

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1113
HOUSE BILL 1143

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE BY
REWRITING SECTION 51 THEREOF, DEALING WITH PERMANENT
IMPROVEMENTS.

The General Assembly of North Carolina do enact:

Section 1. That Chapter 366, Public-Local Laws of the General Assembly of North Carolina of 1939, as amended, being the Charter of the City of Charlotte, be and the same is hereby amended by striking out Section 51, entitled, "Permanent Improvements", and substituting in lieu thereof, the following:

"Section 51. Permanent Improvements.

(1) Authority. The City of Charlotte is hereby vested with all the power and authority granted to municipalities by the general laws of North Carolina with respect to public or local improvements, such as, but not limited to, grading, regrading, widening, paving and repaving public streets and alleys, and in the construction, reconstruction and alteration of curbs, gutters and drains in the public streets and alleys, and in the laying or relaying of sewers and water lines, and in the construction, reconstruction and alteration of sidewalks. The authority granted by this Section of the Charter shall not be exclusive, but shall be in addition to that granted by any other law, and with respect to any particular local improvement the city, at its discretion, may exercise any one or more of the alternative powers herein granted.

(2) Assessment Procedure in Making Local Improvements. The procedures set forth in the general laws of North Carolina for the making of special assessments against property benefited by local improvements shall apply to the City of Charlotte except as the city council may elect to follow alternative procedures as herein provided.

(3) Alternate Assessment Procedure. Upon receipt of a petition from owners representing at least 25% of the total street frontage or upon receipt of a petition from owners representing less than 25% of the total street frontage where more than 75% of the street frontage is in one ownership, the city council may order the making of any local improvement involving the grading, widening, paving or repaving of public streets and the construction, reconstruction and alteration of curbs, gutters and drains in the public streets, and the construction of sidewalks, and assess the cost against the abutting property. Provided, before making such an order:

(a) the city council, on a favorable vote of a majority of the members of the entire council, shall adopt a preliminary resolution setting forth the intent of the council to order the improvement and describing generally the nature of the improvement, the

street or streets in which the improvement is to be located, the estimated assessment per front foot of abutting property, and setting the date, time and place at which a public hearing on the proposed improvement will be held before the council. The council shall also find in this preliminary resolution (a) that the making of the improvement is necessary for the safe and efficient movement of vehicular and/or pedestrian traffic, and (b) that the property to be assessed will be benefited by at least as much as the amount of the assessment;

(b) the city council shall cause to be published a copy of the preliminary resolution of intent one time in a newspaper published in the city which is qualified to carry legal notices at least ten days prior to the date fixed for the public hearing on the proposed improvement. Furthermore, the council shall cause a copy of the resolution to be served upon the owners of lands subject to assessment for the proposed improvement if such owners can be found with reasonable diligence within the city. If any such owner cannot with reasonable diligence be found within the city, then a copy of the resolution shall be mailed to his address, as shown on the tax records of such city and if not so shown, then as nearly as the same can be ascertained with due diligence. The certificate of the person designated to serve or mail the resolutions that such resolutions were served or mailed shall be conclusive in the absence of fraud;

(c) the city council, at the time and place set for the public hearing, shall hear both proponents and opponents of the proposed improvement;

(d) after the public hearing, if the council determines that the proposed improvement should be made, it shall adopt a resolution ordering the improvement and setting forth the proportion of the cost, exclusive of the cost of that part of the improvement lying within street intersections, to be assessed. Provided, the proportion of the cost ordered to be assessed may not be greater than the proportion for assessment as given in the preliminary resolution of intent.

(4) Corner Lot Exemptions. The council shall have authority to determine the amount and applicability of assessment exemptions for corner lots. Provided, exemptions for corner lots shall apply to only one side of each such lot and the amount of the exemption shall not exceed 75% of the frontage of that side. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

(5) Payment of Assessments in Cash or by Installments. Date Installments Due. Any property owner shall have the option of paying assessments for local improvements in cash or in not less than two or more than ten equal annual installments, as may have been determined by the council in the resolution ordering the improvements. With respect to payment by installment, the council may direct (1) that installments shall become due and payable on the same date when property taxes of the city are due and payable, or (2) that the first installment with interest shall become due and payable 60 days after the date of the confirmation of the assessment roll, and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full.

(6) Planting Strip and Driveway Maintenance. It shall be the responsibility of the abutting property owner to maintain any property or driveway between the property line and the curb of a paved street.

(7) Petition for Assessment of Limited Number of Properties. The council may order any local improvement and assess the cost thereof, except the city's portion, against only a limited number of abutting properties upon receipt of a petition from all such property owners asking that the improvement be made and that the total amount to be assessed for the improvement be assessed only against their properties.

(8) Assessment for Sidewalk Repairs. Whenever the council finds that public interest requires that a sidewalk or sidewalks or portions of driveways within the street area be repaired, the total cost of such repairs may be assessed against the property abutting the sidewalk or driveway repaired. Before an assessment may be made against abutting property for a sidewalk or driveway repair, at least 30 days' written notice must be given to the abutting property owner personally or by registered or certified letter to his last known address or as shown on the tax records that he is required to make the designated repairs at his own cost and expense in conformity with the sidewalk standards adopted by the city, and if he shall fail to make such repairs within 30 days after notice served upon him, the city may thereupon make said repairs and assess the cost thereof. Provided, however, if the council finds that any sidewalk or driveway is in need of immediate repair, the council may adopt a resolution setting out such finding and directing that such repair be made immediately and that the cost thereof be assessed against the property abutting without notice to the property owner affected.

(9) General Powers Not Limited. In lieu of any or all of the foregoing powers and provisions, the city council may, by resolution adopted by majority vote of the entire council at two regular meetings, open, widen, repave, resurface, or otherwise improve a street, including the installation of storm drains, curbs, gutters, and related improvements, where it is found as a fact by said resolution that such streets or improvements are necessary in the public interest to relieve traffic congestion and to provide a thoroughfare for such purpose; and may pay the entire cost of the same, including the costs of right of way, out of street improvement bond funds or any other funds legally available for such purpose without the assessment of any benefits against abutting property owners.

(10) In connection with street widening, the City of Charlotte may purchase with any available funds, property immediately adjacent to property located on a street corner; provided, in the opinion of the city council, the value of such inside lands does not exceed the value of the corner property needed for street widening purposes, and may convey and transfer such inside lands to the owner of the corner property in exchange for property needed for street widening purposes, at private sale."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1961.