

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 122
SENATE BILL 619

AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO FILE WITH THE REGISTER OF DEEDS A NOTICE OF SPECIAL CONDITIONS ATTACHED TO THE ZONING OF PROPERTY.

The General Assembly of North Carolina enacts:

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

"§ 160A-381. Grant of power.

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 contained. The regulations may also provide that the board of adjustment or the city council may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made of recreational space and facilities. In the event that the board of adjustment or the city council has granted a variance or approved the issuance of a permit subject to conditions, the city may cause a notice of said conditions in a form and manner prescribed by the city council to be recorded with the register of deeds of the county in which the affected real property is located in order to provide notice of said conditions to subsequent purchasers of the property. The city council may, and at the written request of the property owner, shall, record with the register of deeds a notice of revocation or termination of said conditions whenever said conditions are revoked, terminated, or otherwise removed. When issuing or denying special use permits or conditional use permits, the city council shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the city council to issue such permits, and every such decision of the city council shall be subject to review by the superior court by proceedings in the nature of **certiorari**. Any petition for review by the superior court shall be filed with the clerk of superior court

within 30 days after the decision of the city council is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the city council may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested."

Sec. 2. This act applies only to the City of Wilmington.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives