

ORDINANCE NO. 1588-X

0-6

AN ORDINANCE TO AMEND ORDINANCE NUMBER 1552-X, THE 2000-2001 BUDGET ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION FOR THE WATER DISTRIBUTION OPERATIONS CENTER PROJECT

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

Section 1. That the sum of \$200,000 is hereby estimated to be available from Prior Water General Obligation Bonds.


Section 2. That the sum of \$200,000 is hereby appropriated to the Water Distribution Operations Center account (635.47) in the Water and Sewer Capital Project Fund (2071).

Section 3. That the existence of the project may extend beyond the end of the fiscal year. Therefore, this ordinance will remain in effect for the duration of the project and funds are to be carried forward to subsequent fiscal years until all funds are expended or the project is officially closed.

Section 4. All ordinances in conflict with this ordinance are hereby repealed.

Section 5. This ordinance shall be effective upon adoption.

Approved as to form:

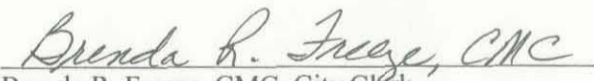


City Attorney

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 445.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.



Brenda R. Freeze, CMC, City Clerk

ORDINANCE NO. 1589

AMENDING CHAPTER 13

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE II, OF THE CITY CODE, ENTITLED BUSINESS
AND OCCUPATIONAL LICENSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA THAT:

Section 1. Chapter 13, Article II, Section 13-36, of the City Code is amended by deleting from the second sentence of subsection (a) the following clause:

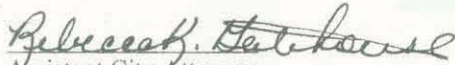
“, and any such motor vehicle which under the Machinery Act would be taxable for ad valorem property taxes shall be subject to the tax imposed herein”

Section 2. Chapter 13, Article II, Section 13-36, of the City Code is further amended by adding a new subsection (d) providing as follows:

(d) *Due Date.* For vehicles subject to the ad valorem property tax, the tax imposed herein is due and payable on the same date that the property tax is due. For vehicles exempt from the ad valorem property tax but subject to the 1.5% tax on the gross receipts from the retail short-term rental or lease of such vehicles, the tax imposed herein is due and payable on the same date that the January gross receipts tax return is due.

Section 3. This ordinance shall become effective upon its adoption.

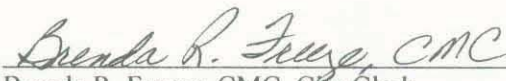
Approved as to form:


Assistant City Attorney
Sara Smith Holderness
Rebecca K. Gatehouse

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 446.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk

ORDINANCE NUMBER: 1590-X

0-7

AN ORDINANCE TO AMEND ORDINANCE NUMBER 1552-X, THE 2000-2001 BUDGET
ORDINANCE, ESTIMATING PRIVATE SECTOR REVENUES AND PROVIDING AN
APPROPRIATION FOR INTERSECTION STUDIES.

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

- Section 1. That the sum of \$50,000 is hereby estimated to be available from State Farm Mutual Insurance Company.
- Section 2. That the sum of \$50,000 is hereby appropriated to General Capital Project Fund 2010; 245.00 - Minor Roadway Improvements.
- Section 3. All ordinances in conflict with this ordinance are hereby repealed.
- Section 4. This ordinance shall be effective immediately.

Approved as to Form:


City Attorney

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 447.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk

ORDINANCE NUMBER: 1591-X

0-8

AN ORDINANCE TO AMEND ORDINANCE NUMBER 1552-X, THE 2000-2001 BUDGET ORDINANCE, PROVIDING AN APPROPRIATION FOR A FEDERAL AVIATION ADMINISTRATION (FAA) GRANT.

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

- Section 1. That the sum of \$7,513,549 is hereby estimated to be available from the FAA to fund a portion of the Airport's 1997 Master Plan.
- Section 2. That the sum of \$7,513,549 is hereby appropriated to the Airport's Capital Improvement Fund 2083, 52821.
- Section 3. That the existence of this program may extend beyond the end of the fiscal year. Therefore, this ordinance will remain in effect for the duration of the program and funds are to be carried forward to subsequent fiscal years until all funds are expended.
- Section 4. It is the intent of this ordinance to be effective upon its adoption.

Approved as to form:

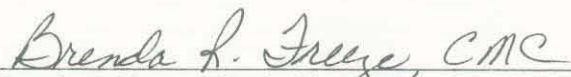


City Attorney

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I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 448.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.



Brenda R. Freeze, CMC, City Clerk

ORDINANCE NUMBER: 1592-X

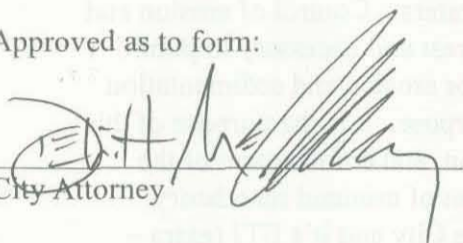
0-9

AN ORDINANCE TO AMEND ORDINANCE NUMBER 1552-X, THE 2000-2001 BUDGET ORDINANCE, TRANSFERRING REVENUE BOND FUNDS TO THE DEBT SERVICE FUND

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

- Section 1. That 1999 Series D General Airport Revenue Bonds in the amount of \$7,510,000 is transferred to the Debt Service Fund to redeem a portion of the related outstanding debt.
- Section 2. That \$7,510,000 is transferred from Capital Improvement Fund 2083, center 52821 to Airport Debt Service Fund 5613, center 54520.
- Section 3. All ordinances in conflict with this ordinance are hereby repealed.
- Section 4. It is the intent of this ordinance to be effective upon its adoption.

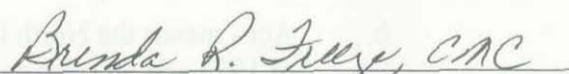
Approved as to form:


City Attorney

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 449.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk

Ordinance No. 1593

AMENDING CHAPTER 18
OF THE CITY CODE

**Article II. THE CITY OF CHARLOTTE SOIL EROSION AND SEDIMENTATION
CONTROL ORDINANCE.**

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

Section 18-21. Title

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

Section 18-22. Preamble

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

Section 18-23. Definitions

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

- a. Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activity.
- b. Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

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

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

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

- hh. Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
- ii. Siltation - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
- jj. Storm Drainage Facilities - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
- kk. Storm Water Runoff - means the direct runoff of water resulting from precipitation in any form.
- ll. Subsidiary - means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- mm. Ten-Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.
- nn. Tract - means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
- oo. Twenty-five Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.
- pp. Uncovered - means the removal of ground cover from, on, or above the soil surface.
- qq. Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- rr. Velocity - means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest.

The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

- ss. Waste - means surplus materials resulting from on-site construction and disposed of at other locations.
- tt. Watershed - means any water supply watershed (WS-IV) area regulated with various controls within the jurisdictional boundaries of City of Charlotte or its Extraterritorial Jurisdiction.
- uu. Working Days - means days exclusive of Saturday, and Sunday and City government holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 18-24. Scope and Exclusions

This Ordinance shall regulate land-disturbing activities within the City of Charlotte and its Extraterritorial Jurisdiction ("ETJ").

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

- (1) Activities including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and apiary products.
 - c. Poultry and poultry products.
 - d. Livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats.
 - e. Bees and dairy products.
 - f. Fur producing animals.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the City Council.
- (3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

- (4) For the duration of an emergency, activities essential to protect human life.
- (5) Land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

Section 18-25. Forest Practice Guidelines

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

Section 18-26. General Requirements

- a. Plan Required - No person shall initiate any land-disturbing activity on a tract which meets at least one of the following criteria without having an Erosion and Sedimentation Control Plan (Plan) approved, or an approved Plan with performance reservations, by the City Engineer.
 - 1. uncovers more than one acre,
 - 2. in a Watershed area, on a tract requiring a buffer, with a disturbed area greater than 2,000 square feet, or
 - 3. in borrow and waste areas covered by Section 18-31, with a disturbed area greater than one acre.
- b. Compliance - Persons who submit a Plan to the City Engineer shall comply with the provisions of Section 18-38 of this Ordinance.
- c. Protection of Property - Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
- d. More Restrictive Rules Shall Apply - Whenever conflicts exist between federal, state or local laws, ordinances, or rules, the more restrictive provision shall apply.

Section 18-27. Basic Control Objectives

A Plan may be disapproved pursuant to Section 18-37 of this Ordinance if the Plan fails to address the following control objectives:

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

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

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

- a. Buffer zone
 1. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a Lake or Natural Watercourse unless a buffer zone is provided along the margin of the water-course of sufficient width to confine visible siltation within the twenty-five percent (25%) of the

buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the City Engineer may approve Plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

2. Unless otherwise provided, the width of a buffer zone is measured from normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
 3. The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.
 4. Where a temporary and minimal disturbance is permitted as an exception by section 18-28(a)(1), land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be distributed such that there is no more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director of the Department of Environment, Health and Natural Resources.
 5. No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards", in these waters.
- b. Graded Slopes and Fills - The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 15 working days or 30 calendar days, whichever period is shorter, after completion of any phase of grading,

be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

- c. Ground Cover - If more than one acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in section 18-29 (b)(5), provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days following completion of construction or development whichever period is shorter.
- d. Prior Plan Approval - No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, a Plan for such activity is filed with the City Engineer. Should the Plan be filed, approved and a grading permit issued in less than 30 days from the filing of the Plan, the land-disturbing activity may commence.
- e. Meeting with City Engineer -The person(s) conducting land-disturbing activity or an agent of that party shall contact the City Engineer at least 48 hours before commencement of the land-disturbing activity for the purpose of arranging an on-site meeting with the City Engineer or duly authorized representative to review and discuss the approved Plan and the proposed land-disturbing activity.

Section 18-29. Design and Performance Standards

- a. Except as provided in section 18-29 (b)(2), erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Natural Resource Conservation Services (formerly Soil Conservation Service's) "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures including but not limited to the Charlotte- Mecklenburg Storm Water Design Manual.
- b. In High Quality Water (HQW) zones the following design standards shall apply.

1. Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
2. Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the Twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Natural Resource Conservation Services (SCS) "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
3. Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 mm) size soil particle transported into the basin by the runoff of that 2-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Natural Resource Conservation Services (SCS) "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
4. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
5. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

Section 18-30. Storm Water Outlet Protection

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

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

- b. Acceptable Management Measures - Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission has recognized that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious,
- (2) avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections,
- (3) provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures,
- (4) protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

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

Maximum permissible velocities

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

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

Section 18-31. Borrow and Waste Areas

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

When the person conducting the land-disturbing activity is not the person

obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

Section 18-32. Access and Haul Roads

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

Section 18-33. Operations in Lakes or Natural Watercourses

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

Section 18-34. Responsibility for Maintenance

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

Section 18-35. Additional Measures

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

Section 18-36. Existing Uncovered Areas

- a. All uncovered areas existing on the effective date of this Ordinance which resulted from land-disturbing activity, exceed one (1) acre, are

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

- b. The City Engineer reserves the right to require preparation and approval of a Plan in any instance where extensive control measures are required.

Section 18-37. Erosion and Sedimentation Control Plans

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

- d. The Mecklenburg Soil and Water Conservation District within 20 days of receipt of any Plan, or within such additional time as may be prescribed by the City Engineer, shall review such Plan and submit its comments and recommendations to the City Engineer. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 days or within the prescribed additional time will not delay final action on the Plan.
- e. The City Engineer will review each complete Plan submitted to him and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, approve with performance reservations, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. In the event the Plan is disapproved pursuant to Section 17(g) of this Ordinance, the City Engineer shall notify the Director of the Division of Land Resources of such disapproval within 10 days thereof. The City Engineer shall advise the applicant and the Director in writing as to the specific reasons that the Plan was disapproved. The applicant shall have the right to appeal the City Engineer's decision as provided in Section 23 of this Ordinance.
- f. The City Engineer must approve, approve with modifications, approve with performance reservations, or deny a revised Plan within 15 days of receipt, or it is deemed to be approved. Plans not picked up from the City Engineer will be disapproved after 1 year. Plans not built within 3 years will be disapproved. If, following commencement of a land-disturbing activity pursuant to an approved Plan, the City Engineer determines that the Plan is inadequate to meet the requirements of this Ordinance, the City Engineer may require any revision that is necessary to comply with this Ordinance.
- g. Any Plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The City Engineer shall promptly notify the person submitting the Plan that the 30 day time limit for review of the Plan pursuant to section 17(e) shall not begin until a complete environmental document is available for review.
- h. The Plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Ordinance. Plan content may vary to meet the needs of specific

site requirements. Detailed guidelines for Plan preparation may be obtained from the City Engineer on request.

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

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

- j. Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the City Engineer the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.
- k. Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this Ordinance.
- l. All Plans required for Land-Disturbing Activities identified in Section 18-26(b) of this Ordinance shall meet the following requirements:
 - (1) Plans shall provide that the Land-disturbing Activity will comply with Federal and State water quality laws, rules and regulations, including, but not limited to, the Federal Clean Water Act. The City Engineer may require supporting documentation.

- (2) Plans shall provide that the Land-disturbing Activity will not result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

Section 18-38. Permits

No person shall undertake any land-disturbing activity subject to this Ordinance without first obtaining a permit therefore from the City Engineer. The only exceptions to this requirement are land-disturbing activity that:

1. are for the purpose of fighting fires; or
2. are for the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or
3. do not exceed one (1) acre in surface area except as established by section 6(a)(2). In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. Although a permit is not required for activity comprising less than one acre except in the watershed area, such activity is subject to all other requirements imposed by this Ordinance, Section 18-26(b) and (c) and penalties described herein.

Section 18-39. Inspections and Investigations

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

failed to comply with an approved Plan, the City Engineer will serve upon the landowner or other person in possession or control of the land a written notice of violation. The notice may be served by any means authorized under G.S. 1A-1, Rule 4, or other means reasonably calculated to give actual notice. A notice of violation shall identify the nature of the violation, specify a date by which the person must comply with this Ordinance, and set forth the measures necessary to achieve compliance with the Ordinance. The notice shall inform the person that failure to correct the violation within the time specified will subject that person to the civil penalties provided in Section 18-40 of this Ordinance or any other authorized enforcement action.

- d. In determining the measures required and the time allowed for compliance, the authority serving the notice of violation shall take into consideration the technology and quantity of work required, and shall set reasonable and attainable time limits of compliance.
- e. No time period for compliance need be given for failure to submit a Plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out official duties.
- f. The City Engineer shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No person shall refuse entry or access to any authorized representative or agent of the City Engineer who requests entry for purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out official duties.
- g. The City Engineer shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.
- h. The person conducting the land disturbing activity will be responsible for self inspection of erosion and sediment control facilities at least once every 7 days or within 24 hours of a storm event of greater than 0.5 inches of rain per a 24 hour period.
- i. With regard to the development of any tract that is subject to this Ordinance, the Building Standards Department shall not issue a Certificate of Occupancy where any of the following conditions exist:
 - 1. If the tract is in violation of this Ordinance; or

2. If there remains due and payable to City of Charlotte civil penalties which have been levied against the person conducting the land-disturbing activity for violation(s) of this Ordinance with regard to development of the tract; or
 3. If the requirements of the Plan have not been completed and the building for which a Certificate of Occupancy is requested is the only building then under construction on the tract; or
 4. If on the tract which includes multiple buildings on a single parcel, the requirements of the Plan have not been completed and the building for which a Certificate of Occupancy is requested is the last building then under construction on the tract.
 5. If on a tract which includes multiple parcels created pursuant to the City of Charlotte Subdivision Ordinance, the requirements of the Plan have not been completed with respect to the parcel for which the Certificate of Occupancy is requested.
- j. Notwithstanding the provisions of Section 18-39(i) above, the Building Standards Department may issue a Temporary Certificate of Occupancy where Section 18-39(i) (3) or (4) or (5) apply and where the person conducting the land disturbing activity is making substantial progress towards completing the requirements of the Plan.

Section 18-40. Penalties

- a. Any person who violates any of the provisions of this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5000.00) per day. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in Section 18-39(c) of this Ordinance. A civil penalty may be assessed from the date of the violation. Refusal to accept the notice or failure to notify the City Engineer of a change of address shall not relieve the violator's obligation to comply with the Ordinance or to pay such a penalty. Each day of continuing violation shall constitute a separate violation.
- b. The amount of the civil penalty shall be assessed pursuant to the following:

(1) Violations involving issues of off-site sedimentation.

Violations of this Ordinance that result in off-site sedimentation subject the violator to a civil penalty of \$1,000.00 per day, per violation. The penalty may be increased up to \$5,000 per day or decreased, in the discretion of the City Engineer, depending on the existence of either aggravating and/or mitigating circumstances surrounding the violation. Violations of this type may include, but are not limited to, the following:

- (a) Grading without a permit issued by the City of Charlotte Engineering & Property Management Department.
- (b) Grading beyond the limits of an existing grading permit without approval of an amended grading permit.
- (c) Failure to properly install or maintain erosion control measures in accordance with the approved plan or the Charlotte/Mecklenburg Land Development Standards Manual so as to prevent off-site sedimentation.
- (d) Failure to retain sediment from leaving a land-disturbing activity, in accordance with the approved plan or other terms, as required by the Ordinance.
- (e) Failure to restore off-site areas affected by sedimentation during the time limitation established in a Notice of Violation, and as prescribed in the "Policies and Procedures" statement.
- (f) Any other violation of this Ordinance, which resulted in off-site sedimentation and, in the discretion of the City Engineer, warrants an assessment of a civil penalty.

(3) Other violations of this Ordinance. All other violations of this Ordinance subjects the violator to a civil penalty of \$500.00 per day, per violation. The penalty may be increased up to \$5,000 per day or decreased, in the discretion of the City Engineer, depending on the existence of either aggravating and mitigating circumstances surrounding the violation. Violations of this type may include, but are not limited to, the following:

- (a) Failure to provide an angle on graded slopes sufficient to retain vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 15 working days or 30 calendar

days, whichever period is shorter, after completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

- (b) Failure to provide a ground cover sufficient to restrain erosion within 30 working days or 120 calendar days, following completion of construction or development whichever period is shorter.
- (c) Failure to submit to the City of Charlotte Engineering & Property Management Department for approval an acceptable revised erosion and sedimentation control plan after being notified by the City Engineer of the need to do so.
- (d) Failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.
- (e) Failure to schedule and conduct a preconstruction meeting prior to any land-disturbing activity, as required on the approved plan.
- (f) Any other action that constitutes a violation of this Ordinance.

c. In determining the amount of the civil penalty, the City Engineer shall consider any relevant mitigating and aggravating factors including, but not limited to, the effect, if any, of the violation; the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator saved money by noncompliance; whether the violator took reasonable measures to comply with the Notice of Violation; whether the violation was committed willfully; and the prior record of the violator in complying or failing to comply with this Ordinance. The City Engineer is authorized to reduce the amount of the per diem penalty set out in Section 18-40(b) to take into account any relevant mitigating factors.

d. Any person who fails to protect adjacent properties from pollutants shall be subject to a civil action as provided in section 18-41 of this article. Civil penalties for pollutants leaving the construction site may be assessed based upon the cost to restore damaged property off-site, including but not limited to, cleanup costs, devaluation of the property, value of plant and animal line damaged and City administrative costs.

- e. The City Engineer shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4 and shall direct the violator to either pay the assessment or contest the assessment as specified in Section 18-43. If a violator does not pay a civil penalty assessed by the City Engineer within 30 days after it is due, or does not request a hearing as provided in Section 23, the City Engineer shall request the City Attorney to institute a civil action to recover the amount of the assessment. The civil action may be brought in Mecklenburg County Superior Court or in the superior court for the county where the violator's residence or principal place of business is located.
- f. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
- g. Civil penalties collected pursuant to this Ordinance shall be credited to the County's general fund as a nontax revenue.
- h. Any person who knowingly or willfully violates any provision of this Ordinance or who knowingly or willfully initiates or continues a land-disturbing activity for which an Plan is required, except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor and may be subject to a fine not to exceed Five Thousand Dollars (\$5,000).
- i. A violation of the City Soil Erosion and Sedimentation Control Ordinance that is not knowing or not willful shall not constitute a misdemeanor or infraction punishable under North Carolina General Statute 14-4, but instead shall be subject to the civil penalties provided in this Ordinance.

Section 18-41. Injunctive Relief

- a. Whenever the City Engineer has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any term, condition, or provision of an approved Plan, he may, either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the City Attorney to institute a civil action in the name of City of Charlotte, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in Mecklenburg County Superior Court.

- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgements as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

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

The City Engineer may require a person who engaged in any land-disturbing activity and failed to retain sediment generated by the activity, in accordance with the standards set out in Section 18-28 (c), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil penalty or injunctive relief authorized under this Ordinance.

Section 18-43. Appeals

(a) Disapproval or Modification of Proposed Plan.

1. The disapproval or modification of any proposed Plan by the City Engineer shall entitle the person submitting the Plan (Petitioner) to a public hearing before the Storm Water Advisory Committee ("Committee") if such person submits written demand for a hearing to the Clerk of the Committee ("Clerk") within 15 days after receipt of written notice of the disapproval or modification. The demand for a hearing filed with the Clerk shall be accompanied by a filing fee as established by the Storm Water Advisory Committee. The Committee may order the refund of all or any part of the filing fee if it rules in favor of the Petitioner. Failure to timely file such demand and fee shall constitute a waiver of any rights to appeal under this Chapter and the Storm Water Advisory Committee shall have no jurisdiction to hear the appeal.
2. Within 5 days of receiving the demand for a hearing, the Clerk shall notify the Chairman of the Committee ("Chairman") of the demand for hearing. As soon as possible after the receipt of said notice, the Chairman shall set a time and place for the hearing and notify the Petitioner by mail of the date, time and place of the hearing. The time specified for the hearing shall be either at the next regularly scheduled meeting of the Committee from the submission of the notice, or as soon thereafter as practical, or at a special meeting. The hearing shall be conducted by the Committee in accordance with the provisions of subsection (c) of this section.

3. If the Committee upholds the disapproval or modification of a proposed Plan following the public hearing, the Petitioner shall have 15 days from the receipt of the decision to appeal the decision to the North Carolina Sedimentation Control Commission pursuant to Title 15, Chapter 4B section .0018(b) of the North Carolina Administrative Code and G.S. 113A-61(c).

(b) Issuance of a Notice of Violation, Assessment of a Civil Penalty or Order of Restoration.

1. The issuance of a notice of violation, assessment of a civil penalty, or an order of restoration by the City Engineer shall entitle the person alleged to be in violation of the Ordinance (Petitioner) to a public hearing before the Storm Water Advisory Committee ("Committee") if such person submits written demand for a hearing to the Clerk of the Committee ("Clerk") within 15 days of the receipt of the notice of violation, assessment of a civil penalty or order of restoration. The demand for a hearing filed with the Clerk shall be accompanied by a filing fee as established by the Storm Water Advisory Committee. The Committee may order the refund of all or any part of the filing fee if it rules in favor of the Petitioner. Failure to timely file such demand and fee shall constitute a waiver of any rights to appeal under this Chapter and the Storm Water Advisory Committee shall have no jurisdiction to hear the appeal.
2. Within 5 days of receiving the Petitioner's demand for a hearing, the Clerk shall notify the Chairman of the Committee ("Chairman") of the request for hearing. As soon as possible after the receipt of said notice, the Chairman shall set a time and place for the hearing and notify the Petitioner by mail of the date, time and place of the hearing. The time specified for the hearing shall be either at the next regularly scheduled meeting of the Committee from the submission of the notice, or as soon thereafter as practical, or at a special meeting. The hearing shall be conducted pursuant to the provisions of subsection (c) of this section.
3. Any party aggrieved by the decision of the Committee with regard to the issuance of a notice of violation, assessment of civil penalties or order of restoration shall have thirty (30) days from the receipt of the decision of the Committee to file a petition for review in the nature of certiorari in Superior Court with the Clerk of Mecklenburg County Superior Court.

(c) Hearing Procedure. The following provisions shall be applicable to any hearing conducted by the Committee pursuant to subsections (a) or (b) above.

1. At the hearing Petitioner and the City Engineer shall have the right to be present and to be heard, to be represented by counsel, and to present evidence through witnesses and competent testimony relevant to the issue(s) before the Committee.
2. Rules of evidence shall not apply to a hearing conducted pursuant to this Ordinance and the Committee may give probative effect to competent, substantial and material evidence.
3. At least seven (7) days before the hearing, the parties shall exchange a list of witnesses intended to be present at the hearing and a copy of any documentary evidence intended to be presented. The parties shall submit a copy of this information to the Clerk. Additional witnesses or documentary evidence may not be presented except upon consent of both parties or upon a majority vote of the Committee.
4. Witnesses shall testify under oath or affirmation to be administered by the Court Reporter or another duly authorized official.
5. The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant, competent, substantial and material evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing. Both the representative for the City and for the Petitioner shall have the right to cross-examine witnesses.
6. At the conclusion of the hearing, the Committee shall render its decision on the evidence submitted at such hearing and not otherwise.
 - (a) If, after considering the evidence presented at the hearing, the Committee concludes by a preponderance of the evidence that the grounds for the City Engineer's actions (including the amount assessed as a civil penalty) with regard to either disapproving or modifying a proposed Plan, issuing a notice of violation, assessing a civil penalty or ordering

restoration are true and substantiated, the Committee shall uphold the action on the part of the City Engineer.

- (b) If, after considering the evidence presented at the hearing, the Committee concludes by a preponderance of the evidence that the grounds for the City Engineer's actions (including the amount assessed as a civil penalty) are not true and substantiated, the Committee shall, as it sees fit either reverse or modify any order, requirement, decision or determination of the City Engineer. The Committee Bylaws will determine the number of concurring votes needed to reverse or modify any order, requirement, decision or determination of the City Engineer. If the Committee finds that the violation has occurred, but that in setting the amount of a penalty the City Engineer has not considered or given appropriate weight to either mitigating or aggravating factors, the Committee shall either decrease or increase the per day civil penalty within the range (\$0.00 to \$5000.00) set by this Ordinance. Any decision of the Committee which modifies the amount of the civil penalty shall include, as part of the findings of fact and conclusions of law, findings as to which mitigating or aggravating factors exist and the appropriate weight that should have been given to such factors by the City Engineer in setting the amount of the civil penalty levied against the Petitioner.

7. The Committee shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to vote. The decision of the Committee shall be based on findings of fact and conclusions of law to support its decision.

8. The Committee shall send a copy of its findings and decision to the Applicant/Petitioner and the City Engineer. If either party contemplates an appeal to a court of law, the party may request and obtain, at his own cost, a transcript of the proceedings.

9. The decision of the Committee shall constitute a final decision.

Section 18-44. Severability

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

Section 18-45. Effective Date


This Ordinance shall be effective upon adoption.

Section 18-46. Revisions

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

Adopted the 28th day of August, 2000.

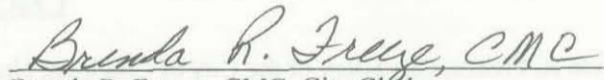
Approved as to form:


Justin A. Barrett
City Attorney

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 450-477.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk

ORDINANCE NO. 1594-X

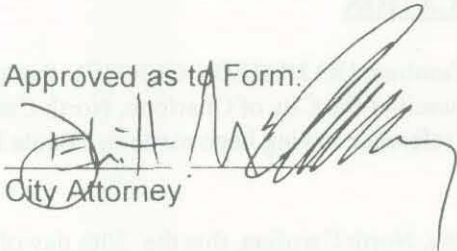
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AN ORDINANCE TO AMEND ORDINANCE NUMBER 1552-X, THE 2000-2001 BUDGET ORDINANCE, PROVIDING AN APPROPRIATION FOR MCDOWELL CREEK WASTEWATER TREATMENT PLANT EXPANSION - PHASE 4

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

- Section 1. That the sum of \$10,000,000 is hereby estimated to be available from Future Water Revenue Bonds.
- Section 2. That the sum of \$10,000,000 is hereby appropriated to the McDowell Creek Wastewater Treatment Plant Expansion - Phase 4 account (631.51) in the Water and Sewer Capital Project Fund (2071).
- Section 3. That the existence of the project may extend beyond the end of the fiscal year. Therefore, this ordinance will remain in effect for the duration of the project and funds are to be carried forward to subsequent fiscal years until all funds are expended or the project is officially closed.
- Section 4. All ordinances in conflict with this ordinance are hereby repealed.
- Section 5. This ordinance shall be effective upon adoption.

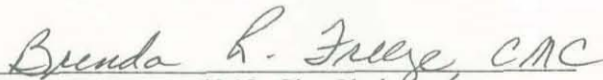
Approved as to Form:


City Attorney

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 478.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk

ORDINANCE NO. 1595

AMENDING CHAPTER 13

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE II, OF THE CITY CODE, ENTITLED BUSINESS AND OCCUPATIONAL LICENSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA THAT:

Section 1. Chapter 13, Article II, Section 13-32; of the City Code is amended by deleting the first sentence of subsection (a), which provides:

"All license taxes imposed by this chapter, excluding beer, wine, taxicabs and the tax imposed in section 13-36 shall be due and payable in advance by July 2, and if any person shall fail to pay any license tax required by this chapter by that date, there shall be assessed an additional tax equal to two and one-half (2 ½) percent of the amount prescribed by such license per month, or any fraction thereof until paid "

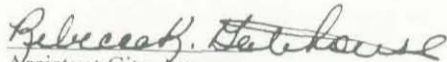
and replacing it with the following:

"All license taxes imposed by this chapter, excluding beer, wine, taxicabs and the tax imposed in section 13-36 shall be due and payable in advance by July 2, and if any person conducts any business without first paying such tax and obtaining a license by that date, there shall be assessed an additional tax equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed."

Section 2. Chapter 13, Article II, Section 13-32, of the City Code is further amended by deleting from the second sentence of subsection (b) the words "two and one-half (2 ½) percent" and replacing them with the words "five percent (5%)."

Section 3. This ordinance shall become effective upon its adoption.

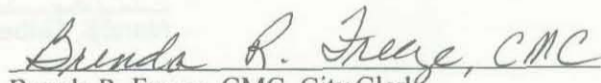
Approved as to form:


Assistant City Attorney
Sara Smith Holderness
Rebecca K. Gatehouse

CERTIFICATION

I, Brenda R. Freeze, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28th day of August, 2000, the reference having been made in Minute Book 115, and recorded in full in Ordinance Book 50, Page(s) 479.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 30th day of August, 2000.


Brenda R. Freeze, CMC, City Clerk