

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 71

Short Title: Charlotte Code Enforcement.

(Local)

Sponsors: Senator Odom.

Referred to: Local Government.

January 30, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO CREATE A CODE ENFORCEMENT BOARD.

The General Assembly of North Carolina enacts:

Section 1. **Short title.** This act shall be known as the "Local Code Enforcement Board Act".

Sec. 2. **Intent.** It is the intent of this act to promote, protect, and improve the health, safety and welfare of the citizens of a city by authorizing the creation of administrative boards by ordinance to provide an equitable, expeditious, effective and inexpensive method of enforcing the ordinances of the city relating to health, sanitation and safety.

Sec. 3. **Local code enforcement board; organization.** The city council may create by ordinance a code enforcement board, with no more than 13 and no fewer than five members with jurisdiction over those city code violations as determined by the city council. Appointments shall be made in accordance with applicable law and ordinances. The city council shall provide rules for appointment to, membership on, and removal from the enforcement board.

Sec. 4. **Powers of the enforcement board.** The enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the county, city police officers, or by any other means permitted by law.
- (3) Subpoena evidence.

- 1 (4) Take testimony under oath.
- 2 (5) Issue orders and levy fines having the force of law to command
- 3 whatever steps are necessary to bring a violation into compliance.
- 4 Sec. 5. Enforcement procedure.
- 5 (1) It shall be the duty of the appropriate city employee to initiate
- 6 enforcement proceedings; no member of the board shall have the
- 7 power to initiate enforcement proceedings.
- 8 (2) Except as provided in subsection (3), if the appropriate city employee
- 9 discovers a violation of a city ordinance, the employee shall notify the
- 10 violator and give him or her a reasonable time to correct the violation.
- 11 Should the violation continue beyond the time specified for correction,
- 12 the employee shall notify the enforcement board and request a hearing
- 13 pursuant to the procedure in Section 6 of this act. Written notice of the
- 14 hearing shall be delivered to said violator, as provided in Section 9 of
- 15 this act, not less than 10 days prior to the date of the hearing.
- 16 (3) If the city employee has reason to believe that a violation presents a
- 17 serious threat to the public health, safety, and welfare, the employee
- 18 may proceed directly to the procedure in Section 6 of this act without
- 19 notifying the violator of the hearing.
- 20 Sec. 6. Conduct of hearing; action by board.
- 21 (1) The chairman of the enforcement board may call hearings of the
- 22 enforcement board; hearings also may be called by written notice
- 23 signed by at least two members of the enforcement board. At any
- 24 hearing, the enforcement board may set a future hearing date. The
- 25 enforcement board shall attempt to convene no less frequently than
- 26 once every two months, but it may meet less often if there is no
- 27 demand for a hearing. Minutes shall be kept of all hearings and
- 28 proceedings shall be open to the public. The city shall provide legal,
- 29 clerical and administrative personnel as may be reasonably required by
- 30 the enforcement board for the proper performance of its duties.
- 31 (2) The enforcement board shall proceed to hear the cases on the agenda
- 32 for that day. All testimony shall be under oath and shall be recorded.
- 33 The enforcement board shall take testimony from the appropriate city
- 34 personnel and provide the alleged violator the opportunity to testify.
- 35 Formal rules of evidence shall not apply, but fundamental due process
- 36 shall be observed and shall govern the proceedings.
- 37 (3) At the conclusion of the hearing, the enforcement board shall issue
- 38 findings of fact, based on evidence of record, and conclusions of law
- 39 and may, consistent with powers granted herein, issue an order
- 40 commanding action by the violator to remedy the violation and/or the
- 41 payment of a fine as provided in Section 7 of this act. The finding
- 42 shall be by motion approved by a majority of those members present
- 43 and voting, except that at least a majority of the members of the
- 44 enforcement board must vote in order for the action to be official.

1 (4) Failure of the violator to appear at the hearing shall authorize the
2 enforcement board to order the payment of a fine in accordance with
3 Section 7 of this act.

4 Sec. 7. **Administrative fines; liens.** The enforcement board, upon
5 notification by the appropriate city personnel that a violator has not complied with the
6 initial notice of violation or an order of the enforcement board within the time set by
7 that notice or order, may order the violator to pay a fine up to a maximum of one
8 hundred dollars (\$100.00) for each day the violation continues past the date set for
9 compliance. A certified copy of an order imposing a fine shall constitute a lien against
10 the land on which the violation exists or, if the violator does not own the land, upon any
11 other real property owned by the violator. The lien shall be filed, have the same
12 priority, and be collected as the lien for special assessment provided in Article 10 of
13 Chapter 160A of the General Statutes.

14 Sec. 8. **Appeals.** A final administrative order of the enforcement board,
15 upon the petition of any aggrieved party, including the city, shall be subject to review
16 by the superior court by proceedings in the nature of **certiorari**. Any petition for
17 review by the superior court shall be filed with the clerk of superior court within 30
18 days after the decision of the board and a written copy thereof is delivered to every
19 aggrieved party who has filed a written request for such copy with the secretary of the
20 board at the time of its hearing of the case.

21 Sec. 9. **Notices.** All notices required by this act shall be by certified mail,
22 return receipt requested, or, when mail would not be effective, by hand delivery by city
23 personnel.

24 Sec. 10. **Provisions of act supplemental.** It is the legislative intent of this
25 act to provide a supplemental means of obtaining compliance with certain local
26 ordinances. Nothing contained in this act shall prohibit the city from pursuing the
27 enforcement procedures and remedies authorized by G.S. 160A-175.

28 Sec. 11. This act shall apply to the City of Charlotte only.

29 Sec. 12. All laws and clauses of law in conflict with this act are hereby
30 repealed.

31 Sec. 13. This act is effective upon ratification.