

ORDINANCE NO. 2748

AN ORDINANCE AMENDING SECTION 11-28 AND SECTION 11-51 OF THE CITY CODE

Be it ordained by the City Council of the City of Charlotte that:

Section 1. Section 11-28(d) is amended to read as follows:

Appeals from Order of Director. An appeal from any decision of the Director may be taken by any person aggrieved thereby. An appeal from the Director shall be taken within ten days from the service of the order on the parties in interest. An aggrieved party may give notice of appeal by mailing or hand-delivering a written statement to the Director which states some grounds for the appeal. Upon receipt of the notice of appeal, the Director shall immediately send copies of the notice to all other known interested parties. Any other interested parties may give notice of a cross appeal within ten days of receipt of a notice of appeal; and any such cross appeal may be made in the same manner as appeals. The Director shall transmit to the Board and parties all documents constituting the record upon which the department's decision was made, along with the notices of appeal and cross appeal. When an appeal is from a decision of the Director refusing to allow the person aggrieved thereby to do any act, the Director's decision shall remain in force until modified or reversed. When an appeal is from a decision of the Director requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the Board unless the Director certifies to the Board, after the notice of appeal is made, that by reason of the fact stated in the certificate (a copy of which shall be furnished to the appellant and other parties in interest), a suspension of his requirement would cause imminent peril to life or property. When the Director issues such a certificate, the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Director, by the Board, or by a court of record upon petition made pursuant to General Statutes S160A-446(c), and paragraph (e) of this section. The Board shall fix a reasonable time for the hearing of all appeals and cross appeals, shall give due notices to all parties of interest, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney and present evidence. The Board may reverse, affirm wholly or partly, or modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter. All Board meetings shall have a quorum present of at least

three members, and the vote of at least three members shall be required for a decision on an appeal or cross appeal. The Board shall have the power in passing upon appeals and cross appeals, where there are practical difficulties or hardships, to adapt the application of this chapter to the necessities of the individual case to the end that the general purposes of the law and justice shall be done. Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen days of the service of the decision of the Board on all interested parties.

Section 2. Section 11-52(n) should be amended to read as follows:

All doors providing access to any living unit shall have operable locks, and the owner shall provide a change of locks or keys for new tenants.

Section 3. Section 11-53(g) shall be amended to read as follows:

All windows opening to the outside shall be reasonably weathertight and shall have operable locks.

Section 4. In Section 11-58(b), there shall be a new subsection 9, which reads as follows:

The flooring in each room shall consist of the same or similar material, and where covering or finishing is provided, such covering or finishing shall be reasonably smooth and not worn through.

Section 5. Section 11-58(d), subsection 4, shall be amended to read as follows:

There shall be no cardboard, newspaper, or highly combustible or improper wall finish, and all wall materials shall be of the same or similar quality and material.

Section 6. Section 11-58(e), subsection 6, shall be amended to read as follows:

There shall be no cardboard, newspaper, highly combustible or improper ceiling finish, and all ceiling materials shall be of the same or similar quality and material.

Section 7. Section 11-52 shall be amended to add a new subsection (p) to read as follows:

There shall be installed in every dwelling unit an operable smoke detector or alarm.

Section 8. This ordinance shall become effective upon adoption.

This the 14th day of November, 1989.

Approved as to form:

Henry W. Cheshire Jr
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 218-220.

Pat Sharkey
City Clerk

ORDINANCE NO. 2749-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2648-X, THE 1989-90 BUDGET ORDINANCE, PROVIDING AN APPROPRIATION TO CONDUCT MARKETING AND ENGINEERING STUDIES FOR THE OLD COLISEUM.

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

Section 1. That the sum of \$55,000 is hereby estimated to be available from the Pay-As-You-Go Tax Levy Fund Balance.

Section 2. That the sum of \$55,000 is hereby appropriated to the General Capital Improvement Fund 2010; 473.00 - Old Coliseum Study.

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:

H. M. [Signature]
Deputy City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 221.

Pat Sharkey
City Clerk

ORDINANCE NO. 2750

AMENDING CHAPTER 8

ORDINANCE AMENDING CHAPTER 8, ARTICLE I OF THE CITY CODE OF THE CITY OF CHARLOTTE ENTITLED "FIRE PREVENTION AND PROTECTION"

WHEREAS, unattended, unsecured and defective grills used in open-flame cooking on balconies, often wooden, in close proximity to multi-family dwellings have also contributed substantially to the spread of fires in the City; and

WHEREAS, it is in the best interest of the City to reduce the ignition and fuel sources of fires.

NOW THEREFORE, be it ordained that:

Section 1. Section 8-14 of the City Code, said section previously being reserved for future codifications, is hereby amended to read as follows:

Section 8-14 "Fire Restrictions for Multi-Family Dwellings"

(a) Definitions: For purposes of this section, the following words shall have the following meanings:

- (1) Apartment house: Any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential factors.
- (2) Condominium dwelling unit: For purposes of this Code, a condominium unit is an apartment as defined in this section.
- (3) Dwelling: A building occupied exclusively for residential purposes and having (a) one dwelling unit; or (b) two dwelling units; (c) one dwelling unit with not more than five boarders or roomers served with meals or sleeping accommodations or both.
- (4) Dwelling unit: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(5) Multi-family dwelling: A building or portion thereof containing three or more dwelling units; including tenement houses, apartment houses and flats.

(6) Townhouse: A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

(b) It shall be unlawful to use open-flame cooking appliances, including grills, on outside balconies within ten (10) feet of any combustible portion of any multi-family dwelling, apartment house, townhouse or condominium dwelling unit.

Section 2. This ordinance shall become effective immediately upon its adoption.

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 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 222-223.

Pat Sharkey
City Clerk

ORDINANCE NO. 2751-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2648-X, THE 1989-90 BUDGET
ORDINANCE, PROVIDING AN APPROPRIATION FOR EARTH DAY 1990.

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

Section 1. That the sum of \$2,000 is hereby
available in the General Fund Contingency.

Section 2. That the sum of \$2,000 is hereby
appropriated to the General Fund Mayor and Council Operating
Budget (0101; 101.00.191).

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 14th day of November,
1989, the reference having been made in Minute Book 94, and is recorded in
full in Ordinance Book 38, at page(s) 224.

Pat Sharkey
City Clerk

ORDINANCE NO. 2752-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2648-X, THE 1989-90 BUDGET ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION TO THE NEW CONVENTION CENTER FOR A FINANCIAL FEASIBILITY ANALYSIS AND A PUBLIC INFORMATION CAMPAIGN.

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

Section 1. That the sum of \$255,000 is hereby estimated to be available from the Pay-As-You-Go Tax Levy Fund Balance.

Section 2. That the sum of \$255,000 is hereby appropriated to the General Capital Improvement Fund 2010; 371.00 - Convention Center.

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:



Deputy City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 225.

Pat Sharkey
City Clerk

ORDINANCE NO. 2753-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2648-X, THE 1989-90 BUDGET ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION TO THE PERFORMING ARTS CENTER.

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

Section 1. That the sum of \$5,778,584.68 is hereby estimated to be available from the following sources:

<u>Source</u>	<u>Amount</u>
Foundation for the Carolinas (Belk Gift)	\$3,480,815.10
State of North Carolina	2,000,000.00
N.C. Performing Arts Center Foundation	297,769.58
Total	\$5,778,584.68

Section 2. That the sum of \$5,778,584.68 is hereby appropriated to General Capital Improvement Fund 2010; 299.00 - Performing Arts Center.

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:



J. Douglas Cart
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 226.

Pat Sharkey
City Clerk

ORDINANCE NO. 2754-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2648-X, THE 1989-90 BUDGET ORDINANCE, ESTIMATING PILOT REVENUES AND PROVIDING AN APPROPRIATION FOR REFUND TO THE HOUSING AUTHORITY FOR THE STEPPING STONE PROGRAM.

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

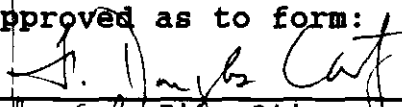
Section 1. That the sum of \$126,125.64 is hereby estimated to be available from the City of Charlotte Housing Authority.

Section 2. That the sum of \$126,125.64 is hereby appropriated to General Fund - Rebate - PILOT (0101; 530.76).

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:



J. Douglas Craft
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 227.

Pat Sharkey
City Clerk

AMENDING CHAPTER 21

ORDINANCE 2755

AN ORDINANCE REWRITING CHAPTER 21 "TREES" OF THE CODE OF THE CITY OF CHARLOTTE.

BE IT ORDAINED by the City Council of the City of Charlotte
that:

Section 1. Chapter 21 of the Code of the City of Charlotte is hereby deleted in its entirety and a new Chapter 21, attached hereto as Exhibit A and incorporated herein by reference, is adopted in lieu thereof.

Sec. 2. 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 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 228-253.

Pat Sharkey
City Clerk

Chapter 21
TREES
ARTICLE 1. IN GENERAL

Sec. 21-1. Purpose and intent.

The purpose of this Chapter is to regulate and control planting of trees and shrubbery, to vigorously encourage the protection of existing trees in the streets and public grounds within the City, including where their root systems extend onto private property, to regulate the preservation, replacement and indiscriminate removal of trees on private property on both new developments and alterations to previous developments, and to establish procedures and practices for fulfilling these purposes.

Sec. 21-2. Tree Advisory Commission.

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 and perform other duties as designated in this Ordinance. The Tree Advisory Commission shall be composed of twelve (12) members, a majority of whom shall be residents of the City. Seven (7) of the members shall be appointed by the City Council and three (3) of the members shall be appointed by the Mayor. The remaining two (2) members shall be representatives of the City Engineering Department and the Parks and Recreation Department and shall be ex-officio members. Those members appointed by the Mayor and City Council shall serve terms of three (3) years and no member appointed by

the Mayor and City Council shall be eligible to serve more than two (2) consecutive full terms. Member terms shall be appointed on a staggered basis, so that no more than five (5) of the ten (10) appointed seats become vacant at one time. Any member who fails to attend at least 75% of the regular and special meetings held by the Commission during any one year period shall be automatically removed from said Commission. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein. The Chairman of the Commission will notify the proper appointing authority if a member is absent 25% of the meetings, and appointment will be made by the appointing authority to fill that vacancy.

Sec. 21-3. City Department Jurisdiction, Duties and Authority.

(a) City Arborist

(1) For the purpose of carrying out the provisions of this Chapter, the City Arborist or his designee, shall have the jurisdiction, authority, control, supervision and direction over all trees and shrubs planted or growing in or upon the public right-of-way, and on public grounds within the City, and the planting, removal, care, maintenance and protection thereof.

(2) The City Arborist shall be responsible for formulating a master street tree plan. The master street tree plan shall specify the priorities, standards, and species for tree planting within street rights of way and other public sites in the City. Prior to its publication, the plan shall be

presented to the Tree Advisory 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 in accordance with the master street tree plan. The plan 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.

(3) The City Arborist shall have the authority to review all requests for permits for any planting, removal and/or trimming or cutting of trees in any public area. He shall also have the authority to attach reasonable conditions to these permits and to grant or deny permits.

(b) Engineering Department

(1) The City Engineer or his designee shall have the jurisdiction, authority, control, supervision and direction over all trees and shrubs planted or growing in or upon private property as set out in Article III of this Chapter. In addition, he shall have authority over the planting, removal, care, maintenance, protection and preservation of trees in accordance with Article III.

(2) The City Engineer shall prepare, publish and promulgate the guidelines and specifications for tree planting, care, maintenance, removal and landscape design in a document entitled "Guidelines and Specifications of Tree Planting on Public and Private Property" for reference and use by developers,

architects, designers and the general public in furtherance of the requirements and intent of this Chapter.

This document shall be reviewed at a minimum of every two (2) years by the Engineering Department, the City Arborist and the Tree Advisory Commission.

(c) Enforcement

The Engineering Department and the City Arborist shall have the joint and several authority to enforce the provisions of this Chapter as set out in Article IV.

Sec. 21-4. Same-Authority to treat or remove trees or shrubbery on private grounds.

(a) The City, under the power herein given, may cause or order to be removed any tree or part thereof on private grounds 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 City shall have the power to enter upon any private grounds in the City 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 to do so to prevent the breeding or scattering of any parasite or animal pest, and to prevent danger therefrom to persons or property or to trees and shrubs planted in the public streets or public places.

(c) Whenever, in the opinion of The City, trimming or treatment or removal of any such tree or shrub located on private grounds shall be necessary, the City 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 City 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 thirty (30) days from the date of the receipt of the order. If, after thirty (30) 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 City 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. In situations deemed necessary to the public health, safety or welfare the City may act without prior notification to the property owner or occupant.

Section 21-5. Definitions.

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

Caliper. Diameter measurement of the trunk taken six (6) inches above ground level for trees up to and including four inch

caliper size. Measurement shall be taken twelve (12) inches above the ground level for larger trees.

City. City Engineer, City Arborist, or their designated agent or agents.

Department. The City Engineering Department.

DBH (diameter breast height). The diameter of a tree four and one-half (4 1/2) feet above the average ground level.

Drip Line. A vertical line running through the outermost portions of the tree crown extending to the ground.

Guidelines. "Guidelines and Specifications of Tree Planting on Public and Private Property" as published by the City Engineering Department.

Homeowner. A tenant or owner of an existing single-family or duplex residence.

Impervious Cover. Buildings, structures and other paved, compacted gravel or compacted areas which by their dense nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

Large Maturing Tree. Any tree whose height exceeds 35' at maturity.

Paved Area. Any ground surface covered with concrete, asphalt, stone, compacted gravel, brick or other paving material.

Person. A public or private individual, corporation, company, firm, association, trust, estate, commission, board, public or private institution, utility cooperative, or other legal entity.

Planting Strip or Area. Ground surface free of impervious cover and/or paved material which is reserved for landscaping purposes.

Renovation. Any construction activity to an existing structure which changes its square footage, footprint or modifies the exterior wall material excluding cosmetic maintenance and repairs.

Root Protection Zone. Generally, 18-24 inches deep and a distance from the trunk of a tree equal to one-half (1/2) its height or its drip line, whichever is greater.

Small Maturing Tree. Any tree whose height is less than 35' at maturity.

Topping. Any pruning practice that results in more than 1/2 of the foliage and limbs being removed. This includes pruning that leads to the disfigurement of the normal shape of the tree.

Tree Evaluation Formula. A formula for determining the value of ornamental trees and shrubs as published by the International Society of Arboriculture.

Tree Protection Zone. A distance equal to the designated zoning district setback or 40 feet from the front property line, whichever is less or from side lot line on a corner lot.

ARTICLE II. PUBLIC PROPERTY

Sec. 21-21. Trimming, pruning, planting and removal of trees on public property; permit required.

(a) No person shall remove, destroy, cut, severely prune (including the root system) or otherwise treat any tree or shrub having its trunk in or upon any public property or contract with another person to perform such acts without first obtaining a written permit from the City Arborist and without complying strictly with the provisions of the permit and provisions of this Chapter.

(b) Public and private utilities shall submit written specifications for pruning and trenching operations to the City for approval. Upon approval of its specifications, a utility shall not be required to obtain a permit for routine trenching and pruning operations affecting trees or shrubs having their trunks on public streets or property so long as such work is done in strict accordance with the approved specifications. Requests for the removal of trees shall be handled on an individual permit basis. Failure to comply with the approved specifications is a violation of this ordinance. Specifications shall be reviewed at a minimum of every two (2) years by the City Arborist, City Engineer and the Tree Advisory Commission for necessary improvements and as required by modifications in this ordinance.

(c) No persons shall plant, or contract with another to plant, any tree or shrub in any public street right of way or public place without a permit from the City.

(d) The person(s) performing the work and person(s) contracting for the performance shall be jointly and severally liable for any penalties or other enforcement action imposed

pursuant to this Chapter or other provisions of law on account of work performed in violation of this ordinance.

(e) Individual permits will not be required for City and/or North Carolina Department of Transportation projects so long as tree preservation and protection requirements are included in the project plans, contract special provisions, and approved by the City Arborist.

Sec. 21-22. 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 compacted 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) No person shall perform, or contract with another to perform, construction work (including the operation or storage of equipment or materials) within the drip line of any tree or shrub having its trunk on any public street or public property without first obtaining a permit from the City Arborist and complying with requirements which may include erecting protective barricades or enclosures at designated locations.

(c) It shall be unlawful for any person to attach any object including but not limited to rope, wire, chain or sign 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 except for the purpose of protecting it or the public.

(d) Damages to City trees in violation of the provisions of this Article shall be determined by the City Arborist in accordance with Section 21-49 of this Chapter. However, no claims shall be made more than five (5) years after damage can be proven to have occurred.

Sec. 21-23. Trees, shrubs, etc., adjacent to public property to be kept trimmed; responsibility of owner.

(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 such property does not keep this growth from projecting into or on public ground, the City shall have the authority to order its removal. The order shall be in writing to the owner or occupant responsible for such growth and shall be acted upon within thirty (30) days from the time of the receipt of the order. If, after thirty (30) days,

the owner or occupant has not responded or acted to remove the projecting growth from such vines, trees, bushes, shrubbery or flowers, then the City shall have the authority to enter upon the property to perform the work necessary to correct the condition, and to bill the owner or occupant for the actual costs incurred. In situations deemed necessary to the public health, safety, or welfare, the City may act without prior notification to the property owner or occupant.

Sec. 21-24. Planting plan required where more than twenty five trees are to be planted.

(a) Any person desiring to plant more than twenty-five (25) trees, shrubs, or vines in or upon the streets between the sidewalk and the curblines and public grounds within the City shall, in addition to applying for a permit, submit a planting plan or written statement in triplicate to the City Arborist, who shall return one copy to the applicant and keep two copies on file with the City.

(b) All planting plans shall show accurately:

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

(2) 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 right of way in scaled relation to the other features of the plan.

(3) The variety, height, and caliper, where applicable, 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.

(4) The distance, in feet, between trees, shrubs or vines in any one row.

(5) The nature of the soil in the planting space to a depth of three (3) feet, and all existing and proposed surface or subsurface drainage system.

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

**Sec. 21-25. Tree preservation and/or planting required
on public property.**

The provisions of Chapter 21 of the City Code shall apply to public entities and owners of public property and it shall be unlawful for said owners to fail to comply with all provisions of this Chapter including Article III.

ARTICLE III. PRIVATE PROPERTY

**Sec. 21-42. Property to be excluded from the provisions of
this Article.**

This Article shall apply to all developers and/or owners of real property involved with the erection, repair, alteration or removal of any building or structure, as well as the grading in anticipation of such development. The following are exclusions from this Article. These exclusions apply to only this Article and not to other provisions of this Chapter or other parts of the City Code.

- (1) Homeowner of a single-family or duplex residence.
- (2) Property to be developed for single-family or duplex residential uses.
- (3) Property zoned Urban Mixed Use District (UMUD).
- (4) Property which as altered requires no addition of square footage or exterior wall modification to an existing structure on that property.

The City Engineer, or his designee, shall have the authority to review all required permits for the purpose of determining the related tree planting requirements as specified by this Article.

Sec. 21-43. Utility responsibility on 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, the Engineering Department and the utility. Written specifications shall have been first approved as specified in Section 21-21(b) of this Chapter.

Sec. 21-44. Tree Planting on Private Property Required.

All tree planting and landscape designs required under this Article shall be submitted in written/design form and conform to the guidelines and specifications as issued by the Engineering Department.

(a) Perimeter Planting Requirements -- A continuous perimeter planting strip, exclusive of access driveways, with an average width of eight (8) feet abutting the public right-of-way shall be required. If large maturing trees are used, the planting strip shall include a tree with a minimum of 2" of caliper and 8 feet in height for every 40 feet of frontage or fraction thereof. If small maturing trees are used, the same conditions apply, but the increment drops to 30 feet.

When a building permit is requested for renovation of a previously developed site, and where the required perimeter strip does not exist, trees are still required. However, in lieu of an average 8-foot wide planting strip, a pavement cut-out equal to 200 square feet and with a minimum width of 5 feet may be substituted.

When a railroad or utility right-of-way separates the perimeter from a City right-of-way, the planting strip requirement and the tree planting requirements must still be met.

(b) Internal Planting Requirements - Whenever the impervious cover exceeds 10,000 square feet, an area equal to 10% of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of 1 tree per 10,000 square feet of impervious cover. Credit for existing trees may be given in determining necessary internal planting in accordance with the guidelines.

Trees must be planted within the paved area so that each parking space is an average of 60 feet or less from a tree. Minimum unpaved landscape area per tree shall be 200 square feet with a minimum dimension of 8 feet.

When a building permit is requested for the renovation of a site previously developed, internal tree planting is still required and the minimum planting area shall be 200 square feet per tree. However, only 5 percent of the total impervious cover must be open for landscape purposes.

(c) Tree Specifications - The trees to be planted must be from an approved list supplied by the Engineering Department. Minimum tree caliper measured 6 inches above ground on all trees shall be 2 inches and the minimum height shall be 8 feet.

A minimum of 50 percent of planted trees shall be large maturing shade trees. However, no trees identified as large maturing shall be planted within 20 feet of an electrical distribution line. This does not include low-voltage insulated

or covered lines of 240 volts or less or telephone or cablevision lines.

(d) 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 any case not more than twenty (20) feet. This planting strip shall be planted as set out in paragraph (a) of this Section.

Sec. 21-45. Protection of existing trees on private property required.

(a) Preservation Standards - No tree equal to or larger than 8 inches DBH may be removed from the tree protection zone without a permit. No grading, demolition, trenching, or other activity which may adversely effect trees in this zone may proceed prior to approval and issuance of necessary permits by the City.

Standards for tree preservation and protection will be published by the City Engineering Department.

(b) Tree Survey Required- Applications for grading, building, demolition and change of use permits on all property except that which is excluded by Sec. 21-42 shall provide a tree survey which shall include all trees of 8" DBH and larger within the tree protection zone and all trees over 1" caliper and 6' in height on the City right-of-way. Stands of Southern Yellow Pine

and other species may be indicated by groups with the average tree DBH.

(c) Tree Protection and Planting Plan Required - All applications for grading plans and building permits shall be accompanied by a tree protection and planting plan which includes the following:

(1) A tree and root protection zone plan for the existing trees on the public right-of-way as specified in Section 21-22(b).

(2) A tree and root protection zone plan for existing trees of 8 inches DBH and larger in the tree protection zone.

(3) A planting plan for required trees on public and private property. Plans that are only for required street tree planting may be in written form. This plan shall be approved prior to construction where street trees may be effected.

(d) Property with more than one acre in anticipation of development - Property on which more than one (1) acre of land is cleared shall be required to have a perimeter planting strip (average of 8 feet) abutting the public right-of-way. Planting shall be as required in paragraph (a) and (b) of Section 21-44. This requirement shall be waived if the property is developed within one (1) year from the date grading permits have been issued, and so requested in writing by the property owner.

(e) Tree replacement and protection -- When trees designated or planted in accordance with this Chapter die or are

removed for any reason, they must be replaced during the next suitable planting season in a manner, quantity and size approved by the Engineering Department. Wheelstops, curbs or other barriers shall be provided where trees might otherwise be damaged by vehicles. Trees shall be allowed to grow to their natural height and form. Topping is prohibited.

**ARTICLE IV. MODIFICATION, INSPECTION, ENFORCEMENT, AND
APPEAL.**

Sec. 21-46. Modifications.

Under certain circumstances the application of the standards of this Chapter is either inappropriate or ineffective in achieving the purposes of this ordinance. When planting is required by this Chapter, or by other provisions of this ordinance, and the site design, topography, unique relationships to other properties, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific alternate plan for planting to the City Arborist or Engineering Department. This plan must demonstrate how the purposes and standards of this ordinance will be met by measures other than those in Articles II and III. The City Arborist or the Engineering Department shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the

applicant. Any appeals by the applicant shall be in accordance with Section 21-50.

Requests for a delay in complying with the Chapter due to poor weather conditions for planting will be considered following written request directed to the City Arborist or the City Engineer. Certificates of Occupancy will be issued upon the completion of planting or approval of a request for planting delay. Such request for a delay will note the time frame during which the planting will be completed. Failure to comply will result in penalties provided for in Section 21-49 of this Chapter.

Sec. 21-47. Inspection of sites.

(a) Agents and authorized representatives of the City may periodically inspect sites subject to the provisions of this Chapter.

(b) If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this Chapter, a notice to comply shall be served upon that person by registered mail from the City. The notice shall set forth that which will be necessary to comply with the Chapter.

(c) The City shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Chapter, 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 Chapter. No person shall refuse entry or access to any authorized representative or agent of the City 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 official duties.

Sec. 21-48. Emergencies.

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this Chapter may be waived by the City during the emergency period so that the requirements of this Chapter will in no way hamper private or public work to restore order in the City. This shall not be interpreted to be a general waiver of the intent of this Chapter.

Sec. 21-49. Penalties.

Any party who violates any of the provisions of this Chapter, or rules or orders adopted or issued pursuant to this Chapter shall be subject to any one or all or a combination of the penalties authorized and prescribed by this section. If a party continues to fail to comply with a particular Code provision the party shall continue to remain subject to the penalties prescribed by this Section for the continued violation of the particular Code provision. Penalties assessed under this

Article are in addition to and not in lieu of compliance requirements of this Chapter.

(a) Civil penalties. Civil penalties for violation of this Chapter shall be as follows:

(1) Any party who violates any provision of this Chapter shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500.00), except as hereinafter provided; the penalty for failure to plant trees in accordance with Section 21-44 shall be Ten Dollars (\$10.00) for each tree not planted, and the failure to plant each individual tree shall constitute a separate, daily and continuing violation. No penalty shall be assessed until the party alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means. 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 civil penalty or other enforcement action.

(2) A non-monetary penalty, in the form of increased or additional planting requirements may be assessed in addition to or in lieu of any monetary penalties prescribed under this Article.

(3) The City Arborist and/or City Engineer may designate specific employees of the City to enforce the

provisions of this Chapter. Those individuals so designated shall have the authority to assess monetary and/or non-monetary penalties and to issue notices setting forth in detail a description of such violation for any violation of this Chapter. In determining the specific amount of the civil penalty for damage or destruction of trees the City Arborist and/or the Engineering Department may use the Standard Tree Evaluation formula provided by the International Society of Arboriculture.

(4) If payment of assessed penalties is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City for recovery of the penalty.

(5) Any sums recovered under this section shall be used to further the purposes, intent and requirements of this Chapter. The Tree Advisory Commission shall be consulted with regard to use of collected funds.

(b) Criminal. Any person who knowingly or willfully violates any provision of this Chapter shall have committed a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in Section 1-7 of the City Code.

Sec. 21-50. Notice and appeal.

(a) In the event any party is dissatisfied with a decision of the City Arborist or the City Engineer adversely affecting such party in the application, modification or enforcement of this Chapter, such party may request a hearing within ten (10) working days of the receipt of such decision or assessment of penalty. The request must be in writing and directed to the Chairman of the Tree Advisory Commission who may appoint a three-member board selected from the appointed members of the Tree Advisory Commission to act as an appeal board and shall hear the request of the party concerned.

The Tree Advisory Commission or its designated appeal board may grant a variance from the requirements of this ordinance upon a finding that:

(1) practical difficulties or unnecessary hardship would result if the strict letter of the law were followed; and,

(2) the variance is in accordance with the general purpose and intent of the ordinance.

(b) After a full and complete hearing held within thirty (30) days of receipt of the request, the appeal board or full commission shall render its written opinion within five (5) working days, either affirming, overruling or modifying the decision of the City Arborist or the City Engineer, as may be fit and proper under the existing circumstances.

(c) If the party remains dissatisfied with the ruling of the appeal board or commission, 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 City Clerk, 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.

The violator shall be notified at least two (2) weeks prior to the date of the scheduled meeting of the City Council to review the assessed penalty and the violator shall be given the opportunity to address the City Council at that meeting.

The City Council may affirm, reverse, or modify the decisions of the City Arborist, City Engineer, or Tree Advisory Commission.

(d) Any penalty assessed by the City or the Tree Advisory Commission is a debt to the City and all appropriate measures for collection of such debt may be instituted by the City.

Sec. 21-51. Injunctive relief.

(a) Whenever the City has reasonable cause to believe that any person, firm, corporation, or other entity 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 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.

(b) Upon determination of a court that an alleged violation is occurring, it shall enter such orders or judgments 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. 21-52. Severability.

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

ORDINANCE NO. 2756-X

AN ORDINANCE ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT
1708 Hawthorne Lane 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 William Steven Holler RESIDING AT
1110 Gallant Rd., Rock Hill, S. C. 29730

WHEREAS, the dwelling located at 1708 Hawthorne Lane in the
 City of Charlotte has been found by the Director of the Community Develop-
 ment Department to be unfit for human habitation 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 owners have failed to comply with said order served by
 registered mail on the July 4, 1989 and August 11, 1989 :
 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 locate
 at 1708 Hawthorne Lane 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.

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 14th day of
 November, 1989, the reference having been made in Minute Book 94,
 and is recorded in full in Ordinance Book 28, at Page 254.

Pat Sharkey
 City Clerk

ORDINANCE 2757

Amending Chapter 14

AN ORDINANCE AMENDING CHAPTER 14 ENTITLED "MOTOR VEHICLES", 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 14, Section 131, Subsection (c) shall be amended by repealing and deleting only those city speed limit ordinances in Schedule X, which Schedule X is incorporated by reference in Section 14-131(c), as listed below, that pertain to the specific city speed limits on the following City streets:

Delta Road (SR 2853) from Albemarle Road to Hickory Grove Road.

Idlewild Road North from Lawyers Road to Idlewild Road.

Newell-Hickory Grove Road (SR 2853) from Hickory Grove Road to Grier Road.

Section 2. Chapter 14, Section 131, Subsection (c) shall be amended by adding to those city speed limit ordinances in Schedule X, which Schedule X is incorporated by reference in Section 14-131(c), as listed below, and at a speed of 45 miles per hour, that pertain to the following City system streets:

Harris Boulevard between Albemarle Road and Independence Boulevard (US 74).

Idlewild Road North from Lawyers Road to Harris Boulevard.

Section 3. Chapter 14, Section 131, Subsection (c) shall be amended by adding the below listed speed limits to Schedule X, which Schedule X is incorporated by reference into Section 14-131(c), as listed below, and at a speed limit of 45 miles per hour, that pertain to the following State System streets:

Harris Boulevard (SR 2853) from The Plaza (SR 2803) to Albemarle Road (NC 24/27).

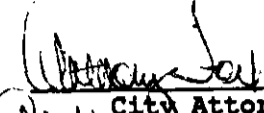
Newell-Hickory Grove Road (SR 2853) from Grier Road to The Plaza (SR 2803).

Section 4. Section 1 of this ordinance shall become effective upon adoption by the City Council and after existing signs are removed. Section 2 of this ordinance shall become effective upon adoption by City Council and after signs are erected, giving notice of the speed limits, as required by N.C.G.S. Section 20-141 and as hereafter amended. Section 3 of this ordinance shall become effective upon adoption by City Council, when the North Carolina Board of Transportation has passed a concurring ordinance as required by

N.C.G.S. 20-14(f), and after signs are erected, giving notice of the speed limits.

Section 5. 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 14th day of November, 1989, the reference having been made in Minute Book 94, and is recorded in full in Ordinance Book 38, at page(s) 255-256.

Pat Sharkey
City Clerk