

May 12, 2003
Ordinance Book 52, Page 214

ORDINANCE NUMBER: 2289-X

0-67

AN ORDINANCE TO AMEND ORDINANCE NUMBER 2091-X, THE 2002-2003 BUDGET ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION FOR STORM WATER FLOOD CONTROL PROJECTS.

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

Section 1. That the sum of \$11,000,000 is hereby estimated to be available from the following sources:

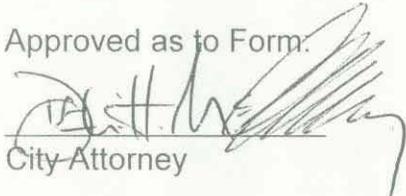
Source	Amount
Storm Water Operating Fund balance (7701)	\$ 6,500,000
Storm Water Revenue Bonds	\$ 4,500,000
Total	\$ 11,000,000

Section 2. That the sum of \$11,000,000 is hereby appropriated to the Storm Water Capital Projects Fund 2701; 358.00 - Flood Control Projects.

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 All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be effective immediately.

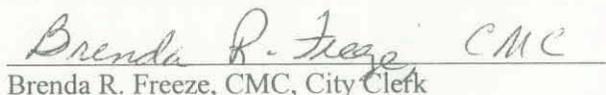
Approved as to Form:


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 12th day of May, 2003, the reference having been made in Minute Book 119, and recorded in full in Ordinance Book 52, Page(s) 214.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 14th day of May, 2003.


Brenda R. Freeze, CMC, City Clerk

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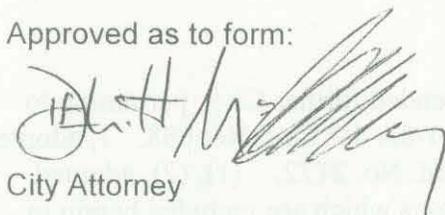
0-68

AN ORDINANCE TO AMEND ORDINANCE NUMBER 2091-X, THE 2002-2003 BUDGET ORDINANCE ESTIMATING DEVELOPER CONTRIBUTIONS AND PROVIDING AN APPROPRIATION FOR TRAFFIC SIGNAL IMPROVEMENTS.

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

- Section 1. That the sum of \$192,200 is hereby estimated to be available from the following Crosland Retail Development.
- Section 2. That the sum of \$192,200 is hereby appropriated General Capital Project Fund 2010; 281.52 - Developer Contributions.
- Section 3. All ordinances in conflict with this ordinance are hereby repealed.
- Section 4. 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 12th day of May, 2003, the reference having been made in Minute Book 119, and recorded in full in Ordinance Book 52, Page(s) 21.⁵

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 14th day of May, 2003.


Brenda R. Freeze, CMC, City Clerk

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ORDINANCE NO. 2291 ORDINANCE AMENDING CHAPTER 9

AN ORDINANCE AMENDING CHAPTER 9, (FLOODWAY REGULATIONS) OF THE
CODE OF THE CITY OF CHARLOTTE:

Section 1. Delete the existing language of the Floodway Regulations in its entirety and substitute
the following new language:

Copyrighted. Municipal Code Corp., affiliated Municipality. 1999.

Chapter 9 FLOODPLAIN REGULATIONS*

*Editor's note-Ord. No. 2378, 1, adopted Mar. 23, 1988, amended former Ch.9, pertaining to
similar subject matter and originating from Code 1961, 8A-1-8A-10: Ord. No. 688, 1, adopted
Dec. 4, 1972; Ord. No. 159, 1, adopted Aug. 7, 1978; and Ord. No. 2172, (1), (2), adopted
Apr. 22, 1987. In addition, Ord. No. 2378 added new provisions which are included herein in
their entirety.

Cross reference(s)-Definitions and rules of construction generally, 1-3; Charlotte-Mecklenburg
planning commission, 2-31 et seq.; buildings, Ch. 5; health and sanitation, Ch. 10; housing, Ch.
11; soil erosion and sedimentation control, Ch. 18; streets and sidewalks, Ch. 19; subdivisions,
Ch. 20; water, sewers and sewage disposal, Ch. 23; zoning, App. A.

State law reference(s)-Assessments for flood protection, G.S. 160A-238; municipal floodway
regulations, G.S. 160A-458.1, 143-215.51 et seq.; promotion of health, safety and welfare of
citizens, G.S. 160A-174.

Art. I. In General, 9-1-9-4

Art. II. Definitions

Art. III. General Provision, 9-5-9-13

Art. IV. Administration, 9-14-9-18

Art. V. Provisions for Flood Hazard Reduction, 9-19-9-23

ARTICLE I. IN GENERAL

Section. 9-1. Short title.

The regulations set out in this ordinance (sometimes herein referred to as "this regulation" or "this ordinance") shall be known and may be cited as the "Floodplain Regulations of Charlotte, North Carolina."

(Ord. No. 2378, 1, 3-23-88)

Section. 9-2. Statutory authorization.

The legislature of the State of North Carolina has of the North Carolina General Statutes, authorized cities to adopt regulations designed to promote the public health, safety and general welfare of its citizenry by regulating the placement of obstructions in flood hazard areas.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-3. Findings of fact.

- a. The flood hazard areas of Charlotte are subject to periodic inundation which results in the loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-4. Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property dues to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or

flood damage; and

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-5. Objectives.

- a. The regulations of the floodway districts and floodway-fringe districts herein set forth are intended to protect areas of designed floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the city as provided in the comprehensive plans as such are adopted and amended from time to time.
- b. The specific intent in establishing the floodway and floodway-fringe districts includes the following:
 1. To control in flood hazard areas, uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;
 2. To protect human life and health;
 3. To minimize the expenditure of public money for costly flood-control projects;
 4. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 5. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;
 6. To minimize prolonged business interruptions;
 7. To provide sufficient drainage courses to carry abnormal flows of stormwater in periods of heavy precipitations;
 8. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in floodplains;
 9. To meet the needs of the streams to carry flood waters and protect the creek channels and floodplains from encroachment so that flood heights and flood damage will not be increased;
 10. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood-blight

areas; and

11. To insure that potential buyers are notified that property is in a flood area.

This ordinance is intended to permit only that development within the floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area and the future conditions flood fringe area as shown on the Flood Insurance Rate Maps and the Floodplain Land Use Maps. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the floodway districts or the floodway-fringe districts, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance.

(Ord. No. 2378, 1, 3-23-88)

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

The use of the term "*floodway*" in this ordinance shall apply to both Community and FEMA floodways unless specified otherwise. The use of the terms "*floodway-fringe*" and "*floodway-fringe district*" shall apply to both Community and FEMA floodway fringe districts unless specified otherwise. The use of the term "*base flood*" will apply to both FEMA and Community base floods unless specified otherwise.

Accessory Structure means structures which are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter load-bearing walls is "new construction."

Appeal means a request for a review of the local administrator's interpretation of any provision of this ordinance or a request for a variance.

Backwater Area is a length of stream where the water surface slope differs from the channel bed slope due to downstream obstructions (culverts, bridges, other stream, etc.). The slopes are depicted on the stream profile plots included in the Mecklenburg County and City of Charlotte Flood Insurance Studies.

Basement means the lowest level or story of a building which has its floor subgrade on all sides.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe-loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. A wall with a loading resistance of more than twenty (20) pounds per square foot requires an architect's or professional engineer's certificate.

Building means any structure built for support, shelter or enclosure for any occupancy or storage.

Critical Facility means a building used to house a function that is especially vulnerable or essential to the community. Uses include but are not limited to: child and adult daycare facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the administrator.

Development means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

Elevated Building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

Existing Manufactured Home Park or Manufactured Home Subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed before the effective date of this ordinance.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactures manufactured homes are to affixed (including the installation of utilities, the construction of streets, and with final site grading or the pouring of concrete slabs.

FEMA is the Federal Emergency Management Agency.

FEMA Base Flood means the flood, determined using land use conditions as of July 1999 having a one percent chance of being equaled or exceeded in any given year.

FEMA Flood Fringe Area is the land area located between the FEMA floodway encroachment lines and the line depicting the maximum elevation subject to inundation by the FEMA base flood as defined herein (see attachment A for illustration).

FEMA Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood, without cumulatively

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increasing the water surface elevation more than 0.5 feet. On the Catawba River, and the portions of Six Mile Creek and Rocky River which run along the county boundary line, the FEMA Floodway means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood, without cumulatively increasing the water surface elevation more than 1.0 feet.

FEMA Floodway Encroachment Lines are the lateral limits of a floodway area along a stream or other bodies of water, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted herein. Their purpose is to preserve the flood-carrying capacity of the floodway. Their location is such that the floodway between them, including the channel, will handle the FEMA base flood flow (see attachment A).

"*Firmette*" means a small map and associated documentation that officially revises the location of floodlines on a FIRM panel.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and
2. The unusual and rapid accumulation of run-off of surface waters from any source.

Flood Insurance Rate Map (FIRM) means an official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevations, velocities and additional data related to the flood study.

Flood Protection Elevation: The elevation to which buildings and uses regulated by this ordinance are required to be elevated or floodproofed, including freeboard. This elevation is shown on the official Flood Areas Map Series.

Floodplain Land Use Map (FLUM) means a locally developed floodplain map that is used for the regulation of new development.

Community Base Flood means the flood, determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.

Community Encroachment Area means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.1 feet, based on existing land use conditions.

Community Encroachment Lines are lateral limits of the community encroachment a floodway area, along streams or other bodies of water, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted herein. Their purpose is to preserve the flood-carrying capacity of the floodway. Their location is such that the floodway between them including the channel will handle the Community base flood flow

(see attachment B).

Floor means the top surface of an enclosed area in a building (including basement), i.e., the top of the slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Future Conditions Flood Fringe Area: The land area located between the Community encroachment lines and the line depicting the maximum elevation subject to inundated by the Community base flood as defined herein (see attachment B for an illustration).

Functionally Dependent Facility means a facility which cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

Hazardous Waste Management Facility means a facility that manages materials that have been declared by the United States Environmental Protection Agency to be toxic, corrosive, ignitable, or chemically reactive.

Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure means any structure that is: (a) listed individually in the National Register of Historic Places (a listed maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified, or (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Local Administrator means the person or agent appointed to administer the provisions of this ordinance.

Lowest Floor means the lowest floor of the lowest enclosed area (including the basement and/or attached garage, see "floor"). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with the "North American Vertical Datum (NAVD)."

New Construction means structures for which the "start of construction" commenced on or after August 15, 1978, and includes subsequent improvements to such structures.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this ordinance.

Nonconforming Building or Use means any legally existing building or use which fails to comply with the provisions of this ordinance.

North American Vertical Datum (NAVD) as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. See Flood Insurance Administration (FIA)-20 part 1, 8.

Recreation Vehicle means a vehicle which is : (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a car or light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping , travel or seasonal use.

Remedy a Violation means to bring the structure or other development into compliance with this ordinance or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Solid Waste Disposal Facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Flood Hazard Area is the land in the floodplain subject to a one - percent or greater chance of flooding in any given year from a FEMA base flood. It includes the FEMA Floodway

and the FEMA Flood Fringe Area. (see attachments A and B).

Start of Construction for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damages occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10 year period beginning after October 11, 1999, for which the cost of repairs at the time of each such flood event equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

Substantially Improved Existing Manufactured Home Park or Subdivision means where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

Substantial Improvement means any repair, reconstruction or improvement of a structure, where the cost equals or exceeds fifty (50) percent of the market value of the structure, either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

Substantial Improvement also means any repair, reconstruction, or improvement to a structure on two separate occasions during a 10 year period beginning after October 11, 1999, for which the cost of repairs, reconstruction, or improvement at the time of each alteration equals or exceeds 25 percent of the market value of the structure before the alteration occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not,

however, include either:

1. Any projects for the improvement of a structure to comply with the existing state and local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance is a grant of relief to a person from the requirements of this ordinance in accordance with Section 9-18 which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Articles IV and V is presumed to be in violation, until such time as the documentation is provided.

(Ord. No. 2378, 1, 3-23-88)

ARTICLE III. GENERAL PROVISIONS

(Ord. No. 2378, 1, 3-23-88)

Section. 9-6. Lands to which this ordinance applies.

This ordinance shall apply to all lands in the land use jurisdiction of the City of Charlotte and within the area shown on the Flood Insurance Rate Maps (FIRM) and/or the Floodplain Land Use Maps (FLUM) as being located within the boundaries of the floodway and/or flood fringe area or land adjacent to the flood fringe area if it is effected by the work that is taking place.

(Ord. No. 2378, 1, 3-23-88; Ord. No. 1188, 1(A), 1-25-99)

Section. 9-7. Basis for establishing the areas of special flood hazard.

The Official FIRM maps, FLUM maps and Firmettes, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

(Ord. No. 2378, 1, 3-23-88; Ord. No. 1188, 1(B), 1-25-99)

Section. 9-8. Floodlands development permit required.

A Floodlands Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-9. Compliance.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-10. Abrogation and greater restrictions.

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

(Ord. No. 2378, 1, 3-23-88)

Section. 9-11. Interpretation.

In the interpretation and applications of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-12. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Charlotte or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-13. Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this

ordinance or fails to comply with any of its requirement shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offence. Nothing herein contained shall prevent the City of Charlotte from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

(Ord. No. 2378, 1, 3-23-88)

ARTICLE IV. ADMINISTRATION

Section. 9-14. Designation of local administrator.

The City Manager designates the Mecklenburg County Floodplain Administrator or his/her designated agent as the person to administer and implement the provisions of this ordinance.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-15. Floodlands development permit and certification requirements.

Application for a floodlands development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities. The Floodlands Development Permit may include, but not be limited to, three (3) sets of plans drawn to scale showing: The nature, location, dimensions and elevations of the area in question; the existing or proposed structures; and the location of fill, materials storage areas and drainage facilities. Specifically, the following information is required:

1. Where base flood elevation data is provided in accordance with Article IV, Section 9-16 (10), the application for a development permit within the special flood hazard area and/or the future conditions flood fringe area on the Flood Insurance Rate Map.
 - a. The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and
 - b. If the structure has been floodproofed in accordance with Article V, Section 9-23 20 (2), the elevation (in relation to mean sea level) to which the structure was floodproofed.
2. Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two (2) feet above the highest adjacent grade.
3. Where any watercourse will be altered or relocated as a result of proposed development, the application for Floodlands Development Permit shall include: A description of the extent of watercourse alteration or relocation; and an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to the properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation and a Condition Letter of Map Revision from FEMA.

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4. When a structure is floodproofed, the application shall provide a Floodproofing Certificate (FEMA Form 81-65) from a registered professional engineer or architect that the nonresidential floodproofed structure meet the floodproofing criteria in Article V, Section 9-20 (2).
5. An Elevation Certificate (FEMA Form 81-31) or a Floodproofing Certificate (FEMA Form 81-65) is required after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one-day (21) calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stopwork order for the project.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-16. Duties and responsibilities of the local administrator.

Duties of the Mecklenburg County Floodplain Administrator or his designated agent shall include, but not be limited to:

1. Reviewing all floodlands development permits to assure that the permit requirements of this ordinance have been satisfied.
2. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the development permit.
3. Notifying adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
4. Assuring that within available resources, maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Preventing encroachment within floodways, unless the certification and flood hazard reduction provisions of Article V are met.

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6. Verifying and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new substantially improved structures, in accordance with Article IV, Section 9-15 (5).
7. Verifying and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Article IV, Section 9-15 (5).
8. When floodproofing is utilized for a particular structure, obtaining certifications from a registered professional engineer or architect in accordance with Article V, Section 9-20 (2).
9. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be conflict between a mapped boundary and actual field conditions), making the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.
10. When base flood elevation data or floodway data has not been provided in accordance with Article III, Section 9-7, obtaining, reviewing and reasonably utilizing any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to Article V, Section 9-22 (4), in order to administer the provisions of this ordinance.
11. All records pertaining to the provisions of this ordinance shall be maintained in the office of the local administrator and shall be open for public inspection.
12. Make on-site inspection of projects in accordance with Article 4, Section 18 (4).
13. Serve notices of violation, issue stop work orders, revoke permits and take corrective actions in accordance with Article 4, Section 18.
14. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the floodplain administrator in the floodplain development permit file.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-17. Administrative procedures.

- a. Inspections of work in progress. As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

- b. Stop orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the administrator may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
- c. Revocation of permits. The local administrator may revoke and require the return of the floodlands development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- d. Periodic inspections. The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- e. Violations to be corrected. When the local administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall each immediately remedy the violation of law in the property he owns or occupies.
- f. Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service:
 - 1. That the building or property is in violation of the Floodplain Regulations;
 - 2. That a hearing will be held before the local administrator at a designated place and time, not later than ten (10) days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - 3. That following the hearing, the local administrator may issue such order to alter, vacate or demolish the building, or to remove fill, as appears appropriate.
- g. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Floodplain Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than sixty (60) days, the administrator may prescribe; provided that, where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- h. Appeal. Any owner who has received an order to take corrective action may appeal from

the order to the City Council by giving notice of appeal in writing to the administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The City Council shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order. All such decisions of the City Council are subject to review by the Mecklenburg County Superior Court as provided in N.C.G.S. 143-215.57 (c) as such statute may be amended from time to time.

- i. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the City Council following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-18. Variance procedures.

- a. The Zoning Board of Adjustment, as established by the City of Charlotte, shall hear and decide appeals and requests for variances from the requirements of this ordinance, and any proposed encroachment requests that would result in an increase in the floodway elevations or floodway widths during the occurrence of a base flood.
- b. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c), as such statute may be amended from time to time.
- c. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- d. In passing upon such application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and the:
 1. Danger that materials allowed to be placed in the floodway as a result of the variance may be swept onto other lands to the injury of others during a base flood;
 2. Danger to life and property due to flooding or erosion damage from a base flood;
 3. Susceptibility to the proposed facility and its contents to flood damage and the effect of such damage during the base flood;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations, not subject to flooding or erosion damage during a base flood, for the proposed use;
 7. Compatibility of the proposed use with existing and anticipated development;

8. Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County Greenway Plan, and any other adopted land use plans for that area;
 9. Safety of access to the property in times of a Community base flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a base flood and the effects of wave action, if applicable, expected at the site; and
 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- e. Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

f. Floodway Variances

1. Variances within the FEMA Floodway

Variances shall not be issued within any designated FEMA Floodway if any increase in flood levels during the base flood discharge would result, unless the requirements of Section 9-20 (4)(a) of this ordinance are met.

2. Variances within the FEMA Floodway (i.e., within the FEMA floodway encroachment lines) shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that the difficulty or exceptional hardship, resulting from the application of this Ordinance would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance; and
- (iii) a determination that the granting of a variance will not result in increased flood heights (unless the requirements of Section 9-20 (4) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

3. Variances within the Community Encroachment Area (i.e., within the Community encroachment lines but outside the FEMA floodway encroachment lines) shall only be issued upon:

- (i) a showing of good and sufficient cause;

(ii) a determination that the difficulty or exceptional hardship resulting from the application of this Ordinance would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance;

(iii) a determination that the granting of a variance will not result in increased flood heights which would have a substantial adverse impact on other properties, substantial threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances; the requirements of Section 9-20 (4)(b) must be met; and

(iv) a determination that during the occurrence of the Community base flood, the property would have permanent vehicular (including emergency vehicles) access to any building to be constructed on the property.

g. Conditions for variances:

1. Variances may not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Any applicant to whom a variance from the FEMA base flood elevation is granted shall be given written notice specifying the difference between the FEMA base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions. The local administrator shall maintain the records of all appeal actions in the FEMA Floodway and FEMA Flood Fringe and report any variances in the FEMA Floodway and FEMA Flood Fringe to the Federal Emergency Management Agency upon request.

h. Administrative Approval - The local administrator has the authority to grant an administrative approval for deviations from the requirements of Section 21 (4) (b) of this ordinance for those requests that meet the following criteria:

1. the local administrator determines that the proposed conditions would have no substantial adverse impact on flooding of surrounding properties;
2. the administrator has not been informed of any opposition by surrounding property owners;
3. normal and emergency access will be provided to the property; and
4. the requirements of all other local, State and federal regulations are met.

i. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in

areas of special flood hazard provided that all of the following criteria apply:

1. The use serves a critical need in the community.
2. No feasible location exists for the use outside the area of special flood hazard.
3. The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
4. The use complies with all other applicable laws and regulations.
5. The Floodplain Administrator has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) days prior to granting the variance.

(Ord. No. 2378, 1, 3-23-88)

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section. 9-19. General standards.

In all areas of special flood hazard, the following provisions are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;

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7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this chapter.
10. Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in an area of special flood hazard only if the structure or tank is either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
11. Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) base flood elevation or the community base flood elevation whichever is greater. The determination of this flood fringe area and elevation will be provided by the local administrator.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-20. Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article III, Section 9-7 and Article IV, Section 9-16 (10), the following provisions are required:

1. Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, and attached garages elevation elevated no lower than one foot (two (2) feet along the Catawba River including Lake Wylie and Mountain Island Lake) above the Community base flood elevation.
2. Nonresidential construction. New construction or substantial improvement of any commercial, industrial or nonresidential structure shall have the lowest floor, including basement, elevated no lower than one foot (two (2) feet along the Catawba River including Lake Wylie and Mountain Island) above the level of the Community base flood elevation. Structures located in the floodway-fringe or the floodway may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article IV, Section 9-15 (5).

3. Elevated buildings. New construction or substantial improvement of elevated buildings, that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 1. Provide a minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one (1) foot above grade; and
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - a. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be elevated at least one foot (two (2) feet along the Catawba River including Lake Wylie and Mountain Island Lake) above the community base flood elevation.
 - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or enter to the living area (stairway or elevator).
 - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclosed storage areas.
4. Floodways. Located within the areas of special flood hazard, established in Article III, Section 9-7, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:
 - a. FEMA Floodway. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted within the FEMA Floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such encroachment would not result in any increase in flood level during occurrence of a Community base flood discharge, changes in FEMA Floodway elevations, or FEMA Floodway width. Such certification and technical data by a registered professional engineer shall be presented to the local administrator.

Any change which would cause a rise in the FEMA base flood elevation, or any change in the FEMA floodway elevation, or any change in the FEMA floodway width, will require a variance and a Conditional Letter Of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted and

approved by FEMA and a Letter Of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated letter of map revision.

- b. Community Floodway (community encroachment area). No encroachment, within the Community Floodway (but outside the FEMA floodway) including fill, new construction, substantial improvements and other developments shall be permitted unless a variance or administrative variance has been granted per Section 9-18. This will require a demonstration of the impacts through hydrologic and hydraulic analysis performed in accordance with standard engineering practice., that the proposed encroachment would not result in increase flood impact to adjacent properties during the occurrence of a community base flood. Such certification and technical data by a registered engineer shall be presented to the local administrator.
- c. If Article V, Section 9-20 (43) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
- d. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivisions provided the anchoring and the elevation standards.
- e. Article V, Section 9-20 (35) are met.

5. Manufactured Homes:

Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which a manufactured home as incurred "substantial damage" as a result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one (1) foot above the Community base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Article V, Section 21 (3a) of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated at least one (1) foot above Community base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

- a. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising the

- chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- b. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the area of special flood hazard. This plan shall be filed with and approved by the local administrator and the local Emergency Management Coordinator.
6. Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnection type utilities and security devices, and has no permanent attached additions. Recreation vehicles placed on sites shall either:
- a. be on site for fewer than 180 days;
 - b. be fully licensed and ready for highway use; or
 - c. meet the requirements of Article 4, Section 16 and Article 5, Sections 20 and 21 (5).
7. Temporary Structures. Prior to issuance of a development permit for a temporary structure the following requirements must be met:
- a. All applicants must submit to the local administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - (i) the name, address, and phone number of the individual responsible for the removal of the structure;
 - (ii) the time frame prior to the event at which a structure will be removed;
 - (iii) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
 - (iv) designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.
 - b. The above information shall be submitted in writing to the local administrator for review and written approval.
8. Accessory Structure. When accessory structures (sheds, detached garages, etc.), are to be placed in the floodplain the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation;

- b. Accessory structures shall be designed to have a low flood damage potential;
- c. Accessory structures shall be firmly anchored in accordance with Article V, Section 20 (1); and
- d. Service facilities such as electrical and heating equipment shall be elevated in accordance with Article V, Section 20 (43).

(Ord. No. 2378, 1, 3-23-88; Ord. No. 1188, 1, (C), 1-25-99)

Section. 9-21. Standards for streams with drainage areas of one square mile or greater not having established base flood elevations and/or floodways.

Located within the areas of special flood hazard, established in Article III, Section 9-7, are small streams where no base flood data have been provided or where no floodways have been identified.

The following provisions apply within such areas:

1. No encroachments, including fill, new construction, substantial improvements or new development, shall be permitted within a distance of the stream bank equal to one (1) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided, demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the Community base flood discharge.
2. Article V, Section 9-21(1) is satisfied and Community base flood elevation data are available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article V and shall be elevated or floodproofed in accordance with elevations established in accordance with Article IV, Section 9-16 (10). When Community base flood elevation data are not available from a federal, state or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

(Ord. No. 2378, 1, 3-23-88)

Section. 9-22. Standards for subdivision proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development.

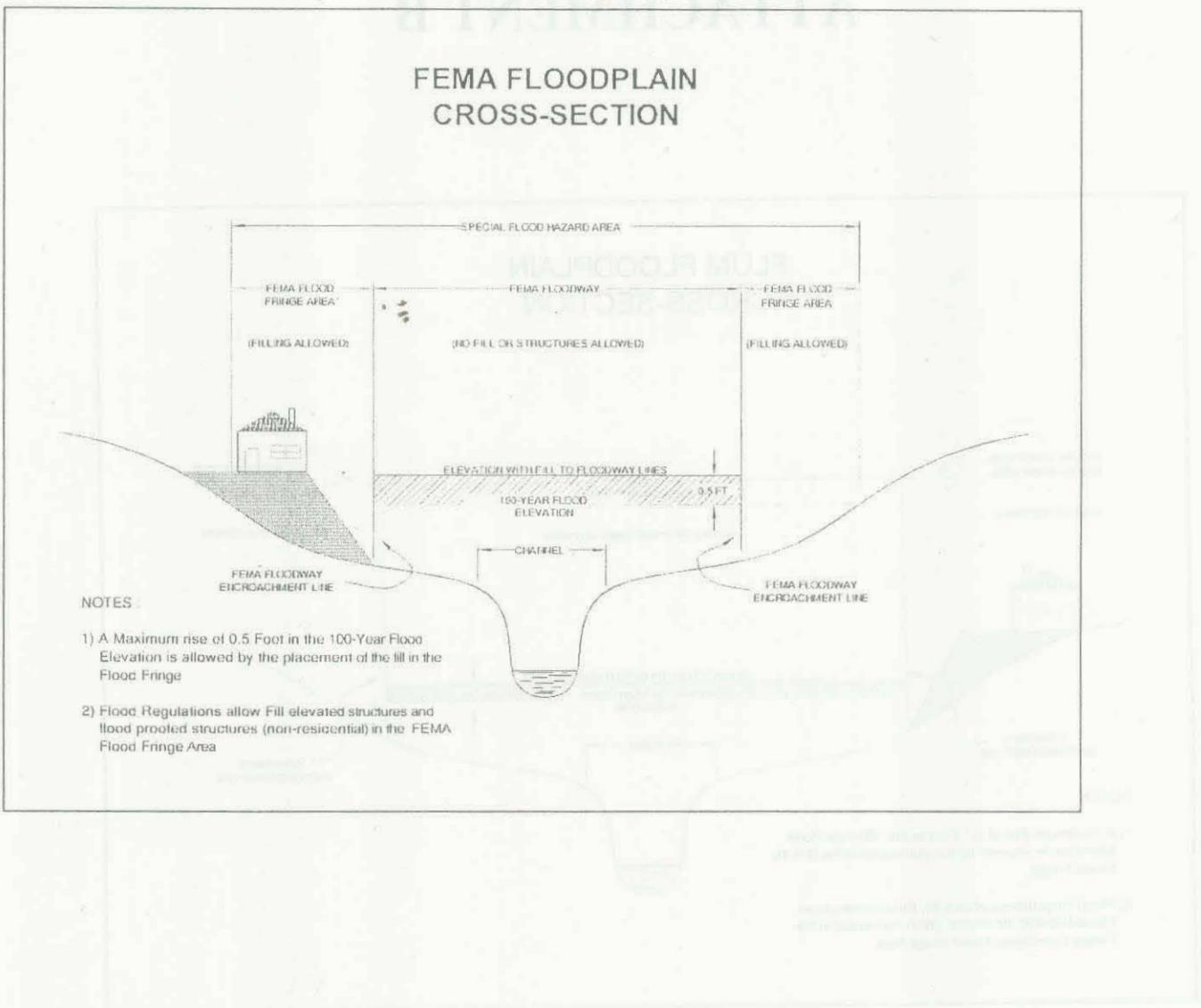
(Ord. No. 2378, 1, 3-23-88)

Section. 9-23. Standards for areas of shallow flooding (AO Zones).

City of Charlotte Flood Maps contain no AO zones.

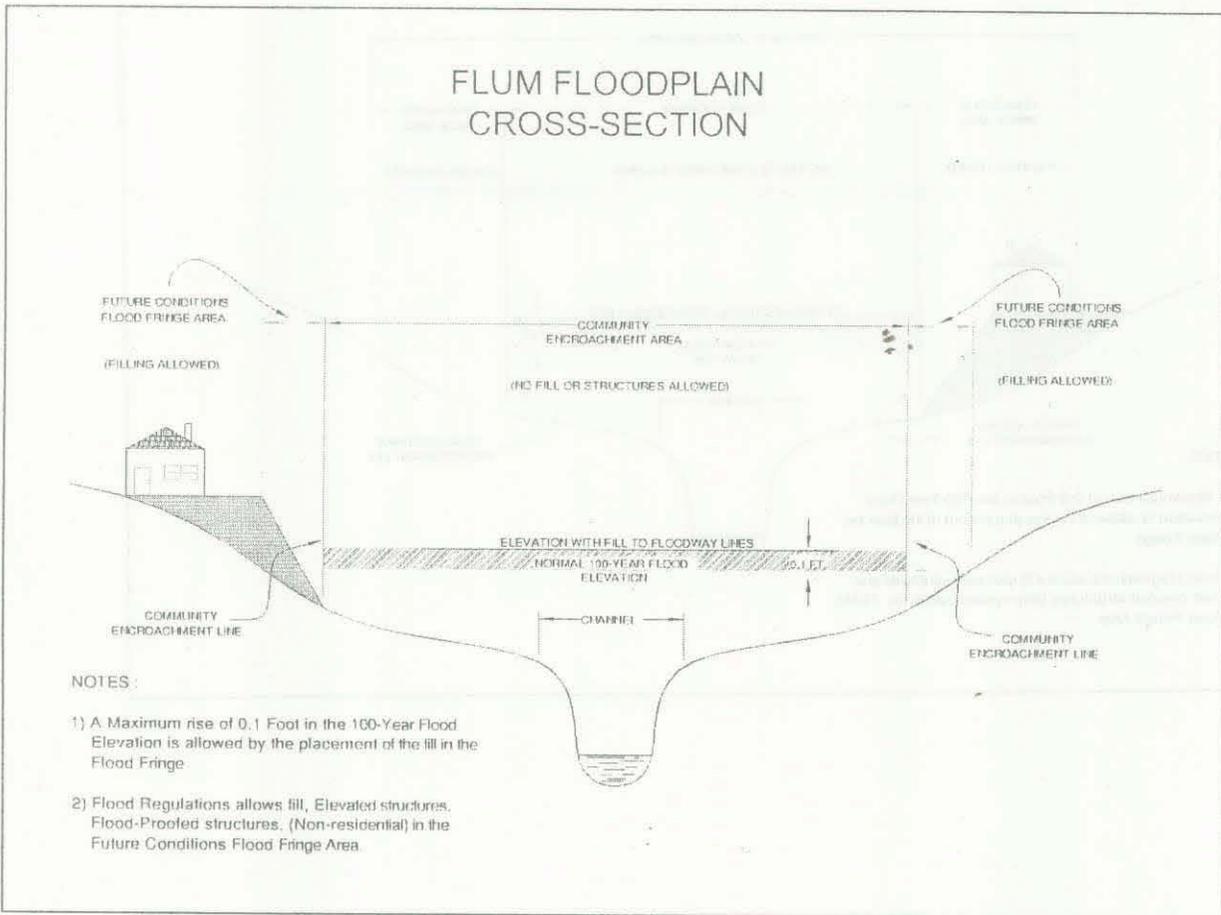
(Ord. No. 2378, 1, 3-23-88)

ATTACHMENT A



ATTACHMENT B

FLUM FLOODPLAIN CROSS-SECTION



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Approved as to form:

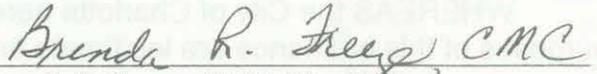


Asst City Attorney

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 12th day of May, 2003, the reference having been made in Minute Book 119, and recorded in full in Ordinance Book 52, Page(s) 216 -24.3.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 14th day of May, 2003.


Brenda R. Freeze, CMC, City Clerk

ORDINANCE NUMBER: 2292

AMENDING CHAPTER 6

**ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE
ENTITLED "BUSINESS AND TRADES"**

WHEREAS, the City of Charlotte finds that private property owners have the right to enjoy their property free from the interference of persons who park vehicles on their property without permission.

WHEREAS, the City of Charlotte recognizes that private property owners have the right to tow or boot vehicles that have been parked on their property without their consent.

WHEREAS, the City of Charlotte recognizes that the owners of private parking lots have the right to charge and receive a fee for parking spaces.

WHEREAS, the City of Charlotte recognizes that private property owners have the right to contract with a private towing or booting company to remove and/or protect its property interest.

WHEREAS, the City of Charlotte finds that the nonconsensual towing and booting of motor vehicles from private parking lots has resulted in the charging of excessive fees.

WHEREAS, the City of Charlotte also finds that disputes over the cost for towing and storing these vehicles has resulted in breaches of the peace that affect the health, safety and welfare of its citizens.

WHEREAS the City of Charlotte hereby asserts that the following purposes of this ordinance are legitimate and substantial governmental interests:

- (1) To provide an owner of a private lot a fair and equitable method for towing and booting a vehicle parked without permission.
- (2) To establish reasonable fees for towing and booting services that are hired by private parking lot owners
- (3) To provide towing and booting services with guidelines to prevent breaches of peace concerning the fees charged for the towing or booting of a vehicle parked without permission on a private lot.
- (4) To provide a citizen with adequate notice that if he or she parks a car on a private lot without permission, then the car is subject to being towed or booted.

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

Chapter 6, "Business and Trades" of the Charlotte City Code is amended by creating Article XII entitled "Towing and Booting Business"

Sec 6-179. DEFINITIONS

- (a) *Boot*: Any device that is attached to a vehicle that prevents the vehicle from being driven.
- (b) *Booting Service*: Any person company, corporation, or other entity who engages in or who owns or operates a business which engages in whole or part in the booting of vehicles.
- (c) *Class A vehicle*: Any vehicle with a gross weight up to and including nine thousand (9,000) pounds.
- (d) *Private Parking Lot*: Any parking lot or area owned by a private entity that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment complex.
- (e) *Tow*: means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.
- (f) *Towing service*: shall include any person, company, corporation, or other entity whether licensed or not, that engages in or who owns or operates a business which, engages in whole or in part, in the towing or removal of motor vehicles for compensation.
- (g) *Trespass Towing*: The towing or removal of a vehicle, without the consent of the vehicle's owner or operator that is parked on a private parking lot without the property owner or agent's consent.

Sec. 6-180. TOWING OF VEHICLES FOR COMPENSATION

- (a) No towing service shall conduct a trespass tow of a Class A vehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the City of Charlotte without complying with the provisions of this Chapter.

Sec. 6-181 TRESPASS TOWING OF VEHICLES FROM PRIVATE PARKING LOTS; SIGNS REQUIRED

- (a) No vehicle shall be towed from a private parking lot for designated parking violations unless a sign is conspicuously posted and clearly

- visible from all vehicle and pedestrian entrances to the property. The sign must clearly provide the following information:
- (1) The property is a private tow-away zone and that a vehicle not authorized to park on the property will be towed away at the owner's expense.
 - (2) The telephone number of the person from whom a towed - away vehicle can be recovered,
 - (3) A statement that the vehicle may be recovered from 7:00 a.m. to 7:00 p.m.
 - (4) The sign shall contain the universal symbol that indicates parking is not permitted.
- (b) The posting of a sign is not required by a property owner or lessee of a family residence to remove a vehicle from the driveway, lawn or what is commonly understood to be the yard. In addition, a sign is not required where the vehicle blocks a private entrance, exit, drive or loading area.
- (c) This section shall not apply to statutory parking violations such as handicap parking and fire lane parking violations; nor shall it apply to nonconsensual tows directed by a governmental enforcement officer.

Sec. 6-182. ESTABLISHMENT OF RATES FOR TRESPASS TOWING.

- (a) The maximum rate for the trespass towing and storage for a Class A vehicle from a private parking lot when the point of origin of the tow is within the city limits of the City of Charlotte shall be as follows:
- (1) One hundred and twenty dollars (\$120.00) for any Class A vehicle. The storage fee shall be fifteen dollars (\$15.00) a day which shall accrue after the vehicle has been stored on the lot for twenty-four (24) hours.
 - (2) For vehicles that have a gross weight over nine thousand (9,000) pounds, the fee for towing and storage shall be established by the towing service.
 - (3) The maximum rates established in paragraph (a) (1) above shall be a flat fee which shall be inclusive of all towing charges. A towing charge includes any fees for:
 - (aa) special equipment such as, but not limited to, a double hook up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies, skates, trailer or flat bed, lift, slim jims, go jacks, removing bumpers, airing up brakes, and mileage.

- (bb) Time spent on the scene of the tow;
- (cc) Gate fees, and fees for returning to the location where the vehicle is stored in order to release.

- (2) The maximum fees set forth herein may be changed by an ordinance passed by City Council.

Sec. 6-183. RETURN OF CLASS A VEHICLE TO OWNER PRIOR TO A TRESPASS TOW.

- (a) No towing service operating within the City shall tow a vehicle or charge for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to towing, unless
 - (1) the registered owner or other legally authorized person in control of the vehicle refuses to remove the vehicle.
- (b) Prior to leaving the lot, the owner or driver of the vehicle shall provide the lot owner or its agent his or her name, address and vehicle information including make, model, tag number, vehicle identification number, and tag number.

Sec. 6-184. RETURN OF CLASS A VEHICLE TO OWNER AFTER A TRESPASS TOW.

- (a) The owner of a towing service shall have someone on call from 7:00 a.m. to 7:00 p.m.

Sec. 6-185. TRESPASS TOWING NOTICE TO POLICE REQUIRED.

- (a) Any Towing Service operating within the City of Charlotte shall, within thirty (30) minutes of the removal of the vehicle from a private parking lot, notify the Non -Emergency Police Service Bureau of the Charlotte-Mecklenburg Police Department of the towing; the storage site; the time the vehicle was towed or removed; the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle; and shall obtain and retain the Charlotte - Mecklenburg Police Department's case number assigned to the call.

Sec. 6-186. BOOTING OF VEHICLE ON A PRIVATE LOT

- (a) No booting service shall boot a vehicle within the City Limits of Charlotte without complying with the provisions of this chapter. However, this section does not apply to any company that is acting on behalf of a governmental agency.

Sec. 6-187. BOOTING OF VEHICLES ON PRIVATE PARKING LOTS: SIGNS REQUIRED.

- (a) No booting service shall boot a vehicle on a private parking lot unless a sign is conspicuously posted and clearly visible from all entrances to the property. The sign must clearly provide the following information:
 - (1) The property is a private lot and that a vehicle not authorized to park on the property will be booted at the owner's expense;
 - (2) The telephone number and address of the person or company that is authorized to remove the boot; and
 - (3) A statement that the boot may be removed at anytime, day or night, upon payment not to exceed the amount specified below.
- (b) When the booting service is contacted to remove the boot, a designated employee of the company will respond within one hour.

Sec. 6-188. FEE CHARGED FOR REMOVING BOOT

- (a) The fee to remove a boot shall not exceed fifty dollars (\$50.00)
- (b) It is unlawful for a private booting company, unless it is acting on behalf of a governmental agency, to place a boot on a motor vehicle parked on the public right of way.

Sec. 6-189. PENALTY

- (a) It is a misdemeanor as provided by North Carolina General Statute Section 14-4 to violate the following provisions of this article: Section 6-181(a), 6-182, 6-183, 6-184, 6-187, 6-188,

Sec. 6-190. CIVIL INJUNCTION

In addition to the issuance of a notice of a violation, any person who violates this article may be subject to all civil and equitable remedies stated in North Carolina General Statute 160A-175.

Sec. 6-191. SEVERABILITY.

In the event that any provision of this article, or any part thereof, or any application thereof to any person or circumstance, is for any reason held

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to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of any other of the remaining provisions of this article or any part thereof applied to any other person or circumstance. It is hereby declared to be the legislative intent of the city council that this article would have been adopted had such unconstitutional, invalid, or ineffective provision not been included herein.

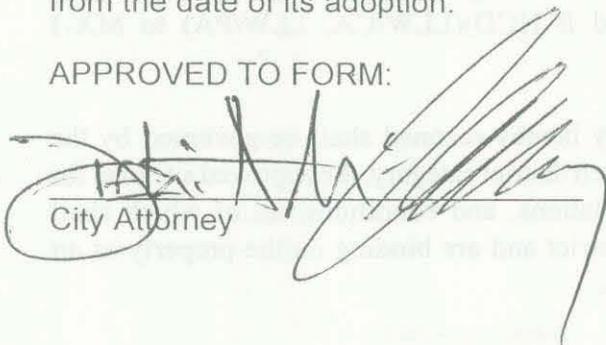
Sec. 6-192. SUNSET PROVISION:

This Article shall be repealed one (1) year from the date that it becomes effective.

Sec. 6.193. EFFECTIVE DATE:

This Ordinance shall become effective one hundred and twenty (120) days from the date of its adoption.

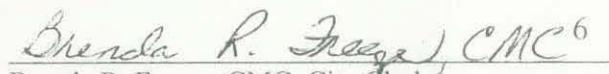
APPROVED TO FORM:


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 12th day of May, 2003, the reference having been made in Minute Book 119, and recorded in full in Ordinance Book 52, Page(s) 244-249.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 14th day of May, 2003.


Brenda R. Freeze, CMC⁶
Brenda R. Freeze, CMC, City Clerk