

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**SESSION LAW 2002-141  
HOUSE BILL 1640**

AN ACT TO INCLUDE THE TOWN OF DUCK AS A MUNICIPALITY AUTHORIZED TO REGULATE AND CONTROL SWIMMING, PERSONAL WATERCRAFT, SURFING, AND LITTERING IN THE ATLANTIC OCEAN AND OTHER WATERWAYS ADJACENT TO THAT PORTION OF THE TOWN WITHIN ITS BOUNDARIES OR WITHIN ITS EXTRATERRITORIAL JURISDICTION; TO DESIGNATE THE TOWN COUNCIL OF THE TOWN OF DUCK AS THE GOVERNING BODY OF THE DUCK AREA BEAUTIFICATION DISTRICT; TO PERMIT THE TOWN OF MANTEO TO DECREASE THE DISTANCE WITHIN WHICH A VEHICLE MAY PARK FROM THE INTERSECTION OF CURB LINES; TO AMEND THE DEFINITION OF SUBDIVISION AS IT APPLIES IN CHOWAN COUNTY; TO ESTABLISH A NO-WAKE ZONE IN BERTIE COUNTY; AND TO ALTER THE COMPOSITION OF THE DARE COUNTY TOURISM BOARD.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-176.2(b) reads as rewritten:

"(b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil Hills, Kitty Hawk, ~~Long Beach~~, Manteo, Nags Head, Oak Island, Ocean Isle Beach, Southern Shores, Sunset Beach, Topsail Beach, and Wrightsville Beach, ~~and Yaupon Beach~~, and the City of Southport only."

**SECTION 2.** Section 4 of Chapter 991 of the 1983 Session Laws, Regular Session 1984, as amended by Section 23(a) of Chapter 646 of the 1995 Session Laws, Regular Session 1996, reads as rewritten:

"**Sec. 4.** District Established; Tax Levy. If a majority of the qualified voters voting in an election called under Section 1 of this act vote in favor of creating the Duck Area Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Dare County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Duck Area Beautification District and shall file a copy of the resolution with the clerk of superior court of Dare County. ~~Upon establishing the Duck Area Beautification District, the Dare County Board of Commissioners~~ The Town Council of the Town of Duck may annually levy on behalf of the district an ad valorem tax on all taxable property in the district in an amount the ~~board~~ town council considers necessary to provide for the installation of underground power lines, not to exceed ten cents (10¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of this tax shall be used only to provide for the underground installation of power lines in the district."

**SECTION 3.** Section 5 of Chapter 991 of the 1983 Session Laws, Regular Session 1984, reads as rewritten:

"**Sec. 5.** Nature of District; Governing Body. If created, the Duck Area Beautification District shall be a body politic and corporate and shall have the power to provide for the installation of underground power lines and do all acts reasonably necessary to fulfill this purpose. ~~The Dare County Board of Commissioners~~ Town Council of the Town of Duck shall serve, ex officio, as the governing body of the district, and the officers of the ~~board of county commissioners~~ town council shall

likewise serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present."

**SECTION 4.** Section 3 of S.L. 1993-610, as amended by S.L. 1995-101, reads as rewritten:

"**Sec. 3. Tax Levy.** – If a majority of the qualified voters voting on the question in an election called under Section 1 of this act vote in favor of authorizing the levy and collection of ad valorem taxes in the district, the Dare County Board of Commissioners may levy on behalf of the district the ad valorem tax on all taxable property in the district in an amount the Board considers necessary to construct the sidewalks within the district not to exceed five cents (5¢) for each one hundred dollars (\$100.00) taxable valuation of property for two consecutive years beginning no later than the second fiscal year that begins after the election, and thereafter the ~~Board~~ Town Council of the Town of Duck may annually levy on behalf of the district an ad valorem tax in the amount necessary to maintain the sidewalks but not to exceed one cent (1¢) for each one hundred dollars (\$100.00) taxable valuation of property. The proceeds of these taxes shall be used only to construct and maintain the sidewalks within the district."

**SECTION 5.** Section 4 of S.L. 1993-610 reads as rewritten:

"**Sec. 4. Governing Body.** – All matters relative to the construction and maintenance of the sidewalks shall be decided by the ~~Dare County Board of Commissioners,~~ Town Council of the Town of Duck, which is the governing body of the Duck Area Beautification District as provided in Chapter 991 of the 1983 Session Laws."

**SECTION 6.** Any Duck Area Beautification District tax levied by the Dare County Board of Commissioners pursuant to Chapter 991 of the 1983 Session Laws, Regular Session 1984, for the 2002 and prior tax years shall continue to be valid on and after the effective date of this act.

**SECTION 7.** G.S. 20-162(a) reads as rewritten:

"(a) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a highway in front of a private driveway or within 15 feet in either direction of a fire hydrant or the entrance to a fire station, nor within 25 feet from the intersection of curb lines or if none, then within 15 feet of the intersection of property lines at an intersection of highways; provided, that local authorities may by ordinance decrease the distance within which a vehicle may park in either direction of a fire ~~hydrant.~~ hydrant or from the intersection of curb lines. The local authority shall not decrease the distance from the intersection of curb lines to less than 15 feet."

**SECTION 8.** G.S. 153A-335 reads as rewritten:

"§ 153A-335. "Subdivision" defined.

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into ~~two~~ three or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets; ~~and~~
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to

or exceed the standards of the county as shown by its subdivision ~~regulations, regulations; and~~

- (5) The gift of a parent of a single lot to the parent's child or each of the parent's children where no new road is involved, provided:
- a. That each and every lot has dedicated right-of-way access to the State-maintained road serving the principal parcel or direct access to an approved private road as defined in the ordinance; and
  - b. There are no more than three conveyances under this subdivision."

**SECTION 9.** Effective with respect to appointments for terms commencing on or after January 1, 2003, Section 6(a) of Chapter 449 of the 1985 Session Laws, as rewritten by Chapter 177 of the 1991 Session Laws, reads as rewritten:

"(a) Appointment and Membership. When the Dare County Board of Commissioners adopts a resolution levying a tax under Section 3 and Section 4 of this act, it shall also adopt a resolution creating a tourism board to be known as the Dare County Tourism Board, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The tourism board shall consist of 13 members appointed by the board of commissioners as provided below. Members of the tourism board must be residents of Dare County. Members shall serve two-year terms except as provided below. No member may serve more than two successive two-year terms.

- (1) One member shall be a member of the board of directors of the Outer Banks Chamber of Commerce selected from nominees submitted by the board of directors of the Chamber of Commerce. This member shall serve an initial term of one year.
- (2) One member shall be a member of the board of directors of the Dare County Restaurant Association selected from nominees submitted by the board of directors of the Dare County Restaurant Association. This member shall serve an initial term of two years.
- (3) One member shall be a member of the board of directors of the Dare County Hotel/Motel Association selected from nominees submitted by the board of directors of the Dare County Hotel/Motel Association. This member shall serve an initial term of one year.
- (4) One member shall be a member of the board of directors of the Dare County Board of Realtors selected from nominees submitted by the board of directors of the Dare County Board of Realtors. This member shall serve an initial term of two years.
- (5) ~~Five-Six~~ members shall be one member from each of the town boards of Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, and Manteo, who shall serve initial terms respectively of one year, two years, one year, two years, and one year, and one member from the town board of Duck, to serve an initial term of two years, and who shall be selected from nominees submitted by each of the respective town boards.
- (6) One member shall be a Dare County Commissioner. This member shall serve an initial term of two years.
- (7) ~~Three-Two~~ members 'at large' shall be from anywhere within Dare County. One of these members must be a resident of Hatteras Island. Two of these members shall serve initial terms of one year, and one shall serve an initial term of two years.

The board of commissioners may remove a member of the tourism board only for good cause. Members shall serve the full term for which appointed regardless whether the member is no longer a member of the appropriate board designated above. The Dare County Board of Commissioners shall determine the compensation to be paid to members of the tourism board."

**SECTION 9.1.(a)** It is unlawful to operate a vessel at greater than no-wake speed on the waters of the Roanoke River in Bertie County within 50 yards of either side of the point at which Stewart Street in the Town of Jamesville in Martin County abuts the river. No-wake speed is idle speed or a slow speed creating no appreciable wake.

**SECTION 9.1.(b)** With regard to marking the no-wake speed zone established in Section 1 of this act, Bertie County or its designee may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water or signs placed on pilings and shall be sufficient in number and size so as to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

**SECTION 9.1.(c)** This section is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

**SECTION 9.1.(d)** Violation of this section is a Class 3 misdemeanor.

**SECTION 9.1.(e)** This section applies only to Bertie County.

**SECTION 9.1.(f)** This section is effective when it becomes law and is enforceable after markers complying with subsection (b) of this section are placed in the water.

**SECTION 10.** Section 7 of this act shall apply to the Town of Manteo only.

**SECTION 11.** Section 8 of this act shall apply to the County of Chowan only and applies to all subdivisions created on or after June 16, 1992.

**SECTION 12.** Sections 2 through 6 of this act become effective January 1, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3<sup>rd</sup> day of October, 2002.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ James B. Black  
Speaker of the House of Representatives