

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1539

State Government, Local Government, and Personnel Committee Substitute Adopted
6/17/98

Short Title: Urban Redevelopment Zoning.

(Public)

Sponsors:

Referred to: Appropriations.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW CITIES TO REQUIRE THAT A FOOD OR RETAIL BUSINESS THAT HOLDS AN ABC PERMIT AND IS LOCATED IN AN URBAN REDEVELOPMENT AREA OR WITHIN FIFTEEN HUNDRED FEET OF A SCHOOL OR CHILD CARE CENTER SHALL ONLY BE OPERATED WITH A SPECIAL USE PERMIT OR CONDITIONAL USE PERMIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-381 reads as rewritten:

"§ 160A-381. Grant of power.

(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. These regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein

1 contained. The regulations may also provide that the board of adjustment or the city
2 council may issue special use permits or conditional use permits in the classes of cases or
3 situations and in accordance with the principles, conditions, safeguards, and procedures
4 specified therein and may impose reasonable and appropriate conditions and safeguards
5 upon these permits.

6 (b) **(Expires June 30, 2001)** Specifically, the city may require that a pawnshop as
7 defined in Chapter 91A of the General Statutes may only be operated with a special use
8 permit or a conditional use permit, or may have an overlay district wherein a pawnshop
9 as defined in Chapter 91A of the General Statutes may only be operated with a special
10 use permit or a conditional use permit, and the ordinance may provide that the permit
11 may be issued only upon a finding that the pawnshop would not be deleterious to the
12 neighborhood in which it is to be located. Conditions and safeguards on permits for
13 pawnshops may be imposed notwithstanding G.S. 91A-12. This subsection applies only
14 to cities with a population of 200,000 or over, which have a median family income of
15 forty thousand dollars (\$40,000) or over, according to the most recent decennial federal
16 census.

17 (b1) A city may require, by ordinance, that a food business as defined in G.S. 18B-
18 1000(3) or a retail business as defined in G.S. 18B-1000(7) that holds an ABC permit
19 under Chapter 18B of the General Statutes and is located in a part of the city that has
20 been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of
21 the General Statutes or within 1500 feet of a high school shall only be operated with a
22 special use permit or a conditional use permit if the business' alcoholic beverage sales
23 exceed fifty per cent (50%) of the business' total annual sales. The ordinance may also
24 require businesses under this subsection to submit to the city manager a report of their
25 total annual alcohol sales and total sales. The ordinance may provide that a special use
26 permit or conditional use permit will be issued only upon a finding that the sale of
27 alcoholic beverages by the food store or retail business will not be deleterious to the
28 neighborhood in which it is located. Conditions and safeguards on permits for food
29 businesses and retail businesses may be imposed notwithstanding Chapter 18B of the
30 General Statutes.

31 (c) Where appropriate, such conditions may include requirements that street and
32 utility rights-of-way be dedicated to the public and that provision be made of recreational
33 space and facilities. When issuing or denying special use permits or conditional use
34 permits, the city council shall follow the procedures for boards of adjustment except that
35 no vote greater than a majority vote shall be required for the city council to issue such
36 permits, and every such decision of the city council shall be subject to review by the
37 superior court by proceedings in the nature of certiorari. Any petition for review by the
38 superior court shall be filed with the clerk of superior court within 30 days after the
39 decision of the city council is filed in such office as the ordinance specifies, or after a
40 written copy thereof is delivered to every aggrieved party who has filed a written request
41 for such copy with the clerk at the time of the hearing of the case, whichever is later. The
42 decision of the city council may be delivered to the aggrieved party either by personal
43 service or by registered mail or certified mail return receipt requested."

1 Section 2. G.S. 18B-904(e) reads as rewritten:

2 "(e) Business or Location No Longer Suitable. –

3 (1) The Commission may suspend or revoke a permit issued by it if, after
4 compliance with the provisions of Chapter 150B of the General Statutes,
5 it finds that the location occupied by the permittee is no longer a
6 suitable place to hold ABC permits or that the operation of the business
7 with an ABC permit at that location is detrimental to the neighborhood.
8 No order revoking or suspending an ABC permit pursuant to this
9 section may be made except upon substantial evidence admissible under
10 G.S. 150B-29(a).

11 (2) The Commission shall suspend or revoke a permit issued by it if it
12 receives information from the municipality in which the permittee is
13 located that the permittee's business is in violation of an ordinance
14 adopted pursuant to G.S. 160A-381(b1). In determining whether a
15 permit should be suspended or revoked under this subdivision, the
16 Commission shall only consider whether the municipality has adopted
17 an ordinance pursuant to G.S. 160A-381(b1) and whether the permittee
18 holds a valid special use permit or conditional use permit as required by
19 the ordinance."

20 Section 3. There is appropriated from the General Fund to the Department of
21 Crime Control and Public Safety the sum of one hundred forty-nine thousand two
22 hundred sixteen dollars (\$149,216) for the 1998-99 fiscal year to fund two additional
23 Alcohol Law Enforcement officers to accomplish the purposes of this act.

24 Section 4. This act is effective when it becomes law.