

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1017

Short Title: Cities' Subpoena/Stop Orders.

(Public)

Sponsors: Representatives Kerr and Smith.

Referred to: Judiciary III.

April 19, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE SUBPOENA POWER TO ALL MUNICIPALITIES AND TO
2 AUTHORIZE ISSUANCE OF STOP ORDERS FOR VIOLATIONS OF ZONING
3 AND SUBDIVISION ORDINANCES.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 160A-80(c) is repealed.

7 Sec. 2. G.S. 160A-388 is amended by adding a new subsection to read:

8 "(g) The board of adjustment may subpoena witnesses and compel the production
9 of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this
10 subsection, the board of adjustment may apply to the General Court of Justice for an
11 order requiring that its order be obeyed, and the Court shall have jurisdiction to issue
12 these orders after notice to all proper parties. No testimony of any witness before the
13 board of adjustment pursuant to a subpoena issued in exercise of the power conferred by
14 this subsection may be used against the witness in the trial of any civil or criminal
15 action other than a prosecution for false swearing committed on the examination. Any
16 person who, while under oath during a proceeding before the board of adjustment,
17 willfully swears falsely, is guilty of a misdemeanor."

18 Sec. 3. G.S. 160A-421 reads as rewritten:

19 "**§ 160A-421. Stop orders.**

20 (a) Whenever any building or structure or part thereof is being demolished,
21 constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial
22 violation of any State or local building law, or local zoning or subdivision ordinance, in
23 a manner that endangers life or property, the appropriate inspector may order the
24 specific part of the work that is in violation or presents such a hazard to be immediately

1 stopped. The stop order shall be in writing, directed to the person doing the work, and
2 shall state the specific work to be stopped, the specific reasons therefor, and the
3 conditions under which the work may be resumed.

4 (b) The owner or builder may appeal from a stop order involving alleged
5 violation of the State Building Code or any approved local modification thereof to the
6 North Carolina Commissioner of Insurance or his designee within a period of five days
7 after the order is issued. Notice of appeal shall be given in writing to the Commissioner
8 of Insurance or his designee, with a copy to the local inspector. The Commissioner of
9 Insurance or his designee shall promptly conduct an investigation and the appellant and
10 the inspector shall be permitted to submit relevant evidence. The Commissioner or his
11 designee shall as expeditiously as possible provide a written statement of the decision
12 setting forth the facts found, the decision reached, and the reasons for the decision.
13 Pending the ruling by the Commissioner of Insurance or his designee on an appeal no
14 further work shall take place in violation of a stop order. In the event of dissatisfaction
15 with the decision, the person affected shall have the options of:

- 16 (1) Appealing to the Building Code Council, or
17 (2) Appealing to the Superior Court as provided in G.S. 143-141.

18 (c) The owner or builder may appeal from a stop order involving alleged
19 violation of a local zoning or subdivision ordinance by giving notice of appeal in
20 writing to the local authority designated in the ordinance to hear such appeals or, if no
21 authority is designated, to the local governing body, within a period of five days after
22 the order is issued. The appeal shall be heard and decided within the period established
23 by the ordinance, or if none is specified, within a reasonable time. No further work
24 shall take place in violation of a stop order pending a ruling by the local authority.

25 (d) Violation of a stop order shall constitute a misdemeanor."

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