Exhibit E

Chapter 19 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Footnotes:

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Cross reference— Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the city saved from repeal, § 1-8(6); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-8(9); any ordinance establishing or prescribing street grades in the city saved from repeal, § 1-8(16); aviation, ch. 4; buildings and building regulations, ch. 5; use of streets for cable communications, § 6-140; peddlers, § 6-431 et seq.; cemeteries, ch. 7; floods, ch. 9; motor vehicles and traffic, ch. 14; vehicles blocking streets, § 14-220; riding bicycles, § 14-251 et seq.; running or jogging on public streets, highways, § 14-283; littering public places, § 15-16; stormwater, ch. 18; subdivisions, ch. 20; trees, ch. 21; vehicles for hire, ch. 22; water, sewers and industrial waste discharge restrictions, ch. 23; zoning, app. A.

State Law reference— Streets generally, G.S. 160A-296 et seq.; roads and highways, G.S. 136-4 et seq.

ARTICLE I. - IN GENERAL

Sec. 19-1. - Definitions.

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:

Director/engineer means the director of the department of transportation and/or the city engineer or their designees. When authority is granted to the director/engineer, the director of the department of transportation and the city engineer may, by administrative agreement or practice, determine whether the authority is to be exercised jointly or by one, with or without consultation with the other.

Right-of-way means the area on, below, and above an existing or proposed public roadway, highway, street, bicycle lane, or sidewalk, and associated adjacent land, in which the city has a property interest, whether by easement or fee and regardless of how acquired or established, for public travel and utility purposes. For purposes of this chapter, the term "right-of-way" does not include property held or acquired primarily for the purpose of the movement of public transit vehicles, including railroad rights-of-way.

Cross reference— Definitions generally, § 1-2.

Sec. 19-2. - Damaging or moving guide stakes or markers; failure to conform.

It shall be unlawful for any person to damage, move or cause to be moved any of the stakes or markers set as guides for locating or grading any lots, streets, sidewalks or drains or to fail to conform to such stakes or markers, by locating or grading in any way different from or contrary thereto.

(Code 1985, § 19-5)

Sec. 19-3. - Heavy equipment; scattered stones.

(a) It shall be unlawful for any person to drive, run or operate any tractor, machine or heavy vehicle of any character upon or over any paved street, sidewalk, curb or gutter in such a manner so as to damage the permanent pavement, sidewalk, curb or gutter.

(b) It shall be unlawful for any person to throw or scatter any stones or other hard substances upon, or allow stones or other hard substances to migrate onto, any paved street, sidewalk, curb or gutter so as to damage the permanent pavement, sidewalk, curb or gutter.

(c) The city may require the person responsible for damaging the pavement, sidewalk, curb or gutter in violation of this section to repair or restore the pavement, sidewalk, curb or gutter within a reasonable period of time, which time shall be set in consideration of the harm or risk created by the damage and the effort and expense of repair. The city may, at its option, make any or all repairs or restorations to the pavement, sidewalk, curb or gutter and charge the expense of the repairs and restorations to the person responsible for the damage.

(Code 1985, § 19-14)

Sec. 19-4. - Potentially dangerous fences.

It shall be unlawful to erect or maintain, or cause to be erected or strung, any barbed wire fence, or plain wire, stakes or other obstructions, on the line or border of any sidewalk or street or so close thereto as to be likely to injure any person within the city limits.

(Code 1985, § 19-21)

Sec. 19-5. - Congregating on sidewalks.

It shall be unlawful for any persons to congregate, crowd together, stand around or move slowly about so as to impede, hamper, interfere or obstruct the free passage or movement of pedestrians along or upon any sidewalk within the city; provided, however, that, this section shall not be construed to prohibit peaceful and lawful picketing.

(Code 1985, § 19-26)

Sec. 19-6. - Gutters and drains.

It shall be unlawful to obstruct or in any way interfere with any gutter, ditch, or other manmade or natural water drains located in the right-of-way. The city may require the person who has placed or who maintains an obstruction in violation of this section to remove the obstruction and repair or restore the drain within a reasonable period of time, which time shall be set in consideration of the harm or risk created by the obstruction and the effort and expense of removal. The city may, at its option, remove an obstruction and charge the expense of the removal, restoration, and repair to the person who placed or maintained the obstruction.

(Code 1985, § 19-28)

Sec. 19-7. - Responsibility for dirt and debris on streets and sidewalks.

It shall be unlawful for the contractor in charge of a construction project, or for any person who undertakes, on his own, the removal and conveyance of any dirt, mud, construction materials or other debris, to allow any dirt, mud, construction materials or other debris to be deposited upon any street or sidewalk and then to fail to remove the dirt, mud, construction materials or other debris from the street or sidewalk. Any contractor or any person violating or failing, refusing or neglecting to comply with this section shall be punished by a fine not to exceed $50.00, or imprisonment for not more than 30 days, for each and every offense. By authority of G.S. 160A-175(g), each day's continuing offense shall be a separate and distinct offense. This section may be enforced by any one, or all, or a combination of the

remedies authorized and prescribed by G.S. 160A-175. This section shall be administered and enforced by the community improvement division of the solid waste department.

(Code 1985, § 19-30)

Sec. 19-8. - Local improvements; corner lots; partial exemption from assessment.

(a) Whenever local improvements are made under assessment procedures along both sides of a corner lot at the same time or within a period of ten years, such corner lot, if used for residential purposes or if undeveloped and zoned for residential use, shall be exempt from a second assessment within such ten-year period in an amount equivalent to the cost assessable against:

(1) Seventy-five percent of the frontage last improved;

(2) If improved at the same time, 75 percent of the longest frontage; or

(3) In either case, the per-front-foot cost of such improvement times 50, whichever is less.

(b) The cost of such exemption shall be borne by the city.

(Code 1985, § 19-35)

Sec. 19-9. - Walkways prerequisite to tearing down, remodeling or repairing buildings.

It shall be unlawful for any person, his agent, licensee, or permittee, to tear down any buildings or remodel or repair, or cause to be torn down, remodeled or repaired, any building, until such person, his agent, or licensee or permittee shall have first erected or caused to be erected a suitable walkway, under the direction of the director of transportation and building inspector, so as not to interfere with pedestrians or the general traveling public and, further, to protect such pedestrians or traveling public from bodily harm and danger.

(Code 1985, § 19-36)

Sec. 19-10. - Playing games in streets.

It shall be unlawful for any person to play any game on any public street in the city.

(Code 1985, § 19-38)

Secs. 19-11—19-35. - Reserved.

ARTICLE II. - ADMINISTRATION[2]

Footnotes:

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Cross reference— Administration, ch. 2.

Sec. 19-36. - Authority of director/engineer.

In addition to the authority granted elsewhere in this chapter, the director/engineer is authorized to:

(1) Administer and enforce this chapter.

(2) Locate, stake, mark, and map rights-of-way; streets; sidewalks; street boundaries of lots; and the grade of streets, sidewalks and drains.

(3) Name and rename streets.

(4) Approve and execute encroachment agreements.

(5) Adopt, amend, and repeal rules and regulations governing driveway connections to public streets and issue and revoke driveway connection permits.

(6) Adopt, amend, and repeal rules and regulations governing street and sidewalk excavations and issue and revoke excavation permits.

(7) Adopt, amend, and repeal the Charlotte ~~-Mecklenburg~~ Land Development Standards Manual (CLDSM).

(Code 1985, §§ 19-3, 19-4, 19-7, 19-51)

Sec. 19-37. - Conflicts of Interest

For the purposes of this ordinance, the following conflicts of interest standards shall apply:

(1) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(2) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

19-38. - Inspections and investigations of sites

(a) ~~Agents, officials or other qualified persons designated by the~~ Administrative staff of the city are authorized to inspect the sites subject to this chapter to determine compliance with this chapter, the terms of applicable development approval, or rules or orders adopted or issued pursuant to this chapter. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

~~No person shall refuse entry or access to any authorized city representative or agent who requests~~

~~entry for the purpose of inspection, nor shall any person resist, delay, obstruct or interfere with such authorized representative while in the process of carrying out official duties.~~

(~~c~~b) If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this chapter or rules or orders issued pursuant to this chapter, the city ~~will serve~~ may issue a written notice of violation. As specified by G.S. Sec. 160D- 404(a), the notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of the violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. ~~The notice may be served by any means authorized under G.S. 1A-1, rule 4, or any other means reasonably calculated to give actual notice, such as facsimile or hand delivery.~~ A notice of violation shall identify the nature of the violation and shall set forth the measures necessary to achieve compliance with this chapter. The notice shall inform the person whether a civil penalty will be assessed immediately or shall specify a date by which the person must comply with this chapter. The notice shall advise that failure to correct the violation within the time specified will subject that person to the civil penalties as provided in section 21-124 or any other authorized enforcement action.

(~~d~~c) The city shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites subject to this chapter as specified by G.S. Sec. 160D-403(e) and subsection (a) of this section.

Secs. 19-37—19-65. - Reserved.

ARTICLE III. - DRIVEWAY CONNECTIONS

Sec. 19-66. - Compliance with construction requirements.

Except where otherwise governed and specified by the state department of transportation driveway entrance regulations, it shall be unlawful to construct, maintain, or use a driveway connecting to a public street except in accordance with the city's driveway connection rules and regulations and the terms and conditions of a valid and unrevoked driveway connection permit.

(Code 1985, §§ 19-52, 19-60)

Sec. 19-67. - Notification and inspection.

The planning department~~engineering department~~ shall be notified by any person doing work authorized by permit under this article when forms are placed for driveways or sidewalks made ready for the pouring of concrete. Upon such reasonable notification, the planning department~~city engineer or his representative~~ shall make an inspection of the work in order to verify compliance with the applicable rules and regulations.

(Code 1985, § 19-53)

Sec. 19-68. - Curb and gutter.

When it is determined that curb and gutter are necessary so as to allow for safe use of a driveway connection, the city may require as a condition in a driveway connection permit that curb and gutter be constructed where it does not exist along the entire property frontage or that portion of the frontage deemed necessary to allow for safe use of the driveway connection.

(Code 1985, § 19-54)

Sec. 19-69. - Permit expiration, permit revocation and driveway abandonment.

(a) ~~(a)~~ Applications for driveway connection permits may be made by the property owner, a lessee or person holding an option or contract to purchase or lease the property, or an authorized agent of the property owner.

(b) Driveway connection permits shall be issued in writing and provided in print or electronic form to the property owner and to the party who applied for the driveway connection permit if different from the owner. If an electronic form is used, it must be protected from further editing. An easement holder may also apply for a driveway connection permit for such development that is authorized by the easement.

(c) Driveway connection permits attach to and run with the land.

Construction of a driveway connection must be completed within one year after the issuance of a driveway connection permit. An extension may be granted upon a showing that valid reasons exist for the delay. A request for an extension must be submitted in writing at least 14 days prior to the permit expiration date.

~~(b)~~ A driveway connection permit may be revoked for failure to comply with city's driveway connection rules and regulations or the terms and conditions of a driveway connection permit. If a driveway connection permit is revoked, the city may require the permittee or property owner to physically eliminate the driveway and replace or repair the sidewalk. If the permittee or property owner does not physically eliminate the driveway and replace or repair the sidewalk within a reasonable period of time, the city may do so and charge the expense to the permittee or property owner.

(c) If a driveway connection is abandoned, the city may require the permittee or property owner to physically eliminate the driveway and replace or repair the sidewalk. If the permittee or property owner does not physically eliminate the driveway and replace or repair the sidewalk within a reasonable period of time, the city may do so and charge the expense to the permittee or property owner.

(Code 1985, §§ 19-57, 19-59)

Sec. 19-70. ~~.~~ – Performance guarantees~~Bond~~.

The city may, in its sole discretion, authorize the issuance of a certificate of occupancy or authorize the use of a driveway connection prior to completion of all work required in a driveway connection permit if ~~by requiring~~ the permittee ~~to~~ issues a performance guarantee to the city~~post a bond~~ to ensure the completion of required work. The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued. The City, in consultation with other affected agencies, such as the department of environmental health, with ~~sureties~~ performance guarantees satisfactory to the city guaranteeing the installation of the required improvements allowing credit for improvements completed prior to the submission of the final plat~~.~~, may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the cost for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated. The duration of the

performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time. Upon completion of the improvements and the submission of as-built drawings, as required by this chapter, written notice thereof must be given by the subdivider to the appropriate engineering department. The engineering department will arrange for an inspection of the improvements and, if found satisfactory, will, within 30 days of the date of the notice, provide written acknowledgement to the developer that the required improvements have been completed and authorize in writing the release or return of the ~~security~~ performance guarantees given, subject to the warranty requirement.

The developer shall have the option to post one type of a performance guarantee, in lieu of multiple bonds, letters of credit, or other equivalent security, for all matters related to the same project requiring performance guarantees.

(Code 1985, § 19-58)

Sec. 19-71. ~~-~~ – Minor Modification~~Variance~~.

The city may, in its sole discretion, grant a minor modification~~variance~~ from the driveway connection rules and regulations in order to preserve a tree within a public right-of-way for which a tree removal permit is required under section 21-63 of this Code and the granting of such a modification~~variance~~ would not be inconsistent with the objectives and spirit of the driveway connection rules and regulations.

(Code 1985, § 19-61)

Secs. 19-72—19-95. - Reserved.

ARTICLE IV. - NUMBERING OF BUILDINGS[3]

Footnotes:

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Editor's note— Ord. No. 2375, § 1, adopted September 8, 2003, amended article IV, §§ 19-101—19-107 in its entirety to read as herein set out. Formerly, article IV pertained to similar subject matter and derived from the Code of 1985, §§ 19-96—19-101.

Cross reference— Buildings and building regulations, ch. 5.

Sec. 19-96. - Purpose and intent.

The display of a street address number on each residential, commercial or institutional building is required:

(1) To serve as a navigation reference to expedite response by fire, police, medical and other public safety responders in emergencies,

(2) To enable address identification from vehicles moving at the prevailing speed on adjacent roadways to maintain traffic flow.

(3) To facilitate mail and package deliveries; and

(4) To associate real property with tax, zoning and other government records.

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-97. - General requirements.

(a) It shall be the duty of each owner of a residential, institutional or commercial building to display the proper street address on the front thereof.

(b) One and two family dwellings shall display street address numbers on the structure that are at least four inches (102mm) in height with a minimum stroke width (line thickness) of 0.5 inch (12.7 mm) and be clearly legible from the nearest travel way.

(c) Except where the fire marshal has determined that they are not adequately legible from the road, structures displaying address numbers which are three inches high or more and which were erected prior to the passage of this section of the code may remain in place until they are removed for renovation or any other reason, at which time they must be brought into conformance with subsections (b) and (d).

(d) Except where provided in subsection (c) above, commercial, multi-family and institutional buildings shall display street address numbers at least four inches in height or one inch in height for every ten feet of distance between the displayed number and the centerline of the adjacent roadway, whichever is greater. Maximum number size will not exceed 1.5 times the required size and not exceed 30 inches total.

(e) Should the commercial, multi-family or institutional structure be too far from the public or private travel way for required numbers to be seen, the property owner shall also erect, where the main driveway to the building intersects the public travel way, an additional set of numerals which can be easily read from vehicles traveling at the prevailing speed on the roadway.

(f) On lots adjoining more than one street, placement of address numbers on structures shall make clear to which street or road the number refers. Where this cannot be attained by choice of placement location, both the street name and number shall be displayed (e.g., 234 Bay Street).

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-98. - Assignment of numbers.

Mecklenburg County's director of land use and environmental services and/or his agent shall be responsible for assigning proper street address numbers. Property owners shall apply by telephone, mail or in person to the LUESA mapping and addressing department for the assignment of the proper address.

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-99. - Applicable rules.

The following rules shall apply in the numbering of buildings:

(1) The reference streets for numbering are:

a. North Tryon Street from Trade Street to Charlotte City Limits; thence along U.S. Highway 29 to the Cabarrus County line.

b. South Tryon Street from Trade Street to Camden Road; thence along Camden Road to the Southern Railroad; thence along the Southern Railroad south to the beginning of Nations

Crossing Road; crossing I-77 and running along Marshall Air Drive; thence along Nations Ford Road to the York County Line.

c. West/Trade Street from Tryon Street to Rozzelles Ferry Road; thence along Rozzelles Ferry Road to Valleydale Road; thence along Mount Holly Road to the Gaston County line.

d. East Trade Street from Tryon Street to South McDowell Street; thence along South McDowell Street to East Fourth Street; thence along East Fourth Street to Randolph Road; thence along Randolph Road to Sardis Road; thence along Sardis Road to Matthews Township Parkway; thence along Matthews Township Parkway to John Street in Matthews; thence south along John Street to the Union County Line.

(2) Streets intersecting these streets shall begin at number 100, the second block shall begin at number 200, the third block shall begin at number 300, and so on.

(3) Going away normally from these reference streets the even numbers shall be on the right hand side and the odd numbers shall be on the left hand side.

(4) Lots, which do not have frontage on the street being numbered but achieve access off that street shall be numbered based upon where their access intersects the street.

(5) Other streets not intersecting reference streets and streets which are not extensions which intersect these reference streets shall, on the end of the street nearest a reference street begin with a block number which corresponds with an adjacent parallel street which does intersect one of these reference streets, and the same system, of numbering the block is to be followed out as noted in subsection (2), assigning a new 100 (or block number) to each block. If a block is 800 feet long or more with no intersecting street in between, then a new block number shall begin at the most logical place for a street to be cut through it, or half-way between the long block corners, or, if the street is long enough without intersecting streets, then new block numbers shall begin at intervals of 500 feet.

(6) A new block number is to be assigned to each block that enters the street being numbered, regardless of whether the street continues across it, and the block number shall change directly opposite the point where this dead end street enters the street being numbered. In case of a slight offset in intersecting streets, then the block number will change at the street intersections instead of directly opposite each entering street.

(7) Upon annexation by the city, city street names shall be extended to the new city limits and property owners shall receive street name change notification from the land use and environmental services agency.

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-100. - Owner or occupant's duty to number upon notice.

(a) Implementation of mechanized systems and their reconciliation with existing paper records may require a change of assigned address for a property or structure. To assure the properly integrated functioning of public safety systems, the assigned address used in the county's master address table shall always become the permanent referent address for the property.

(2) Within 30 days of the receipt of a notice from the director of land use and environmental services and/or his agent assigning an address to a particular building, the owner or occupant of the building shall display, or cause to be displayed, the assigned address.

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-101. - Removing, defacing or allowing incorrect numbers to remain.

It shall be unlawful for any person to remove or deface a street address which is displayed in accordance with section 19-97 of this article. It shall also be unlawful to allow an incorrect street address to remain on a building.

(Ord. No. 2375, § 1, 9-8-2003)

Sec. 19-102. - Enforcement; penalties.

A violation of this article shall also be a violation of the city's fire code. Fire inspectors and fire officers of the rank of captain or above shall be responsible for the enforcement of this article, and a violation thereof shall be subject to the penalties provided for in sections 8-5 and 8-6.

(Ord. No. 2375, § 1, 9-8-2003)

Secs. 19-103—19-135. - Reserved.

ARTICLE V. - NON-UTILITY STREET CUTS AND LANE CLOSURES[4]

Footnotes:

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Editor's note— Ord. No. 3730, § 2, adopted October 22, 2007, changed the title of article V from "utilities, street cuts and lane closures" to "Non-utility street cuts and lane closures."

Sec. 19-136. - Utility exception.

The provisions of this article shall not apply to a utility as defined in section 19-332 or a person acting on behalf of a utility. A utility is instead subject to article XIII.

(Ord. No. 3730, § 3, 10-22-2007)

Editor's note— Ord. No. 3730, § 3, adopted October 22, 2007, amended § 19-136 in its entirety to read as herein set out. Formerly, § 19-136 pertained to connections of underground mains, pipes and conduits before street paving, and derived from the Code of 1985, § 19-6.

Sec. 19-137. - Permit required.

No person shall dig or make any excavation in or close or fill in any city street or sidewalk for any purpose whatever, without first making an application for and obtaining the written permission of the city manager or his representative.

(Code 1985, § 19-76; Ord. No. 3730, § 4, 10-22-2007)

Sec. 19-138. - Bond.

(a) No license or permit for excavation shall be issued to any person until such person shall have filed a bond, in an amount determined by the director/engineer, which shall be posted with the city. The bond shall cover and embrace any work, opening or excavation done or performed under any such permit

or license issued during a period of 12 months after the date of such bond. Such bond shall indemnify the city from all claims, suits, actions and proceedings of every character, which may be brought against it for any injuries or damages to person or property received or sustained by any person resulting from any accident that may occur upon any work or excavation done by authority of any such license or permit, whether caused by the negligence of such licensee or permittee, his agent, servant or employees, or otherwise; from any unforeseen contingency that may occur; or from any act of omission or commission of such licensee or permittee, his agent, servant or employees, during the performance of any such work or excavation; and to guarantee payment to the city for inspection fees and any work done by the city caused by the work done under the permit, whether for street resurfacing, the correction of defective work, correction of work not done according to city ordinances, or otherwise.

(b) The bond required in subsection (a) of this section shall not be exacted or collected from any person doing or performing any work or excavation by virtue and under authority of any contract with the city for such work or excavation.

(Code 1985, § 19-77)

Sec. 19-139. - Duty of excavator to notify fire department and city engineer; limitations on openings.

(a) Every person making an opening pursuant to this article shall notify the city engineer and fire department in writing when a street is closed, or about to be closed, for the purpose of making a cut, and the city manager or his representative shall notify the fire department in writing when the street is opened for travel.

(b) Every person making an opening shall work diligently and continuously to complete the work.

(c) No opening or cut shall at any one time exceed in length two city blocks or extend across more than one-half of the width of any street. Upon completion of the cut, including tests and approval of the plumbing inspector in the cases regulated by the city plumbing, such person shall immediately backfill, remove surplus material and repave the opening according to instructions from and under the supervision of the city engineer and open the street or sidewalk for travel before proceeding with construction in the adjacent block or other half of the street.

(d) If the applicant elects that the city do the backfilling or any part of the repairs, he shall immediately notify the office of the city engineer when the opening is ready for the city forces to begin work. In this case the city assumes the responsibility for any barricading or lighting of only that portion of the opening on which repairs have actually begun.

(Code 1985, § 19-78)

Sec. 19-140. - Inspection by city engineer.

All work done and performed in opening or excavating and refilling and repairing any street or sidewalk opened or excavated under this article shall be subject to the inspection of the city engineer or his assistants. The work shall be done in accordance with specifications to be furnished by him and shall not be considered as completed, nor shall such licensee or permittee be released from his liability to restore the street or sidewalk to the condition in which it was before such work or excavation was commenced, until its final condition is approved by the city engineer and the city council.

(Code 1985, § 19-79; Ord. No. 3730, § 5, 10-22-2007)

Sec. 19-141. - Restoration and resurfacing of streets and sidewalks.

Any street or sidewalk opened or excavated under any permit or license shall be restored to the condition in which it was before such work or excavation was commenced, by and at the expense of the person to whom such permit or license was issued. All such excavations made in permanently improved streets shall be filled and tamped preparatory to the resurfacing and shall be resurfaced by the city, under the direction of the city engineer, and such permittee or licensee shall pay the cost thereof.

(Code 1985, § 19-80)

Sec. 19-142. - Repairs made by city.

The city may, at its option, make any or all repairs to the street under this article, including the backfilling of the opening. The applicant will be charged for any work performed by the city.

(Code 1985, § 19-81)

Sec. 19-143. - Safety measures—Barricades; flags and signs; red lights.

Every person making an opening or excavation in or near any street or sidewalk shall fence or barricade the opening or excavation in accordance with standards established by the city engineer and the city department of transportation in the handbook entitled "Work Area Traffic Control Handbook" (WATCH) or any successor thereto.

(Code 1985, § 19-82)

Sec. 19-144. - Same—Walkway.

It shall be unlawful for any person, his agent, licensee, or permittee, to make any excavations in or upon any sidewalks until such person, his agent, or licensee or permittee shall have first erected or caused to be erected a suitable walkway, under the direction of the city engineer and building inspector, so as not to interfere with pedestrians or the general traveling public and, further, to protect such pedestrians or traveling public from bodily harm and danger.

(Code 1985, § 19-83)

Secs. 19-145—19-170. - Reserved.

ARTICLE VI. - SIDEWALKS AND DRAINAGE FACILITIES

Sec. 19-171. - Findings; purpose.

(a) The city council finds that:

(1) Certain uses of property within the city generate significant levels of vehicular or pedestrian traffic along public streets abutting the property used for those purposes;

(2) Convenient and safe pedestrian passageways should be provided in the public interest so as to separate such traffic in the interest of public safety;

(3) Properties which may be used for such purposes along public streets are without adequate, convenient and safe pedestrian sidewalks; and

(4) The provision of pedestrian passageways separated from vehicular traffic is in the interest of public safety and compliance with applicable legal requirements.

(b) The city council further finds that:

(1) Certain uses of property generate appreciable levels of surface water runoff which in turn collects trash and litter;

(2) Adequate drainage facilities should be provided in the public interest so as to allow the proper regulation and disposal of surface water runoff; and

(3) Properties which may be used for such purposes along public streets are without adequate and necessary drainage facilities, such as concrete curb and gutter, catchbasins, storm drainage pipes and the like so as to control surface water runoff.

(c) Therefore, the city council, pursuant to the authority conferred by G.S. 160A-174, does ordain and enact into law this article which requires the construction of sidewalks and necessary drainage facilities in conjunction with the construction of structures, or buildings, or parking areas for certain uses.

(Code 1985, § 19-141; Ord. No. 9322 , § 1, 4-23-2018)

Sec. 19-172. - Definitions.

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

Addition means any new structure or building which is added to an existing building by an enclosed usable connector, such connector having the same type of heating, plumbing and utility fixtures as the existing building or structure and which does not attract or generate appreciable levels of pedestrian or vehicular traffic.

Auxiliary building means a detached, subordinate building, the use of which is clearly incidental and related to that of the principal structure or use of the land, which does not attract or generate appreciable levels of pedestrian or vehicular traffic and which is located on the same lot as that of the principal building or use. By way of illustration only, auxiliary buildings may include maintenance shops and lawn-care storage areas.

Block means the area between the intersection of two or more streets.

Block frontage means the frontage that abuts a publicly maintained street and that is bounded by the two nearest adjacent publicly maintained streets.

Building means any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy~~built for the support or enclosure of persons, goods or equipment, having a roof supported by walls~~.

Built-upon area (BUA) means that portion of a property that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts (activity fields that have been designed to enhance displacement of runoff, such as compaction and grading or installation of sodded turf, and underground drainage systems for public parks and schools will be considered built-upon area.") "Built-upon area" does not include a wooden slatted deck or the water area of a swimming pool.

Collector street (class V) means a street as described in the subdivision ordinance, chapter 20 of this Code.

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. For the purposes of Article III of Chapter 11 of this Code, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling unit means a single unit providing complete, independent living facilities for no more than one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Industrial building means any building whose primary function is the performance of work or labor in connection with the fabrication, assembly, processing or manufacture of products or materials.

Necessary drainage facilities includes such improvements as concrete curb and gutter, catchbasins, storm drainage pipes, junction boxes and such other improvements in accordance with the ~~City of~~ Charlotte Land Development Standards Manual ~~of Standard Details for Land Development~~, maintained by the engineering department.

Parking area means any area meeting the definition of "built-upon-area" and used for the storage of motor vehicles, equipment, or other items. This definition may become irrelevant in conjunction with other definitions such as "buildings."

Permanently dead-end street includes, but is not limited to, those city-maintained roadways which are discontinuous because of the topography, geography or other unusual land features, and the extension of such street is not expected.

Sidewalk means permanent all-weather pedestrian ways in accordance with the ~~City of~~ Charlotte Land Development Standards Manual ~~of Standard Details for Land Development~~, maintained by the engineering department.

Structure means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction. This definition may become irrelevant in conjunction with other definitions such as "buildings."

Thoroughfare means all streets falling under class I, II, III, III-C, or IV as described in the zoning~~subdivision~~ ordinance, Appendix A~~chapter 20~~ of this Code.

Warehouse means a building which is used for the storage of goods, wares or merchandise, excepting limited storage incidental to the display, sale or manufacture of such items.

(Code 1985, § 19-142; Ord. No. 9322, § 1, 4-23-2018)

Cross reference— Definitions generally, § 1-2.

Sec. 19-173. - Required.

(a) Except as provided in subsections (b) and (d) of this section, construction of sidewalks and necessary drainage facilities shall be required in conjunction with the construction of any new building used for any of the following purposes:

(1) Office.

(2) Institutional.

(3) Multifamily residential where any building contains three or more dwelling units.

(4) Retail sales.

(5) Retail services.

(6) Business.

(b) When the cumulative built-upon area will be less than 25 percent of the total area of the property, sidewalks and drainage facilities may not be required. However the director/~~city~~ engineer may require certain improvements be made if they are determined to be in the public interest or needed to ensure public safety. If the total built-upon area of the site reaches 25 percent or more of the total area of the property, sidewalks and drainage facilities shall be required.

(c) Except as required by article III of this chapter and chapter 20 of this Code, sidewalk facilities shall not be required in conjunction with the construction of any new buildings used solely for the following purposes:

(1) Warehouse.

(2) Industrial.

(3) Auxiliary building.

However, necessary drainage facilities as provided in this article shall be required except for auxiliary buildings.

(d) If the new building as referred to in subsection (a) of this section is an addition as defined in this article, the construction of sidewalk facilities shall not be required if the addition is less than 25 percent of the existing principal building or 2,500 square feet, whichever is greater, except as provided by article III of this chapter, and chapter 20 of this Code. However, necessary drainage facilities shall be required.

(e) Construction of sidewalks or necessary drainage facilities required by this article shall be accomplished along the entire length of the frontage of the property abutting each publicly maintained street, except as otherwise specified in this article.

(f) When the director/~~city~~ engineer determines that future street widening and other street improvements normally required by this chapter are planned for improvement by either the city or the state department of transportation, the director/~~city~~ engineer may require any combination of the following rather than exempt street improvements along such sites:

(1) For funded projects, require the developer to pay the city the value of the street improvements for their frontage otherwise required by this chapter. Payment amounts will be determined by the director/~~city~~ engineer. Payments received in this manner shall be designated to the funding source for the city project.

(2) When the director/~~city~~ engineer determines that the likelihood of future street widening and other street improvements, funded or unfunded, considered together with the expense of acquiring rights-of-way to accommodate such improvements, makes the value of the applicant's dedication to the city of additional property along the present right-of-way exceed the cost to the city of itself installing curb, gutter and/or drainage which would otherwise be required of the applicant, the director/~~city~~ engineer may recommend to the city council an acceptance of dedication in lieu of street improvements. It shall be the responsibility of the applicant for such exception to request and supply information sufficient to support such an exception.

~~The city engineer's determination that grounds for such exceptions do not exist shall not be appealable.~~

(g) When the applicant's proposed plat requires approval under chapter 20 of this Code, the planning commission or city council shall have the variance powers otherwise granted the director/~~city~~ engineer under section 19-176 of this article, but such power shall be exercised only after consultation with and the receipt of a recommendation from the director/~~city~~ engineer.

(h) When the director/~~city~~ engineer determines that the new construction is temporary and will be removed within 18 months of the date of issuance of the building permit, the director/~~city~~ engineer may accept a letter of credit or bond in an amount necessary to construct the improvement otherwise required by this chapter at their estimated cost 18 months from the date of issuance of the building permit in lieu of requiring immediate installation of the improvements. If, after 18 months from the date of issuance of the building permit, the improvements have been constructed or the building has been removed from the property, the bond or letter of credit shall be returned upon request of the entity which posted it. If, after 18 months from the date of issuance of the building permit, the improvements have not been constructed and the building has not been removed from the property, the bond or letter of credit shall be forfeited to the city for construction of the improvements. It shall be the responsibility of the applicant who desires to post such bond or letter of credit in lieu of construction improvements to request and supply information sufficient to support such request.

(Code 1985, § 19-143; Ord. No. 9322 , § 1, 4-23-2018)

Sec. 19-174. - Standards of construction.

Sidewalks and drainage facilities shall be constructed in accordance with the construction standards set forth in the Charlotte Land Development Standards Manual (CLDSM). The requirement to construct new sidewalks, as outlined in section 19-173, shall also apply to existing segments of substandard sidewalk on thoroughfares as follows in subsections (a)—(c) below. For the purposes of interpreting subsections (a)—(c) below, "substandard sidewalk" shall be deemed to mean any sidewalk which is less than four feet in width and/or is separated from the roadway by a planting strip less than four feet in width.

(a) Any development which meets any of the following thresholds shall be required to replace all substandard sidewalk along the property's frontage on thoroughfares with sidewalks and planting strips that meet the standards of the CLDSM.

(1) Development that involves new construction of a principal building;

(2) Development that involves the expansion of an existing principal building by 25 percent or 2,500 square feet, whichever is greater; or

(3) Development that involves the expansion of an existing parking area by 2,500 square feet of built upon area or more.

(b) Any development which removes any portion or portions of substandard sidewalk along a thoroughfare, greater than 30 linear feet, during construction shall be required to replace that removed sidewalk with a sidewalk and planting strip that meets the standards of the CLDSM.

(c) Any development which removes or damages any portion or portions of substandard sidewalk along a thoroughfare which amounts to more than 50 percent of that property's frontage width along that thoroughfare, shall be required to replace all substandard sidewalk along that property's thoroughfare frontage with a sidewalk and planting strip that meets the standards of the CLDSM.

Any sidewalk constructed or reconstructed under the requirements of this article, including curb ramps and landings, shall comply to the maximum extent feasible with the standards for accessibility included in the CLDSM and CATS Bus Stop Details.

It is not the intent of section 19-174 to reduce the developable area of a property. As such, if any sidewalk constructed or reconstructed in accordance with the requirements of section 19-174 is located outside the City of Charlotte right-of-way, that sidewalk will not count toward the calculated built upon area for the subject property. Such sidewalk must be located in an easement dedicated to the City of Charlotte for maintenance purposes.

Affordable housing projects which are required to reconstruct substandard sidewalk as a result of the requirements of section 19-174 may be eligible for reimbursement of the cost to reconstruct such sidewalk from the City of Charlotte's Charlotte Walks Plan~~Pedestrian Program in accordance with the city's sidewalk retrofit policy~~.

(Code 1985, § 19-144; Ord. No. 9322 , § 1, 4-23-2018)

Sec. 19-175. - Approval of plans.

Approval of sidewalk and drainage construction plans shall be obtained from the city engineering department upon application for a building permit with the county building inspection department. When sidewalk or drainage facilities are required, the city engineer will specify the locations of the required facilities. If existing public street right-of-way is not available, the director/~~city~~ engineer may require the sidewalk to be constructed in a public easement conveyed or dedicated to the city.

(Code 1985, § 19-145)

Sec. 19-176. - – Minor Modifications~~Variance~~.

(a) ~~Where~~The requirements set forth in this article may be modified if it can be documented and confirmed by CDOT, in consultation with Planning, ~~because of~~that significant topographical constraints~~y~~, ~~geography~~, unusual site-specific conditions related to the land, ~~existing~~ significant utility constraints~~ies~~, public safety, or mature trees designated for preservation by the city arborist or senior urban forester~~,~~ ~~or other unusual physical conditions relating to the land, strict compliance with this article shall cause an unusual and unnecessary hardship on the applicant~~ make such improvements infeasible~~, the city engineer may vary the requirements set forth in this article~~. The director/engineer, in consultation with Planning, ~~city engineer~~ may also grant a modification~~variance~~ if the improvements required by this article are not roughly proportional to the need for transportation improvements created by the development.

(b) When the ~~city~~ director/engineer determines that the new construction is being undertaken solely to replace or restore a building destroyed by fire, flood, wind or other disaster; that the building permit will be applied for within one year of the destruction; and that such new construction will not attract or generate levels of pedestrian or vehicular traffic substantially in excess of that attracted or generated prior to such destruction, the director/~~city~~ engineer may modify~~vary~~ the requirements set forth in this article. It shall be the responsibility of the applicant for the modification~~waiver~~ to request and supply information sufficient to support such a modification~~waiver~~.

(c) Every request for a modification~~variance~~ of any section of this article must be submitted in writing to the director/~~city~~ engineer not later than 30 days after the initial building permit is issued for the building concerned. Each request for a modification~~variance~~ shall set forth in detail the grounds upon which the request is asserted and such other documents and information as the director/~~city~~ engineer may require.

(d) ~~Each request for a variance shall be acted upon by~~ Pursuant to G.S. Sec. 160D-403, the~~the~~ director/engineer~~city engineer~~ shall provide written notice of his or her determination regarding the modification request to the property owner and to the party who sought the determination, if different from the property owner, by personal delivery, electronic mail, or by first-class mail. ~~within a reasonable time, not exceeding 60 days, after receipt of a request in proper form~~.

(d) In granting modifications~~variances~~, the director/~~city~~ engineer may require such conditions as will secure, insofar as practicable, the objectives of this article.

(Code 1985, § 19-146; Ord. No. 9322, § 1, 4-23-2018)

Sec. 19-177. - Notice and appeal.

~~(a)~~ If the property owner or the party seeking the modification~~any party~~ is dissatisfied with the director/engineer's ~~a~~ determination~~cision of the city engineer~~ regarding the modification~~variance~~ request made pursuant to section 19-176, such party may request a hearing within thirty (30)~~ten working~~ days from~~of~~ the receipt of such decision. Any other person with standing to appeal has thirty (30) days from receipt from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. Sec. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. The request must be in writing and directed to the city manager who shall hear the appeal of the party concerned. In determining appeals of administrative decisions and variances of this article, the city manager or his or her designee shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec. 160D-406.The city manager or his designee may grant a variance from the requirements of this article upon a finding that:

1) ~~(1)~~ Unnecessary hardship would result from the strict application of the regulation. It is not

necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

~~a. Practical difficulties or unnecessary hardship would result if the strict letter of the law were followed; and~~

~~b. The variance is in accordance with the general purpose and intent of thischapter.~~ Variance approvals attach to and run with the land pursuant to G.S. Sec. 160D-104.

~~Unnecessary hardship would result if the strict letter of the law were followed; and~~

~~(2) The variance to be granted by the city manager is in accordance with the general purpose and intent of this article.~~

~~(b) After a full and complete hearing held within 30 days of receipt of the request, the city manager or his designee shall render his written opinion within ten working days either affirming, overruling or modifying the decision of the city engineer as may be fit and proper under the circumstances. The decision of the city manager or his designee shall not be appealable.~~

(Code 1985, § 19-147)

Sec. 19-178. - Occupancy of any building in violation of article.

It shall be unlawful for any person to occupy or allow the occupancy or use of any building which is in violation of this article.

(Code 1985, § 19-148)

Sec. 19-179. - Enforcement.

(a) Any person who causes or allows or engages in the construction, occupancy or use of any building in violation of this article shall, upon conviction, be guilty of a misdemeanor and shall be subject to punishment as provided in section 2-21 of this Code. Each day that a violation continues to exist shall be considered to be a separate offense, provided the violation is not corrected within 30 days after initial notice of the violation has been given.

(b) Any person who causes or allows or engages in the construction, occupancy or use of any building in violation of this article shall be subject to a civil penalty of $100.00. Each day that the violation continues shall subject the offender to an additional penalty of $100.00, provided the violation is not corrected within 30 days after the notice of the violation is given.

(c) Neither this article 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 cause their abatement through summary action or otherwise. This article may be enforced by any and every method provided pursuant to G.S. 160A-175.

(Code 1985, § 19-149)

Secs. 19-180—19-205. - Reserved.

ARTICLE VII. - DECORATIVE SIGNS[5]

Footnotes:

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Editor's note— Ord. No. 4687, § 1, adopted June 27, 2011, amended article VII in its entirety to read as herein set out. Formerly, article VII pertained to decorative signs in municipal service districts 1, 2 and 3, and derived from the Code of 1985, §§ 19-161(a)—(g).

Sec. 19-206. - Definitions.

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

Decorative sign means a pictorial representation, including illustrations, words, numbers, or decorations; emblem; flag; banner; pennant, that promotes or celebrates the city, its neighborhoods, civic institutions, or public activities or events in the city. Decorative signs may either be designed and displayed by the city directly, or may be donated to the city on a permanent basis or for a limited period of time.

(Ord. No. 4687, § 1, 6-27-2011)

Cross reference— Definitions generally, § 1-2.

Sec. 19-207. - Purpose.

This article is intended to provide for temporary and permanent decorative signs within public rights-of-way and to exempt such signs from the provisions contained in the zoning ordinance in appendix A to this Code. Decorative signs are regulated in accordance with these standards in order to:

(1) Make it clear that decorative signs under this article constitute government speech and that the city does not intend to create a public forum for private speech;

(2) Provide standards and guidelines regarding the donation and display of banners, flags, pennants and other decorative and informative signs on public rights-of-way;

(3) Restrict the display of decorative signs which:

a. Overloads the public's capacity to receive information;

b. Violate privacy; or

c. Increases the probability of accidents by distracting attention or obstructing vision;

(4) Establish guidelines which include, but are not limited to, size, materials, location, erection and removal of decorative signs.

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-208. - Prohibited sign devices.

No decorative sign may be lighted, may flash, or may make noise.

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-209. - Location, size, and placement of signs.

(a) Decorative signs are permitted to be displayed upon public street frontages provided signs:

(1) Do not impede vehicular visibility;

(2) Do not obstruct regular building signs;

(3) Do not interfere with the display of windows on private property; and

(4) Otherwise comply with the applicable sections of this Code and provisions contained in this policy.

(b) When donated signs are placed on, in, or above public rights-of-way, written consent of the director/engineer shall be required. Such consent shall be based on a review that will include, but not be limited to, sign design, location, placement, and safety.

(c) Decorative signs placed on property other than the city's (e.g., utility poles, pedestrian and railroad bridges) shall require the written consent of the property owner.

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-210. - Erection and removal of signs.

For donated signs, erection and removal of a decorative sign is the responsibility of the donor, and all costs must be borne by the donor or charged to the donor by the city, if the decorative sign is not removed within the prescribed time, and the city itself must remove the sign. The erection or removal of decorative signs that requires the closure of any street, travel lane, or sidewalk area requires prior approval by the city's department of transportation. All such closures must conform to the current edition of the department of transportation's Work Area Traffic Control Handbook (WATCH).

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-211. - Insurance; liability.

Any person or organization donating, installing, displaying, or dismantling decorative signs pursuant to this article shall save and hold harmless the city from any and all liability or damage to any person or property caused or occasioned by such process. Those installing, displaying, or dismantling signs must obtain and provide evidence to the city's department of transportation of comprehensive general liability insurance with limits established by the city's risk management division per occurrence, annual aggregate on bodily injury and property damage to insure their liability. Such policy shall indemnify the city as provided in this subsection. A certificate of insurance shall be issued prior to the beginning of any work. The certificate of insurance shall be furnished to the city containing the provision that 30 days' written notice will be given to the city prior to cancellation or change to the required coverages and that failure to provide such notice shall impose an obligation and liability upon the issuing company, its agents, or representatives.

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-212. - Administration.

The director/engineer shall promulgate policies and guidelines governing the approval and display of decorative signs to ensure that signs appropriately promote or celebrate the city, its neighborhoods, civic institutions, or public activities or events in the city, and to protect public safety and welfare, including

ensuring against hazards, traffic problems, and visual blight. Such policies and guidelines shall include, but are not limited to specifications as to the number, size, materials, printing processes, supporting structures, and hanging and removal. The director/engineer shall have the authority to waive specific rules when (1) the decorative sign substantially complies with the rules; and (2) the director/engineer determines that the waiver will not have any adverse effect on public safety and welfare. No decorative sign may be displayed without the prior approval of the director/engineer.

(Ord. No. 4687, § 1, 6-27-2011)

Sec. 19-213. - Unlawful acts.

It shall be unlawful for anyone to place or cause to be placed a decorative sign within public rights-of-way without complying with the following:

(1) This article;

(2) The policies and guidelines for the display and approval of decorative signs; and

(3) Any other requirements or conditions stated in a written approval for a decorative sign.

(Ord. No. 4687, § 1, 6-27-2011)

Secs. 19-214—19-240. - Reserved.

ARTICLE VIII. - OBSTRUCTIONS AND ENCROACHMENTS

Sec. 19-241. - Obstructions.

It shall be unlawful to place or maintain an unnecessary obstruction in the public right-of-way. The city may require the person who has placed or maintains an obstruction in violation of this section to remove the obstruction and repair or restore the right-of-way within a reasonable period of time, which time shall be set in consideration of the harm or risk created by the obstruction and the effort and expense of removal. In addition, the city may summarily remove an obstruction and charge the expense of the removal, restoration, and repair to the person who placed or maintained the obstruction.

(Code 1985, § 19-25(a))

Sec. 19-242. - Encroachment agreements.

It shall be unlawful to place or maintain a fixed object in the public right-of-way without first obtaining an encroachment agreement from the city, unless the placement or maintenance of the fixed object has been approved through a separate city permitting process. This section shall not apply to the placement and maintenance of mailboxes and utility facilities.

Sec. 19-243. - Certificate to builder; penalty for building without certificate.

Any person building or about to build any house, building, fence or wall or construct any sidewalk or pavement along the border or bounding on any of the city streets or sidewalks shall have such located and graded and the boundaries thereof adjoining such street fixed and certified to by the director/engineer. A fence or wall described in this section shall not exceed height restrictions as provided in the zoning ordinance in appendix A to this Code or within required sight distance triangles at intersections as provided in section 19-245. It shall be unlawful to build or maintain a house, building, fence, wall, sidewalk or pavement in violation of this section.

(Code 1985, § 19-4)

Sec. 19-244. - Grates on sidewalks.

It shall be unlawful for any person to erect or maintain an open grate or vault door in a sidewalk or right-of-way without first obtaining approval of the city council upon recommendation of the director/engineer. This section shall not apply to utility manhole and handhold covers.

(Code 1985, §§ 19-16, 19-19)

Sec. 19-245. - Obstructions to cross visibility at intersections deemed nuisance; abatement procedures.

(a) In order to promote and conserve the public health and safety and pursuant to the police powers of the city and the power to prevent and abate public nuisances as conferred upon the city by state law, it is hereby declared to be a public nuisance for a person owning and/or having the legal control of any land within the corporate limits to maintain or permit upon any such land any fence, sign, billboard, shrubbery, bush, tree, mailbox or other object, or any combination thereof, which obstructs the view of motorists using any street or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.

(b) The restrictions set forth in this section shall apply to both of the following triangles of land:

(1) That triangle bounded by the curb edges, or edges of pavement where there is no curb, measured along the curb edge, or edge of pavement where there is no curb, 50 feet from the midpoint of the radius of the curb edge, or edge of pavement where there is no curb, in each direction and the diagonal line connecting the further ends of such 50-foot lengths; and

(2) That triangle bounded by the right-of-way lines measured 35 feet from the point of their intersection in each direction and the diagonal line connecting the further ends of such 35-foot lengths.

(c) Within such triangles, and except as provided in subsection (d) of this section, it shall be unlawful to install, set out or maintain, or allow the installation, setting out, or maintenance of, any sign, hedge, shrubbery, tree, natural growth, earthen berm, or other object of any kind which obstructs cross visibility at a level between 30 inches and 72 inches above the level of the center of the adjacent intersection.

(d) Subsection (c) of this section shall not apply to the following:

(1) Permanent buildings.

(2) Existing natural grades that, by reason of natural topography, rise 30 or more inches above the level of the center of the adjacent intersection.

(3) Trees having limbs and foliage trimmed in such manner that no limbs or foliage extend into the area between 30 inches and 72 inches above the level of the center of the adjacent intersection.

(4) Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices.

(e) Where compliance with this section in the described triangles or at the heights described alone is insufficient to prevent a dangerous condition, the transportation director may designate further measures which must be taken by the owner or other responsible person to eliminate such dangerous condition. Such measures shall be designed to provide an adequate sight and stopping distance for persons approaching the intersection at prevailing speeds and may include the removal of obstructions at different heights or in areas outside the triangles established in subsection (b) of this section.

(f) If the provisions of any other law, ordinance or regulation of the city or of the state shall be in conflict with this section, the more stringent provision shall control.

(g) The administration of this section shall be under the direction of the transportation director who shall investigate violations, issue such notices and orders as are required in this section, and perform such other duties as may be necessary to the enforcement of this section.

(h) Any obstruction to cross visibility maintained in violation of this section shall be deemed to be a public nuisance inconsistent with and detrimental to the public safety and shall be abated in accordance with the following procedure:

(1) The transportation director shall cause to be served by certified mail a written notice and order of abatement upon the owner, tenant and/or person having legal control of the premises upon which such obstruction exists.

(2) Such obstruction shall be removed within ten days from the date of receipt of such notice and order.

(3) Any person receiving such notice and order may, within ten days from receipt thereof, request, in writing, a hearing before the city manager or his designee. If any person receiving such notice and order does not comply with the order and does not request, in writing, a hearing before the city manager or his designee within the ten-day period, the transportation director may request, in writing, that the city manager or his designee fix the date of the hearing and notify the person upon whom the notice and order have been served of the time and place of such hearing. If, after such hearing, the city manager or his designee finds that the obstruction in question does in fact constitute a public nuisance, the city manager or his designee shall order that such nuisance be abated within ten days from the date of such order. Upon failure by any person to comply with such order of the city manager or his designee, the transportation director shall cause the removal of such obstruction by city forces and/or an independent contractor. The cost of such removal shall be billed to the owner and/or person having legal control of the land. If unpaid for more than 30 days, such cost shall become a lien against the property from which such obstruction is removed. The transportation director shall have authority to file the lien on the public records of the county and to cancel the lien when paid.

(i) In addition to the other remedies provided in this section, the city shall be entitled to seek a judicial injunction and order of abatement or other equitable remedy to secure the enforcement of this section, regardless of whether the city manager has held or been requested to hold a hearing or the city manager or city council has declared the condition a nuisance.

(Code 1985, § 19-16)

Secs. 19-246—19-270. - Reserved.

ARTICLE IX. - SIDEWALK DINING[6]

Footnotes:

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Cross reference— Businesses and trades, ch. 6; licenses, ch. 13.

Sec. 19-271. - Permits generally.

The director of transportation or his designee may enter into encroachment agreements for the serving of food and beverages on city sidewalks on the following conditions:

(1) Dining is for waiter service only;

(2) No permanent fixtures, facilities or encroachments are affixed to the sidewalk or installed within the city right-of-way;

(3) A cover charge is not charged for sidewalk dining;

(4) No business, product, or advertising signing is placed on any encroaching item; and

(5) The sidewalk is free from litter, food products and other items.

(Code 1985, § 19-24(a))

Sec. 19-272. - Definitions.

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

Permanent encroachment means all items of privately owned personalty affixed, connected, attached or fastened to any public sidewalk or right-of-way.

Restaurant means an establishment in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as "restaurants," "cafeterias," "cafes," "lunchstands," "grills," "snack bars," "fast food businesses" and other establishments, such as drugstores, which have a lunchcounter or other section where food is sold to be eaten on the premises. This definition does not include food vendors.

Restaurant operator means the person operating a restaurant and associated sidewalk cafe. As used in this article, this definition includes the owner and manager, if different from the owner, of the restaurant and associated sidewalk cafe.

Temporary encroachment means all items of privately owned personalty situated on, but not affixed, connected, attached or fastened to, any sidewalk or public right-of-way.

(Code 1985, § 19-24(b))

Cross reference— Definitions generally, § 1-2.

Sec. 19-273. - Encroachment agreement.

Any restaurant operator who desires to offer sidewalk dining shall execute an encroachment agreement with the city, which agreement shall contain, but not be limited to, the following:

(1) The name, address, and telephone number of the restaurant desiring to operate sidewalk dining.

(2) The name, address, and telephone number of the restaurant operator.

(3) The type of food and beverage, or food product, to be sold and served for the sidewalk dining.

(4) The hours of operation of the restaurant and the proposed hours of operation of sidewalk dining.

(5) A scaled drawing or site plan showing the following:

a. The section of sidewalk or right-of-way to be used for the dining.

b. The section to be kept clear for pedestrian use.

c. The existing curbline and right-of-way line.

d. The proposed placement of the tables, chairs and other furnishings on the sidewalk.

(6) Evidence of adequate insurance, as determined by the city, to hold the city harmless from claims arising out of the operation of the sidewalk dining.

(7) An indemnity statement whereby the restaurant operator agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the sidewalk dining.

(8) A copy of all permits and licenses issued by the state, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the restaurant.

(9) Such additional information as may be requested by the director of transportation or his designee to determine compliance with this article.

(10) A fee as determined by the city to cover the cost of processing and investigating the application and issuing the permit.

(Code 1985, § 19-24(c))

Sec. 19-274. - Issuance of encroachment agreement.

An encroachment agreement for the operation of sidewalk dining may not be issued unless the agreement is complete and unless the following requirements are met:

(1) Sidewalk dining must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant.

(2) Sidewalk dining must be clearly incidental to the associated restaurant business. Seating capacity of sidewalk dining may not constitute more than 50 percent of the total seating capacity of the associated restaurant.

(3) The placement of tables, chairs and other furnishings as shown in the drawing required in section 19-273(5) must be done in such a manner that at least six feet of unobstructed paved space, as measured from the street-side edge of the sidewalk, remains on the sidewalk for the passage of pedestrians in the uptown mixed use and neighborhood services zoning districts and at least five feet of unobstructed paved space in all other zoning districts.

(4) The restaurant seeking approval for sidewalk dining must front on and open onto the sidewalk proposed for the sidewalk dining. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk frontage of the associated restaurant unless as provided in section 19-275(5) and (6) of this article.

(5) The tables, chairs, and other furnishings used in sidewalk dining shall be removed daily from the sidewalk at the close of the associated restaurant's business day.

(6) The operation or furnishings associated with sidewalk dining shall not result in any permanent alteration to or encroachment upon any street, sidewalk, or to the exterior of the associated restaurant.

(Code 1985, § 19-24(d))

Sec. 19-275. - Placement of furnishings.

Furnishings for sidewalk dining:

(1) Shall not be within ten feet of any driveway or alleyway;

(2) Shall not be within 15 feet of a fire hydrant or standpipe;

(3) Shall not be within ten feet of a crosswalk or the intersection of right-of-way lines (property lines) at a street intersection;

(4) Shall not be at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exitway;

(5) Shall not be in front of an adjacent property, without the written approval of the adjacent business or property owner;

(6) Shall not be in front of an adjacent display window, without the written approval of the business or property owner; and

(7) Shall have other conditions that may be necessary as determined by the director of transportation.

(Code 1985, § 19-24(e))

Sec. 19-276. - Denial/revocation of encroachment agreement.

The director of transportation or his designee may deny or revoke an encroachment agreement, pursuant to this article, if he finds that the granting or continuation of the agreement would not be in the public's interest or if he finds that the restaurant operator has:

(1) Made a deliberate misrepresentation or provided false information in the encroachment agreement;

(2) Operated sidewalk dining at the location in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare, specifically to include failure to keep the sidewalk clean and free of refuse;

(3) Failed to maintain any health, business or other permit or license required by law for the operation of the restaurant business; or

(4) Failed to uphold the terms of the encroachment agreement.

(Code 1985, § 19-24(f))

Sec. 19-277. - Reservation of rights.

The city reserves the right to cease part or all of any sidewalk dining pursuant to this article in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by the city, its agents or employees or by any governmental entity or public utility, and to allow for the use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature, as permitted by the city. The city also reserves the right to amend, alter, or change the encroachment agreement upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the director of the department of transportation will notify the restaurant operator by certified mail of amendments to the agreement. These amendments will require an execution of a new agreement within the time period specified in the notice. Failure to enter into a new encroachment agreement pursuant to this section will result in automatic termination of the agreement.

(Code 1985, § 19-24(g))

Sec. 19-278. - Term and transfer of encroachment agreements.

(a) Agreements issued in accordance with this article shall remain in effect for a period of one year. If modifications of the original drawing or site plan as required in section 19-273(5) are desired, a new drawing must be submitted and approved by the director of transportation or his designee before another agreement may be approved.

(b) Encroachment agreements entered into pursuant to this article shall not be transferable or assignable.

(Code 1985, § 19-24(h))

Secs. 19-279—19-300. - Reserved.

ARTICLE X. - PICKETING[7]

Footnotes:

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Editor's note— Ord. No. 2621, § 1, adopted June 14, 2004, amended article X in its entirety to read as herein set out. Formerly, article X pertained to parades and derived from Ord. No. 2459, § 1, adopted December 8, 2003. For provisions pertaining to parades, the user's attention is directed to article XI.

Sec. 19-301. - Definitions.

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

Picket or *picketing* means to make a public display or demonstration of sentiment for or against a person or cause, including protesting which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive.

Sidewalk means that portion of the street right-of-way which is designated for the use of pedestrians and may be paved or unpaved and shall include easements and rights of ways.

Street means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter or right, for the purposes of vehicular traffic, including that portion that is known as the shoulder of the roadway and the curb. The terms "highway" and "street" and their cognates are synonymous as used herein.

(Ord. No. 2621, § 1, 6-14-2004)

Sec. 19-302. - Notice of intent to picket.

(a) *Notification required.* The organizer of a picket that the organizer knows, or should reasonably know will be by a group of 50 or more individuals shall give notice of intent to picket to the chief of police or designee at least 48 hours before the beginning of the picket. The notice of intent to picket shall include the following information:

(1) The name, address and contact telephone number for the organizer of the picket;

(2) The name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;

(3) The name of the organization or group sponsoring the picket;

(4) The location where the picket is to take place;

(5) The date and time the picket will begin and end; and

(6) The anticipated number of participants, and the basis on which this estimate is made.

(b) *Receipt of notification.* Upon notice of intent to picket given in accordance with subsection (a), the chief of police or designee shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. The organizer of a picket shall be responsible for maintaining the receipt, and shall present it when so requested by a law enforcement officer or other city official.

(c) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 2621, § 1, 6-14-2004)

Sec. 19-303. - Picketing regulations.

(a) Picketing may be conducted on public sidewalks, at the Old City Hall lawn, the Charlotte-Mecklenburg Government Center plaza, Polk Park, Independence Square Plaza, Arequipa Park, any other city-controlled park, or other city-owned areas normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of the public roadway used primarily for vehicular traffic.

(b) Notwithstanding subsection (a), picketing may not be conducted:

(1) On a median strip; or

(2) At a location directed, focused, or targeted at a particular private residence.

(c) Picketing shall not disrupt, block, obstruct or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic into any driveway, pedestrian entrance, or other access to buildings, which abut the public sidewalks.

(d) Written or printed placards or signs, flags, or banners carried by individuals engaged in picketing shall be of such a size and/or carried on the sidewalks or other city-owned areas, as to allow safe and unobstructed passage of pedestrian or vehicular traffic. The staff or pole on which a sign, flag, or banner may be carried shall be made of corrugated material, plastic, or wood, and shall not exceed 40 inches in length and shall not be made of metal or metal alloy. If made of wood, the staff or pole shall be no greater than three-fourths inch in diameter at any point. A staff or pole must be blunt at both ends.

(e) If more than one group of picketers desire to picket at the same time at or near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to picket in order to preserve the public peace. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers arrived first.

(f) Spectators of pickets shall not physically interfere with individuals engaged in picketing. Picketers and spectators of pickets shall not speak fighting words or threats that would tend to provoke a reasonable person to a breach of the peace.

(g) Picketers and picketing shall be subject to all applicable local, state and federal laws including, but not limited to:

(1) The city's noise ordinance;

(2) The city's handbill ordinance;

(3) G.S. § 14-225.1 (obstructing justice);

(4) G.S. § 14-277.2 (weapons);

(5) G.S. § 14-277.4 (health care facilities); and

(6) G.S. § 14-288.4 (disorderly conduct).

(h) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in accordance with North Carolina General Statute § 14-288.5 in the event of a riot or disorderly conduct by an assemblage of three or more persons.

(i) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 2621, § 1, 6-14-2004; Ord. No. 4815, § 1, 1-23-2012)

Secs. 19-304—19-310. - Reserved.

ARTICLE XI. - PUBLIC ASSEMBLIES AND PARADES[8]

Footnotes:

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Editor's note— See note at article X.

Sec. 19-311. - Definitions.

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

Appeals official means the city manager, or his designee who shall be a deputy or assistant city manager.

Demonstration means a public display of sentiment for or against a person or cause, including protesting.

Festival means an outdoor concert, fair, community event, or similar event that is primarily commercial and/or recreational in nature.

Parade means an athletic event, march, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street. A funeral procession is not a parade.

Permit official means the person or persons designated by the city manager as being responsible for issuing and revoking permits under this article. The city manager may designate different persons as the permit official for different categories of permitted events and for different facilities or locations.

Public assembly means:

(1) A festival or demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public street and that is collected together in one place; and

(2) A festival on the Old City Hall lawn, the Charlotte-Mecklenburg Government Center Plaza, or in Polk Park, Independence Square Plaza, Arequipa Park or any other city-controlled park.

(Ord. No. 2621, § 2, 6-14-2004; Ord. No. 4815, § 2, 1-23-2012)

Sec. 19-312. - Public assembly and parade permits.

(a) *Permit required.* No public assembly or parade is permitted unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section.

(b) *Permit application.* An application for a public assembly or parade permit shall be made in writing on a form prescribed by the Permit official at least 30 days before the commencement of the event. Notwithstanding the preceding sentence, the permit official shall consider an application that is filed less than 30 days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event, or where other good and compelling causes are shown.

The application must contain the following:

(1) The name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is applying (collectively "applicant");

(2) The name, address, and telephone number for an individual who shall be designated as the responsible planner and on-site manager for the event;

(3) The date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband, and any requested street closings;

(4) The anticipated number of persons and vehicles, and the basis on which this estimate is made;

(5) A list of the number and type of animals that will be at the event and all necessary health certificates for such animals;

(6) Such other information, attachments, and submissions that are requested on the application form; and

(7) Payment of a nonrefundable application fee established pursuant to section 2-4 of this Code.

(c) *Permitting criteria.* An application may be denied or revoked for any of the following reasons:

(1) The application is not fully completed and executed;

(2) The applicant has not tendered the required application fee or has not tendered other required user fees, indemnification agreements, insurance certificates, or security deposits within times prescribed;

(3) The application contains a material falsehood or misrepresentation;

(4) The applicant is legally incompetent to contract or to sue and be sued;

(5) The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event;

(6) The applicant has previously permitted a violation or has violated the terms of a public assembly or parade permit issued to or on behalf of the applicant;

(7) The applicant has on prior occasions damaged city property and has not paid in full for such damage;

(8) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;

(9) The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the city and previously scheduled at or near the same time and place;

(10) The proposed event would present an unreasonable danger to the public health or safety;

(11) The proposed event would substantially or unnecessarily interfere with traffic;

(12) The event would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the event.

(13) There would not, at the time of the event, be sufficient law enforcement and traffic control officers to adequately protect participants and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed event;

(14) The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations concerning the sale or offering for sale of any goods or services;

(15) The use or activity intended by the applicant is prohibited by law;

(16) For non-First Amendment protected public assemblies or parades, the following criteria shall also apply:

a. The cultural and/or educational significance of the event;

b. The extent to which the event contributes to the economic revitalization and business development of the city;

c. The impact and/or cost of the event to city support services;

d. The impact of the event to the public health, safety and welfare;

e. The impact of the event on business and resident populations within or adjacent to the proposed event site;

f. The evaluation of any previous event produced by the event organizer with regard to planning, quality, public safety, and payment of invoices;

g. The frequency and timing of the event or similar events.

Unless subject to (c)(16), noting in this section shall authorize the permit official to deny or revoke a permit based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

The permit official may attach reasonable conditions to any permit approval.

(d) *Costs and fees.* The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers and fire/EMS personnel, or reimbursing the city for the costs of providing on-duty law enforcement officers and fire/EMS personnel, to provide internal festival safety and security.

The permit official, in consultation with the Charlotte-Mecklenburg police and fire departments, shall determine the number of officers and fire/EMS personnel needed to appropriately police street closures and for internal safety and security, and the time when such services shall commence and end, taking into consideration the following:

(1) The proposed location of the special event or route of the parade;

(2) The time of day that the public assembly or parade is to take place;

(3) The date and day of the week proposed;

(4) The general traffic conditions in the area requested, both vehicular and pedestrian. Special attention is given to the rerouting of the vehicles or pedestrians normally using the requested area;

(5) The number of marked and unmarked intersections along the route requested, together with the traffic control devices present;

(6) If traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic control devices are to be taken into consideration;

(7) The estimated number of participants;

(8) The estimated number of viewers;

(9) The nature, composition, format and configuration of the special event or parade;

(10) The anticipated weather conditions;

(11) The estimated time for the special event or parade;

(12) For festivals, whether alcohol will be served, live music offered, or retail sales stations provided, and the number and location of alcohol service stands, music stages, and retail stands.

In addition, for festivals located inside I-277, the applicant shall reimburse the city for the costs of providing street and sidewalk cleaning, trash receptacle placement, trash removal, and trash disposal.

Notwithstanding the foregoing, the city may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the public assembly or parade. Such action is not a waiver of a regulatory requirement based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed, but instead is an affirmative act of city association or speech.

(e) *Time and notice of decision.* The permit official shall approve or deny an application within 20 days of receipt. A notice of denial or revocation shall clearly set forth the grounds upon which the permit was denied or revoked and, where feasible, shall contain a proposal for measures by which the applicant may cure any defects in the application or otherwise procure a permit. Where an application is denied because the proposed event would conflict with another event that has or will be approved, the permit official shall propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(f) *Appeals.*

(1) An applicant may appeal the denial or revocation of an application in writing within ten days after notice of the denial has been received. Within five business days, or such longer period of time agreed to by the applicant, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial or revocation. The applicant shall have the right to present evidence at said hearing. The decision to issue or uphold the denial or revocation shall be based solely on the approval criteria set forth in this section. The appeals official shall render a decision on the appeal within five business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

(2) The decision of the appeals official is subject to review in the Superior Court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the applicant has received notice of the decision. Unless good cause exists to contest a petition for writ of certiorari, the city shall stipulate to certiorari no later than five business days after the petitioner requests such a stipulation. The city shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the city shall file its brief within 15 days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the city shall add three days to this time limit, in accordance with North Carolina General Statute 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, then the shorter time period shall control. The North Carolina Rules of Appellate Procedure shall govern an appeal by an applicant from the Superior Court of Mecklenburg County.

(g) It shall be unlawful for any person to violate any provision of this section or to violate any term or condition of a permit issued pursuant to this section.

(Ord. No. 2621, § 2, 6-14-2004; Ord. No. 4815, § 3, 1-23-2012)

Sec. 19-313. - Public assembly and parade regulations.

(a) It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a public assembly or parade, or with any person, vehicle, or animal participating or used in the public assembly or parade.

(b) It shall be unlawful for the operator of a motor vehicle to drive between vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) Spectators of a public assembly or parade and persons attending or participating in a public assembly or parade picketing shall be subject to all applicable local, state and federal laws including, but not limited to G.S. § 14-277.2 (weapons).

(d) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in accordance with North Carolina General Statute § 14-288.5 in the event of a riot or disorderly conduct by an assemblage of three or more persons.

(Ord. No. 2621, § 2, 6-14-2004)

Secs. 19-314—19-320. - Reserved.

ARTICLE XII. - VALET PARKING

Sec. 19-321. - Definitions.

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

Valet operator means:

(1) A person whose business is served by valet parking service;

(2) A person who provides valet parking service and

(3) Any employee or agent of a person described in (1) or (2) who provides, or participates in the provision of, valet parking service.

For purposes of this article, valet operator shall not mean the city or a person acting on behalf of the city.

Valet parking service means accepting possession of a vehicle on the right-of-way for the purpose of parking the vehicle for the operator or retrieving a parked vehicle and returning it to the operator on the right-of-way, regardless of whether a fee is charged.

(Ord. No. 3360, § 1, 8-28-2006)

Sec. 19-322. - Permits.

(a) *Permit required.* No valet parking service is permitted unless a permit allowing such activity has been issued pursuant to this section.

(b) *Permit application.* An application for a valet parking permit shall be made in writing on a form prescribed by the director/engineer. The application must contain the following:

(1) The name, address, and telephone number of the business to be served by the valet parking service and, if separate from the business to be served, the owner/operator of the valet parking service;

(2) A written justification of the need for valet parking service by the business to be served;

(3) A scale drawing of the location and limits of the proposed valet parking service activities, including an identification of any on-street parking spaces or loading zones that would be affected by the activities;

(4) An operation plan that includes the days and times when valet parking services will be provided;

(5) An indemnity and release form as prescribed by the director/engineer;

(6) Proof of insurance as required by the director/engineer;

(7) Any other information reasonably required by the director/engineer; and

(8) Payment of a non-refundable application fee established pursuant to section 2-1.

The permit application requirements of this section shall also apply to permit renewals.

(c) *Permitting criteria.* The director/engineer shall issue or deny a valet parking permit taking into consideration the following factors:

(1) Whether the application is complete;

(2) The extent to which the valet parking service might unreasonably disrupt the flow of pedestrian and vehicular traffic, including the location of the proposed valet parking service in relationship to traffic control devices;

(3) The extent to which the valet parking service might unreasonably interfere with or impinge upon on-street parking;

(4) The proximity of traditional on-street and off-street parking to the business to be served by the valet parking service; and

(5) The proximity and relationship to any other previously permitted valet parking service.

A permit shall specify:

(i) The business served;

(ii) The location and limits of the valet parking service activities;

(iii) The days and times when the valet parking service is permitted;

(iv) Any additional restrictions or requirements regarding the location or operation of the valet parking service;

(v) Identification tag requirements for valet operators;

(vi) The permit expiration date; and

(vii) Any other conditions on the permit.

A permit shall not be valid until the applicant has paid a right-of-way use fee established by the director/engineer taking into consideration the amount of right-of-way and other public property and facilities occupied by the valet parking service and potential lost meter revenue.

(d) *Modification and revocation.* The city may modify or revoke a permit issued pursuant to this section at any time and for any reason.

(e) *Temporary suspension.* The city may temporarily suspend a permit issued pursuant to this section when warranted by traffic conditions or anticipated traffic conditions.

(f) *No rights established.* Nothing in this article is intended to establish any legal right to provide a valet parking service or any legal property interest in a valet parking permit.

(Ord. No. 3360, § 1, 8-28-2006)

Sec. 19-323. - Violations.

(a) It shall be unlawful for a valet operator to provide or engage in valet parking service without a valid valet parking permit issued pursuant to this article. A valet parking permit that has expired or that has been suspended or revoked is not a valid permit.

(b) It shall be unlawful for a valet operator to provide or engage in valet parking service in violation of the terms and conditions of a valet parking permit that pertains to the valet parking service.

(c) It shall be unlawful for a valet operator to stop or direct traffic.

(Ord. No. 3360, § 1, 8-28-2006)

Sec. 19-324. - Enforcement.

(a) Any person who violates subsection 19-323(a) shall be subject to a civil penalty of $1,000.00 for each day during which such violation occurs.

(b) Any person who violates subsections 19-323(b) or (c) shall be subject to a civil penalty of $100.00 for each violation.

(c) A violation of this article shall not constitute an infraction or misdemeanor punishable under G.S. 14-4.

(Ord. No. 3360, § 1, 8-28-2006)

Sec. 19-325. - Appeals.

The denial, modification, revocation, or suspension of a valet parking permit, or the issuance of civil penalties, may be appealed within ten days after notice of such action. Appeals shall be heard by the city manager or the city manager's designee. A ruling on appeal is subject to further review in the Superior Court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

(Ord. No. 3360, § 1, 8-28-2006)

Secs. 19-326—19-330. - Reserved.

ARTICLE XIII. - UTILITY RIGHT-OF-WAY USE[9]

Footnotes:

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Editor's note— Ord. No. 3730, § 1, adopted October 22, 2007, enacted provisions intended for use as article XII. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as article XIII.

DIVISION 1. - GENERALLY

Sec. 19-331. - Purpose.

The purpose of this article is to provide for the proper management of the public rights-of-way in order to preserve the health, safety, and welfare of the citizens of the city. Specifically, this article is intended to provide for the reasonable regulation of the owners of public and private utility facilities located in the public rights-of-way, and the time, place and manner in which such utility facilities are located and worked upon.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-332. - Definitions.

Utility means a company that owns and provides services to customers through utility facilities located in the right-of-way. This definition shall include the city for purposes of the city's ownership of water, waste water, and stormwater utility facilities.

Utility facility means a pole, tower, water main or line, sanitary sewer pipe or line, stormwater pipe or structure, gas pipe or gas line, telecommunications line or equipment, power line, conduit, or any like structure.

(Ord. No. 3730, § 1, 10-22-2007)

Secs. 19-333—19-335. - Reserved.

DIVISION 2. - STANDARDS AND PERMITS

Sec. 19-336. - Utility right-of-way master permit required.

(a) It shall be unlawful to own any utility facility located in, on, under, or above the right-of-way without a valid and un-expired utility right-of-way master permit issued by the city. A utility right-of-way master permit shall, among other things:

(1) Grant to the holder of the permit the general right to have utility facilities in the right-of-way provided, however, that the master permit does not constitute a permit for any particular installation, maintenance, repair, or removal of a utility facility;

(2) Specify the term of the permit (which term shall typically be for the one-year period, or portion of a one-year period, the expires on June 30);

(3) Provide for the removal of abandoned utility facilities;

(4) Acknowledge the city's right to require the removal or relocation of utility facilities when necessitated by a public need;

(5) Provide for the defense and indemnification of the city, its officers, and employees for claims and suits arising out of the use of the right-of-way;

(6) Require proof of suitable levels of insurance coverage;

(7) State the rights, if any, to assign or transfer rights or obligations without the prior consent of the city;

(8) Acknowledge the city's full retention of its police power;

(9) Provide for the registration of all contractors who work in the right-of-way on behalf of the owner; and

(10) Provide for the preparation, maintenance and maps of utility facilities located within the city.

(b) Exceptions. The holder of an unrevoked and unexpired franchise issued by the city shall not be required to obtain a utility right-of-way master permit for purposes of the utility facilities located in the rights-of-way that are used for the purpose authorized by the franchise. This section shall not apply to the city.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-337. - Powers reserved.

A utility right-of-way master permit does not constitute a grant of all governmental approval necessary for the use and enjoyment of utility facilities located in the rights-of-way. A utility right-of-way master permit is not a franchise. With respect to the holder of a utility right-of-way master permit, the city

fully retains its franchising and police power authority and the holder of a utility right-of-way master permit is not relieved of its obligation to obtain all necessary franchises and permits and to comply with all other legal requirements.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-338. - Utility facility installation, maintenance, repair, and removal.

(a) The key business executive of the department of transportation is authorized to adopt, amend, and repeal standards and provisions governing the installation, maintenance, repair, and removal of utility facilities in, on, under, and over the rights-of-way. The standards and provisions shall, among other things, specify those types of activities that:

(1) Require a utility work permit;

(2) Do not require a utility work permit but must be done in accordance with the standards set forth in the standards and provisions; and

(3) Are exempt.

The standards and provisions shall also address emergency situations and activities.

(b) It shall be unlawful to install, maintain, repair, or remove any utility facility in the right-of-way in violation of the standards and provisions adopted pursuant to subsection (a).

(c) It shall be unlawful to install, maintain, repair, or remove any utility facility in the right-of-way without a utility work permit if the standards and provisions adopted pursuant to subsection (a) require a utility work permit for such activities.

(d) Any owner of utility facilities located in the right-of-way shall maintain a map of such facilities.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-339. - Utility pavement/sidewalk cuts.

(a) The key business executive of the department of transportation is authorized to adopt, amend, and repeal standards and provisions governing the making, excavation, filling, repair, and closing of a utility pavement/sidewalk cut. The standards and provisions may provide that certain activities may be undertaken only in accordance with a utility work permit issued pursuant to such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(b) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut in violation of the standards and provisions adopted pursuant to subsection (a).

(c) It shall be unlawful to make, excavate, fill, repair, or close a utility pavement cut without a utility work permit if the standards and provisions adopted pursuant to subsection (a) require a permit for such activities.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-340. - Lane closure/traffic control.

(a) The key business executive of the department of transportation is authorized to adopt, amend, and repeal standards and provisions governing the closing of any portion of the right-of-way to vehicular, pedestrian or other traffic, including standards and requirements for warning and controlling traffic including, but not limited to, development and enforcement of a Work Area Traffic Control Handbook (WATCH). The standards and provisions may provide that certain closings or traffic warning and control activities may be undertaken only in accordance with a utility work permit issued pursuant to

such standards and provisions. The standards and provisions shall also address emergency situations and activities.

(b) It shall be unlawful for any person to close any portion of the right-of-way to vehicular, pedestrian, or other traffic in violation of the standards and provisions adopted pursuant to subsection (a).

(c) It shall be unlawful for any person to close any portion of the right-of-way to vehicular, pedestrian, or other traffic without a utility work permit if the standards and provisions adopted pursuant to subsection (a) require a utility permit for such closing.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-341. - Additional violations.

(a) Except in an emergency, it shall be unlawful to authorize a contractor to perform work regulated by this article without first registering such contractor with the city.

(b) If a contractor is performing work on a utility facility in the right-of-way, it shall be unlawful for the contractor to fail or refuse to properly identify the Utility on whose behalf the contractor is performing the work when requested to do so by the director/engineer.

(c) If a subcontractor is performing work on a utility facility in the right-of-way, it shall be unlawful for the subcontractor to fail or refuse to properly identify the contractor on whose behalf the subcontractor is performing the work when requested to do so by the director/engineer.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-342. - Fees and deposits.

Permit and other regulatory and nonregulatory use fees, including but not limited to utility right-of-way master permit fees, utility work permit fees, street cut patch fees, and pavement degradation fees, to be charged for the governmental activities undertaken pursuant to this division shall be established and revised in accordance with section 2-1.

A cash deposit, letter of credit or warranty bond may be required in an amount prescribed by the city to guarantee the completion of work in accordance with all rules and regulations.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-343. - Process for amending rules and regulations.

Prior to amending the standards and provisions authorized in sections 19-338, 19-339, and 19-340, the key business executive of the department of transportation shall provide written notice of such proposed amendments to all utilities that hold a valid and unexpired utility right-of-way master permit and provide a reasonable opportunity to comment at least 30 days before the effective date of such amendments.

(Ord. No. 3730, § 1, 10-22-2007)

Secs. 19-344, 19-345. - Reserved.

DIVISION 3. - ENFORCEMENT AND APPEALS

Sec. 19-346. - Administration and enforcement.

(a) This article shall be administered and enforced by the director/engineer.

(b) A violation of this article shall not constitute a misdemeanor or infraction punishable under G.S. 14-4. Any person who violates this article may be subject to all civil and equitable remedies stated in G.S. 160A-175. Notwithstanding the foregoing, the violation of a stop work order issued pursuant to section 19-338 shall constitute a misdemeanor punishable under G.S. 14-4.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-347. - Civil penalties.

The following civil penalties are established:

(1) Violation of subsection 19-338(b) .....$ 100.00

(2) Violation of subsection 19-338(c) 1,000.00

(3) Violation of subsection 19-339(b) 100.00

(4) Violation of subsection 19-339(c) 1,000.00

(5) Violation of subsection 19-340(b) 100.00

(6) Violation of subsection 19-340(c) 1,000.00

(7) Violation of subsection 19-331(a) 100.00

Civil penalties authorized by this section may be assessed against the utility on whose behalf work is being performed and against the contractor or subcontractor who is performing such work.

Billings not paid within 30 days will be assessed a late fee of one percent of the unpaid balance per month.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-348. - Administrative enforcement.

(a) *Stop work orders.* A stop work order shall be in writing, state the work to be stopped, state the reasons therefore, and state the conditions under which the work may be resumed. A stop work order may be issued for:

(1) Working in the right-of-way without a valid and unexpired utility right-of-way master permit or unrevoked and unexpired franchise issued by the city as required by section 19-336;

(2) Use of a contractor that has not been registered with the city other than in an emergency;

(3) Violation of subsection 19-338(c);

(4) Violation of subsection 19-340(c);

(5) Failure to comply with subsection 19-338(b) within a reasonable period of time after notification of such non-compliance;

(6) Failure to comply with subsection 19-340(b) within a reasonable period of time after notification of such non-compliance;

(7) Violation of subsection 19-341(b);

(8) Violation of subsection 19-341(c).

(b) *Permit denials.* The city may refuse to issue utility work permits required by this article to a utility that does not possess a valid and unexpired utility right-of-way master permit or unrevoked and unexpired

franchise as required by section 19-336 or to a utility that is in violation of the terms and conditions of a utility right-of-way master permit or franchise.

The city may refuse to issue utility work permits required by this article to a utility that has not paid civil penalties within 45 days after the date the penalties were assessed if the company has not appealed the assessment, or within 45 days of a final decision on appeal.

The city may refuse to issue utility work permits required by this article to a utility that has not paid costs assessed pursuant to subsection (c) within 45 days of the assessment.

(c) *Cost of remediation.* In the event that a utility fails to properly repair and restore the right-of-way as required by this article, the city may provide of the repair and restoration and charge the cost to the utility.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-349. - Appeals.

(a) Any person whose utility work permit application has been denied or who has been assessed a civil penalty may appeal such decision within ten days after notice of such denial or civil penalty assessment. A utility that has been charged repair and restoration costs pursuant to subsection 19-348(c) may appeal such decision within ten days after the city invoices such charge. Appeals shall be heard by the city manager or the city manager's designee who shall not be an employee of the department of transportation. The appellant shall have the right to present evidence at said hearing.

(b) A ruling on appeal is subject to review in the Superior Court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

(Ord. No. 3730, § 1, 10-22-2007)

Sec. 19-350. - Reserved.

ARTICLE XIV. - NEWSRACKS[10]

Footnotes:

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Editor's note— Section 2 of Ord. No. 4125, adopted February 23, 2009, states the following: "Sections 19-351, 19-356, and 19-358 shall become effective upon adoption. The remaining sections shall become effective July 1, 2009."

Sec. 19-351. - Definitions.

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

Modular newsrack means a newsrack that contains multiple separate enclosed compartments to accommodate at any one time the display and sale or distribution of multiple distinct and separate newspapers, magazines, periodicals or other publications.

Newsrack means a self-service or coin operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale or distribution newspapers, magazines, periodicals or other publications to the public.

Publisher means the person who publishes a newspaper, magazine, periodical or other publication that is displayed and offered for sale or distribution in a newsrack.

Sidewalk means that portion of the street right-of-way which is improved and designated for the use of pedestrians.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-352. - Scope of regulation.

This article applies to newsracks located in public street rights-of-way. Newsracks located on private property, or on other governmentally owned or controlled property including, but not limited to, public transit facilities, are not subject to regulation under this article.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-353. - Publisher registration.

(a) Prior to placing, or permitting the placement of a newsrack on a sidewalk, the publisher shall register with the city by providing the following information:

(1) Name, mailing address, telephone number, and e-mail address of the publisher and, if the publisher is not located in the city, a designated agent located in the city; and

(2) Name and frequency of publication of the newspapers, magazines, periodicals, or other publications to be sold or distributed from the newsracks.

(b) A publisher shall update registration information required to be provided pursuant to subsection (a) within five days of any change of information.

(c) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-354. - Maintenance.

(a) Newsracks must at all times be maintained in a neat and clean condition and in good repair.

(b) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-355. - Locational restrictions.

(a) No person shall place, install, or maintain, or permit the placement, installation, or maintenance of a newsrack in the public right-of-way:

(1) Other than on a sidewalk;

(2) Within 24 inches of the back of curb or, if there is no curb, within 24 inches of the edge of the street pavement;

(3) At a location that leaves less than 48 inches of clear passage along the sidewalk for pedestrians;

(4) Within 30 feet of the ballast curb line of a railroad or light rail track;

(5) If on the street side of a sidewalk, within ten feet of a sign that demarks a public transportation stop;

(6) Within four feet of a fire hydrant;

(7) On or within four feet of a driveway, crosswalk, or crosswalk extension;

(8) If on the street side of a sidewalk within municipal service districts 1, 2, 3, and 4, within the limits of a loading zone; or

(9) At a location that interferes with or impairs the sightline of drivers at intersections.

Notwithstanding the foregoing, the city may approve locations that do not comply with these restrictions when conditions warrant.

(b) Newsracks shall not be bolted or otherwise fixed to the ground or tied, chained, or otherwise fixed to a tree, traffic control device, sign, bench, bus shelter, parking meter, or pole. Newsracks may be chained or otherwise connected to each other for security purposes.

(c) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-356. - Center city modular newsrack zone.

(a) The city manager is authorized to establish a center city modular newsrack zone in which the city will install one or more modular newsracks, and to amend the boundaries of such zone. All portions of the center city modular newsrack zone must be within municipal service district 3.

(b) The director/engineer is authorized and directed to develop regulations for assigning spaces for rent within a modular newsrack when demand for available spaces warrants such assignment. The regulations shall differentiate between paid and unpaid publications and shall:

(1) Be content-neutral;

(2) Allocate spaces through a lottery or similar method;

(3) Include provisions for periodically reallocating spaces; and

(4) Provide that allocated spaces are not transferable.

(c) Other than a modular newsrack owned by the city, no person shall place, install, or maintain, or permit the placement, installation, or maintenance of a newsrack in the public right-of-way within the center city modular newsrack zone.

(d) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-357. - Miscellaneous.

(a) The city may order the removal of newsracks located in public street rights-of-way within specified areas of the city for special events or other anticipated mass gatherings when the Charlotte Mecklenburg Police Department determines that the presence of the newsracks would pose an unreasonable threat to the public health, safety, or welfare. Notice of an order issued pursuant to this subsection shall be given to each affected publisher (or designated agent) at least ten business days before said event or gathering and shall specify the period of time during which the newsracks must be removed. Notwithstanding the preceding sentence, if it is not practical to give notice at least ten business days before said event or gathering, the city shall give such advance notice as is practicable.

In the event that a newsrack is not removed in accordance with an order issued pursuant to this subsection, the city may remove and store the newsrack. Upon removal, the city shall notify the publisher that the newsrack has been removed and the location of and procedure for reclaiming the newsrack. In the event that the publisher does not reclaim the newsrack within 45 days of notification of removal, the newsrack will be deemed to have been abandoned and may be disposed of by the city.

(b) A newsrack or an allocated space in a modular newsrack that remains empty for a period of 30 consecutive days shall be deemed abandoned. The city may summarily remove an abandoned newsrack. Upon removal, the city shall notify the publisher that the newsrack has been removed and the location of and procedure for reclaiming the newsrack. In the event that the publisher does not reclaim the newsrack within 45 days of notification of removal, the newsrack may be disposed of by the city. An abandoned space within a modular newsrack may be reallocated to another publisher/publication.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-358. - Regulatory and nonregulatory user fees.

The city manager is authorized to establish fees in accordance with section 2-1 for reasonable modular newsrack rental fees, newsrack material removal fees, and newsrack removal and storage fees.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-359. - Administration and enforcement.

(a) This article shall be administered and enforced by the director/engineer.

(b) The city may issue a notice of violation to a publisher for any apparent violation of this article. Unless the violation is willful or a repeated violation, if the newsrack is brought into compliance within 15 business days after issuance of the notice of violation, the city shall dismiss the notice of violation and no penalty shall be incurred. In the event that a newsrack is not brought into compliance within 15 business days after a notice of violation has been issued, the city may summarily remove the newsrack. Notwithstanding the preceding sentence, in the event that a newsrack poses an immediate threat to the public health or safety, the city may summarily remove the newsrack without prior notice. Upon removal, the city shall notify the publisher that the newsrack has been removed, the reason for removal, and the location of and procedure for reclaiming the newsrack. In the event that the publisher does not reclaim the newsrack within 45 days of notification of removal, the newsrack will be deemed to have been abandoned and may be disposed of by the city.

(c) A violation of this article shall not constitute a misdemeanor or infraction punishable under G.S. 14-4. Any person who violates this article may be subject to all civil and equitable remedies stated in G.S. 160A-175.

(d) Any person who willfully or repeatedly violates this article or fails to remedy a violation within 15 business days after a notice of violation has been issued, shall be subject to a civil penalty of $50.00.

(Ord. No. 4125, § 1, 2-23-2009)

Sec. 19-360. - Appeals.

(a) Any person who has been issued a notice of violation, been assessed a civil penalty, or whose newsrack has been removed pursuant to this article may appeal such decision within 30 days after receiving notice of the enforcement decision. Appeals shall be heard by the city manager or the city

manager's designee who shall not be an employee of the department of transportation. The appellant shall have the right to present evidence at said hearing.

(b) A ruling on appeal is subject to review in the superior court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

(Ord. No. 4125, § 1, 2-23-2009)

ARTICLE XV. - SHARED-USE MOBILITY SYSTEMS

Sec. 19-361. - Purpose.

The purpose of this article is to provide for the proper management of the public rights-of-way to preserve the health, safety, and welfare of the citizens of the city. Specifically, this article is intended to provide for the reasonable regulation of ~~operation of~~ shared-use mobility systems operated~~located~~ in the public rights-of-way. It applies to all modes of dockless, shared transportation vehicles that are operated as part of a commercial enterprise. This article shall not apply to privately owned micromobility vehicles that are not operated as part of a commercial enterprise or shared-use system or scheme. This article also shall not apply to any mode of transport, business model, or device that requires a fixed or dedicated docking station or storefront for the rental or return of units or to any device or vehicle that is used by an individual with a mobility disability recognized by the Americans with Disabilities Act, for the purpose of locomotion.

(Ord. No. 9490, § 2.A, 1-14-2019)

Sec. 19-362. - Definitions.

Shared-use mobility system means one or more shared self-service dockless vehicles including bicycles, electric assisted bicycles, electric standup scooters, and/or devices similar in size, weight, and/or operation, offered for short-term rental by a Shared-use mobility system operator for use ~~point to point trips whereby the vehicle is intended to remain placed~~ in the public right-of-way by customers without the installation of any infrastructure. ~~when not being rented by a customer~~. This definition shall not include motor vehicles as defined by section 14-1, for-hire vehicles as defined by section 22-01, or the transportation services offered by the Charlotte Area Transit System.

Shared-use mobility system operator means an individual or a public, private, or non-profit entity that manages a Shared-use mobility system.

(Ord. No. 9490, § 2.A, 1-14-2019)

Sec. 19-363. - Permit required.

(a) It shall be unlawful to operate a shared-use mobility system within any public right-of-way without first obtaining a permit from the director. The permit shall, among other things:

(1) Specify the term of the permit;

(2) Acknowledge the city's right to require the removal or relocation of any device operating under the permit;

(3) Provide for the defense and indemnification of the city, its officers, and employees for claims and suits arising out of the use of the right-of-way;

(4) Require suitable levels of insurance coverage;

(5) State the rights, if any, to assign or transfer rights or obligations without the prior consent of the city; and

(6) Acknowledge the city's full retention of its police power.

(Ord. No. 9490 , § 2.A, 1-14-2019)

Sec. 19-364. - Administration and enforcement.

(a) This article shall be administered and enforced by the director.

(b) The director shall be authorized to:

(1) Issue permits;

(2) Develop and revise permit requirements and guidelines;

(3) Establish and amend the maximum and/or minimum allowable number of vehicles authorized under the permit;

(4) Establish and revise permit fees;

(5) Establish and revise regulatory fees in accordance with section 2-1.

(6) Revoke permits for good cause. Good cause shall, among other things, include:

a. Permittee failed to pay a fee and/or civil penalty within 30 days following notice of nonpayment;

b. Permittee violated any statute or ordinance governing operation of the devices covered under the permit; or

c. Permittee violated one or more conditions of the permit.

(c) The director, her designee, or any authorized employee of the city may impound any vehicle found in violation of this article and charge a civil penalty. The director or her designee is authorized to dispose of an impounded vehicle subject to this article if civil penalties are not paid within 90 days of issuance.

(Ord. No. 9490 , § 2.A, 1-14-2019)

Sec. 19-365. - Civil penalties.

(a) A violation of this article shall not constitute a misdemeanor or infraction punishable under G.S. 14-4. Any person who violates this article may be subject to all civil and equitable remedies stated in G.S. 160A-175.

(b) A violation of this article may be enforced by the issuance of a civil penalty in the amount of $25.00 per vehicle.

(c) An additional late fee civil penalty in the amount of $25.00 per vehicle may be assessed if the initial civil penalty is not paid or appealed within 30 days from the date of issuance.

(d) Civil penalties shall be issued against the permitee, permit holder, and/or business with ownership of the subject vehicles.

(Ord. No. 9490 , § 2.A, 1-14-2019)

Sec. 19-366. - Appeals.

A violation enforced through the issuance of a civil penalty may be appealed pursuant to section 2-25 of this Code.

(Ord. No. 9490 , § 2.A, 1-14-2019)