

January 10, 1983  
Ordinance Book 31 - Page 429

ORDINANCE NO. 1280-X

AN ORDINANCE TO AMEND ORDINANCE NO. 1184-X, THE 1982-83 BUDGET ORDINANCE, APPROPRIATING \$425,000 OF THE 1982 MUSEUM BONDS FOR ARCHITECTURAL FEES.

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

Section 1. That the sum of \$425,000 be appropriated from the 1982 Museum Bonds to Fund 2010; Account 481.00 (Mint Museum Expansion). These funds will be used to contract architectural services required for expansion of the Mint Museum of Art.

Section 2. That the Finance Director or his designee is hereby authorized to lend the sum of \$425,000 from Municipal Debt Service Fund to the 481.00 (Mint Museum Expansion) account until the 1982 Museum Bonds appropriated and authorized for this project are issued. Upon issuance of these bonds, these funds will be repaid to the Municipal Debt Service Fund.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4: 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 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Page 429.

Pat Sharkey, City Clerk

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ORDINANCE NO. 1281-X

AN ORDINANCE TO AMEND ORDINANCE NO. 1184-X, THE 1982-83 BUDGET ORDINANCE, ESTIMATING STATE GRANT REVENUES TO PROVIDE MATCHING FUNDS FOR WATER MAIN INSTALLATION IN THE NORTH TRYON TO 36TH STREET AREA.

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

Section 1. That the sum of \$187,500 is hereby estimated to be available from State Grant SBH-1137 to be appropriated to Fund 2071, Account 635.41 (North Tryon Street from Dalton Avenue to 36th Street). These funds will be used for water main construction in the North Tryon to 36th Street area.

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 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. 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 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Page 430.

Pat Sharkey  
City Clerk

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ORDINANCE NO. 1282-X

AN ORDINANCE TO AMEND ORDINANCE NO. 1184-X, THE 1982-83 BUDGET ORDINANCE, TRANSFERRING FUNDS FROM SCHOOL DISTRICT PARKS ACCOUNT TO IMPROVEMENTS TO EXISTING PARKS FOR GENERAL PARK IMPROVEMENTS.

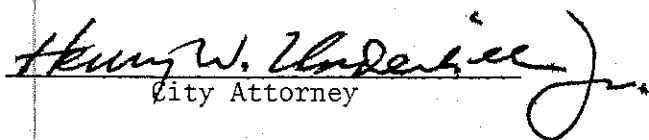
BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina;

Section 1. That the sum of \$93,692.66 is hereby transferred from Fund 2010, Account 705.00 (District School Parks) to Fund 2010, Account 701.00 (Improvements to Existing Parks). These funds represent unspent appropriations previously allocated to Carmel Junior High School Park and will be used to perform general improvements at City parks.

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

Section 3. 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 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Page 431.

Pat Sharkey  
City Clerk

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ORDINANCE NO. 1283-X

AN ORDINANCE TO AMEND ORDINANCE NO. 1184-X, THE 1982-83 BUDGET ORDINANCE, ESTIMATING REVENUES FROM THE MINT MUSEUM BOARD OF DIRECTORS AND APPROPRIATING THESE FUNDS TO PROVIDE CLERICAL ASSISTANCE AT THE MINT MUSEUM.

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


Section 1. That the sum of \$16,360 is hereby estimated to be available from the Mint Museum provided by the Board of Directors to fund additional hours for Receptionist and Museum Aide functions.

Section 2. That the sum of \$16,360 is hereby appropriated to the Mint Museum of Art (235.00.013) to fund additional temporary hours for a Receptionist position and two Museum Aide positions, one in the Delhom Gallery and the other in the Exhibitions Department.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Page 432.

Pat Sharkey  
City Clerk

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ORDINANCE NO. 1284-X

AN ORDINANCE TO AMEND ORDINANCE NO. 1184-X, THE 1982-83 BUDGET ORDINANCE ADDING POSITIONS IN THE LANDFILL DIVISION OF THE OPERATIONS DEPARTMENT.

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

Section 1. That the table of organization for the Operations Department, Landfill Division, 511.00 is hereby amended to add the following:

Full Time

<u>Classification Code</u>	<u>Title</u>	<u>No. of Positions</u>
1105	Equipment Operator II	2

These positions will be used to handle the additional workload at the Speedway Landfill when it is opened to the public.

Section 2. That the number of person weeks for permanent part-time positions are hereby increased by 22 person weeks. This increase will be for a Cashier I position to process the receipts from the fee system at the Landfill.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Approved as to form:

Henry W. Anderson Jr.  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Page 433.

Pat Sharkey  
City Clerk

ORDINANCE NO. 1285-X

AN ORDINANCE ORDERING THE DWELLING AT 1632 Taylor Ave.  
TO BE VACATED AND CLOSED/~~and demolish garage~~ 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  
Marshall Sanders RESIDING AT  
6029 Cherrycrest Lane

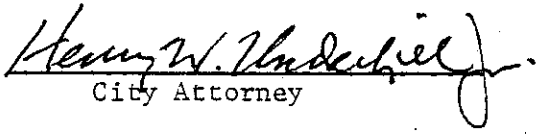
WHEREAS, the dwelling located at 1632 Taylor Ave.

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 2/10/82 and  
3/4/82 : 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 1632 Taylor Avenue  
in the City of Charlotte to be vacated and closed/<sup>and demolish garage</sup> 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:

  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte,  
North Carolina, in regular session convened on the 10th day of January, 1983  
the reference having been made in Minute Book 79, and is recorded in full  
in Ordinance Book 31, at Page 434.

Pat Sharkey  
City Clerk



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ORDINANCE NO. 1287

AMENDING CHAPTER 22

AN ORDINANCE AMENDING CHAPTER 22, ENTITLED, "TREES", OF THE CODE OF THE CITY OF CHARLOTTE.

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

Section 1. Chapter 22 of the City Code shall be deleted in its entirety and a new chapter is substituted in lieu thereof to read as follows:

"ARTICLE I, IN GENERAL

Sec. 22-1. Purpose and intent.

The purpose of this chapter is to regulate and control the planting of trees and shrubbery, to encourage the protection of existing trees and shrubbery in the streets and public grounds within the City, to regulate the preservation, replacement and indiscriminate removal of trees on private property at both new developments and alterations to previous development, and to establish procedures and practices for fulfilling these purposes.



Sec. 22-2. Tree advisory commission; may be created by council.

The city council may establish a tree advisory commission. This commission may from time to time make recommendations relative to trees and shrubbery to the city manager or his authorized representative. The tree commission shall be composed of ten (10) members, a majority of whom shall be residents of the city. Eight (8) of the members shall be appointed by the mayor with approval of city council. The remaining two (2) members shall be the superintendent of the park operations division and the city arborist. They shall be ex-officio members and shall be present at meetings when so requested by the secretary of the tree commission. Those members appointed by the mayor shall serve terms of three (3) years. No member appointed by the mayor shall be eligible to serve more than two (2) consecutive full terms.

Sec. 22-3. Jurisdiction, duties and authority of the superintendent of park operations.

For the purpose of carrying out the provisions of this chapter, the superintendent of park operations, in conjunction with the city arborist, shall have the jurisdiction, authority, control, supervision and direction over all trees and shrubs planted or growing in or upon the streets between the sidewalk and the curb line, and on public grounds within the city, and the planting, removal, care, maintenance and protection thereof. In addition, they shall have the authority to regulate the preservation, replacement and indiscriminate removal of trees on private property as set out in Article III of this chapter. The superintendent of park operations shall also have the responsibility of enforcing this chapter.

The superintendent of park operations shall be responsible for formulating a master street tree plan. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites in the city. Prior to its publication, the plan shall be presented to the tree commission for review and recommendation as may be necessary. From and after the effective date of the master street tree plan, or any amendment thereof, all planting shall conform thereto. All tree planting, maintenance and removal is to be performed by the staff of the park operations division in accordance with the master street tree plan.

The superintendent of park operations shall consider existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites in the city.

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The superintendent of park operations and the city arborist shall have the authority to review all request for permits for any planting, removal and/or trimming or cutting of trees in any public area. They shall also have the authority to attach reasonable conditions to these permits and to grant or deny permits.

Sec. 22-4. Authority to treat or remove trees or shrubbery on private grounds.

(a) The superintendent of park operations under the power herein given, may cause or order to be removed any tree or part thereof on private ground which is in an unsafe condition, or which by reason of its nature is injurious to sewers or other public improvements, or is affected with an injurious fungus, insect, or other pest.

(b) The superintendent of park operations or his agents shall have the power to enter upon any private grounds in the city and to spray, or otherwise treat or cause or order to be sprayed or otherwise treated, any tree or shrub infected or infested by any parasite, insect or pest, when it shall be necessary in his opinion to do so to prevent the breeding or scattering of any parasite or animal pest, and to prevent danger therefrom to person or property or to trees and shrubs planted in the public streets or other public places.

(c) Whenever in the opinion of the superintendent of park operations trimming or treatment or removal of any such tree or shrub located on private grounds shall be deemed wise, the superintendent of park operations or a member of his staff, shall have the power to trim, treat or remove any such tree or shrub, or cause or order the same to be done.

(d) Prior to exercising the authority conferred by this section, the superintendent of park operations shall give the owner or occupant an opportunity to correct the condition by ordering that corrective action be taken. The order shall be in writing to the owner or occupant of the property in question and shall be acted upon within ten (10) days from the date of the receipt of the order. If, after ten (10) days, the owner or occupant has not corrected the condition or undertaken action that would lead to a timely correction of the condition, then the superintendent of park operations is authorized to enter upon the property, perform the work necessary to correct the condition, and to bill the owner or occupant for the actual costs incurred.

## ARTICLE II. PUBLIC PROPERTY

### Sec. 22-5. Trimming, pruning, planting and removal of trees on public property; permit required.

(a) Except as provided herein, any person desiring to remove, destroy, cut, severely prune, including the root system, or treat any tree or shrub in or upon any public street or public property owned by the City of Charlotte, its agencies, boards, authorities and commissions, shall first obtain a written permit from the city arborist on forms furnished by the park operations division. Any work performed under such permit must be done in strict accordance with the conditions of the permit and provisions of this chapter.

(b) Individual permits shall not be required of public and private utility companies which install overhead and underground utilities (including CATV installations and water and sewer installations by or at the direction of the Charlotte-Mecklenburg Utility Department), provided that the company's written pruning and trenching specifications have been first approved by the park operations division and reviewed by the tree commission. Provided, however, that requests for removal of trees shall be handled on an individual permit basis.

(c) Any person desiring to plant a tree or shrubbery upon any public street or public place must also obtain a permit from the park operations division. However, before issuance of a permit to plant, the request must also be reviewed by the city's transportation department to determine if the proposed planting would create a sight distance hazard or sidewalk restriction.

### Sec. 22-6. Injuring trees or shrubbery on public places.

(a) It shall be unlawful for any person, except with written permit, to place or maintain upon the ground in any public street or public place, any stone, cement or other impervious matter or substance in such a manner as may obstruct the free access of air and water to the roots of any tree or shrub in any such street or place. This provision shall not apply to the paving, repairing or altering of the public streets, sidewalks and other public places by the city.

(b) It shall be the responsibility of the person in charge of the erection, repair, alteration or removal of any building or structure, to place a guard or protector around any tree on public ground so as to prevent injury to such tree arising out of such erection, repair, alteration, or removal. If the erection, repair, alteration, or removal of any structure shall require the trimming, pruning or removal of any tree upon public ground, a written permit shall be obtained as provided in Section 22-5.

(c) It shall be unlawful for any person to attach to any tree or shrub in or upon any public street or public place or to the guard or stake intended for the protection of such tree, rope, wire, chain, sign, or other device whatsoever except for the purpose of protecting it or the public.

Sec. 22-7. Trees, etc., adjacent to public property to be kept trimmed; responsibility of owner and superintendent of the park operations division.

(a) Trees, vines, bushes, shrubbery or flowers standing in or upon any lot or land adjacent to any public street or public place and having branches, limbs, trunks, or other parts projecting into the public street or place shall be kept trimmed by the owner or occupant of the property on which such vines, trees, bushes, shrubbery, or flowers are growing so as not to interfere with the free and safe passage along the public way by pedestrians and vehicular traffic.

(b) If the owner or occupant of said property does not keep this growth from projecting into or on public ground, then the superintendent of park operations shall have the authority to order its removal. The order shall be in writing to the owner or occupant responsible for said growth and shall be acted upon within ten (10) days from the time of the receipt of the order. If after ten (10) days the owner or occupant has not responded or acted to remove the projecting growth from said vines, trees, bushes, shrubbery, or flowers, then the superintendent of park operations or any member of his staff shall have the authority to enter upon the property to perform his work.

Sec. 22-8. Planting plan required where more than twenty-five trees to be planted.

Any person desiring to plant more than twenty-five (25) trees, shrubs, or vines in or upon the streets between the sidewalk and the curb line and public grounds within the city shall, in addition to applying for a permit, submit a planting plan or written statement in duplicate to the superintendent of park operations who shall return one copy to the applicant and keep one copy on file with the city. The superintendent of park operations shall review and approve before issuing a permit to plant.

All planting plans shall show accurately:

(a) The proposed street width together with its subdivision of pavement, curb and gutter, parking strip and sidewalk areas to a definite indicated scale.

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- (b) The proposed location of each and every proposed tree, shrub or vine, together with the location of each existing tree, shrub or vine within the proposed street line in scaled relation to the other features of the plan.
- (c) The variety of each and every tree, shrub or vine proposed to be planted and of those already existing within the proposed street lines, either indicated on the plans or referenced with a number to a key list.
- (d) The distance, in feet, between trees, shrubs or vines in any one row.
- (e) The nature of the soil in the planting space to a depth of three (3) feet, and all existing and proposed surface of subsoil drainage system.

All statements filed in lieu of a planting plan shall contain the same information as required on the plan.

Sec. 22-8.1. Tree preservation and/or planting required on public property.

It shall be unlawful for the owner of public property to fail to comply with section 22-12. Sections 22-9(c), 22-10, and 22-13 through 22-17 shall also apply to public property as well as to private property.

ARTICLE III. PRIVATE PROPERTY

Sec. 22-9. Property to be excluded from the provisions of this article.

This article shall apply to all developers and/or owners of real property with the following exclusions:

- (a) Homeowner of a single family or duplex residence.
- (b) Property to be developed for single family or duplex residential uses.
- (c) Property zoned B-3 central business district and urban residential district.

Sec. 22-10. Definitions.

As used in this article, unless the context otherwise requires the words listed below shall have the following meaning:

- (a) Caliper - diameter measurement of the trunk taken six inches above the ground level for trees up to and including four inch caliper size. Measurement shall be taken twelve inches above the ground level for larger trees.
- (b) Homeowner - a tenant or owner of an existing single family or duplex residence.
- (c) Paved area - any ground surface covered with concrete, asphalt, stone, gravel, brick or other paving material.

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- (d) Person - a public or private individual, corporation, company, firm, association, trust, estate, commission, board, public or private institution, utility, cooperative, or other legal entity.
- (e) Planting strip or area - ground surface free of paved material which is reserved for landscaping purposes.
- (f) DBH (diameter breast height) - the diameter of a tree four and one half feet above the average ground level.
- (g) Drip line - a vertical line running through the outermost portions of the tree crown extending to the ground.

Sec. 22-11. Utility responsibility - private property.

Public and private utilities which install overhead and underground utilities (including CATV installations and water and sewer installations by or at the direction of the Charlotte-Mecklenburg Utility Department), shall be required to accomplish all work on property subject to this article in accordance with the company's written pruning and trenching specifications, or as mutually agreeable to the property owner and the utility. Written specifications shall have been first approved by the park operations division and reviewed by tree commission.

Sec. 22-12. Tree preservation and/or planting required for paved areas abutting public rights of way.

(a) Property with less than one acre paved. A perimeter planting strip, exclusive of access driveways, of five (5) feet abutting the public rights of way, shall be required. This planting strip shall include at least one large growing tree with a minimum of 2" caliper and 10 feet in height or small growing or flowering trees with a minimum of 1" caliper and 6 feet in height for each fifty (50) linear feet or fraction thereof above twenty-five (25) feet. If there are existing trees on the public right of way, the planting strip shall be required; however, the superintendent of park operations may grant a variance from the required tree planting. The trees to be planted must be from the approved list supplied by the park operations division or as agreed to by the division.

(b) Property with more than one acre of paved area. Property in this category will require the same perimeter planting strip as set forth in the previous subsection. In addition, interior planting areas amounting to 5% of the paved area in excess of one acre shall be required. These planting areas shall be located either adjacent to the perimeter planting, within the paved area, within ten (10) feet of the paving or at the base of the building. Residual property

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TABLE I

Tree Planting Area Credit  
and Dimension Table for  
Large and Medium Size Shade Trees (35-100' plus, mature height)

TREE ORIGIN	TREE SIZE	Maximum planting area credit per tree (sq. ft.) ** ***	Minimum planting area per tree (sq. ft.)	Minimum dimension of planting area at tree (ft.)	Minimum spacing between trees (ft.) ****
PLANTED	2-2 1/2" Cal. 12-14'*	600	70	7	40
	2 1/2-4" Cal.* 14-17'	750	70	7	40
	4" plus Cal. 17' plus	900	70	7	40
EXISTING, "SAVED"	2-4" Cal. *	Same as for planted tree same size	--	--	--
	4-8" DBH	900	--	--	--
	8-12" DBH	1000	--	--	--
	12-18" DBH	1200	--	--	--
	18" plus DBH	1300	--	--	--

\* Minimum size tree for which planting area credit will be granted.

\*\* Additional credit may be granted by the landscaping division if historic or unique trees are "saved".

\*\*\* Clumps of existing trees shall be granted planting area credit equal to the total area covered by the drip line of the clump.

\*\*\*\* Trees may be planted closer, but planting area credit will not be granted for the second or additional trees spaced closer than the minimum spacing noted above.

TABLE II  
Tree Planting Area Credit  
and Dimension Table for  
Small Trees (to 35', mature height)

PLANTED	1-1 1/4" Cal. 8-10'*	150	15	3	15
	1 1/4-3" Cal. 10-12'	175	15	3	15
	3" plus Cal. 12' plus	200	15	3	15
EXISTING "SAVED"	1-3" Cal. *	Same as for planted tree same size	--	-	--
	3-4" DBH	250	--	--	--
	4-6" DBH	300	--	--	--
	6-8" DBH	400	--	--	--
	8" plus DBH	550	--	--	--

\* Minimum size tree for which planting area credit will be granted.

\*\* Additional credit may be granted by the landscaping division if historic or unique trees are "saved".

\*\*\* Clumps of existing trees shall be granted planting area credit equal to the total area covered by the drip line of the clump.

\*\*\*\* Trees may be planted closer, but planting area credit will not be granted for the second or additional trees spaced closer than the minimum spacing noted above.



at the rear or sides of the site which are not visually a part of the developed property shall not be considered in meeting the requirements of this subsection. The number, size and placement of trees required within the planting areas shall be determined in accordance with the following tables.

(c) Preserving existing trees. Existing trees may be utilized to fulfill the above requirements and are given additional credit as set forth in the preceding tables.

(d) Property with more than one acre cleared in anticipation of development. Property on which more than one acre of land is cleared shall be required to have a perimeter planting strip of five (5) feet abutting the public right of way, planted as required in subsection (a). This requirement shall be waived if the property is developed within one year from the date grading permits have been issued.

(e) Parking structures. A perimeter planting strip adjacent to the public right of way will be required for parking structures. Such planting strip will be equal to the setback requirements for the zoning district, but in no case not more than twenty (20) feet. This planting strip shall be planted as set out in subsection (a).

(f) Tree replacement and protection. When trees required by this ordinance die, they must be replaced during the next suitable planting season. Wheelstops, curbs, or other barriers shall be provided where trees might otherwise be damaged by vehicles.

(g) Variances. The superintendent of park operations may grant a variance from the requirements of this section where unusual circumstances exist. A request for a variance must be submitted in writing to the superintendent and be accompanied by a landscape plan noting that which is proposed in lieu of complying with the ordinance. Variance requests will be reviewed, denied, or approved within thirty (30) days of their receipt. Requests for a delay in complying with the ordinance due to poor weather conditions for planting will be approved following written request of the superintendent. Temporary certificates of occupancy will be issued as a result of the approved delay. The superintendent will note the time planting must be completed. Permanent certificates of occupancy will be issued when planting is completed.

#### Sec. 22-13. Inspection of sites.

Agents and authorized representatives of the park operations division may periodically inspect sites subject to the provisions of this ordinance.

If, through inspection, it is determined that a person has failed to comply with the provisions of this ordinance, a notice to comply shall be served upon that person by registered mail from the park operations division. The notice shall set forth that which will be necessary to comply with the ordinance.

The park operations division shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose may enter at reasonable times upon any property, public or private, for this purpose of inspecting the sites subject to the provisions of this ordinance. No person shall refuse entry or access to any authorized representative or agent of the park operations division who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with such representative while in the process of carrying out his official duties.

Sec. 22-14. Emergencies.

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this may be waived by the park operations division during the emergency period so that the requirements of this chapter would in no way hamper private or public work to restore order in the city. This shall not be interpreted to be licensed to circumvent the intent of this chapter.

Sec. 22-15. Notice and appeal.

(a) Any person, firm or corporation who violates any of the provisions of this chapter shall be notified of the specific violation by certified mail.

(b) In the event any person is dissatisfied with a decision of the park operations division adversely affecting such person involving the application of this chapter, such person may request a hearing within five (5) working days of the receipt of the violation. The request must be in writing and directed to the chairman of the tree commission and the director of the parks and recreation department, who shall jointly appoint a standing three-member board selected from the appointed members of the tree commission who shall act as an appeal board and shall hear complaints of the parties concerned.

(c) After a full and complete hearing held within five (5) working days of receipt of the request, the appeal board shall render its written opinion within five (5) working days either affirming, overruling or modifying the decision of the park operations division, as may be fit and proper under the existing circumstances.

(d) If the person remains dissatisfied with the ruling of the appeal board, he may request an appeal to the city council. Notice of appeal must be filed within five (5) working days of receipt of the appeal board's decision. This notice must be in writing and directed to the director of the parks and recreation department who shall have the appeal placed before the full city council. The city council shall, after a full discussion of the case, render its decision.

Sec. 22-16. Penalties.

The provisions of this chapter may be enforced by anyone, all or a combination of the remedies authorized and prescribed by this section. If a person continues to fail to comply with a particular code provision after a criminal prosecution of a civil penalty, the person shall continue to remain subject to the remedies prescribed by this section for the continued violation of the particular code provision.

(a) Criminal. Any person who knowingly or willfully violates any provision of this chapter shall have committed a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed fifty dollars (\$50.00), or imprisonment for not more than thirty (30) days, or both.

(b) Civil. Any person who violates any of the provisions of this chapter shall be subject to a civil penalty. The city council shall determine the specific amount of the civil penalty assessed. The civil penalty shall not exceed ten thousand dollars (\$10,000.00). No penalty shall be assessed until the violator has been notified of the violation and the time for appeal has expired. At least two weeks before the scheduled meeting of the city council to determine the amount of the civil penalty, the violator shall be invited to the scheduled meeting and shall be given the opportunity to appeal before the city council at that meeting.

In determining the amount of the civil penalty, the city council shall consider the amount of money, at the time of the expiration of the date for appealing the violation, that the violator would be required to spend in order to be in compliance with the requirement of the specific code provision violated.

The director of the parks and recreation department shall make written demand for payment of the penalty assessed upon the person in violation and shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the nature of debt in the name of the City of Charlotte in the appropriate division of the General Courts of Justice for recovery of the penalty.

Sec. 22-17. Injunction relief.

Whenever the city council has reasonable cause to believe that any person is violating this chapter or any rule or order adopted or issued pursuant to this chapter or any term, condition, or provision of an approved permit, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the City of Charlotte for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

Upon determination of a court that an alleged violation is occurring, it shall enter such orders or judgements as are necessary to abate the 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 violation of this chapter.

Sec. 2. This ordinance shall become effective upon adoption.

Approved as to form:

Henry W. Zanderhill Jr.  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of January, 1983, the reference having been made in Minute Book 79 and is recorded in full in Ordinance Book 31 at Pages 436-448.

Pat Sharkey  
City Clerk