

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 230
HOUSE BILL 347

AN ACT TO AUTHORIZE THE CHARLOTTE CITY COUNCIL TO ESTABLISH
BUILDING SETBACK LINES ON STREETS WITHIN ITS PLANNING
JURISDICTION.

The General Assembly of North Carolina do enact:

Section 1. Within the City of Charlotte and the area over which its City Council exercises planning and zoning jurisdiction pursuant to Chapter 123 of the Session Laws of 1955, as amended, and as the same may from time to time be amended in the future, the Charlotte City Council is hereby authorized (1) to classify from time to time all or a portion of the streets according to their size, present and anticipated traffic loads, and other characteristics relevant to the achievement of the purposes stated in Section 2 hereof, and (2) to establish, by ordinance, minimum distances which buildings constructed along each class or type of street shall be set back from the right-of-way line of the street or from the center line of the street.

Sec. 2. Any setback lines established under the authority of this Act shall be designed (a) to promote public safety, by providing adequate sight distances for motorists using the street, lessening congestion in the street, facilitating the safe movement of traffic on the street, and providing adequate fire lanes between buildings, and (b) to protect the public health, by keeping dwellings and other structures an adequate distance from the dust, noise, and fumes created by traffic on the street and by insuring an adequate supply of light and air.

Sec. 3. In exercising the authority granted herein, the city council may classify portions of particular streets in a manner different from other portions of such streets, where the characteristics of such portions differ.

Sec. 4. Any ordinance adopted pursuant to this Act shall provide that the zoning board of adjustment with jurisdiction over the property shall have the power, upon an appeal filed with it by the owner of the property, to vary or modify the setback requirements as they apply to a particular piece of property, upon a showing (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such requirements, resulting from the peculiar nature of the property, (b) that the property of the appellant will not yield a reasonable return or cannot be put to reasonable use unless such relief is granted, and (c) that balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of such relief is required by considerations of justice and equity. Where such relief is granted, the

board may impose reasonable and appropriate conditions and safeguards for the protection of the public interest and of neighboring properties.

Sec. 5. Any ordinance adopted pursuant to this Act may provide for enforcement through the issuance of building permits, which may be coordinated with the enforcement of the building code and/or the zoning ordinance. Violation of any such ordinance shall constitute a misdemeanor, punishable as prescribed by Section 14-4 of the General Statutes of North Carolina. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of any such ordinance, the designated enforcement officer, in addition to other remedies, may institute any appropriate action or proceeding (a) to prevent such unlawful action (b) to restrain, correct, or abate such violation, or (c) to prevent the occupancy of said building or structure.

Sec. 6. Should any Section, clause, or provision of this Act be decided by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the Act as a whole or any part thereof other than the part decided to be unconstitutional or invalid.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

Sec. 8. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1961.