

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 719
HOUSE BILL 567

**AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO PRESERVE THE
INTEGRITY OF MUNICIPAL PLANS BY THE REGULATION OF BUILDINGS
IN MAPPED STREETS.**

The General Assembly of North Carolina do enact:

Section 1. Platting of Street Lines. From and after the time when the City Council shall have adopted a master plan which includes at least a major street plan or shall have progressed in its master planning to the stage of the making and adoption of a major street or thoroughfare plan, said City Council shall have the power to make or cause to be made by its city engineer, from time to time, surveys for the exact location of the lines of new, extended, widened, or narrowed streets in the whole or in any portion of the municipality, or its authorized planning area, and to make and certify to Council a plat or plats of the area or areas thus surveyed on which are indicated the locations of the lines recommended as the planned or mapped lines of future streets, street extensions, street widenings, or street narrowings. The making or certifying of a plat by the city engineer shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

Sec. 2. Establishment of Official Map. From and after the time when the City Council shall have adopted a master plan which includes a major street plan or shall have progressed in its master planning to the stage of the making and adoption of a major street plan, and shall have certified a copy of such major street plan, said Council may establish an official map of the municipality showing the location of the streets of the whole or of any part or parts of the municipality theretofore existing and established by law as public streets. Such official map may also show the location of the lines of streets on plats of subdivisions which shall have been approved by the planning commission of the municipality. Such official map may also show the location of the lines of streets on plats of subdivisions which, previous to the establishment of the official map shall have been approved under and in accordance with the provisions of the subdivision ordinance. Council shall certify the fact of the establishment of the official map to the recorder of the county in which such municipality is situated.

Sec. 3. Official Map: Additions and Changes. In the event that the official map established under Section 2 of this Act does not include the whole of the municipality, but only certain part or parts thereof, then the Council of the municipality

may add to the official map by placing thereon, from time to time, the lines of the streets which, at the date of the establishment of the official map, existed and were established by law as public streets in other part or parts of the municipality or had been approved as public streets, in such other part or parts of the municipality under the provisions of the subdivision ordinance. Said Council may also add to the official map by placing thereon, from time to time, the lines of streets in accordance with the plat of any subdivision which shall have been approved by the planning commission of the municipality. Said Council may make, from time to time, other additions to or modifications of the official map by placing thereon the lines of planned new streets or street extensions, widenings, narrowings, or vacations; provided, however, that before taking any such action, Council shall hold a public hearing thereon, notice of the time and place of which shall be given not less than 10 days previous to the time fixed therefor by one publication in a newspaper of general circulation in the municipality and, insofar as their addresses appear in the municipal directory or on municipal records or are otherwise known to the clerk of the municipal Council, by mail to the record owners of the lands on or abutting which the proposed street lines are located, and provided further that such proposed addition to or modification of the official map shall be submitted to the planning commission, the city engineer, and the traffic engineer of the City of Charlotte for its approval. The placing of any street or street line upon the official map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

Sec. 4. Regulations of Buildings in Bed of Mapped Streets. For the purpose of preserving the integrity of the official map, no permit shall be issued for any building or structure or part thereof on any land located between the mapped lines of any street as shown on the official map. The Board of Adjustment shall have the power, upon an appeal filed with it by the owner of such land, to authorize the grant of a permit for a building or structure or part thereof within any such mapped-street location in any case in which such Board finds, upon the evidence and arguments presented to it upon such appeal, (a) that the property of the appellant of which such mapped-street location forms a part will not yield a reasonable return to the owner unless such permit be granted, or (b) that, balancing the interest of the municipality in preserving the integrity of the official map and the interest of the owner in the use and benefits of his property, the grant of such permit is required by considerations of justice and equity. Before taking any such action, the Board of Adjustment shall hold a hearing thereon, at least 10 days' notice of the time and place of which shall be given to the appellant by mail at the address specified by the appellant in his appeal petition. In the event that the Board of Adjustment decides to authorize a building permit, it shall have the power to specify the exact location, ground area, height, and other details and conditions of extent and character, and also the duration, of the building, structure, or part thereof to be permitted, and the method of their removal.

Sec. 4.5. In the event condemnation proceedings have not been filed with the Clerk of Superior Court or actual purchase has not been made of the property lying

within the boundaries of any street shown on the official map within three years from the date on which such street is added to the map, then the property lying within the boundaries of such street shall be deemed conclusively to have been abandoned for street purposes by the City of Charlotte, and thereafter the owner thereof shall have the right to construct within its boundaries any type of building or structure permitted by the applicable zoning laws and restrictions.

In addition, the below named categories of property lying within the boundaries, or right of way, of such streets, whichever is greater, shall be removed from the city and county tax scrolls when said land is placed under the effect of this Act by action of the City Council as in Sections 2 and 3. The categories would be: (1) Vacant land (2) Unoccupied residential and commercial buildings and structures. If structures under Section 4 (2) are occupied at time of the City Council approval of the streets for inclusion in this Act, but subsequently become vacant, but prior to filing of condemnation or purchase, then property is to be removed from city and county tax scrolls on date said property became vacant. An appeal from any decision of the Board of Adjustment shall be to the City Council.

Sec. 5. Municipal Improvements in Streets: Buildings Not on Mapped Streets. Excepting in streets existing and established by law as public streets at the date of the establishment of the official map, no public water facilities, sewer, or other public utility or improvement shall be constructed after said date in any street until such street is duly placed on the official map. No permit for the erection of any building shall be issued unless a street giving access to such proposed building existed and was established by law as a public street at the time of the establishment of the official map or shall have been duly placed on the official map in accordance with the provisions of Sections 2 and 3 of this Act; provided, however, that the applicant for such permit may appeal to the Board of Adjustment. The Board of Adjustment shall hold a hearing thereon after 10 days' notice of the time and place and shall have the authority to authorize a permit, subject to such conditions as the Board may impose, where the circumstances of the case do not require the proposed building to be related to existing streets or to streets as shown on the official map and where the permit would not tend to distort or increase the difficulty of carrying out the official map or master plan of the municipality.

Sec. 6. Definitions. For the purposes of this Act, the term "street" or "streets" means, relates to, and includes streets, avenues, boulevards, roads, and other ways which have been accepted for maintenance by an agency of local government; "Council" means the chief legislative body of the municipality whether designated council, commission, board of aldermen, or by other title; and the term "municipality" or "municipal" includes and relates to the City of Charlotte.

Sec. 7. This Act shall apply only to the City of Charlotte.

Sec. 8. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 9. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1967.