

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1956

Short Title: Winston-Salem/Forsyth Zoning.

(Local)

Sponsors: Representatives Gray; Decker, Esposito, Kennedy, Oldham, and Sexton.

Referred to: Local and Regional Government I.

June 1, 1994

A BILL TO BE ENTITLED
AN ACT CONCERNING ZONING BY THE CITY OF WINSTON-SALEM AND
FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 23 of Chapter 677 of the 1947 Session Laws, as amended by Section 1(d) of Chapter 777 of the 1953 Session Laws and Section 1 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Sec. 23. Zoning. The city and the county may jointly or separately confer upon the joint City and County Planning Board the authority and the duty of recommending revisions of existing zoning ordinances or preparing new zoning ordinances or resolutions for the city or county or any portion thereof, in accordance with the present zoning ordinance of the City of Winston-Salem and any amendments thereto and in accordance with the authority for county zoning as herein authorized.

The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For the purpose of increasing the availability of housing for persons of low or moderate income, and thereby promoting the public safety and welfare, the City may by ordinance provide a density bonus or other incentives of equivalent financial value to a developer of housing if that developer agrees to construct multifamily residential units or single family residential units for rent or sale to persons of low or moderate income,

1 or to donate land to the City or the City of Winston-Salem Housing Authority to be used
2 for the purpose of the development of housing for persons of low or moderate income,
3 in the manner, and in accordance with the standards, requirements, and regulations
4 specified therein. For the purposes of this paragraph, 'density bonus' means a density
5 increase over the otherwise maximum allowable residential density under the applicable
6 zoning classification.

7 For any or all these purposes, the City may divide its territorial jurisdiction into
8 districts of any number, shape, and area that may be deemed best suited to carry out the
9 purposes of this section; and within those districts it may regulate and restrict the
10 erection, construction, reconstruction, alteration, repair or use of buildings, structures, or
11 ~~land~~ land; those regulations may also provide for density bonuses or other financial
12 incentives to developers as specified hereinabove. All regulations shall be uniform for
13 each class or kind of buildings throughout each district, but the regulations in one
14 district may differ from those in other districts; provided, however, that the City may
15 provide for the creation of special use districts in addition to general use districts.

16 It is the purpose and intent of this section to permit Winston-Salem to create general
17 use districts in which a variety of uses are permitted, and to also create special use
18 districts in which a single use is permitted upon the issuance by the Board of Aldermen
19 of a special use permit prescribing the conditions under which such use will be
20 permitted.

21 A person petitioning for rezoning of a tract of land, where special use districts are
22 authorized by ordinance, may elect to request general use district zoning for said tract,
23 or he may elect to request special use district zoning for said tract.

24 If he elects to petition for general use district zoning, he may not refer, either in his
25 petition or at any hearings related to the petition, to the use intended for the property
26 upon rezoning. The Board of Aldermen may not consider the intended use in
27 determining whether to approve or disapprove the petition, but shall consider the full
28 range of uses permitted within the requested general use district. If the petition is
29 approved, the re-zoned property may be used for any of the uses permitted in the
30 applicable general use district.

31 If the petitioner elects to petition for special use district zoning, the petition must
32 specify the actual use intended for the property specified in the petition, and the
33 intended use must be one permitted in the corresponding general use district. If the
34 petition is for special use district zoning, the Board of Aldermen is to approve or
35 disapprove the petition on the basis of the specific use requested. If the petition is
36 approved, the Board of Aldermen shall issue a special use permit authorizing the
37 requested use with such reasonable conditions as the Board of Aldermen determines to
38 be desirable in promoting public health, safety and general welfare.

39 The conditions contained in a special use permit issued by the Board of Aldermen
40 may include: location of the proposed use on the property; the number of dwelling units;
41 the location and extent of support facilities such as parking lots, driveways, and access
42 streets; location and extent of buffer areas and other special purpose areas; the timing of
43 development; and such other matters as the petitioner may propose and the Board of
44 Aldermen may find appropriate, but not to include architectural review or controls.

1 It is the further intent of this section to permit the creation of districts for specific
2 uses and the imposition of reasonable conditions in order to secure the public health,
3 safety and welfare, and insure that substantial justice be done.

4 For the purpose of promoting the health, safety, morals and the general welfare of
5 the City of Winston-Salem and its inhabitants, and in order to give full effect to the
6 zoning ordinance of the City of Winston-Salem, as amended from time to time, said
7 zoning ordinance, together with the zone map, and any amendments thereto hereafter
8 adopted, shall operate and have effect within three miles of the corporate limits of the
9 City of Winston-Salem, as now or hereafter established. The Board of Aldermen of the
10 City of Winston-Salem may adopt ordinances from time to time zoning and rezoning all
11 or so much of said three mile area as, within the judgment of the board, should be
12 brought under the operation and effect of the city zoning ordinance. The board of
13 adjustment and the administrative officer, within said three mile area, shall have and
14 may exercise all the powers and duties now or hereafter conferred upon them by the
15 zoning ordinance of the City of Winston-Salem.

16 The extension of said zoning ordinance to said three mile area and the ordinance
17 adopted by the Board of Aldermen of the City of Winston-Salem from time to time shall
18 conform with the general development plan for this area, if and when promulgated by
19 either of the planning boards herein created.

20 Wherever in this Act the City Planning Board or the Board of Aldermen of the City
21 of Winston-Salem or the Board of Adjustment of the City of Winston-Salem are given
22 authority in the territory outside of the corporate limits of the City of Winston-Salem,
23 the exercise of such authority beyond one mile from the corporate limits of the City of
24 Winston-Salem shall be subject to the approval of the Board of Commissioners of
25 Forsyth County."

26 Sec. 2. Section 25 of Chapter 677 of the 1947 Session Laws, as amended by
27 Section 2 of Chapter 381 of the 1973 Session Laws reads as rewritten:

28 "Sec. 25. Grant of Power. The Board of Commissioners for the County of Forsyth is
29 hereby empowered, in accordance with the conditions and procedure specified in the
30 subsequent Sections of this Act, by resolution to regulate in any portion or portions of
31 Forsyth County which lie outside of the zoning jurisdiction of incorporated cities and
32 towns, the location, height, bulk, and size of buildings and other structures, the
33 percentage of lot which may be occupied, the size of yards, courts, and other open
34 spaces, the density and distribution of population, the uses of buildings and structures
35 for trade, industry, residence, recreation, public activities or other purposes, and the uses
36 of land for trade, industry, residence, recreation, agriculture, water supply conservation,
37 soil conservation, forestry or other purposes.

38 For the purpose of increasing the availability of housing for persons of low or
39 moderate income, and thereby promoting the public safety and welfare, the County may
40 by ordinance provide a density bonus or other incentives of equivalent financial value to
41 a developer of housing if that developer agrees to construct multifamily residential units
42 or single family residential units for rent or sale to persons of low or moderate income,
43 or to donate land to the County or the City of Winston-Salem Housing Authority to be
44 used for the purpose of the development of housing for persons of low or moderate

1 income, in the manner, and in accordance with the standards, requirements, and
2 regulations specified therein. For the purposes of this paragraph, 'density bonus' means
3 a density increase over the otherwise maximum allowable residential density under the
4 applicable zoning classification.

5 For any or all these purposes, the County may divide its territorial jurisdiction into
6 districts of any number, shape, and area that may be deemed best suited to carry out the
7 purposes of this section; and within those districts it may regulate and restrict the
8 erection, construction, reconstruction, alteration, repair or use of buildings, structures, or
9 ~~land~~ land; those regulations may also provide for density bonuses or other financial
10 incentives to developers as specified hereinabove. All regulations shall be uniform for
11 each class or kind of building throughout each district, but the regulations in one district
12 may differ from those in other districts; provided, however, that the County may
13 provide for the creation of special use districts in addition to general use districts.

14 It is the purpose and intent of this section to permit Forsyth County to create general
15 use districts in which a variety of uses are permitted, and to also create special use
16 districts in which a single use is permitted upon the issuance by the Board of County
17 Commissioners of a special use permit prescribing the conditions under which such use
18 will be permitted.

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31 intended use must be one permitted in the corresponding general use district. If the
32 petition is for special use district zoning, the Board of County Commissioners is to
33 approve or disapprove the petition on the basis of the specific use requested. If the
34 petition is approved, the Board shall issue a special use permit authorizing the requested
35 use with such reasonable conditions as the Board determines to be desirable in
36 promoting public health, safety and general welfare.

37 The conditions contained in a special use permit issued by the Board may include:
38 location of the proposed use on the property; the number of dwelling units; the location
39 and extent of support facilities such as parking lots, driveways, and access streets;
40 location and extent of buffer areas and other special purpose areas; the timing of
41 development; and such other matters as the petitioner may propose and the Board may
42 find appropriate, but not to include architectural review or controls.

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2 uses and the imposition of reasonable conditions in order to secure the public health,
3 safety and welfare, and insure that substantial justice be done."

4 Sec. 3. This act shall apply only to the City of Winston-Salem and Forsyth
5 County.

6 Sec. 4. This act is effective upon ratification.