

December 4, 1972
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ORDINANCE NO. 682-X

AN ORDINANCE TRANSFERRING FUNDS TO COVER A 1969-70 SALES TAX REFUND
DISALLOWED BY THE NORTH CAROLINA DEPARTMENT OF REVENUE.

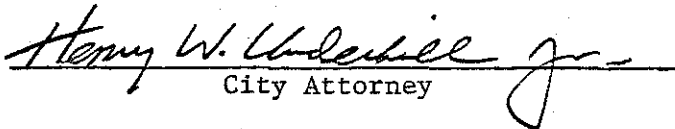
BE IT ORDAINED by the City Council of the City of Charlotte,
North Carolina;

Section 1. That the sum of \$650.60 is hereby transferred
from Capital Improvement Project Account 537.66 (Right of Way Payments
to the State Highway Commission) to Capital Improvement Project Account
537.43 (30th Street Viaduct), these funds to be used to cover a 1969-70
sales tax refund which was disallowed by the North Carolina Department
of Revenue.

Section 2. That all ordinances or parts of ordinances in
conflict herewith are hereby repealed.

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

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 4th day of December, 1972, the
reference having been made in Minute Book 58, and recorded in full in
Ordinance Book 19, at Page 369.

Ruth Armstrong, City Clerk

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ORDINANCE NO. 683-X

AN ORDINANCE ORDERING THE DWELLING AT 2008 Lyndhurst Ave.
 TO BE VACATED AND CLOSED 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
Clarence A. J. Allen RESIDING AT
Box 4-1265 Spenard, Alaska

WHEREAS, the dwelling located at 2008 Lyndhurst Ave.
 in the City of Charlotte has been found by the Superintendent of Building
 Inspection to be unfit for human habitation and the owners thereof have
 been ordered to ~~vacate and~~ close 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 owners have failed to comply with said order served
 by registered mail on the 9-20-72 and
10-4-72; NOW THEREFORE,

BE IT ORDAINED by the City Council of the City of Charlotte,
 North Carolina, that the Superintendent of Building Inspection is hereby
 ordered to cause the dwelling located at 2008 Lyndhurst Ave.
 in the City of Charlotte to be ~~vacated and~~ closed 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.

Approved as to form:

Henry W. Underhill Jr.
 City Attorney

Read, approved and adopted by the City Council of the City of Charlotte,
 North Carolina, in regular session convened on the 4th day of December,
 1972, the reference having been made in Minute Book 58, and recorded in
 full in Ordinance Book 19, at Page 370.

Ruth Armstrong, City Clerk

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ORDINANCE NO. 684-X

AN ORDINANCE ORDERING THE Removal of Weeds and Grass PURSUANT TO SECTION 6.103 AND 6.104 OF THE CITY CHARTER, CHAPTER 10, ARTICLE I, SECTION 10-9 OF THE CITY CODE AND CHAPTER 160-200 OF THE GENERAL STATUTES OF NORTH CAROLINA

Section 1.

WHEREAS, Weeds and Grass located on the premises at (address) 3108 Sudbury Rd. has been found to be a nuisance by the Supervisor of Community Improvement Division of the Public Works Department, and the owner or those responsible for the maintenance of the premises has been ordered to remove the same, pursuant to Chapter 10, Article I, Section 10-9 of the Code of the City of Charlotte; and

WHEREAS, the owner (s) or person (s) responsible for the maintenance of these premises has (have) failed to comply with the said order served by registered mail on October 10, 1972: and

WHEREAS, The City Council, upon consideration of the evidence, finds as a fact that the aforesaid premises are being maintained in a manner which constitutes a public nuisance because of Weeds and Grass

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that the Supervisor of the Community Improvement Division, of the Public Works Department is hereby ordered to cause removal of Weeds and Grass from the aforesaid premises in the City of Charlotte, and that the City assess costs incurred, and this shall be a charge against the owner (owners), and shall be a lien against this property, all pursuant to Chapter 10, Article I, Section 10-9 of the Code of the City of Charlotte.

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

Approved as to form:

Henry Underhill
City Attorney
(by W. H. Watts)

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 4th day of December, 1972, the reference having been made in Minute Book 58, and recorded in full in Ordinance Book 19, at Page 371.

Ruth Armstrong, City Clerk

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ORDINANCE 685-X

AN ORDINANCE AMENDING SCHEDULE 10 RELATING TO SPEED LIMITS
REFERRED TO IN CHAPTER 20, SECTION 86(c), OF THE CHARLOTTE
CITY CODE

WHEREAS, it has been determined, upon the basis of an engineering and traffic investigation that the speed limit on a portion of Sharon Lane should be increased.

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

Section 1. The speed limit on Sharon Lane from its junction with Providence Road (NC 16) southbound along Sharon Lane to its junction with Sharon Road should be increased from 40 MPH to 45 MPH.

Section 2. This ordinance shall become effective after signs are erected giving notice thereof.

Approved as to form:

Henry W. Underhill Jr.
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 4th day of December, 1972, the reference having been made in Minute Book 58, and recorded in full in Ordinance Book 19, at Page 372.

Ruth Armstrong, City Clerk

ORDINANCE NO. 686-X

AN ORDINANCE ESTABLISHING A CAPITAL IMPROVEMENT PROJECT ACCOUNT
TO IMPROVE FIFTEEN INTERSECTIONS IN THE CITY OF CHARLOTTE.

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

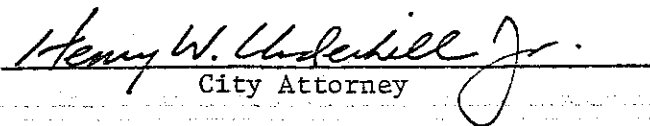
Section 1. That the State Grant-In-Aid Revenue Account in
the Capital Project Fund is hereby raised \$70,000 and that Capital
Improvement Project Account 538.13 (Intersection Improvements) is hereby
established with an appropriation of \$70,000.

Section 2. That this project shall be carried out in accordance
with the contractual provisions set forth in the municipal agreement
approved by the City of Charlotte and the State Highway Commission on
November 7, 1972 under which the State agreed to reimburse the City to
a maximum of \$70,000 for the improvement of fifteen intersections.

Section 3. That all ordinances or parts of ordinances in
~~conflict herewith are hereby repealed.~~

Section 4. That this ordinance shall become effective upon
its adoption.

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 4th day of December, 1972, the
reference having been made in Minute Book 58, and recorded in full in Ordinance
Book 19, at Page 373.

Ruth Armstrong, City Clerk

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ORDINANCE 687

AN ORDINANCE AMENDING CHAPTER 23, "ZONING", OF THE CODE OF THE CITY OF CHARLOTTE BY THE ESTABLISHMENT OF A NEW USE.

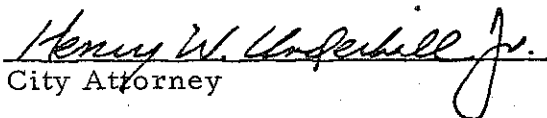
BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina:

Section I. That Chapter 23, Article III, Division I, paragraph (b) is hereby amended by placing in proper alphabetical order the following new use to be permitted in all business and industrial districts.

" Entertainment establishments such as lounges, night clubs, bars, taverns or cabarets employing topless waitresses, dancers, barmaids or models; provided any structure so used shall be at least 400 feet from a residential structure located in a residential district.

Sec. II. That this ordinance shall become effective upon adoption.

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 4th day of December, 1972, the reference having been made in Minute Book 58, and recorded in full in Ordinance Book 19, at Page 374.

Ruth Armstrong, City Clerk

Ordinance No. 688

AN ORDINANCE CREATING CHAPTER 8A OF THE CITY CODE, ENTITLED "FLOODWAY REGULATIONS", ESTABLISHING DEVELOPMENT AND USE REGULATIONS FOR CERTAIN FLOOD HAZARD AREAS OF THE CITY OF CHARLOTTE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF.

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

Section 1. The City Code of the City of Charlotte be amended by the addition of a new Chapter 8A, entitled "Floodway Regulations" to read as follows:

"Sec. 8A-1. Enactment, Findings of Fact, and Legislative Intent.

- (a) Enactment Clause. The City Council of the City of Charlotte, Mecklenburg County, State of North Carolina, pursuant to the authority conferred by Chapter 143, Part 6 of the General Statutes of North Carolina, does ordain and enact into law this ordinance.
- (1) The purpose of this ordinance is to establish regulations to help minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage and to otherwise regulate the use of the flood hazard areas to prevent or minimize loss of life, injuries, property damage, and other losses (both public and private) in flood hazard areas and to promote the public health, safety, and general welfare.
 - (2) These regulations shall be known and may be cited as the "Floodway Regulations of Charlotte, North Carolina".
- (b) Findings of Fact.
- (1) Flood losses resulting from Periodic Inundation. Creeks and streams and adjoining low lands in Charlotte are subject to periodic inundation and as such are flood hazard areas. Inundation of these areas to the Regulatory Flood as described in this Ordinance can result in loss of life, injuries and property damage, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
 - (2) General Causes of these Flood Losses.

These flood losses are caused by the cumulative effect of obstructions in flood heights and velocities, and by the occupancy of flood-hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated or otherwise protected from flood damages.

(3) Methods Used to Analyze Flood Hazards.

The method of analyzing flood hazards shall consist of a series of interrelated steps as follows:

- (A) Hydrological determination of the nature and magnitude of the Regulatory Flood, based upon engineering calculations which permit a consideration of such hydrologic factors as rainfall patterns, infiltration rates, slope of watershed and length of watercourse. The Regulatory Flood is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this Ordinance.
- (B) Calculation of water surface elevation of the Regulatory Flood, based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to accommodate the Regulatory Flood.
- (C) Computation of the Floodway District required to convey the Regulatory Flood without increasing the height of this flood by more than one foot at any point.
- (D) Delineation of Floodway Encroachment Lines within which no obstruction is permitted which would impede the flow of water. The Floodway Encroachment Lines are the exterior limits of the Floodway District.
- (E) Delineation of the Floodway-Fringe District being that area outside the Floodway Encroachment Lines but which is still subject to inundation by the Regulatory Flood.

(c) Statement of Legislative Intent.

The regulations of the Floodway District and Floodway-Fringe District herein set forth, are intended to protect areas of designated flood plains subject to and necessary for regulating flood waters, and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the city as provided in the comprehensive plan.

- (1) The specific intent in establishing the Floodway and Floodway-Fringe District includes the following:
 - (A) To control in flood hazard areas uses such as fill dumping, storage of materials, structures, buildings, and any other works which acting alone or in combination with other existing or future uses would cause damaging flood heights and velocities by obstructing flows and reducing valley storage.
 - (B) Protect human life and health.

- (C) Minimize public and private property damage.
 - (D) To reduce the financial burdens imposed on the community, its governmental units and its citizens by frequent and periodic floods.
 - (E) To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters, or otherwise cause danger to life and property at or above or below their locations along the floodway.
 - (F) To provide sufficient drainage courses to carry abnormal flows of storm water in periods of heavy precipitation; and
 - (G) To meet the needs of the stream to carry flood waters and protect the creek channels and flood plains from encroachment so that flood heights and flood damage will not be appreciably increased.
- (2) This Ordinance is intended to permit only that development within the flood plain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth in this ordinance shall apply to all property located within the Floodway District, and the Floodway-Fringe District as shown on the Official Flood Area Map Series. It is the intent of this ordinance that these regulations combine with and qualify the Zoning Ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the Floodway District or the Floodway-Fringe District and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this Ordinance.

Sec. 8A-2. General Provisions

- (a) Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- (1) Equal Degree of Encroachment - a standard applied in determining the location of encroachment limits so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of floodflows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.
 - (2) Flood - a temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the watercourse.

- (3) Floodway - that portion of the channel and flood plain of a stream designated to provide passage for the Regulatory Flood, without increasing the elevation of that flood at any point by more than one foot.
- (4) Floodway Encroachment Lines - lateral limits of a Floodway District along streams or other bodies of water, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted herein. Their purpose is to preserve the floodcarrying capacity of the Floodway. Their location is such that the floodway between them, including the channel will handle the Regulatory Flood flow.
- (5) Floodway Fringe District - the land area located between the Encroachment Lines of the Floodway District and maximum elevation subject to inundation by the Regulatory Flood as defined herein.
- (6) Flood Protection Elevation - the elevation to which structures and uses regulated by this Ordinance are required to be elevated or flood proofed. This elevation is shown on the Official Flood Areas Map.
- (7) Obstruction - any dam, wall, embankment, levee, dike, pile, abutment, spoil material, bridge conduit, culvert, building, wire, fence, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or Regulatory Flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
- (8) Person - any natural person, firm, partnership, association, corporation or governmental unit.
- (9) Reach - a hydraulic engineering term to describe longitudinal segments of a stream or river. In an urban area, an example of a reach would be the segment of a stream or river between two consecutive bridge crossings.
- (10) Regulatory Flood - the Regulatory Flood is a flood which is representative of large floods reasonably characteristic of what can be expected to occur on a particular stream. The Regulatory Flood has an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.
- (11) Stream - a water course that collects surface runoff from an area of one square mile or greater.

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- (12) Structure - anything constructed or erected on the ground, or attached to the ground including but not limited to the following: buildings, factories, sheds, cabins, mobile homes, bridges, storage tanks, towers and other similar items.
- (b) Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the incorporated area of the City of Charlotte shown on the Official Flood Areas Map series as being located within the boundaries of the Floodway and/or Floodway Fringe Districts.
- (1) Floodway and Floodway Fringe Districts may be established by the City Council for a particular stream or reach thereof only after a careful determination of the flood hazards for the area has been made in accordance with procedures outlined in Sec. 8A-1(b)(3) of this Ordinance.
- (2) When approved by the City Council Floodway and Floodway Fringe Districts so established shall be added to and become a part of the Charlotte Official Flood Areas Map Series, and the requirements of this ordinance shall become applicable to lands within the districts, effective on the date the districts are established.
- (c) Adoption of The Official Flood Areas Map Series.

The Charlotte Official Flood Areas Map Series, showing the location of duly defined Floodway and Floodway-Fringe Districts and other pertinent data is hereby adopted by reference and declared to be a part of this ordinance.

- (1) The Charlotte Official Flood Areas Map Series shall be filed permanently with the Clerk of Superior Court, with the Mecklenburg County Register of Deeds, and with the Director of the North Carolina Department of Water and Air Resources. In addition, copies of the Official Flood Areas Map shall be filed in the offices of the City Clerk and the Public Works Department.
- (2) In appropriate cases, an amendment may be made to the Official Flood Areas Map and such amendments shall be made in accordance with the procedures prescribed by Chapter 143, Part 6 of the North Carolina General Statutes and by Sec. 8A-8 of this ordinance. The existing location of any Floodway or Floodway-Fringe District boundary may be amended in cases where:
- (A) A flood control project of the federal, state, county, or city government has substantially altered the flood hazard;
- (B) Flood data indicates that the boundaries of either of the Districts as shown on the Official Flood Areas Map are no longer correct; or
- (C) A private individual, corporation, firm or city agency has submitted plans to the City Engineer for a channel improvement or relocation which would affect the location of the existing district boundaries as shown on the Official Flood Areas Map. A channel improvement or relocation requiring an amendment to the Official Flood Areas Map shall not be allowed until the amendment to the Official

Flood Areas Map is approved.

(3) Rules for Interpretation of District Boundaries.

The boundaries of districts shall be determined from information presented on the Official Flood Areas Map Series. In the absence of other information, boundaries shall be determined by scaling distances on the map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Flood Areas Map (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Board of Adjustment, upon a recommendation by the City Engineer, shall make the necessary interpretation and direct that map district boundary corrections be made where it finds that such are required. In such instances, the Flood Protection Elevation shall be the governing factor in locating the district boundary on any property. Any person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Adjustment.

(d) Compliance.

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

(e) Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

(f) Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as bridge openings restricted by debris. This Ordinance does not imply that areas outside the flood hazard districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Charlotte or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 8A-3 Floodway District (FW) Regulations

- (a) The Floodway District delineates the creek or stream channel and that portion of adjacent flood plain land which is required to carry and discharge the flood water of flood flows of any river or stream associated with the Regulatory Flood as defined herein.

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(b) Artificial Obstruction Prohibited.

The placement of any artificial obstruction in the Floodway District is prohibited, except as provided in Sec.8A-3(c) below, unless a Special Use Permit for such artificial obstruction has been approved by the City Council.

(c) Permitted Uses.

The following uses shall be permitted by right within the Floodway District to the extent that they are otherwise permitted by the Zoning Ordinance and provided they do not employ structures, fill or storage of materials or equipment except as provided herein.

- (1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.
- (2) Loading areas, parking areas, rotary aircraft ports, and other similar uses provided they are no closer than 25 feet to the stream bank.
- (3) Lawns, gardens, play areas, bikeways, pedestrian pathways and other similar uses.
- (4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horse-back riding trails, open space and other similar private and public recreational uses.
- (5) Streets, bridges, overhead utility lines, creek and storm drainage facilities, sewage or waste treatment plant outlets, water supply intake structures and other similar public community or utility uses.
- (6) Temporary facilities (for a specified number of days), such as displays, circuses, carnivals, or similar transient amusement enterprises.
- (7) Boat docks, ramps, piers, or similar structures.
- (8) Dams - provided they are constructed in accordance with specifications approved by the Public Works Department.

(d) Uses Requiring Special Use Permits.

The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted within a Floodway District only upon approval of a Special Use Permit as provided by Sec.8A-5 of this ordinance. These uses are also subject to the requirements of Sec.8A-3(e) below which apply to all Floodway District Special Use Permits.

- (1) Any use or accessory use employing a structure, excluding structures designed for human habitation.

- (2) Open storage of any material or equipment.
 - (3) Underground storage of fuel or flammable liquids.
 - (4) Parking, loading areas, rotary aircraft ports and other similar uses when located less than 25 feet to the stream bank.
 - (5) Other uses similar in nature to those listed in items 1-4 above.
- (e) Standards for Floodway Special Permit Uses.
- (1) All Special Permit Uses - no structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special use which, acting alone or in combination with existing or future uses, perceptibly reduces the capacity of the floodway or increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all Floodway District Special-Permit Uses shall be subject to the following standards:
 - (A) Fill
 - (1) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
 - (2) Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.
 - (B) Structures (temporary or permanent)
 - (1) Structures shall not be designed for human habitation.
 - (2) Structures shall have a low flood damage potential.
 - (3) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of floodflow; and
 - b. So far as practicable, structures shall be placed approximately on the same floodflow lines as those of adjoining structures.

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- (4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and
 - (5) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood protection elevation for the particular area or floodproofed.
- (C) Storage of Material and Equipment.
- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plantlife is prohibited.

Sec. 8A-4 Floodway-Fringe District (FF) Regulations

(a) The Floodway-Fringe District consists of the land area located between the encroachment lines of the Floodway District and the maximum elevation subject to inundation by the Regulatory Flood.

(b) Permitted Uses.

The following uses shall be permitted within the Floodway-Fringe District to the extent they are otherwise permitted by the Zoning Ordinance.

- (1) Uses Permitted Below the Flood Protection Elevation.
 - (A) Any use permitted and as regulated in the Floodway District.
 - (B) Residential accessory structures provided such are firmly anchored to prevent flotation.
 - (C) Fill material graded to drain on a minimum of 1% grade provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten (10) feet beyond the limits of the structure foundation and shall have a side slope no steeper than one and one-half ($1\frac{1}{2}$) feet horizontal to one (1) foot vertical.
 - (D) Structure foundations and supports provided such are firmly anchored to prevent flotation.
- (2) Uses Permitted above Flood Protection Elevation.
 - (A) Any use permitted by the Zoning Ordinance provided that the finished floor elevation of any structure is located at or above the Flood Protection Elevation. Heating and electrical equipment installed below Flood Protection Elevation shall be flood proofed.

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- (c) Uses Permitted by Special Use Permit below the Flood Protection Elevation.
- (1) Any use not designed or intended for human habitation provided that any structure is firmly anchored and protected to the Flood Protection Elevation by flood proofing or other means.
- (d) Uses Prohibited below the Flood Protection Elevation.
- (1) Above ground storage or processing of materials that are flammable or explosive or which could otherwise be injurious to human, animal or plant life in time of flood is prohibited.

Sec. 8A-5 Special Use Permits.

- (a) Uses listed in this ordinance as requiring a special use permit may be established only after approval by the City Council subsequent to the recommendation of the Planning Commission.
- (b) Application.

Applications for special use permits or amendments thereto shall be filed in the office of the Planning Commission, then forwarded by the Commission with a recommendation on the request to the City Council for review and consideration. The applicant shall submit to the Planning Commission completed forms together with four sets of plans drawn to scale, showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel floodway and regulatory flood protection elevation. Where special circumstances necessitate detailed information, the applicant shall furnish such of the following additional information as is deemed necessary by the Planning Commission for the evaluation of the effects of the proposed use upon flood flows:

- (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
- (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
- (3) Profile showing the slope of the bottom of the channel of flow line of the stream.

- (4) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.
 - (5) Additional information as may be required.
- (c) The Planning Commission in its review of the application and prior to formulating a recommendation shall transmit two copies of the application and supplemental information to the City Public Works Department for technical assistance in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.
- (d) In passing on an application for a special use permit the Planning Commission and the City Council shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard. In addition, the Planning Commission and the City Council shall consider the following factors although not limited to such factors.
- (1) The probability that materials may be swept on to other lands or downstream to the injury of others.
 - (2) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage to the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The availability of alternative locations not subject to flooding for the proposed use.
 - (6) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (7) The relationship of the proposed use to the comprehensive plan and flood management program for the area.
 - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
 - (10) Such other factors which are relevant to the purposes of this ordinance.

(c) Conditions Attached to Special Use Permits.

Upon consideration of the factors listed above and the purposes of this ordinance, the Planning Commission may recommend and the City Council may attach such conditions to the granting of a Special Use Permit as it deems necessary to further the purposes of this ordinance. Among such conditions, without limitation because of specific enumeration may be included:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitations on periods of use and operation.
- (3) Imposition of operational controls, the enforcement of this ordinance, and the lein power of the local government.
- (4) Requirements for consturction of channel modifications, dikes, levees, and other protective measures.
- (5) Flood Proofing measures. Flood proofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The City Council may require that the applicant submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. The following flood proofing measures may be required, without limitation because of specific enumeration:
 - (A) Anchorage to resist flotation and lateral movement.
 - (B) Installation of watertight door, bulkheads, and shutters, or similar methods of construction.
 - (C) Reinforcement of walls to resist water pressures.
 - (D) Use of paints, membranes, or mortars to reduce seepage of water through walls.
 - (E) Addition of mass or weight to structures to resist flotation.
 - (F) Installation of pumps to lower water levels in structures.
 - (G) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.

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- (H) Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.
- (I) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (J) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back up of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.
- (K) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.
- (L) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare in a manner which will assure that the facilities are situated at elevations above the height associated with the regulatory flood protection elevation or are adequately flood-proofed to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters.

Sec. 8A-6 Non-Conforming Uses.

- (a) A structure or the use of a structure or premises which was lawful before becoming subject to this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions.
 - (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.
 - (2) If such use is changed or altered to become a conforming use, it shall not thereafter be used for any non-conforming use.
 - (3) If such use is discontinued for twelve (12) consecutive months, any future use of the building or premises shall conform to this ordinance.
 - (4) If any non-conforming use or structure is destroyed by any means, including floods, to an extent that cost of restoration would exceed 60 percent of its appraised value, the use or structure shall not be reconstructed except in conformity with the provisions of this ordinance, provided that a non-conforming use or structure may be reconstructed if it is located outside the Floodway District and if upon reconstruction is adequately and safely flood proofed, elevated or otherwise protected in conformity with Sec. 8A-5 (e) (1) - (5).

- (5) Any alteration, addition, or repair to any non-conforming structure which would result in substantially increasing its flood damage potential shall be protected by measures pursuant to Sec. 8A-5 (e) (1) - (5) of this ordinance.

Sec. 8A-7 Administration.

(a) Floodway Ordinance Administrator.

This ordinance shall be administered and enforced by the Charlotte Zoning Administrator.

(b) Floodlands Development Permit.

A Floodlands Development Permit issued by the Zoning Administrator in conformity with the provisions of this ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or land, including any grading or fill operations; and prior to the change or extension of a non-conforming use.

(c) Application for Permit.

Application for a Floodlands Development Permit shall be made to the Zoning Administrator, on forms furnished by him, and shall include the following information where applicable:

Three sets of plans drawn to scale showing the boundaries of the lot, existing and proposed grades, the nature, location, and dimensions of any structures, fill, storage of materials, and the location of the foregoing in relation to the channel, the Floodway District, the Floodway-Fringe District, and the Flood Protection Elevation.

(d) Conformance to Approved Plans.

All site development and use shall conform to approved plans and applications. Use, arrangement, or construction at variance with that approved and authorized shall be deemed a violation of this ordinance.

(e) Certificate of Compliance.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued therefor by the Zoning Administrator.

- (1) Issuance of a Certificate of Occupancy, as required by Section 23-90 of the Charlotte Zoning Ordinance, may satisfy the requirements of this section, provided such certificate states that the subject use or structure complies with the provisions of this Ordinance.

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- (2) The applicant may be required to submit certification by a registered professional engineer, architect or surveyor where qualified that the finished fill and building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance.

(f) Board of Adjustment.

The Charlotte Zoning Board of Adjustment shall assist in the interpretation on this ordinance and shall judge where variances from the provisions of this ordinance may be granted.

- (1) Administrative Review- the Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- (2) Variances - the Board may authorize upon appeal in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardships, where the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit, and where substantial justice will be done. No variance shall have the effect of allowing in any district uses prohibited in that district by either this ordinance or the Charlotte Zoning Ordinance. Further, no variance shall permit a lower degree of flood protection than the flood protection elevation for the particular area.
- (3) The Board of Adjustment shall be governed by the organizational and procedural guidelines established under Article VII, Division 2 of the Charlotte Zoning Ordinance.

(g) Appeals to the Court.

Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City of Charlotte or Mecklenburg County to the Mecklenburg County Superior Court.

Sec. 8A-8 Amendments

(a) Duties of the City Council.

The City Council of the City of Charlotte may from time to time on its own motion or on petition amend, supplement, or change, modify, or repeal the boundaries or regulations herein, or subsequently established.

(b) Recommendations of Planning Commission.

No amendment shall become effective unless it first be submitted to the Planning Commission for its recommendations. Failure of the Planning Commission to make recommendation for a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation.

Sec. 8A-9 Abrogation, Greater Restrictions, and Separability.

(a) Abrogation and Greater Restrictions.

It is not intended by this ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provisions of law or ordinance, or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions or law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this ordinance shall control.

(b) Separability.

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction the remainder of this ordinance shall not be affected there by.

Sec. 8A-10 Violation.

Any person, firm or corporation who violates any provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor. If the Flood Zone Administrator determines that a violation of this ordinance has occurred he shall notify the person, firm or corporation responsible for such violation, and indicate the action necessary to correct it. Failure to correct an identified violation shall constitute a separate violation of this ordinance for each ten (10) days that such failure continues after written notice has been received from the Flood Zone Administrator. The Flood Zone Administrator shall give any person violation of any provision of this ordinance a reasonable opportunity, not to exceed thirty (30) days, to correct such violation before pursuing other legal action".

Sec. 2. That, this ordinance shall become effective upon adoption.

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 4th day of December, 1972, the reference having been made in Minute Book 58, and recorded in full in Ordinance Book 19, at Pages 375 through 390.

Ruth Armstrong, City Clerk