the Storm Water System or at a location exposed to wind or rain which could transport the substances to the Storm Water System. Prohibited substances include, but are not limited to, oil, grease, household and industrial chemical waste. Quantities of leaves, dead plant or animal matter and animal waste are prohibited when a detrimental impact occurs.

**Sec. 18-57. Accidental discharge.**

In the case of accidental discharge, the responsible party shall immediately begin to collect and remove the discharge and restore all affected areas to their original condition. The responsible party shall immediately notify the City of accidental discharge by telephone or other mode of instantaneous communication. The notification shall include the location of the discharge, type of Pollutant, volume, time of discharge and corrective action taken. Such notification shall not relieve the responsible party of any of the expenses related to restoration, loss, damages or any other liability which may be incurred as a result; nor shall such notification relieve the responsible party from other liability which may be imposed by this article or other applicable law.

**Sec. 18-58. Powers and authority for inspection.**

City personnel or other duly authorized representative(s), bearing proper identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the

provisions of this article. No Person shall obstruct, hamper, or interfere with any such representative while carrying out official duties.

**Sec. 18-59. Notice of violation.**

When the Manager finds that a discharge or disposal violates any provision of this article, the manager may issue a notice of violation and direct the responsible party to:

- (1) Comply immediately;
- (2) Comply in accordance with a schedule set forth in the notice; or
- (3) Take appropriate remedial or preventative action in the event of a continuing or threatening violation.

**Sec. 18-60. Civil penalties.**

(a) Any Person who violates any of the provisions of this article shall be subject to a civil penalty of up to one thousand dollars (\$1,000.00) per day for first time offenders. Each subsequent violation is subject to incrementally increasing penalties of up to an additional thousand dollars (\$1000.00), such that a second violation is subject to a penalty of up to two thousand (\$2,000.00) per day and a third violation is subject to a penalty of up to three thousand dollars (\$3,000.00) per day and so on, not to exceed a maximum penalty of ten thousand dollars (\$10,000.00) per day.

(b) No penalty shall be assessed until the Person alleged to be in violation has been served written notice of the violation by registered or certified mail or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty and/or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. Refusal to accept the notice shall not relieve the violator of the obligation to pay such penalty. However, no time period for compliance need be given for obstructing, hampering or interfering with an authorized representative while in the process of carrying out official duties.

(c) In addition to the per diem civil penalty, penalties for costs to restore damaged property may be assessed based on restoration costs which include but are not limited to clean-up costs, devaluation of the property, value of animal

and plant life damaged, and City administrative costs.

(d) The Manager shall determine the amount of the civil penalty to be assessed under this section and shall make written demand for payment upon the Person in violation, and set forth in detail a description of the violation for which the penalty was imposed. In determining the amount of penalty the degree and extent of harm caused by the violation shall be considered. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give adequate notice. If payment is not received or an appeal requested, as provided for in this article, within thirty (30) days after demand for payment, the matter shall be referred to the City Attorney for institution of civil action in the name of the City of Charlotte in the appropriate division of the General Courts of Justice for recovery of the penalty. Such civil actions must be filed within three years of the date the notice of penalties was served on the violator.

(e) Civil penalties collected pursuant to this article shall be credited to the City's general fund as a nontax revenue.

(f) A violation of City Code Sections 18-51 through 18-64 shall not constitute a misdemeanor or infraction punishable under North Carolina General Statute Section 14-4, but instead shall be subject to the civil penalties fixed by City Code Section 18-60.

**Sec. 18-61. Appeal process.**

(a) Any Person who has been served a notice of violation may request an appeal hearing from the Storm Water Advisory Committee. The appellant's obligation to satisfy a notice of violation will not be delayed by a request for appeal. An appeal of a notice of penalty must be made in writing within thirty (30) days after demand of payment. The Committee has ninety (90) days to hear the appeal and an additional sixty (60) days to respond in writing to the appellant with their findings. The Committee is to provide the appellant with its findings by registered or certified mail or other means reasonably calculated to secure receipt.

(b) The Committee is to provide the appellant a minimum of ten days notice of the time and place of the hearing.

(c) If the Committee determines that a penalty was properly charged, the appellant must provide payment within thirty (30) days of receiving the committee's findings.

**Sec. 18-62. Authority of Mecklenburg County.**

Mecklenburg County Department of Environmental Protection is a duly authorized representative of the City in the prevention and enforcement of Storm Water pollution and is entitled to all the rights granted to the City in this article.

**Sec. 18-63. Severability.**

If any section or sections of this article is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

**Sec. 18-64. Effective date.**

This article shall be effective upon adoption.

**Sections. 18-65--18-20. Reserved.**

Approved as to form:

*Hope A. Root* 1/25/95  
Asst. City Attorney Date

CERTIFICATION

I, Brenda R. Freeze, 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 30<sup>th</sup> day of January, 1995, the reference having been made in Minute Book 107, and recorded in full in Ordinance Book 46, Page(s) 196-201.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 31st day of January, 1995.

*Brenda R. Freeze*  
Brenda R. Freeze, City Clerk

ORDINANCE NO. 226

**Article II. THE CONTROL OF SOIL EROSION AND SEDIMENTATION  
AND OTHER POLLUTANTS.**

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

"Section 18-21. Title

This article may be cited as the "City of Charlotte Soil Erosion and Sedimentation Control Ordinance".

Section 18-22. Preamble

The sedimentation of streams, lakes and other waters of this State constitutes a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters. Control of erosion and sedimentation is deemed vital to the public interest and necessary to public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for public purpose. It is the purpose of this Ordinance to provide for creation, administration, and enforcement of the program through procedures and for the adoption of minimal mandatory standards which will permit development of this City to continue with the least detrimental effects from pollution by sedimentation. In recognition of desirability of early coordination of sedimentation control planning, it is the intention of City Council that preconstruction conferences be held among the affected parties, subject to availability of staff.

Section 18-23. Definitions

As used in this Ordinance, unless the context clearly indicates otherwise, the following definitions apply.

- a. Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activity.
- b. Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
- c. Adequate Erosion Control Measure, Structure, or Device - means one which controls the soil

material within the land area under responsible control of the person conducting the land-disturbing activity.

- d. Affiliate - means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
- e. Being Conducted - means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
- f. Borrow - means fill material which is required for on-site construction and is obtained from other locations.
- g. Buffer Zone - means the strip of land adjacent to a lake or natural watercourse.
- h. Certificate of Occupancy - means the document required by the North Carolina State Building Code certifying that a new building shall not be occupied or a change made in occupancy, nature or use of a building until after all required building and services systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by Mecklenburg County Building Standards Department.
- i. City Engineer - means the City Engineer or a duly authorized representative.
- j. Commission - means the North Carolina Sedimentation Control Commission.
- k. Committee - means The Charlotte-Mecklenburg Storm Water Advisory Committee as established by the joint resolution of the Council of the City of Charlotte, together with any amendments thereto.
- l. Completion of Construction or Development - means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- m. Department - means the North Carolina Department of Environment, Health, and Natural Resources.

- n. Director - means the Director of the Division of Land Resources of the Department of Environment, Health, and Natural Resources.
- o. Discharge Point - means that point at which concentrated flow leaves a tract of land.
- p. District - means the Mecklenburg Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.
- q. Energy Dissipator - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
- r. Erosion - means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
- s. Ground Cover - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- t. Hazardous Substance - means any materials considered to be damaging to the environment as defined by North Carolina General Statute 143-215.77.
- u. High Quality Waters - means those classified as such in 15A NCAC 2B.0101(e) (5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. 150B-14(c).
- v. High Quality Water (HQW) zones - means areas that are within 575 feet of High Quality Waters and for the remainder of the state areas that are within one mile of and drain to HQW's.
- w. Lake or Natural Watercourse - means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be removed or carried in suspension, and which could be damaged by accumulation of sediment.
- x. Land-disturbing Activity - means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and

maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

- y. Local Government - means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
- z. Natural Erosion - means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- aa. Ordinance - means Chapter 18 Article II in the City Code.
- bb. Parent - means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
- cc. Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
- dd. Person Conducting Land-Disturbing Activity - means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- ee. Person Responsible for the Violation - as used in this Ordinance, and G.S. 113A-64, means:
  - 1. the developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or
  - 2. The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefitted from it or has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- ff. Phase of Grading - means one of two types of

grading, rough or fine.

- gg. Plan - means an erosion and sedimentation control plan.
- hh. Pollutant - A man-induced substance which alters the chemical, physical, biological, thermal and/or radiological integrity of water other than those permitted incidental non-storm water flows as defined in section 18-53.
- ii. Sediment - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- jj. Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
- kk. Siltation - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
- ll. Storm Drainage Facilities - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
- mm. Storm Water Runoff - means the direct runoff of water resulting from precipitation in any form.
- nn. Subsidiary - means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- oo. Ten-Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.
- pp. Tract - means all contiguous land and bodies of water being disturbed or to be disturbed as a

unit, regardless of ownership.

- qq. Twenty-five Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.
- rr. Uncovered - means the removal of ground cover from, on, or above the soil surface.
- ss. Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- tt. Velocity - means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
- uu. Waste - means surplus materials resulting from on-site construction and disposed of at other locations.
- vv. Watershed - means any water supply watershed (WS-IV) area regulated with various controls within the jurisdictional boundaries of the City of Charlotte.
- ww. Working Days - means days exclusive of Saturday, Sunday and City government holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 18-24. Scope and Exclusions

This Ordinance shall not apply to the following land-disturbing activities:

- a. Activities including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
  - 1. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

2. Dairy animals and dairy products.
  3. Poultry and poultry products.
  4. Livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats.
  5. Bees and apiary products.
  6. Fur producing animals.
- b. Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.
  - c. Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
  - d. For the duration of an emergency, activities essential to protect human life.
  - e. Land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

Section 18-25. Forest Practice Guidelines

- a. It is the intent of the City Council to adopt Forest Practice Guidelines Related to Water Quality (best management practice) pursuant to the provisions of Chapter 150B of the General Statutes. Until Forest Practice Guidelines are adopted, activities undertaken on forest land for the production and harvesting of timber products will be subject to this Ordinance.
- b. If land disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Ordinance shall apply to such activity and any related land-disturbing activity on the tract.

Section 18-26. General Requirements

- a. Plan Required - No person shall initiate any land-disturbing activity on a tract which meets at least one of the following criteria without having a Plan approved by the City Engineer.
  1. uncovers more than one acre,

2. in a watershed area, on a tract requiring a buffer, with a disturbed area greater than 2000 square feet, or
  3. with a disturbed area greater than one acre.
- b. Protection of Property - Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
  - c. More Restrictive Rules Shall Apply - Whenever conflicts exist between federal, state or local laws, ordinances, or rules, the more restrictive provision shall apply.

Section 18-27. Basic Control Objectives

A Plan may be disapproved pursuant to Section 38 of this Ordinance if the Plan fails to address the following control objectives:

- a. Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, and areas where hazardous substances are stored, are to be identified and receive special attention.
- b. Limit Time of Exposure - All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- c. Limit Exposed Areas - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- d. Control Surface Water - Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- e. Control Sedimentation - All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- f. Manage Storm Water Runoff - When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, Plans are to include measures to control the velocity at the point of discharge

so as to minimize accelerated erosion of the site and to decrease sedimentation to any Lake or Natural Watercourse.

Section 18-28. Mandatory Standards for Land-disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

a. Buffer zone

1. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the water-course of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the City Engineer may approve Plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
2. Unless otherwise provided, the width of a buffer zone is measured from normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
3. The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.
4. Where a temporary and minimal disturbance

is permitted as an exception by section 18-28(a)(1), land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be distributed such that there is no more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director of the Department of Environment, Health and Natural Resources.

5. No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards", in these waters.
  - b. Graded Slopes and Fills - The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.
  - c. Ground Cover - If more than one acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in section 18-29(b)(5), provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days following completion of construction or development whichever period is shorter.
  - d. Prior Plan Approval - No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, thirty (30) or more days prior to initiating the

activity, the Plan for such activity is filed with the City Engineer. Should the Plan be filed, approved and a grading permit be issued in less than 30 days from the filing of the Plan, the land-disturbing activity may commence.

- e. The person(s) conducting land-disturbing activity or an agent of that party shall contact the City Engineer at least 48 hours before commencement of the land-disturbing activity for the purpose of arranging an on-site meeting with the City Engineer or duly authorized representative to review and discuss the approved Plan and the proposed land-disturbing activity.
- f. Protective measures shall be provided for containment of hazardous substances.

Section 18-29. Design and Performance Standards

- a. Except as provided in section 18-29(b)(2), erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the United States Department of Agriculture, Natural Resource Conservation Service's (formerly Soil Conservation Service) "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures including but not limited to the Charlotte Mecklenburg Storm Water Design Manual.
- b. In High Quality Water (HQW) zones the following design standards shall apply.
  - 1. Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
  - 2. Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed

and constructed to provide protection from the run off of the Twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resource Conservation Service's (formerly Soil Conservation Service) "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this site or the United States or any generally recognized organization or association.

3. Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 mm) size soil particle transported into the basin by the runoff of that 2-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resource Conservation Service's (formerly Soil Conservation Service) "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
4. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
5. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

Section 18-30. Storm Water Outlet Protection

- a. Persons shall design and conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
  1. the velocity established by the table in paragraph (d) of this Section; or
  2. the velocity of the 10-year storm runoff in the receiving watercourse prior to development.

If conditions (1) or (2) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

- b. Acceptable Management Measures - Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:
  1. avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious,
  2. avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections,
  3. provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures,
  4. protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

- c. Exceptions - This rule shall not apply where it can be demonstrated that storm water discharge velocities will not create an erosion problem in the receiving watercourse.
- d. The following is a table for maximum permissible velocity for storm water discharges:

Maximum permissible velocities

| <u>Material</u>                        | F.P.S. | M.P.S. |
|--|--------|--------|
| Fine sand (noncolloidal)               | 2.5    | .8     |
| Sandy loam (noncolloidal)              | 2.5    | .8     |
| Silt loam (noncolloidal)               | 3.0    | .9     |
| Ordinary firm loam                     | 3.5    | 1.1    |
| Fine gravel                            | 5.0    | 1.5    |
| Stiff clay (very colloidal)            | 5.0    | 1.5    |
| Graded, loam to cobbles (noncolloidal) | 5.0    | 1.5    |
| Graded, silt to cobbles (colloidal)    | 5.5    | 1.7    |
| Alluvial silts (noncolloidal)          | 3.5    | 1.1    |
| Alluvial silts (colloidal)             | 5.0    | 1.5    |
| Coarse gravel (noncolloidal)           | 6.0    | 1.8    |
| Cobbles and shingles                   | 5.5    | 1.7    |
| Shales and hard pans                   | 6.0    | 1.8    |

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

Section 18-31. Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management shall be considered as part of the land-disturbing activity where the borrow material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

Section 18-32. Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

Section 18-33. Operations in Lakes or Natural Watercourses

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

Section 18-34. Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved Plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

Section 18-35. Additional Measures

Whenever the City Engineer, determines that significant continues, despite installation and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action. Additional measures may include maintaining a self-inspection record which shall be available to the City Engineer upon request.

Section 18-36. Existing Uncovered Areas

- a. All uncovered areas existing on the effective date of this Ordinance which resulted from land-disturbing activity, exceed one acre, are

subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

- b. The City Engineer will serve upon the landowner or other person in possession or control of the land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
- c. The City Engineer reserves the right to require preparation and approval of a Plan in any instance where extensive control measures are required.

Section 18-37. Permits

No person shall undertake any land-disturbing activity subject to this Ordinance without first obtaining a permit therefore from the City Engineer, except that no permit shall be required for any land-disturbing activity:

- a. for the purpose of fighting fires; or
- b. for the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or
- c. that does not exceed one acre in surface area except as established by Sec. 18-26(a)(2). In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. Although a permit is not required for activity comprising less than one acre except in the watershed area, such activity is subject to all other requirements imposed by this Ordinance, Section 26(b) and (c) and penalties described herein.

Section 18-38. Erosion and Sedimentation Control Plans

- a. Person(s) conducting land-disturbing activity shall be responsible for preparing a Plan for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract comprising more than one acre, if more than one acre is to be concurrently uncovered or as established by section 18-26(a)(2). Copies of the Plan shall be filed with the City Engineer and the Mecklenburg Soil and Water Conservation District.
- b. Persons conducting land-disturbing activity which covers one or more acre shall file copies of the Plan with the City Engineer and secure a grading permit before the land disturbing activity shall commence. A copy of the approved Plan shall be maintained on the job site by the persons conducting the land-disturbing activity. After approving the Plan, if the City Engineer, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the City Engineer may require a revised Plan. Pending the preparation of the revised Plan, work on effected area may cease or may continue under conditions outlined by the appropriate authority.
- c. Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or that person's attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.
- d. The Mecklenburg Soil and Water Conservation District within 20 days of receipt of any Plan,

or within such additional time as may be prescribed by the City Engineer, shall review such Plan and submit its comments and recommendations to the City Engineer. Failure of the District to submit its comments and recommendations within 20 days or within the prescribed additional time will not delay final action on the Plan.

- e. The City Engineer will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, approve with performance reservations, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. Denial of a Plan must specifically state in writing the reasons for denial. The City Engineer must approve, approve with modifications, approve with performance reservations, or deny a revised Plan within 15 days of receipt, or it is deemed to be approved. Plans not picked up from the City Engineer will be disapproved after 1 year. Plans not built within 3 years will be disapproved. If, following commencement of a land-disturbing activity pursuant to an approved Plan, the City Engineer determines that the Plan is inadequate to meet the requirements of this Ordinance, the City Engineer may require any revision that is necessary to comply with this Ordinance.
- f. Any Plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The City Engineer shall promptly notify the person submitting the Plan that the 30 day time limit for review of the Plan pursuant to section 18-38(e) shall not begin until a complete environmental document is available for review.
- g. The Plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the

requirements of this Ordinance. Plans must show properly designed measures for controlling runoff of pollutants, and storage areas for hazardous substances. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the City Engineer on request.

- h. A Plan may be disapproved upon a finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation, or other affiliate of the applicant:
  - 1. Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a Plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;
  - 2. Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;
  - 3. Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;
  - 4. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

For purposes of this subsection (h) an applicant's record may be considered for only the two years prior to the application date.

- i. Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the City Engineer the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.
- j. Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed

in violation of this Ordinance.

Section 18-39. Appeals

- a. The appeal of a disapproval or approval with modifications of a Plan, issuance of a Notice of Violation, assessment of a civil penalty or order of restoration shall be governed by the following provisions:
  1. The disapproval or modification of any proposed Plan by the City Engineer shall entitle the person to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval, or modification of the Plan. The hearing shall be conducted within 30 days after receipt of said written request for hearing.
  2. If any person contests the issuance of a notice of violation, assessment of a civil penalty, or an order of restoration, that person shall be entitled to a public hearing if such person submits to the City Engineer written demand for hearing within fifteen (15) days of receipt of the notice of violation, assessment of a civil penalty, or an order of restoration. The hearing shall be conducted within thirty (30) days after receipt of said written request for hearing.
  3. Hearings held pursuant to this section shall be conducted by the Storm Water Advisory Committee within 30 days after the date the written request for a hearing is received. The concurring votes per Committee bylaws will be necessary to reverse any order, requirement, decision or determination of any administration official charged with the enforcement of this Ordinance, or to decide in favor of an appellant any matter upon which it is required to pass or to grant variance from the provisions of this Ordinance. The Committee shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to vote. The final disposition of the Committee therefore based on findings of fact and conclusions of law, all of which shall be

immediately forwarded to the City Engineer.

4. The person submitting the Plan shall have 15 days following the disapproval or modification of a proposed Plan, to appeal the Charlotte-Mecklenburg Storm Water Advisory Committee's decision to the North Carolina Sedimentation Control Commission pursuant to Title 15, Chapter 4B Section .0018(b) of the North Carolina Administrative Code and G. S. 113A-61(c).
  5. Any further review of a decision by the Charlotte-Mecklenburg Storm Water Advisory Committee regarding issuance of a notice of violation, assessment of a civil penalty, or an order of restoration is through judicial review.
- b. In the event that a Plan is disapproved pursuant to Section 38(h) of this Ordinance, the City Engineer shall notify the Director of the Division of Land Resources of such disapproval within 10 days. The City Engineer shall advise the applicant and the Director in writing as to the specific reasons that the Plan was disapproved.

Section 18-40. Inspections and Investigations

- a. Agents, officials, or other qualified persons authorized by the City Engineer, will inspect the sites of land-disturbing activity to determine compliance with the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, and to determine whether the activity is being conducted in accordance with an approved Plan and whether the measures required in the Plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of each Plan approval.
- b. No person shall willfully resist, delay, or obstruct an authorized representative of the City Engineer while that representative is inspecting or attempting to inspect a land-disturbing activity under this section.
- c. If, through inspection, it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this Ordinance,

or rules, or orders adopted or issued pursuant to this Ordinance, or has failed to comply with an approved Plan, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Ordinance and inform the person of the actions that need to be taken to comply with this Ordinance. The notice shall set forth the measures necessary to achieve compliance with the Plan, specify a reasonable time period within which such measures must be completed, and warn that failure to correct the violation within the time period is subject to a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit an Plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out official duties. Any person who fails to comply within the time specified is subject to the civil penalties provided in section 18-41 of this Ordinance.

- d. The City Engineer shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.  
No person shall refuse entry or access to any authorized representative or agent of the City Engineer who requests entry for purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out official duties.
- e. The City Engineer shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.
- f. The person conducting the land disturbing activity will be responsible for self inspection of erosion and sediment control facilities at least once every 7 days or within 24 hours of a storm event of greater than 0.5 inches of rain per a 24 hour period.

- g. With regard to the development of any tract that is subject to this Ordinance, the City Engineer shall not issue approval to Mecklenburg County Building Standards Department to release a Certificate of Occupancy where any of the following conditions exist:
1. If the tract is in violation of this Ordinance; or
  2. If there remains due and payable to the City of Charlotte civil penalties which have been levied against the person conducting the land-disturbing activity for violation(s) of this Ordinance with regard to development of the tract; or
  3. If on the tract which includes multiple buildings on a single parcel, the requirements of the Plan have not been completed and the building for which a Certificate of Occupancy is requested is the last building then under construction on the tract.
  4. If on a tract which includes multiple parcels created pursuant to Charlotte Subdivision Ordinance, the requirements of the Plan have not been completed with respect to the parcel of which the Certificate of Occupancy is requested.

Section 18-41. Penalties

- a. Any person who violates any of the provisions of this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty for a violation, other than a stop-work order issued under G.S. 113A-65.1, is five hundred dollars (\$500). The maximum civil penalty for a violation of a stop-work order is five thousand dollars (\$5,000). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in G.S. 113A-61.1(b). A civil penalty may be assessed from the date the notice is served. The notice shall describe the violation with reasonable particularity, specify a reasonable

time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. Refusal to accept the notice or failure to notify the City Engineer of a change of address shall not relieve the violator's obligation to pay such penalty. However, no time period for compliance need be given for failure to submit a Plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out official duties. Each day of continuing violation shall constitute a separate violation.

- b. The amount of the civil penalty shall be assessed pursuant to the following:
  - 1. \$500 per day for failure to submit a Plan for approval prior to grading as required by this Ordinance.
  - 2. \$500 per day for failure to retain sediment from a land-disturbing activity in accordance with an approved Plan or terms of this Ordinance.
  - 3. \$250 per day for failure to provide adequate stabilization to restrain erosion within 30 working days of completion of any phase of grading or construction.
  - 4. \$250 per day for failure to file an acceptable, revised Plan after being notified by the City Engineer of the need to do so.
  - 5. \$250 per day for failure to maintain additional measures as required by Sec 18-35.
  
- c. The City Engineer shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4 and shall direct the violator to either pay the assessment or contest the

assessment as specified in Section 18-39. If a violator does not pay a civil penalty assessed by the City Engineer within 30 days after it is due the City Engineer shall request the City Attorney to institute a civil action to recover the amount of the assessment. The civil action may be brought in the Mecklenburg County Superior Court or the Superior Court for the County where the violator's residence or principal place of business is located.

- d. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
- e. Any person who fails to protect adjacent properties from pollutants shall be subject to a civil penalty as provided in section 18-43 of this Ordinance. Penalties for pollutants leaving the construction site may be assessed based on the cost to restore damaged property off-site including but not limited to clean-up costs, devaluation of the property, value of animal and plant life damaged, and City administrative costs.
- f. Civil penalties collected pursuant to this Ordinance shall be credited to the general fund as a nontax revenue.
- g. A violation of City Sedimentation and Erosion Control Ordinance Section 18-21 through 18-46 shall not constitute a misdemeanor or infraction punishable under North Carolina General Statute 14-4, but instead shall be subject to the civil penalties fixed by this section.

Section 18-42. Restoration of Areas Affected by Failure to Comply.

The City Engineer may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by Section 28 (c), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil penalty or injunctive relief authorized under this Ordinance.

Section 18-43. Injunctive Relief

- a. Whenever the City Engineer has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any term, condition, or provision of an approved Plan, the City Engineer may, either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the City Attorney to institute a civil action in the name of the City of Charlotte, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Mecklenburg County.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgements as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

Section 18-44. Severability

If any section or sections of this Ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

Section 18-45. Effective Date

This Ordinance shall be effective upon adoption.

Section 18-46. Revisions

The City of Charlotte shall incorporate revisions required by the Commission within 8 months following receipt of the required revisions.

Sections 18-47. -- 18-50. reserved."

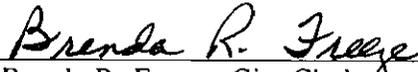
Approved as to form:

*Asst.* Hope A. Root  
City Attorney

CERTIFICATION

I, Brenda R. Freeze, 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 30th day of January, 1995, the reference having been made in Minute Book 107, and recorded in full in Ordinance Book 46. Page(s) 202-228

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 31st day of January, 1995.

  
\_\_\_\_\_

Brenda R. Freeze, City Clerk

**AN ORDINANCE TO AMEND ORDINANCE NO. 3890-X, THE 1994-95 BUDGET ORDINANCE, PROVIDING APPROPRIATIONS TO FUND POLICE EQUIPMENT FROM THE ASSETS FORFEITURE FUNDS.**

---

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina;

Section 1. That the sum of \$550,875 is hereby estimated to be available from the General Fund-Assets Forfeiture: NC Dept of Revenue Fund Balance (0101; 4139) for \$486,257.50; and US Dept of Justice Fund Balance (0101; 4137) for \$64,617.50.

Section 2. That the sum of \$550,875 is hereby appropriated to the General Fund- Police Department.

Section 3. Completion of these purchases may extend beyond the end of the fiscal year; therefore, this ordinance will remain in effect for the duration of the process.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. It is the intent of this ordinance to be effective upon its adoption.

Approved as to form:

  
H. M. Mendenhall Jr.  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 30th day of January, 1995, the reference having been made in Minute Book 107, and is recorded in full in Ordinance Book 46, at page(s) 229.

Brenda R. Freeze  
City Clerk

**ORDINANCE** 228

**AN ORDINANCE AMENDING CHAPTER 14, SECTION 131  
OF THE CHARLOTTE CITY CODE**

WHEREAS, on September 14, 1981, the Charlotte City Council approved a policy for determining speed limits on thoroughfares and non-residential streets; and,

WHEREAS, it has been determined, upon the basis of an engineering and traffic investigation, that the speed limit on certain streets of the City of Charlotte should be changes; and,

WHEREAS, G.S. 20-141 (speed restrictions) requires adoption of a speed limit ordinance to amend Chapter 14, Section 131(c) of the Charlotte City Code,

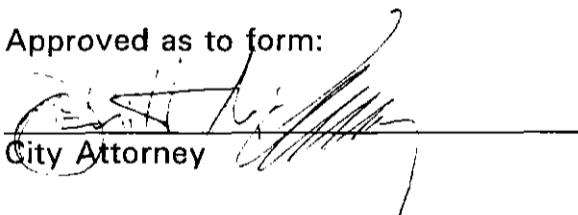
NOW THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte,

Section 1: That Schedule X referred to in Chapter 14-131(c) of the Charlotte City Code be amended by deleting a speed limit due to construction on the following City System Street as described below:

Carmel Road from Quail Hollow Road to Pineville-Matthews  
Road (NC51) 45 MPH

Section 2: Section 1 shall become effective upon adoption and as signs are erected giving notice of the speed limits, as required by N.C.G.S. Section 20-141.

Approved as to form:

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

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 30th day of January, 1995, the reference having been made in Minute Book 107, and is recorded in full in Ordinance Book 46, at page(s) 230.

Brenda R. Freeze  
City Clerk