

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH20061-LL-223 (03/20)

Short Title: Boiling Spring Lakes/Habitat Conservation. (Local)

Sponsors: Representative Stiller.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE CITY OF BOILING SPRING LAKES TO
3 PARTICIPATE IN AND FUND A HABITAT CONSERVATION PLAN FOR THE
4 RED-COCKADED WOODPECKER AND OTHER ENDANGERED SPECIES AS
5 A PUBLIC ENTERPRISE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143-254.2(a) reads as rewritten:

8 "(a) It shall be the duty and responsibility of the North Carolina Wildlife
9 Resources Commission to enforce all local acts heretofore or hereinafter enacted
10 respecting game animals, fur-bearing animals and birds, including local acts which
11 prohibit or restrict hunting from, to or across public roads and highways and including
12 local acts which prohibit or restrict the taking of specified animals or birds.

13 Provided, however, that the provisions of this section shall not apply on the lands of
14 the Eastern Band of Cherokee Indians.

15 Notwithstanding the provisions of this section, a unit of local government may
16 develop, adopt, and implement habitat conservation plans necessary to minimize and
17 mitigate the incidental take of threatened and endangered species."

18 **SECTION 2.** G.S. 160A-216 reads as rewritten:

19 "§ 160A-216. Authority to make special assessments.

20 Any city is authorized to make special assessments against benefited property within
21 its corporate limits for:

- 22 (1) Constructing, reconstructing, paving, widening, installing curbs and
23 gutters, and otherwise building and improving streets;
24 (2) Constructing, reconstructing, paving, widening, and otherwise building
25 or improving sidewalks in any public street;
26 (3) Constructing, reconstructing, extending, and otherwise building or
27 improving water systems;

- (4) Constructing, reconstructing, extending, or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems;
- (5) Constructing, reconstructing, extending, and otherwise building or improving storm sewer and drainage ~~systems~~systems; and
- (6) Developing and implementing habitat conservation plans for threatened and endangered species."

SECTION 3. G.S. 160A-311 reads as rewritten:

"§ 160A-311. Public enterprise defined.

As used in this Article, the term "public enterprise" includes:

- (1) Electric power generation, transmission, and distribution systems.
- (2) Water supply and distribution systems.
- (3) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- (4) Gas production, storage, transmission, and distribution systems, where systems shall also include the purchase or lease of natural gas fields and natural gas reserves, the purchase of natural gas supplies, and the surveying, drilling and any other activities related to the exploration for natural gas, whether within the State or without.
- (5) Public transportation systems.
- (6) Solid waste collection and disposal systems and facilities.
- (7) Cable television systems.
- (8) Off-street parking facilities and systems.
- (9) Airports.
- (10) Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types.
- (11) Developing and implementing habitat conservation plans for endangered species, including the red-cockaded woodpecker."

SECTION 4. G.S. 160A-314 reads as rewritten:

"§ 160A-314. Authority to fix and enforce rates.

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

- (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general

1 circulation in the area, not less than seven days before the public
2 hearing. The hearing may be held concurrently with the public hearing
3 on the proposed budget ordinance.

4 (2) The fees established under this subsection must be made applicable
5 throughout the area of the city. Schedules of rates, fees, charges, and
6 penalties for providing stormwater management programs and
7 structural and natural stormwater and drainage system service may
8 vary according to whether the property served is residential,
9 commercial, or industrial property, the property's use, the size of the
10 property, the area of impervious surfaces on the property, the quantity
11 and quality of the runoff from the property, the characteristics of the
12 watershed into which stormwater from the property drains, and other
13 factors that affect the stormwater drainage system. Rates, fees, and
14 charges imposed under this subsection may not exceed the city's cost
15 of providing a stormwater management program and a structural and
16 natural stormwater and drainage system. The city's cost of providing a
17 stormwater management program and a structural and natural
18 stormwater and drainage system includes any costs necessary to assure
19 that all aspects of stormwater quality and quantity are managed in
20 accordance with federal and State laws, regulations, and rules.

21 (3) No stormwater utility fee may be levied under this subsection
22 whenever two or more units of local government operate separate
23 stormwater management programs or separate structural and natural
24 stormwater and drainage system services in the same area within a
25 county. However, two or more units of local government may allocate
26 among themselves the functions, duties, powers, and responsibilities
27 for jointly operating a stormwater management program and structural
28 and natural stormwater and drainage system service in the same area
29 within a county, provided that only one unit may levy a fee for the
30 service within the joint service area. For purposes of this subsection, a
31 unit of local government shall include a regional authority providing
32 stormwater management programs and structural and natural
33 stormwater and drainage system services.

34 (a2) A fee for the use of a disposal facility provided by the city may vary based on
35 the amount, characteristics, and form of recyclable materials present in solid waste
36 brought to the facility for disposal. This section does not prohibit a city from providing
37 aid to low-income persons to pay all or part of the cost of solid waste management
38 services for those persons.

39 (a3) Rents, rates, fees, charges, and penalties for habitat conservation plans may
40 cover any and all costs associated with minimizing and mitigating the impact of the
41 incidental take of red-cockaded woodpeckers and other threatened or endangered
42 species in the planning jurisdiction of the city. These costs include the development and
43 implementation of a habitat conservation plan for endangered species and any costs
44 necessary to ensure that all aspects of the habitat conservation plan and incidental take

1 permits for covered species are managed in accordance with federal, State, and local
2 laws, ordinances, and rules. Schedules of rents, rates, fees, charges and penalties
3 authorized under this section or through the inherent regulatory authority of the city
4 may vary according to whether property served by the plan is residential, commercial,
5 or industrial property, the use of the property, the size of the property, the amount and
6 quality of habitat for covered species on the property, whether the property is
7 developed, undeveloped, or being developed, and any other factors that affect the
8 development and implementation of the habitat conservation plan. Schedules of rents,
9 rates, fees, charges, and penalties authorized under this section or through the inherent
10 regulatory authority of the city may also vary within designated districts in the city that
11 are identified as critical to the survival of covered endangered species or as currently
12 inadequate to support the survival of covered endangered species due to past loss of
13 habitat.

14 (b) A city shall have power to collect delinquent accounts by any remedy
15 provided by law for collecting and enforcing private debts, and may specify by
16 ordinance the order in which partial payments are to be applied among the various
17 enterprise services covered by a bill for the services. A city may also discontinue
18 service to any customer whose account remains delinquent for more than 10 days. When
19 service is discontinued for delinquency, it shall be unlawful for any person other than a
20 duly authorized agent or employee of the city to do any act that results in a resumption
21 of services. If a delinquent customer is not the owner of the premises to which the
22 services are delivered, the payment of the delinquent account may not be required
23 before providing services at the request of a new and different tenant or occupant of the
24 premises, but this restriction shall not apply when the premises are occupied by two or
25 more tenants whose services are measured by the same meter.

26 (c) Except as provided in subsection (d) of this section and G.S. 160A-314.1,
27 rents, rates, fees, charges, and penalties for enterprisory services shall be legal
28 obligations of the person contracting for them, and shall in no case be a lien upon the
29 property or premises served, provided that no contract shall be necessary in the case of
30 structural and natural stormwater and drainage ~~systems~~. systems or habitat conservation
31 plans.

32 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be
33 legal obligations of the owner of the premises served when:

- 34 (1) The property or premises is leased or rented to more than one tenant
35 and services rendered to more than one tenant are measured by the
36 same meter.
37 (2) Charges made for use of a sewage system are billed separately from
38 charges made for the use of a water distribution system.

39 (e) Nothing in this section shall repeal any portion of any city charter
40 inconsistent herewith."

41 **SECTION 5.** This act applies only to the City of Boiling Spring Lakes.

42 **SECTION 6.** This act is effective when it becomes law.