

ORDINANCE 3783-X

O-49

AN ORDINANCE TO AMEND ORDINANCE NUMBER 3606-X, THE 2007-2008 BUDGET ,
ORDINANCE, ESTIMATING AND APPROPRIATING GRANT FUNDING FROM THE U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES (US DHHS), HUMAN RESOURCES
AND SERVICES ADMINISTRATION FUNDING FOR CITIES READINESS.

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

Section 1. That the sum of \$100,000 is hereby estimated to be available from the U.S. Department of Health and Human Services (US DHHS), Human Resources and Services Administration for Cities Readiness.

Section 2. That the sum of \$100,000 is hereby appropriated to the Public Safety Grants Fund 0413; Center 40250

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be effective immediately.

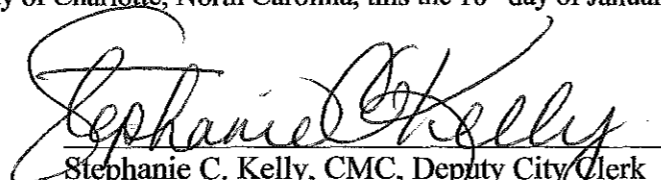
Approved as to Form:

City Attorney

CERTIFICATION

I, Stephanie C. Kelly, Deputy 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 14th day of January, 2008, the reference having been made in Minute Book 125, and recorded in full in Ordinance Book 55, Page 307.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 16th day of January, 2008.


Stephanie C. Kelly, CMC, Deputy City Clerk

ORDINANCE NO. 3784

AMENDING CHAPTER 11

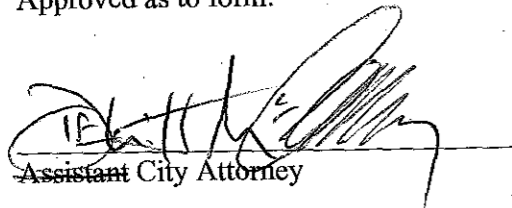
AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY CODE, ENTITLED
HOUSING

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

Section 1: Chapter 11 of the City Code is amended to read as shown in the
attached Exhibit A.

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

Approved as to form:


Assistant City Attorney

CERTIFICATION

I, Stephanie C. Kelly, Deputy 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 14th day of January, 2008, the reference having been made in Minute Book 125, and recorded in full in Ordinance Book 55, Pages (308-337).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 16th day of January, 2008.

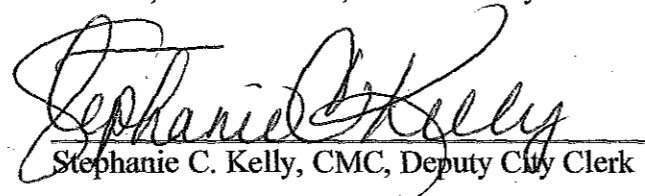

Stephanie C. Kelly, CMC, Deputy City Clerk

EXHIBIT A

ARTICLE I. IN GENERAL

Sec. 11-1. Short title.

The rules and regulations prescribed by this chapter shall be known and may be cited as "The Housing Code of the City of Charlotte" and may be referred to in this chapter as "this code."
(Code 1985, § 11-1)

Sec. 11-2. Findings; purpose.

(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the city's jurisdiction dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazard of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the welfare of the residents of the city.

(b) In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. 160A-360 et seq., it is the purpose of this chapter to establish minimum standards and requirements for the initial and continued occupancy of all buildings used for human habitation as expressly authorized by G.S. 160A-441--160A-450. This section does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this chapter.

(c) The purpose of this chapter is to arrest, remedy and prevent the decay and deterioration of places of habitation and to eliminate blighted neighborhoods by providing standards for places of habitation for the protection of the life, health, safety, welfare and property of the general public and owners and occupants of places of habitation.

(Code 1985, § 11-2)

Sec. 11-3. Scope.

~~The~~
Except as otherwise provided in this chapter, the sections of this chapter are applicable to all dwellings or dwelling units, roominghouses and lodging establishments within the jurisdiction of the city regardless of when such units were constructed, altered, repaired, or improved.

(Code 1985, § 11-3)

Sec. 11-4. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; an enlargement, whether by extending on a side or

by increasing in height; or the moving from one location or position to another; and the term "alter" in its various moods and tenses and its participle refers to the making of an alteration.

Apartment means a room or suite of rooms occupied or which is intended or designed to be occupied as the home or residence of one individual, family or household for housekeeping purposes.

Approved, as applied to a material, device or mode of construction, means approved by the inspector under this chapter or by other authority designated by law to give approval in the matter in question.

Area:-

(1) As applied to the dimensions of a building, means the maximum horizontal projected area of the building.

(2) As applied to the dimensions of a room, means the total square footage of floor area between finished walls.

Basement means a story with 50 percent or more of its cubical volume below finished grade.

Building means any structure built for the support, shelter or enclosure of persons which has enclosed walls for 50 percent or more of its perimeter. The term "building" shall be construed as if followed by the phrase "or part thereof."

Cellar means a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Close means securing the building so that unauthorized persons cannot gain entrance to the building.

Code enforcement official means the person who has been designated, in writing, by the city manager to enforce this chapter.

Demolish means the demolition and removal of the entire building, leaving the property free and clear of any debris and without holes or pockets which may retain water.

Deteriorated as it applies to dwellings and roominghouses means that a dwelling or roominghouse is unsafe or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 65 percent of its physical value, as determined by a finding of the inspector.

Deteriorated as it applies to lodging establishments means that a lodging establishment is unsafe or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 50 percent of its physical value, as determined by a finding of the inspector.

Dilapidated as it applies to dwellings and roominghouses means that a dwelling or roominghouse is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of 65 percent of its physical value, as determined by a finding of the inspector.

Dilapidated as it applies to lodging establishments means that a lodging establishment is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost

not in excess of 50 percent of its physical value, as determined by a finding of the inspector.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

Garbage means the byproduct of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies, insects or animals.

Governing body means the city council.

Habitable room means a room occupied by one or more persons for living, eating, or sleeping, but does not include bathrooms, toilet compartments, laundries, serving and storage pantries, halls, corridors, basements, and other spaces that are not used frequently or during extended periods.

Infestation means the presence, within or around a dwellingplace of habitation, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

Inspector means any person who is authorized by the code enforcement official to conduct inspections for the purpose of enforcing this chapter.

Lodging establishment means any hotel, motel, inn, tourist home, or other place providing lodging accommodations for pay. For purposes of this Chapter of the City Code, the term lodging establishment does not include any hotel, motel, inn, tourist home, or other place providing lodging accommodations for pay that is licensed or permitted by the State of North Carolina or the Mecklenburg County Department of Public Health pursuant to Chapter 130A of the North Carolina General Statutes.

Lodging unit means a room or suite in any hotel, inn, tourist home, or other place providing lodging accommodations for pay designed for the temporary housing of paying guests. For purposes of this Chapter of the City Code, a lodging unit does not include a room in or suite in any hotel, inn, tourist home, or other place providing lodging accommodations for pay designed for the temporary housing of paying guests that is licensed or permitted by the State of North Carolina or the Mecklenburg County Department of Public Health pursuant to Chapter 130A of the North Carolina General Statutes.

Manufactured home and *mobile home* mean a structure as defined in G.S. 143-145(7).

Multiple dwelling means any dwelling containing three or more dwelling units.

Occupant means any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a ~~dwelling unit or rooming unit~~, place of habitation.

Operator means any person who has charge, care or control of a building or part thereof, in which dwelling units ~~or~~, rooming units or lodging units are let.

Owner has the meaning specified in G.S. 160A-442(4).

Party in interest has the same meaning specified in G.S. 160A-442(5).

Pier means a masonry support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the state building code.

Place of habitation means any dwelling, dwelling unit, roominghouse, rooming unit, lodging establishment or lodging unit.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority means any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning ~~dwelling~~ places of habitation or other buildings in the city.

Public space means that space within any ~~dwelling~~ place of habitation which is open to use by the general public.

Rooming unit means a room or group of rooms forming a single habitable unit used or intended for use for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rubbish means combustible and noncombustible waste materials except garbage. The term includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible material.

State building code means the North Carolina State Building Code or any superseding regulation.

Supplied means paid for, furnished, provided by, or under the control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Tenant means any person who, alone or jointly or severally with others, occupies a residential building under a lease or holds a legal tenancy in a building.

Unfit for human habitation means that conditions exist in a ~~dwelling~~ place of habitation which violate or do not comply with one or more of the minimum standards of fitness, or with one or more of the responsibilities of owners and occupants established by this chapter.

(b) Whenever the terms "dwelling," "dwelling unit," "roominghouse," "rooming unit," "lodging establishment," "lodging unit," "place of habitation" and "premises" are used in this chapter, they shall be construed as though followed by the phrase "or any part thereof."

(Code 1985, § 11-4)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, G.S. 160A-442.

Sec. 11-5. Buildings unfit for human habitation declared nuisance.

All buildings or portions of buildings which are used or intended for use as ~~dwelling~~ places of habitation and which are, under this chapter, unfit for human habitation are hereby declared to be a public nuisance and shall be repaired or rehabilitated to the standards of this chapter or demolished in accordance with the procedure set forth in this chapter.

(Code 1985, § 11-5)

Secs. 11-6--11-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 11-31. Duties of code enforcement official.

The code enforcement official is hereby designated as the officer to enforce this chapter and to exercise the duties and powers prescribed in this chapter. It shall be the duty of the code enforcement official to:

- (1) Investigate the ~~dwelling~~ conditions and inspect ~~dwelling~~ and ~~dwelling units~~ places of habitation located in the city in order to determine which ~~dwelling~~ and ~~dwelling units~~ places of habitation are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to such ~~dwelling~~ and ~~dwelling units~~ places of habitation;
- (2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) Keep a record of the results of inspections made under this chapter and an inventory of those ~~dwelling~~ places of habitation that do not meet the minimum standards of fitness prescribed in this chapter; and
- (4) Perform such other duties as may be prescribed in this chapter.

(Code 1985, § 11-21)

Sec. 11-32. Powers of code enforcement official.

The code enforcement official is authorized to exercise such powers as may be reasonably necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others granted:

- (1) Investigate the ~~dwelling~~ conditions in the city in order to determine which ~~dwelling~~ places of habitation therein are unfit for human habitation;
- (2) Administer oaths and affirmations, examine witnesses and receive evidence;
- (3) Enter upon premises for the purpose of making examinations and inspections, provided, such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) Delegate any of his functions and powers under this chapter to other officers and other agents.

(Code 1985, § 11-22)

Sec. 11-33. ~~Rehabilitation and housing inspections division~~ Reserved.

~~There is hereby created and established a division within the neighborhood development department, under the direction of the code enforcement official, which shall be composed of a chief housing code inspector and such other employees as shall be authorized by the city council and appointed by the city manager.~~

~~(Code 1985, § 11-23)~~

Sec. 11-34. Inspections; duty of owners and occupants.

For the purpose of making inspections, the code enforcement official is hereby authorized to enter, examine and survey, at all reasonable times, all ~~dwelling, dwelling units, rooming units~~ places of habitation and premises after sufficiently identifying himself. The owner or occupant of every ~~dwelling, dwelling unit or rooming unit~~ place of habitation, or the person in charge thereof, shall give the code enforcement official free access to such ~~dwelling, dwelling unit or rooming unit~~ place of habitation and its premises, at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a ~~dwelling or dwelling unit~~ place of habitation shall give the owner thereof, or his agent or employee, access to any part of such ~~dwelling or dwelling unit~~ place of habitation and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this chapter or with any lawful order issued pursuant to this chapter.

(Code 1985, § 11-24)

Sec. 11-35. Administrative liability.

Except as may otherwise be provided by statute or local law or ordinance, no city officer, agent or employee charged with the enforcement of this chapter shall be personally liable for any

damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter unless he acted with actual malice.

(Code 1985, § 11-25)

Sec. 11-36. Responsibilities of owners and occupants.

(a) *Generally.* The relative responsibilities of the owners of dwelling units, operators and of the occupants of the dwelling units places of habitation shall be as follows:

(1) *Public spaces.* Every owner of a building shall be responsible for maintaining, in a reasonably clean and sanitary condition, the shared or public spaces of the building and premises thereof.

(2) *Cleanliness.* Every occupant shall be responsible for maintaining, in a reasonably clean and sanitary condition, that part of the dwelling unit and premises which he occupies and controls.

(3) *Infestation.* Every occupant of a dwelling or roominghouse shall be responsible for the extermination of any insects, rodents, or other pests infesting the dwelling unit; or rooming unit provided, however, that the owner shall be responsible for such extermination if, as a consequence of violations of the standards of fitness, the dwelling unit, rooming unit or lodging unit is not reasonably impervious to pests.

(4) *Rubbish and garbage.* Every occupant shall be responsible for disposing of his rubbish and garbage in a clean and sanitary manner by placing it in adequate facilities for such disposal.

(5) *Plumbing.* Every owner or operator shall be responsible for providing adequate operable plumbing facilities, including an adequate water heater, and for maintaining such facilities in efficient operating condition; every occupant shall be responsible for exercising reasonable care in the use of such facilities and for maintaining such facilities in a clean and sanitary condition.

(6) *Heating.* Every owner or operator shall be responsible for providing adequate operable facilities and appliances supplying heat throughout the dwelling unit, rooming unit or lodging unit in compliance with the standards of fitness; every occupant shall be responsible for exercising reasonable care in the use of such facilities and appliances.

(7) *Care of premises.* No occupant shall wilfully destroy, deface or otherwise impair any of the facilities or equipment of the owner on the premises which he occupies and controls, or any part of the building itself.

(b) *Responsibility for violations.* Every owner shall remain ultimately responsible for violations of responsibilities imposed upon him by this chapter or any other ordinance, although a similar responsibility may also be imposed upon the occupant and although the occupant may have agreed to bear the responsibility imposed by ordinance upon the owner.

(Code 1985, § 11-26)

Sec. 11-37. Enforcement of responsibilities of owners and occupants.

Upon discovering in any building a condition resulting from noncompliance with section 11-36, the inspector is hereby authorized to order, to take, or otherwise to cause to be taken, such remedial action as is necessary to correct such condition.

(Code 1985, § 11-27)

Sec. 11-38. Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the code enforcement official by a public authority or by at least five residents of the city at least 18 years of age charging that any ~~dwelling or dwelling-unit~~ place of habitation is unfit for human habitation, or whenever it appears to the code enforcement official, upon inspection, that any ~~dwelling or dwelling-unit~~ place of habitation is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such ~~dwelling or dwelling-unit~~ place of habitation a complaint stating the charges and containing a notice that a hearing will be held before the code enforcement official at a place therein fixed, not less than ten nor more than 30 days after the serving of such complaint. The owner or any party in interest shall have the right to correct the violation or to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such ~~dwelling~~ place of habitation. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the code enforcement official.

(b) *Procedure after hearing.* After the notice and hearing provided for in subsection (a) of this section, the code enforcement official shall state in writing his determination whether such ~~dwelling or dwelling-unit~~ place of habitation is unsafe or unfit for human habitation and, if so, whether it is deteriorated or dilapidated.

(1) If the code enforcement official determines that the ~~dwelling or dwelling-unit~~ place of habitation is deteriorated, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve such ~~dwelling or dwelling-unit~~ place of habitation to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such ~~dwelling or dwelling-unit~~ place of habitation while such repairs, alterations and improvements are being made. Upon application by the owner of a dwelling within the specified period of time, the code enforcement official may grant extensions of up to one year if the ~~such~~ dwelling is occupied by its owner, or up to 180 days if the ~~dwelling is not occupied by its owner~~ for all other places of habitation, for good cause shown.

(2) If the code enforcement official determines that the ~~dwelling~~ place of habitation is dilapidated, he shall state in writing his findings of fact to support such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the ~~dwelling~~ place

of habitation and to remove or demolish the dwellingplace of habitation within a specified period of time, not to exceed 90 days, unless the owner elects to proceed under the procedures set forth in this subsection, or unless an application for an extension of up to 90 days is applied for by the owner and granted by the code enforcement official for good cause shown.

(3) Within ten days from the date of the order determining that the building is dilapidated, the owner may notify the code enforcement official in writing of his intent to make such repairs or alterations to the dwellingplace of habitation so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair the dwellingplace of habitation within the time provided in this subsection, the code enforcement official shall issue a supplemental order directing the owner to commence and complete the repairs or alterations necessary to comply with the minimum standards of fitness. The code enforcement official shall allow a reasonable period of time for the owner to make such repairs or alterations, but in no event shall the period of time allowed for such repairs or alterations be less than 30 days nor more than 90 days unless an extension of up to 90 days is granted by the code enforcement official for good cause shown. Upon application by the owner within the specified period of time, the code enforcement official may grant extensions of up to one year if ~~the dwelling is occupied by its owner~~ for an owner-occupied dwelling, or up to 180 days if ~~the dwelling is not occupied by its owner~~ for all other places of habitation for good cause shown.

(4) If the owner fails to give notice of either an intent to repair as provided in this subsection or notice of appeal of the decision of the code enforcement official to the housing appeals board within the time specified for such an appeal, the code enforcement official shall proceed in accordance with subsection (c)(1) of this section.

(5) The code enforcement official shall cause the complaint and notice issued under subsection (a) of this section and the findings of fact and order issued under this subsection to be filed in the notice of lis pendens in the office of the clerk of the county superior court. From the date and time of indexing by the clerk of court, the complaint and notice of hearing or findings of fact and order shall be binding upon the successors and assigns of the owners of and parties in interest in the ~~building or dwellingplace of habitation~~ dwellingplace of habitation. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the ~~building or dwellingplace of habitation~~ dwellingplace of habitation at the time of filing in accordance with G.S. 160A-445. The notice of lis pendens shall remain in full force and effect until it is cancelled. The code enforcement official shall have the authority to notify the clerk of court to cancel the notice of lis pendens when the code enforcement official determines that there no longer is a need for the notice to remain in effect.

(6) Whenever a determination is made pursuant to subsection (b)(2) of this section that a dwelling must be vacated and closed or removed or demolished, under this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the code enforcement official, ~~to~~ to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the

property for the purpose of providing affordable housing. The code enforcement official or the city clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the code enforcement official to wait 45 days before causing removal or demolition.

(c) *Failure to comply with order.* Procedures for the failure to comply with the order are as follows:

(1) *In personam remedy.* If the owner of any deteriorated ~~dwelling or dwelling unit~~ place of habitation shall fail to comply with an order of the code enforcement official to repair, alter, or improve the ~~dwelling or dwelling unit~~ place of habitation within the time specified therein, or if the owner of a dilapidated ~~dwelling~~ place of habitation shall fail to comply with an order of the code enforcement official to vacate and close, and remove or demolish the ~~dwelling~~ place of habitation within the time specified therein, the code enforcement official may submit to the city council, at its next regular meeting, a resolution directing the city attorney to petition the superior court for an order directing such owner to comply with the order of the code enforcement official as authorized by G.S. 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a deteriorated ~~dwelling or dwelling unit~~ place of habitation, or of a dilapidated ~~dwelling~~ place of habitation to comply with an order of the code enforcement official within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (c)(1) of this section, the code enforcement official may submit to the city council an ordinance ordering the code enforcement official to cause such ~~dwelling or dwelling unit~~ place of habitation to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the code enforcement official and, pending such removal or demolition, to placard such ~~dwelling~~ place of habitation as provided by G.S. 160A-443(4), (5) and section 11-40 of this chapter.

(3) *Civil action to remove occupant.* If any occupant fails to comply with an order to vacate a ~~dwelling~~ place of habitation the code enforcement official may file a civil action in the name of the city to remove such occupant. Such action shall be filed and conducted in accordance with G.S. 160A-443(7).

(d) *Appeals from order of code enforcement official.* An appeal from any decision of the code enforcement official may be taken by any person aggrieved thereby. Any appeal from the code enforcement official must be taken within ten days after the rendering of the decision or service of the order by filing with the code enforcement official and with the housing appeals board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the code enforcement official shall forthwith transmit to the housing appeals board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code enforcement official refusing to allow the person aggrieved thereby to do any act, the code enforcement official's decision shall remain in force until modified or reversed. When an appeal is from a decision of the code enforcement official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until ~~the~~ the hearing of the board unless the code enforcement official 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 this requirement would cause imminent peril to life or property. When the code enforcement official 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 code enforcement official by the board or by a court of record upon petition made pursuant to G.S. 160A-446(c) and subsection (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 in 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 15 days of the service of the decision of the board on the person who filed the appeal.

(e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the code enforcement official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the code enforcement official pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Code 1985, § 11-28)

Sec. 11-39. Methods of service of complaints and orders.

(a) Complaints or orders issued by the code enforcement official pursuant to this chapter shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement official in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the code enforcement official makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Code 1985, § 11-29)

Sec. 11-40. In rem action by code enforcement official; placarding.

(a) After the failure of an owner of a ~~dwelling or dwelling unit~~ place of habitation to comply with an order of the code enforcement official issued pursuant to this chapter and upon adoption by the city council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 11-38(c) of this chapter, the code enforcement official shall proceed to cause such ~~dwelling or dwelling unit~~ place of habitation to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the city council, and shall cause to be posted on the main entrance of such ~~dwelling or dwelling unit~~ place of habitation a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index as provided by G.S. 160A-443(5).

(Code 1985, § 11-30)

Sec. 11-41. Costs a lien on premises.

(a) As provided by G.S. 160A-443(6) and section 6.61 of the Charter, the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement official pursuant to section 11-40 or 11-46 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160A-216 et seq. and section 6.61 of the Charter.

(b) If a dwelling or other structure is removed or demolished by the code enforcement official, he shall sell the materials of the dwelling or other structure and any personal property, fixtures, or appurtenances found in or attached to the dwelling or other structure and shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining shall be deposited in the superior court by the code enforcement official, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Code 1985, § 11-31)

Sec. 11-42. Alternative remedies.

Neither this chapter nor any of its sections shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise. Enforcement by any remedy provided in this chapter shall not prevent enforcement by any other remedy provided in this chapter or in other ordinances or laws.

(Code 1985, § 11-32)

Sec. 11-43. Housing appeals board.

(a) There is hereby continued a housing appeals board to which appeals may be taken from decisions or orders of the code enforcement official, as provided in this chapter. The board shall consist of five members to be appointed and to serve as provided in this section.

(b) Appointments and qualifications of board members shall be as follows:

(1) The mayor shall appoint two members, one of whom must be a person who owns and occupies as his principal residence a dwelling located in the city within a city area.

(2) The city council shall appoint three members, one of whom must be a person who maintains his principal place of residence in a rental dwelling that is located within the city within a city area and one of whom must be person who owns, or is employed by, a firm that is engaged in the construction or management of housing.

(3) A member who qualifies for membership under subsection (b)(1) or (b)(2) of this section at the time of his appointment shall continue to be so qualified for the remainder of his term, regardless of any change in circumstances relating to such qualification.

(4) For purposes of this subsection, the term "city within a city area" means the area that has been designated as such by the Charlotte-Mecklenburg Planning Commission. If there should cease to be such a designation, the term shall mean the area that was last designated as such.

(c) Appointments of members of the housing appeals board shall be for staggered terms.

(d) Each appointment of a member shall be for a term of three years, except as provided in subsection (e) of this section. Every member of the board shall continue to hold office until his successor is chosen and qualified. After the appointments provided for in subsection (c) of this section, each member shall be appointed to succeed a specified predecessor, and the term of the new member shall begin as of the scheduled date for termination of the predecessor's term, even if the predecessor has held over, under the authority of this subsection, beyond the scheduled termination date. Each member's successor shall be appointed by the authority (mayor or city council) that appointed the departing member. This subsection shall not apply when a member leaves office prior to the scheduled end of his term.

(e) When a board member leaves office prior to the scheduled end of his term, the authority (mayor or city council) that appointed the departing member shall appoint his replacement. The term of such an appointment shall be for the remaining term of the departing member.

(f) The board shall have power to elect its own officers, to fix the times and places of its meetings, and to adopt necessary rules of procedure and any other rules and regulations which it deems necessary for the proper discharge of its duties. The board shall perform the duties prescribed by this chapter and shall keep an accurate record of all its proceedings. No person may serve more than two terms as a member of the board. Attendance at meetings and continued service on the board shall be governed by the attendance policies established by the city council.

(Code 1985, § 11-33)

Sec. 11-44. Conflict with other provisions.

If any provision, standard or requirement of this chapter is found to be in conflict with any other section of this Code chapter or any provision of any other city ordinance or code, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.

(Code 1985, § 11-34)

Sec. 11-45. Violations; penalty.

(a) It shall be unlawful for the owner of any ~~dwelling or dwelling unit~~ place of habitation to fail, neglect or refuse to repair, alter or improve the ~~dwelling or dwelling unit~~ place of habitation or to vacate and close and remove or demolish the ~~dwelling or dwelling unit~~ place of habitation, upon order of the code enforcement official duly made and served as provided in this chapter, within the time specified in such order; each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any ~~dwelling or dwelling unit~~ place of habitation, with respect to which an order has been issued pursuant to section 11-38(b) of this chapter, to occupy or permit the occupancy of the ~~dwelling or dwelling unit~~ place of habitation after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) Any owner of (i) a dwelling, except an owner who occupies the dwelling as his principal place of residence, or (ii) a roominghouse, except when the owner resides in the roominghouse, who fails to comply with an order of the code enforcement official to repair, alter or improve the dwelling, or roominghouse or to vacate and close and remove or demolish the dwelling, or roominghouse within the time specified in the order, shall be subject to a civil penalty in the amount of \$100.00 for the first day of noncompliance and \$10.00 for each day thereafter until the dwelling is brought into compliance with the order. The civil penalty may be recovered by the city in a civil action in the nature of a debt if the owner does not pay the penalty within 30 days after the initial day of noncompliance.

(c) Any owner of a lodging establishment who fails to comply with an order of the code enforcement official to repair, alter or improve the lodging establishment, within the time specified in the order, shall be subject to a civil penalty in the amount of \$1000.00 for the first day of noncompliance and \$100.00 for each day thereafter until the lodging establishment is brought into compliance with the order. The civil penalty may be recovered by the city in a civil action in the nature of a debt if the owner does not pay the penalty within 30 days after the initial day of noncompliance.

(d) The code enforcement official in his discretion may agree, in writing only, to release, in whole or in part, an owner from liability for the civil penalty imposed pursuant to ~~subsections~~ subsections (b) and (c) of this section if the owner voluntarily agrees, as consideration for the release, to convey to the city, or to some other person or

organization, the property from which the civil penalty arose upon such terms and conditions as the owner and the code enforcement official might agree.

(de) It shall be unlawful for the owner of a dwellingplace of habitation that is imminently dangerous to health or safety to collect rent from another person who occupied the dwellingplace of habitation at the time it became imminently dangerous to health or safety or to permit any other person to begin occupancy of such dwellingplace of habitation. A dwellingplace of habitation is imminently dangerous to health or safety if it is in violation of any one of the following minimum standards of fitness established by article III of this chapter:

- (1) Rotted, fire damaged, or insect damaged steps, flooring, or structural supports, as provided in subsections 11-79(b) and 11-83(b)(1).
- (2) Fire hazard in a chimney that is in use, as provided in section 11-81.
- (3) Unsafe wiring, as provided in subsection 11-82(e).
- (4) Unsafe ceiling or roof, as provided in subsections 11-83(e)(1), (e)(7), (f)(1), (f)(5).
- (5) No potable water supply, as provided in subsection 11-80(h).
- (6) No operable heating equipment, as required by subsection 11-81(b), during November, December, January, February, or March.
- (7) No operable sanitary facilities, as provided in subsections 11-80(i) and (j).
- (8) Severe rat infestation where the dwellingplace of habitation is not impervious to pests, as provided in subsection 11-84(c).
- (9) No safe, continuous, and unobstructed exit from the interior of the building to the exterior at street or grade level, as provided in subsection 11-79(c).
- (10) No access provided to all rooms within a dwelling unit without passing through a public space, as provided in subsection 11-77(1).
- (11) Any window or door providing access to any dwelling unit or rooming unit lacking an operable lock or the owner failing to provide a change of locks or keys to a new tenant of such dwelling unit or rooming unit, as provided in subsections 11-77(n) and 11-78(g).
- (12) No operable smoke detector or alarm, as provided in subsection 11-77(p).
- (13) Every dwellingplace of habitation shall comply with the current county health regulations governing carbon monoxide alarms.

(ef) It shall be unlawful for the owner of a dwellingplace of habitation who (i) has received a complaint and notice authorized by subsection 11-38(c) with regard to the dwellingplace of habitation, or (ii) has gained knowledge by other means that the code enforcement official has issued such a complaint and notice regarding the dwellingplace of habitation to permit another person, other than a person who occupied the dwellingplace of habitation at the time of the issuance of the complaint and notice, to occupy the dwellingplace of habitation without first informing such person, in writing, of the issuance of the complaint and notice and providing him with a copy of such complaint and notice.

(fg) It shall be unlawful for the owner of a ~~dwellingplace of habitation~~ who has received a final code enforcement order, after all periods for appeal to the housing appeals board and petitions to the court have expired pursuant to section 11-38 of this chapter, to fail to comply with such order. However, with respect to an order to vacate and close and remove or demolish the ~~dwellingplace of habitation~~, no civil penalty shall accrue, notwithstanding ~~subsections~~ subsections (b) and (c) of this section, nor shall any criminal liability attach until 30 days following ~~the~~ the relocation of the occupants of the ~~dwellingplaces of habitation~~.

(gh) In addition to any other penalty imposed by this chapter, any person who violates subsection ~~(d), (e), or (f)~~ (g) of this section shall be guilty of a misdemeanor and shall be punished as provided in section 2-21 of this Code. Except as provided in this subsection, there shall not be any criminal liability for violation of any section of this chapter.

(Code 1985, § 11-35)

Sec. 11-46. Abandoned structures.

(a) Any abandoned structure that is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities shall be repaired, closed, or demolished. It shall be unlawful for the owner of an abandoned structure to allow the abandoned structure to become or to remain a health or safety hazard as defined in this subsection.

(b) The code enforcement official shall have the authority to attempt to accomplish the repair, closing, or demolition of unsafe abandoned structures through the procedures set out in section 11-38, except that if the estimated cost to repair the structure is 50 percent or more of its value, the structure shall be considered dilapidated, and the code enforcement official shall order that it be demolished and removed.

Upon the failure of the owner of an unsafe abandoned structure to comply with an order of the code enforcement official to repair, close, or demolish such structure, the code enforcement official shall present the matter to the city council. If the city council finds that the abandoned structure is unsafe pursuant to subsection (a) of this section, it may adopt an ordinance ordering the code enforcement official to cause such abandoned structure to be repaired, closed, or demolished. Each such ordinance shall be recorded as provided in section 11-40, and the cost of any repair, closing, or demolition caused to be made by the code enforcement official shall be a lien on the premises as provided in section 11-41.

(c) For purposes of subsections (a) and (b) of this section, the term "abandoned structure" shall mean any structure that has not been occupied or used, by its owner or by some person acting under authority of its owner, for a continuous period of 30 days or longer.

(d) If the city council shall have adopted an ordinance, or the code enforcement official shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subsection 11-38(b)(1), and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order, if the city council shall find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for

human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals, and welfare of the city in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling ~~which~~which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, the city council may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50 percent of the then-current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
- (2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50 percent of the then-current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

(Code 1985, § 11-36)

Sec. 11-47. Unsafe buildings.

- (a) When it appears to the code enforcement official that a building is especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, the code enforcement official may exercise the powers granted by G.S. 160A-426--160A-429.
- (b) An order issued by the code enforcement official under the authority of this section shall be certified by the city clerk and filed in the record of lis pendens, as provided in section 6.61 of the Charter.
- (c) Upon the failure by the owner of the affected building to comply with an order issued under the authority of this section, further enforcement of the order shall be pursuant to the procedures provided in sections 11-38(c) through (e), 11-40 and 11-41.
- (d) In addition to other authority granted by this section, the code enforcement official may exercise the authority granted by G.S. 160A-426(b), (c).

(Code 1985, § 11-37)

Secs. 11-48--11-75. Reserved.

**ARTICLE III. MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND
DWELLING UNITS PLACES OF HABITATION**

Sec. 11-76. Compliance with article prerequisite to occupancy.

(a) Every ~~dwelling and dwelling unit~~ place of habitation used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness and all of the requirements of this article. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any ~~dwelling or dwelling unit~~ place of habitation which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article. All work shall be done in a workmanlike manner.

(b) All structural repairs or alterations to ~~dwelling~~ places of habitation and all new construction of ~~dwelling~~ places of habitation shall be performed in compliance with all applicable requirements of the state building code.

(Code 1985, § 11-51)

Sec. 11-77. Space and use.

(a) At least one room in the dwelling shall contain not less than 150 square feet.

(b) A kitchen-dining room combination, if any, shall be not less than 100 square feet.

(c) A first bedroom, if any, shall be not less than 100 square feet.

(d) A second bedroom, if any, shall be not less than 70 square feet.

(e) There shall be at least 70 square feet in each habitable room.

(f) There shall be at least 150 square feet of floor space in habitable rooms for the first occupant in each dwelling unit; at least 100 square feet for each additional occupant each of the next three occupants; and at least 50 square feet for each additional occupant over the number of four. (Children one year of age and under shall not be counted).

(g) There shall be at least 80 square feet of bedroom floor space for the first occupant; at least 20 square feet for the second occupant; and at least 30 square feet for each additional occupant over the number of two. (Children one year of age and under shall not be counted).

(h) The provisions of Section 11-77(a) through 11-77(g) shall not apply to lodging establishments. If the Code Enforcement Official determines, in his sole discretion, that the occupancy of a habitable room in a lodging establishment is such that it contributes to an unsafe and unsanitary condition of the habitable room, then such lodging establishment shall be in violation of this chapter.

(i) Those habitable rooms which must be included to meet the foregoing minimum space requirements shall be at least seven feet wide in any part with at least one-half of the floor area having a ceiling height as prescribed by the state building code. Not more than 50 percent of the required area may have a sloped ceiling less than the height prescribed by the state building code with no portion of the required areas less than five feet in height. If any room has a furred ceiling, the prescribed ceiling height is required for at least 50 percent of the area thereof, but in no case shall the height of the furred ceiling be less than that prescribed by the state building code.

(ij) No basement shall be used as a habitable room or housing unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness and condensation.

(2) The total window area in each room is equal to at least the window area sizes prescribed for habitable rooms. (See section 11-78 of this article for light and ventilation requirements.)

(3) Such required window area is located entirely above the grade of the ground adjoining such window area unless provided with adequate window wells.

(4) The total of openable window area in each room is equal to at least the area prescribed for habitable rooms (see section 11-78 of this article for light and ventilation requirements), except where there is supplied some other device affording adequate ventilation and approved by the inspector.

(jk) Toilet and bathing facilities shall be enclosed.

(kl) There shall be no holes or excessive cracks in walls, ceilings, outside doors or outside windows.

(lm) Access shall be provided to all rooms within a dwelling unit without passing through a public space.

(mn) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms and all rooms adjoining a public space.

(no) All doors providing access to any ~~living unit~~ place of habitation shall have operable locks, and, in the case of dwellings and dwelling units, the owner or operator shall provide a change of locks or keys for new tenants.

(p) All doors opening to the outside shall be reasonably weathertight.

(pg) There shall be installed in every dwelling unit, rooming unit and lodging unit an operable smoke detector or alarm.

(qr) Every dwelling and roominghouse shall comply with the current county health regulations governing carbon monoxide alarms.

(Code 1985, § 11-52; Ord. No. 2562, § 3, 3-22-2004)

Sec. 11-78. Light and ventilation.

(a) The window-glazed area in each habitable room of a dwelling or dwelling unit shall not be less than eight percent of the floor area or eight square feet, whichever is greater.

(b) The openable window area in each habitable room in a dwelling shall be equal to at least one-half of the minimum allowance window area and facing directly to the outside for ventilation unless the room is served by an approved ventilating system.

(c) All windows and doors opening to the outside shall be adequately screened unless the room is served by an approved ventilating system. Screens shall fit openings snugly, and the screen mesh shall not be torn or otherwise defective.

(d) Screens shall not be permanently fixed to the window frame or sash.

(e) In bathrooms containing more than one water closet, the window area shall be at least three square feet of glazed area. Where adequate windows cannot be provided, metal ducts with at least 72 square inches in open area and extending from the ceiling through the roof, or mechanical ventilation to the outside, shall be provided.

(f) Every public hall and inside stairway in every multifamily dwelling or place of habitation shall be adequately lighted at all times with an illumination of at least three footcandles per square foot in the darkest portion of the normally traveled stairs and passageways.

~~(g)~~ All windows in dwellings and roominghouses opening to the outside shall be reasonably weathertight and shall have operable locks. If the windows in a lodging establishment are designed to open to the outside, such windows shall be reasonably weathertight and shall have operable locks.

(h) Window bars, grills, or other impediments to escape in case of fire shall not be permitted at habitable room windows, except as permitted by the state building code.

(Code 1985, § 11-53)

Sec. 11-79. Exit requirements.

(a) There shall be two main exits, each at least 30 inches wide and six feet eight inches high, easily accessible to the occupants of each dwelling or dwelling unit. All exit doors must be easily operable and remotely located. (See the state building code for exemptions.)

(b) Platforms, steps, and/or handrails provided to serve exits shall be maintained in safe condition.

(c) There shall be a safe, continuous and unobstructed exit from the interior of the building to the exterior at street or grade level.

(Code 1985, § 11-54)

Sec. 11-80. Plumbing facilities.

(a) All plumbing to be installed ~~in a dwelling or dwelling unit~~ shall be installed in accordance with the state building code.

(b) All plumbing shall be connected to the city sanitary sewer system where available or to another approved system.

(c) All fixtures shall be operable.

(d) There shall be no broken water closet bowls.

(e) Water closets shall not be loose or leaking.

(f) No leaks shall be in a shower stall floor and/or wall.

(g) There shall be adequate facilities for furnishing hot water to each tub or shower, lavatory, and kitchen sink.

- (h) There shall be installed a potable water supply inside the building for each dwelling unit.
- (i) There shall be installed a water closet, tub or shower, lavatory and sink for each dwelling unit. The kitchen sink shall be at least 12 inches by 16 inches by six inches.
- (j) There shall be separate toilet facilities for each dwelling unit.
- (k) Toilet and bathing facilities shall be protected from the weather.
- (l) All water piping shall be protected from freezing by proper installation in protected space.
- (m) Soil and water pipes shall be supported with no broken or leaking pipes.
- (n) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so as to permit such floor to be readily kept in a clean and sanitary condition.
- (o) A lodging unit shall not be required to have a kitchen sink, but if such lodging unit contains a kitchen sink it shall meet the requirements of this Section 11-80.

(Code 1985, § 11-55)

Sec. 11-81. Heating facilities.

- (a) Every building and every dwelling unit shall be weatherproof and capable of being adequately heated, and the heating equipment in every dwelling or dwelling unit shall be maintained in good order and repair.
- (b) Every ~~dwelling and dwelling unit~~ dwelling unitplace of habitation shall have facilities for providing heat in accordance with either of the following:
 - (1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every ~~dwelling unit~~ dwelling unitplace of habitation to which it is connected to a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.
 - (2) Other heating facilities. Where a central or electric heating system is not provided, or is inadequate, each dwelling and dwelling unit shall be provided with sufficient chimneys flues, or gas vents, with heating appliances connected, so as to heat all habitable rooms to a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- (c) All electric, gas and oil heating equipment installed on the premises shall be listed by Underwriters' Laboratories, Inc., or American Gas Association and installed in accordance with the provisions of the state heating code.
- (d) There shall be no loose bricks in chimneys.
- (e) There shall be no holes in flues.
- (f) There shall be no hanging masonry chimneys.

- (g) Thimbles shall be grouted in tightly.
- (h) Thimbles shall not be broken or cracked.
- (i) Thimbles shall be high enough for the stovepipe to rise one-quarter inch per foot minimum.
- (j) The hearth shall be at least 16 inches deep and eight inches beyond each side of the fireplace opening.
- (k) No combustible materials shall be within seven inches of the top and seven inches of either side of the fireplace opening.
- (l) Fireplaces shall be closed with masonry when the chimney is used as a flue for a stove.
- (m) A stove shall be within six feet of a thimble serving it.
- (n) No combustible material shall be within 12 inches of a stovepipe.
- (o) No stovepipe shall be through combustible walls.
- (p) In multiple dwellings and roominghouses with central heat, the furnace room shall be enclosed with material having at least a one-hour fire protection rating.
- (q) Fireplaces may be used for supplementary heating only and not for basic heat.

(Code 1985, § 11-56)

Sec. 11-82. Electrical facilities.

- (a) ~~In a dwelling or dwelling unit~~ places of habitation, no receptacles, ceiling fixtures, or other fixtures shall be hanging loose.
- (b) All switches and receptacles shall be safely operable.
- (c) Every habitable room shall contain not less than two wall-type electrical convenience receptacles.
- (d) There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one supplied ceiling or wall-type electrical light fixture; provided, further, that the ceiling light fixture may be omitted in the living room and bedrooms, provided three electrical convenience receptacles are installed, one of which is controlled from a wall switch.
- (e) There shall be no unsafe wiring.
- (f) There shall be no drop or extension cords in excess of six feet in length.
- (g) No circuits shall be overloaded.
- (h) Fuses shall be sized correctly and not bridged out.
- (i) All wiring to be installed shall be in accordance with the National Electrical Code.

(Code 1985, § 11-57)

Sec. 11-83. Structural standards.

(a) *Foundation.* Foundations ~~in a dwelling or dwelling unit~~ shall conform to the following:

- (1) Beneath the building there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.
- (2) There shall be sound footings, adequate bearing.
- (3) There shall be sound piers, no loose mortar or masonry.
- (4) There shall be no piers in which the plumbline from the top center falls outside the middle one-third of the pier base.
- (5) There shall be no isolated solid masonry piers exceeding in height ten times the least dimension of the pier.
- (6) There shall be no wood stiff-knee piers.
- (7) There shall be masonry underpinning on all dwelling units with ventilation as required by the state building code.

(b) *Floors.* Floors shall conform to the following:

- (1) There shall be no decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills.
- (2) Sills shall be properly supported and reasonably level.
- (3) Joists and beams shall not be overloaded, sagging or broken and shall be structurally sound and not likely to cause structural weakness in the future.
- (4) Maximum spans for floor joist, beams and sills, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- (5) Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
- (6) Flooring shall be reasonably smooth and not decayed, fire damaged or worn through.
- (7) There shall be no loose flooring.
- (8) Floors shall be reasonably level.
- (9) Floor covering or finishing shall be reasonably smooth, weathertight, and not worn through.

(c) *Exterior walls.* Exterior walls shall conform to the following:

- (1) There shall be no wall in which the plumbline from the top center of studs falls outside the base plate at any point along the wall.
- (2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.

(3) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(4) There shall be no broken or cracked structural members.

(5) All siding shall be weathertight, with no holes or excessive cracks or decayed boards, or siding material which permit air to penetrate rooms.

(6) There shall be no loose siding.

(7) There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing, and repair.

(d) *Interior walls.* Interior walls shall conform to the following:

(1) Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms and, if painted or papered, shall be free of chips or excessive peeling.

(2) There shall be no walls in which the plumbline from the top center of studs falls outside the base plate at any point along the wall.

(3) There shall be no loose plaster, loose boards, or other loose wall materials.

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

(5) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.

(6) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(7) There shall be no broken or cracked studs or other structural members.

(e) *Ceilings.* Ceilings shall conform to the following:

(1) There shall be no joists, or beams which are decayed, broken, sagging, or improperly supported at the ends.

(2) Maximum spacing for ceiling joists, providing they show signs of sagging and being weak, shall comply with the requirements of the state building code.

(3) Maximum spans for ceiling joists, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.

(4) There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.

(5) There shall be no loose plaster, boards, gypsum wallboard, or other ceiling finish.

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

(7) Ceiling joists, and beams shall be structurally sound and not likely to cause structural weakness in the future.

(f) *Roofs.* Roofs shall conform to the following:

- (1) There shall be no rafters which are decayed, broken, or improperly supported at the ends.
- (2) No rafters shall be seriously damaged by fire.
- (3) Rafters shall be properly braced and tied four feet on center maximum.
- (4) The attic shall be ventilated as required by the state building code.
- (5) Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.
- (6) There shall be no loose roof covering, no holes, and no leaks causing damage to the structure or rooms.
- (7) There shall be a minimum of class C roof covering.
- (8) There shall be proper flashing at walls or chimneys.

(g) *Porches.* Porches shall conform to the following:

- (1) The floor, ceiling, and roof shall be equal to requirements set forth in this section, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weathertight; the ceiling height may be seven feet; and the attic need not be vented.
- (2) Every porch, terrace or entrance platform -30 inches or more above the adjacent finished grade shall be equipped with railings or guards not less than 36 inches high, unless other effective barriers provide adequate safety. Guard opening limitations shall conform to the requirements of the state building code
- (3) If post and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.

(h) *Stairs and steps.* Stairs and steps shall conform to the following:

- (1) Stairs and steps shall be free of holes, grooves, and cracks large enough to constitute accident hazards.
- (2) Stairwells and flights of stairs more than four risers high shall have rails not less than two feet six inches measured vertically from the nose of the treads to the top of the rail.
- (3) Every rail shall be firmly fastened and maintained in good condition.
- (4) No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.
- (5) Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.
- (6) Every stair riser shall be reasonably uniform in height, and treads shall be sound and securely fastened in position and strong enough to bear a concentrated load of at least 300 pounds without danger of breaking through.

Sec. 11-84. Property maintenance.

(a) *Building structure.* The building structure of a ~~dwelling or dwelling unit~~ place of habitation shall be maintained as follows:

(1) Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent deterioration.

(2) Floors, walls, ceilings, and fixtures shall be maintained in a clean and sanitary condition.

(b) *Open areas.* Open areas shall be maintained as follows:

(1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds.

(2) Fences and other accessory buildings shall be maintained in safe and substantial condition or demolished.

(3) Yards and courts shall be kept clean and free of physical hazards, rubbish, trash, garbage, junked vehicles, vehicle parts and other similar material.

(4) There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health.

(c) *Infestation.* Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.

(d) *Garbage and rubbish.* There shall be adequate sanitary facilities and methods used for the storage, handling, and disposal of garbage and rubbish.

(Code 1985, § 11-59)

Sec. 11-85. Insulation.

Every dwelling, including multiple dwellings, of three stories or less in height, shall have installed in the ceiling or, for a dwelling of more than one story, in the ceiling of the top story, insulation to a minimum-resistance value of R-19. Except as specified in this section, the insulation shall be installed in accordance with the requirements of the state building code.

(Code 1985, § 11-60)

Secs. 11-86--11-115. Reserved.

ARTICLE IV. MINIMUM STANDARDS APPLICABLE TO ROOMINGHOUSES

Sec. 11-116. Applicability.

All of the sections of this chapter and all of the minimum standards and requirements of this chapter shall be applicable to roominghouses and to every person who operates a roominghouse or who occupies or lets to another for occupancy any rooming unit in a roominghouse, except as provided in the following sections of this article.

(Code 1985, § 11-76)

Sec. 11-117. Water closet, hand lavatory and bath facilities.

At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooming units within a roominghouse whenever such facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(Code 1985, § 11-77)

Sec. 11-118. Minimum floor area for sleeping purposes.

Every room in a roominghouse occupied by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each additional occupant 12 years of age and over and at least 35 square feet of floor area for each additional occupant under 12 years of age.

(Code 1985, § 11-78)

Sec. 11-119. Sanitary conditions.

The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the roominghouse. The operator shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(Code 1985, § 11-79)

Sec. 11-120. Sanitary facilities.

Every water closet, flush urinal, lavatory basin, and bathtub or shower required by section 11-117 of this article shall be located within the roominghouse and within a room which affords privacy and is separate from the habitable rooms, and which is accessible from a common hall and without going outside the roominghouse or through any other room therein.

(Code 1985, § 11-80)

ARTICLE V. MINIMUM STANDARDS APPLICABLE TO LODGING ESTABLISHMENTS

Sec. 11-146. Applicability.

All of the sections of this chapter and all of the minimum standards and requirements of this chapter shall be applicable to lodging establishments and to every person who operates a lodging establishment or who occupies or lets to another for occupancy any lodging unit, except as provided in the following sections of this article, or as expressly otherwise excluded in this chapter.

Sec. 11-147. Water closet, hand lavatory and bath facilities.

At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each lodging unit. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

Sec. 11-148. Interior space dimensions.

Interior space dimensions shall comply with all applicable requirements of the state building code.

Sec. 11-149. Sanitary Conditions.

The operator of every lodging establishment shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the lodging establishment. The operator shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the lodging establishment is contained is leased or occupied by the operator.

Sec. 11-150. Sanitary Facilities.

Every water closet, flush urinal, lavatory basin, and bathtub or shower required by section 11-80 of this chapter shall be located within a room which affords privacy and is separate from the habitable room, and which is accessible from a common hall and without going outside the hotel/motel room.

Sec. 11-151 Means of egress.

(a) Means of egress shall comply with all applicable requirements of the state building code.

(b) Deadbolt locks, if any, on exterior doors shall be operable from the exterior by the use of a key, card, or combination and from the inside by a knob or lever without the use of a key.

card, or combination or special knowledge or effort to operate; no person shall install a deadbolt lock on a hotel room or motel room door that does not comply with all applicable laws.

(c) There shall be conspicuously displayed immediately adjacent to or on the inside of every exit door from a sleeping room, a diagram depicting two (2) evacuation routes.

Sec. 11-152 Fire resistance.

Walls, floors, ceilings, doors and windows shall comply with all applicable requirements of the state building code if damaged or constructed of highly flammable material.

AMENDING CHAPTER 15

ORDINANCE NO. 3784
ORDINANCE AMENDING CHAPTER 15 OF THE CHARLOTTE CITY CODE
ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS"

WHEREAS, the City of Charlotte has authority pursuant to Article 8 of Chapter 160A of the North Carolina General Statutes to adopt ordinances to protect the health, safety, or welfare of its citizens and peace and dignity of the City.

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

Section 1. Chapter 15 of the City Code shall be rewritten to add Article XII entitled Hotel and Motel Requirements and to read as follows:

"Article XII

Section 15-261. Regulation of Lodging Establishments

(a) Definitions.

Amenity Program: A program provided for approved customers for convenient check in and registration.

Governmental Issued Identification: A valid driver's license, state or federal identification card or passport.

Lodging Establishment: A hotel, motel, inn, tourist home, or other place that provides lodging accommodations to a guest for pay.

Lodging Unit: A room or suite in any hotel, inn, tourist home or other place providing lodging accommodation for pay designed for the temporary housing of a guest.

Registered Guest: A person, who pays, registers and occupies a lodging unit at a particular lodging establishment.

Section 15-262. Prohibited Acts

(a) It shall be unlawful for any lodging establishment, person, owner, operator, general manager, night clerk or person responsible for the day to day operations of a lodging establishment to:

(1) Fail to number or designate in a plain and conspicuous manner each lodging unit. Such number or designation shall be placed on the outside of each lodging unit and no two lodging units shall bear the same number or designation, unless clearly designated as to a building, wing, or other identifier.

(2) Allow a guest to register or check in at the lodging establishment who does not provide a valid credit card or government issued identification except when a reservation is established by a confirmation number, or provided by an amenity program, kiosk, or on-line system.

(3) Charge a registered guest an hourly rate for a lodging unit except if

- i. the hourly extension was granted by the lodging establishment to accommodate a late check out; or
- ii. the hourly extension is a partial day rate granted for flight layovers or other travel delays; or
- iii. the hourly rate is established by a written company policy.

(4) Block 911 calls from a guest room.

(5) Knowingly allow a person to remain or return to the premises of the lodging establishment, or provide or continue to provide lodging to a registered guest or other person only where the registered guest or other person is participating in observable criminal activity in or on the property. This section does not apply to a lodging establishment if it is currently taking legal action to remove the registered guest or other person or has provided the registered guest or other person written notice to leave within a reasonable time period or the registered guest or other person has been notified to leave and has refused to leave.

(6) Fail to allow a law enforcement officer to conduct an on-site inspection of registration or reservation information about a registered guest, who is a suspect in a particular crime. The information to be inspected shall be provided in whatever form and content as captured by the lodging establishment and shall not be removed from the lodging establishment except upon consent of the hotel manager or his or her designee or by receipt of a subpoena or court order. A hotel manager may request to speak to the officer's direct supervisor or require confirmation in writing before providing an on site inspection of registration or reservation information.

(7) Fail to allow law enforcement officers reasonable access to the vehicle parking area of the lodging establishment within a reasonable period of time upon request by a law enforcement officer who is conducting a criminal investigation.

Sec. 15-263 Guest Registration Information - Confidentiality

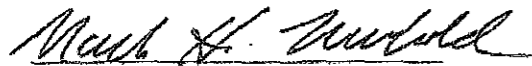
(a) Any guest registration information obtained by police while conducting a criminal investigation shall be confidential and will not be released to the public except upon receipt of a court order.

Section: 15-264 Penalty:

Any person who violates Section 15-262 shall upon conviction be guilty of a misdemeanor as provided in G.S. 14-4."

Section 2: This ordinance will become effective April 1, 2008.

Approved as to Form

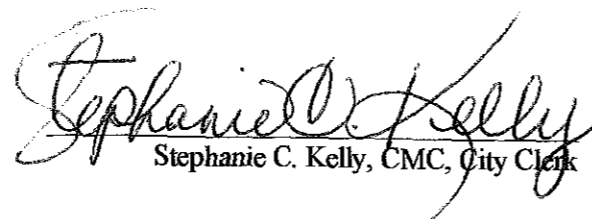


Deputy City Attorney

CERTIFICATION

I, Stephanie C. Kelly, 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 14th day of January, 2008, the reference having been made in Minute Book 126, and recorded in full in Ordinance Book 55, Page(s) 337a-337b.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 31st day of December, 2008.



Stephanie C. Kelly, CMC, City Clerk

ORDINANCE NO. 3785-X

O-50

AN ORDINANCE TO AMEND ORDINANCE NUMBER 3606-X, THE 2007-2008 BUDGET ,
ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION FOR CITY ATTORNEY
EASTWAY WRECKER LAWSUIT PREPARATION REMAINING EXPENSES

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

- Section 1. That the sum of \$296,154 is hereby estimated to be available from General Fund fund balance.
- Section 2. That the sum of \$296,154 is hereby appropriated to the General Fund 0101; 50100.199 - City Attorney - Miscellaneous Contractual Services
- Section 3. All ordinances in conflict with this ordinance are hereby repealed.
- Section 4. This ordinance shall be effective immediately.

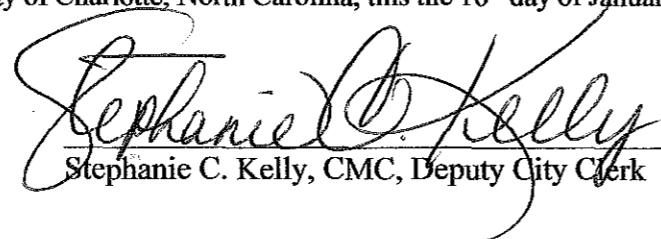
Approved as to Form:

City Attorney

CERTIFICATION

I, Stephanie C. Kelly, Deputy 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 14th day of January, 2008, the reference having been made in Minute Book 125, and recorded in full in Ordinance Book 55, Page 338.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 16th day of January, 2008.


Stephanie C. Kelly, CMC, Deputy City Clerk

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ORDINANCE NO. 3786-X

O-51

AN ORDINANCE TO AMEND ORDINANCE NUMBER 3606-X, THE 2007-2008 BUDGET ORDINANCE, APPROPRIATING FUNDS FROM UTILITIES OPERATING FUND BALANCE FUND VS. NC LAW SUIT OVER WATER RIGHTS ASSOCIATED WITH THE CATAWBA RIVER

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

Section 1. That the sum of \$400,000 is hereby estimated to be available from the Utilities Operating Fund Balance. (7101)

Section 2. That the sum of \$400,000 is hereby appropriated to Utilities - Administrative Division (7101-60100-0031790)

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

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

Section 5. This ordinance shall be effective immediately.

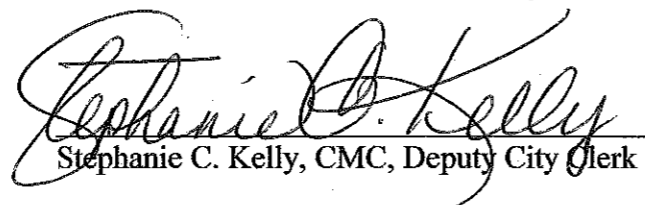
Approved as to Form:

City Attorney

CERTIFICATION

I, Stephanie C. Kelly, Deputy 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 14th day of January, 2008, the reference having been made in Minute Book 125, and recorded in full in Ordinance Book 55, Page 339.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 16th day of January, 2008.


Stephanie C. Kelly, CMC, Deputy City Clerk