

Article 8.

Delegation and Exercise of the General Police Power.

**§ 160A-174. General ordinance-making power.**

(a) A city may by ordinance define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances.

(b) A city ordinance shall be consistent with the Constitution and laws of North Carolina and of the United States. An ordinance is not consistent with State or federal law when:

- (1) The ordinance infringes a liberty guaranteed to the people by the State or federal Constitution;
- (2) The ordinance makes unlawful an act, omission or condition which is expressly made lawful by State or federal law;
- (3) The ordinance makes lawful an act, omission, or condition which is expressly made unlawful by State or federal law;
- (4) The ordinance purports to regulate a subject that cities are expressly forbidden to regulate by State or federal law;
- (5) The ordinance purports to regulate a field for which a State or federal statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation;
- (6) The elements of an offense defined by a city ordinance are identical to the elements of an offense defined by State or federal law.

The fact that a State or federal law, standing alone, makes a given act, omission, or condition unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition. (1971, c. 698, s. 1.)

**§ 160A-175. Enforcement of ordinances.**

(a) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(b) Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance may be a misdemeanor or infraction as provided by G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.

- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

(c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(g) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public

airport authority. (1971, c. 698, s. 1; 1985, c. 764, s. 35; 1993, c. 329, s. 4; 2013-331, s. 2; 2021-138, s. 13(b).)

**§ 160A-176. Ordinances effective on city property outside limits.**

Any city ordinance may be made effective on and to property and rights-of-way belonging to the city and located outside the corporate limits. (1917, c. 136, subch. 5, s. 2; C.S., s. 2790; 1971, c. 698, s. 1; 1973, c. 426, s. 24.)

**§ 160A-176.1. Ordinances effective in Atlantic Ocean.**

(a) A city may adopt ordinances to regulate and control swimming, surfing and littering in the Atlantic Ocean adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming and surfing or to make these activities unlawful.

(b) This section shall apply only to cities in the counties of Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow, and Pender. (1973, c. 539, ss. 1, 2.)

**§ 160A-176.2. Ordinances effective in Atlantic Ocean.**

(a) A city may adopt ordinances to regulate and control swimming, personal watercraft operation, surfing and littering in the Atlantic Ocean and other waterways adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming or surfing or to make these activities unlawful.

(b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Calabash, Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, Oak Island, Ocean Isle Beach, Southern Shores, Sunset Beach, Topsail Beach, and Wrightsville Beach, and the City of Southport only. (1991, c. 494, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 801; 1993, c. 67, s. 5; c. 125, s. 2; 1993 (Reg. Sess., 1994), c. 625, s. 1; 1997-48, s. 1; 2002-141, s. 1; 2004-203, s. 55.)

**§ 160A-177. Enumeration not exclusive.**

The enumeration in this Article or other portions of this Chapter of specific powers to regulate, restrict or prohibit acts, omissions, and conditions shall not be deemed to be exclusive or a limiting factor upon the general authority to adopt ordinances conferred on cities by G.S. 160A-174. (1971, c. 698, s. 1.)

**§ 160A-178. Regulation of solicitation campaigns, flea markets and itinerant merchants.**

A city may by ordinance regulate, restrict or prohibit the solicitation of contributions from the public for any charitable or eleemosynary purpose, and also the business activities of itinerant merchants, salesmen, promoters, drummers, peddlers, flea market operators and flea market vendors or hawkers. These ordinances may include, but shall not be limited to, requirements that an application be made and a permit issued, that an investigation be made, that activities be reasonably limited as to time and place, that proper credentials and proof of financial stability be submitted, that not more than a stated percentage of contributions to solicitation campaigns be retained for administrative expenses, and that an adequate bond be posted to protect the public from fraud. (1963, c. 789; 1971, c. 698, s. 1; 1987, c. 708, s. 8.)

**§ 160A-179. Regulation of begging.**

A city may by ordinance prohibit or regulate begging or otherwise canvassing the public for contributions for the private benefit of the solicitor or any other person. (1971, c. 698, s. 1.)

**§ 160A-180. Regulation of aircraft overflights.**

A city may by ordinance regulate the operation of aircraft over the city. (1971, c. 698, s. 1.)

**§ 160A-181. Regulation of places of amusement.**

A city may by ordinance regulate places of amusement and entertainment, and may regulate, restrict or prohibit the operation of pool and billiard halls, dance halls, carnivals, circuses, or any itinerant show or exhibition of any kind. Places of amusement and entertainment shall include coffee houses, cocktail lounges, night clubs, beer halls, and similar establishments, but any regulations thereof shall be consistent with any permits or licenses issued by the North Carolina Alcoholic Beverage Control Commission. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1971, c. 698, s. 1; 1981, c. 412, ss. 4, 5.)

**§ 160A-181.1: Repealed by Session Laws 2019-111, s. 2.6(c), as amended by Session Laws 2020-3, s. 4.33(a), and Session Laws 2020-25, s. 51(a), (b), (d), effective June 19, 2020.**

**§ 160A-182. Abuse of animals.**

A city may by ordinance define and prohibit the abuse of animals. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1971, c. 698, s. 1.)

**§ 160A-183. Regulation of explosive, corrosive, inflammable, or radioactive substances.**

A city may by ordinance restrict, regulate or prohibit the sale, possession, storage, use, or conveyance of any explosive, corrosive, inflammable, or radioactive substances, or any weapons or instrumentalities of mass death and destruction within the city. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1971, c. 698, s. 1.)

**§ 160A-184. Noise regulation.**

A city may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens. (1971, c. 698, s. 1; 1973, c. 426, s. 25.)

**§ 160A-185. Emission of pollutants or contaminants.**

A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. A city may by ordinance regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by city employees specially appointed as environmental enforcement officers. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1949, c. 594, s. 2; 1971, c. 698, s. 1; 1973, c. 426, s. 26; 2001-512, s. 6.)

**§ 160A-186. Regulation of domestic animals.**

A city may by ordinance regulate, restrict, or prohibit the keeping, running, or going at large of any domestic animals, including dogs and cats. The ordinance may provide that animals allowed to run at large in violation of the ordinance may be seized and sold or destroyed after reasonable efforts to notify their owner. (1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1971, c. 698, s. 1.)

**§ 160A-187. Possession or harboring of dangerous animals.**

A city may by ordinance regulate, restrict, or prohibit the possession or harboring within the city of animals which are dangerous to persons or property. No such ordinance shall have the effect of permitting any activity or condition with respect to a wild animal which is prohibited or more severely restricted by regulations of the Wildlife Resources Commission. (1971, c. 698, s. 1; 1977, c. 407, s. 2.)

**§ 160A-188. Bird sanctuaries.**

A city may by ordinance create and establish a bird sanctuary within the city limits. The ordinance may not protect any birds classed as a pest under Article 22A of Chapter 113 of the General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. When a bird sanctuary has been established, it shall be unlawful for any person to hunt, kill, trap, or otherwise take any protected birds within the city limits except pursuant to a permit issued by the North Carolina Wildlife Resources Commission under G.S. 113-274(c) (1a) or under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within city limits. (1951, c. 411, ss. 1, 2; 1971, c. 698, s. 1; 1979, c. 830, s. 3.)

**§ 160A-189. Firearms.**

A city may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place within the city except when used in defense of person or property or pursuant to lawful directions of law-enforcement officers, and may regulate the display of firearms on the streets, sidewalks, alleys, or other public property. Nothing in this section shall be construed to limit a city's authority to take action under Article 1A of Chapter 166A of the General Statutes. (1971, c. 698, s. 1; 2012-12, s. 2(zz).)

**§ 160A-190. Pellet guns.**

A city may by ordinance regulate, restrict, or prohibit the sale, possession or use within the city of pellet guns or any other mechanism or device designed or used to project a missile by compressed air or mechanical action with less than deadly force. (1971, c. 698, s. 1.)

**§ 160A-191. Limitations on enactment of Sunday-closing ordinances.**

No ordinance regulating or prohibiting business activity on Sundays shall be enacted unless the council shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once each week for four successive weeks before the date of the hearing. The notice shall fix the date, hour and place of the public hearing, and shall contain a statement of the council's intent to consider a Sunday-closing ordinance, the purpose for such an ordinance, and one or more reasons for its enactment. No ordinance shall be held invalid for failure to observe the procedural

requirements for enactment imposed by this section unless the issue is joined in an appropriate proceeding initiated within 90 days after the date of final enactment. This section shall not apply to ordinances enacted pursuant to G.S. 18B-1004(d). (1967, c. 1156, s. 1; 1971, c. 698, s. 1; 1973, c. 426, s. 27; 1983, c. 768, s. 22.)

**§ 160A-192: Repealed by Session Laws 1991, c. 698, s. 1.**

**§ 160A-193. Abatement of public health nuisances.**

(a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. Pursuant to this section, the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes.

(b) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another.

(c) The authority granted by this section does not authorize the application of a city ordinance banning or otherwise limiting outdoor burning to persons living within one mile of the city, unless the city provides those persons with either (i) trash and yard waste collection services or (ii) access to solid waste dropoff sites on the same basis as city residents. (1917, c. 136, subch. 7, s. 4; C.S., s. 2800; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 20; 2001-448, s. 1; 2002-116, s. 3; 2014-120, s. 24(h).)

**§ 160A-193.1. Stream-clearing programs.**

(a) A city shall have the authority to remove natural and man-made obstructions in stream channels and in the floodway of streams that may impede the passage of water during rain events.

(b) The actions of a city to clear obstructions from a stream shall not create or increase the responsibility of the city for the clearing or maintenance of the stream, or for flooding of the stream. In addition, actions by a city to clear obstructions from a stream shall not create in the city any ownership in the stream, obligation to control the stream, or affect any otherwise existing private property right, responsibility, or entitlement regarding the stream. These provisions shall not relieve a city for negligence that might be found under otherwise applicable law.

(c) Nothing in this section shall be construed to affect otherwise existing rights of the State to control or regulate streams or activities within streams. In implementing a stream-clearing program, the city shall comply with all requirements in State or federal statutes and rules. (2005-441, s. 2.)

**§ 160A-194. Regulating and licensing businesses, trades, etc.**

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In

licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license a TNC service regulated under Article 10A of Chapter 20 of the General Statutes. (1971, c. 698, s. 1; 2013-413, s. 12.1(a); 2014-3, s. 12.3(c); 2014-115, s. 17; 2015-237, s. 5.)

**§ 160A-194.1. Regulation of battery-charged security fences.**

(a) No city may adopt an ordinance, rule, or regulation that does any of the following:

- (1) Requires any type of permit, fee, review, or approval for the installation or use of a battery-charged security fence in addition to a permit that may be required by an ordinance adopted by the governing board as authorized by G.S. 74D-11(c).
- (2) Imposes installation or operational requirements for battery-charged security fences that are inconsistent with the requirements and standards described in subsection (b) of this section.
- (3) Prohibits the installation or use of a battery-charged security fence on property that has been zoned for nonresidential use.

(b) For purposes of this section, the term "battery-charged security fence" means an alarm system and ancillary components, or equipment attached to that system, including a fence, a battery-operated energizer that is intended to periodically deliver voltage impulses to the fence, and a battery charging device used exclusively to charge the battery. A battery-charged security fence shall meet the following requirements:

- (1) Interfaces with a monitored alarm device enabling the alarm system to transmit a signal intended to summon the business or law enforcement in response to an intrusion or burglary.
- (2) Is located on property that is not designated by a county or city exclusively for residential use.
- (3) Has an energizer that is powered by a commercial storage battery that is not more than 12 volts of direct current.
- (4) Has an energizer that meets the standards established by the most current version of the International Electrotechnical Commission Standard 60335-2-76.
- (5) Is surrounded by a non-electric perimeter fence or wall that is not less than 5 feet in height.
- (6) Does not exceed 10 feet in height or 2 feet higher than the non-electric perimeter fence or wall, whichever is higher.
- (7) Is marked with conspicuous warning signs that are located on the battery-charged security fence at not more than 30-foot intervals and read: "WARNING-ELECTRIC FENCE". (2023-137, s. 44(b).)

**§ 160A-195: Repealed by Session Laws 1998-128, s. 11.**

**§ 160A-196. Sewage tie-ons.**

Cities that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean and Roanoke, Albemarle, Currituck, or Pamlico Sound may by ordinance regulate the tie-ons to sewage systems within their corporate limits. (1985, c. 525, s. 1; 1987, c. 303.)

**§ 160A-197: Repealed by Session Laws 1995, c. 501, s. 4.**

**§ 160A-198. Curfews.**

A city may by an appropriate ordinance impose a curfew on persons of any age less than 18. (1997-189, s. 1.)

**§ 160A-199: Repealed by Session Laws 2019-111, s. 2.6(e), as amended by Session Laws 2020-3, s. 4.33(a), and Session Laws 2020-25, s. 51(a), (b), (d) effective June 19, 2020.**

**§ 160A-200: Repealed by Session Laws 2015-246, s. 1(a), effective September 23, 2015.**

**§ 160A-200.1. Annual notice to chronic violators of public nuisance or overgrown vegetation ordinance.**

(a) A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.

(b) The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected.

(c) A city may also give notice to a chronic violator of the city's overgrown vegetation ordinance in accordance with this section.

(d) For purposes of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance. (2009-287, s. 1; 2013-151, s. 1; 2015-246, s. 1(b).)

**§ 160A-201: Repealed by Session Laws 2019-111, s. 2.6(g), as amended by Session Laws 2020-3, s. 4.33(a), and Session Laws 2020-25, s. 51(a), (b), (d), effective June 19, 2020.**

**§ 160A-202. Limitations on regulating cisterns and rain barrels.**

No city ordinance may prohibit or have the effect of prohibiting the installation and maintenance of cisterns and rain barrel collection systems used to collect water for irrigation purposes. A city may regulate the installation and maintenance of those cisterns and rain barrel collection systems for the purpose of protecting the public health and safety and for the purpose of preventing them from becoming a public nuisance. (2011-394, s. 12(e).)

**§ 160A-203. Limitations on regulating soft drink sizes.**



No city ordinance may prohibit the sale of soft drinks above a particular size. This section does not prohibit any ordinance regulating the sanitation or other operational aspect of a device for the dispensing of soft drinks. For purposes of this section, "soft drink" shall have the meaning set forth in G.S. 105-164.3. (2013-309, s. 2.)

**§ 160A-203.1. Limitations on standards of care for farm animals.**

Notwithstanding any other provision of law, no city ordinance may regulate standards of care for farm animals. For purposes of this section, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry flocks of greater than 20 birds. (2015-192, s. 2.)

**§ 160A-203.2. Limitations on regulation of catering by bona fide farms.**

Notwithstanding any other provision of law, no city may require a business located on a property used for bona fide farm purposes, as provided in G.S. 160D-903(a), that provides on- and off-site catering services, to obtain a permit to provide catering services within the city. This section shall not be construed to exempt the business from any health and safety rules adopted by a local health department, the Department of Health and Human Services, or the Commission for Public Health. (2020-18, s. 5(d); 2020-74, s. 21(b).)

**§ 160A-203.3. Limitations on regulation of energy choice.**

(a) A city shall not adopt an ordinance that prohibits, or has the effect of prohibiting, either of the following:

- (1) The connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service.
- (2) The sale, purchase, or installation of an appliance utilized for cooking, space heating, water heating, or any other appliance included under the definition of "white goods" pursuant to G.S. 130A-290(a).

(b) As used in this section, "energy service" means the energy source that a consumer may choose to use to illuminate, heat, or cool buildings; produce hot water; operate equipment; operate appliances; or any other similar activities, where the energy source is derived from one or more of a variety of sources such as natural gas, renewable gas, hydrogen, liquified petroleum gas, renewable liquified petroleum gas, or other liquid petroleum products and that is delivered to the consumer by an entity legally authorized to provide such service or electricity that is derived from one or more sources of electric generation and is delivered to the consumer by an entity legally authorized to provide such service and the distribution of the electricity occurs according to the territorial rights established by G.S. 62-110.2, 160A-331.2, or 160A-332. For purposes of this section, the terms "renewable gas" and "renewable liquified petroleum gas" shall mean gas derived from a renewable energy resource, as that term is defined by G.S. 62-133.8(a)(8).

(c) Nothing in this section shall be construed to (i) limit the ability of a city to choose the energy service for property owned by the city, (ii) prohibit a city from recovering reasonable costs associated with reviewing and issuing a permit, (iii) affect the authority of a city to manage or

operate a city-owned utility, including a city's authority to require persons residing within their jurisdictions to obtain energy service from a city-owned utility or a joint municipal power agency of which they are a member, or (iv) impair a contract executed pursuant to G.S. 160A-322 prior to the effective date of this section for the supply of electric service.

(d) Notwithstanding any authority granted to municipalities to adopt local ordinances, any local ordinance that prohibits or has the effect of prohibiting the activities described in subsection (a) of this section shall be invalid. (2023-58, s. 1(a).)

#### **§ 160A-204. Transportation impact mitigation ordinances prohibited.**

No city may enact or enforce an ordinance, rule, or regulation that requires an employer to assume financial, legal, or other responsibility for the mitigation of the impact of his or her employees' commute or transportation to or from the employer's workplace, which may result in the employer being subject to a fine, fee, or other monetary, legal, or negative consequences. (2013-413, s. 10.1(a).)

#### **§ 160A-205. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of structures that are uninhabitable and without water and sewer services for more than 120 days, as determined by the city with notice provided to the owner of record of the determination by certified mail at the time of the determination, equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or commercial structures and appurtenances thereto from the State's ocean beaches, except as provided in subsection (a) of this section. (2013-384, s. 4(a); 2015-246, s. 1.5.)

#### **§ 160A-205.1. Requiring compliance with voluntary State regulations and rules prohibited.**

(a) If a State department or agency declares a regulation or rule to be voluntary or the General Assembly delays the effective date of a regulation or rule proposed or adopted by the Environmental Management Commission, or any other board or commission, a city shall not

require or enforce compliance with the applicable regulation or rule, including any regulation or rule previously or hereafter incorporated as a condition or contractual obligation imposed by, agreed upon, or accepted by the city in any zoning, land use, subdivision, or other developmental approval, including, without limitation, a development permit issuance, development agreement, site-specific development plan, or phased development plan.

(b) This section shall apply to the following regulations and rules:

- (1) Those currently in effect.
- (2) Those repealed or otherwise expired.
- (3) Those temporarily or permanently held in abeyance.
- (4) Those adopted but not yet effective.

(c) This section shall not apply to any water usage restrictions during either extreme or exceptional drought conditions as determined by the Drought Management Advisory Council pursuant to G.S. 143-355.1. (2015-246, s. 2(b).)

#### **§ 160A-205.2. Adoption of sanctuary ordinances prohibited.**

(a) No city may have in effect any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

(b) No city shall do any of the following related to information regarding the citizenship or immigration status, lawful or unlawful, of any individual:

- (1) Prohibit law enforcement officials or agencies from gathering such information.
- (2) Direct law enforcement officials or agencies not to gather such information.
- (3) Prohibit the communication of such information to federal law enforcement agencies. (2015-294, s. 15(b).)

#### **§ 160A-205.3. Hours of certain alcohol sales.**

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001. (2017-87, s. 4(c).)

#### **§ 160A-205.4. Authorization of social districts.**

A city may adopt an ordinance designating one or more social districts for use in accordance with G.S. 18B-300.1. (2021-150, s. 20.2; 2022-49, s. 3(e).)

#### **§ 160A-205.5. Authorization of expanded area for ABC licensed premises.**

In accordance with G.S. 18B-904(h), a city may adopt an ordinance authorizing permittees holding a permit under Article 10 or 11 of Chapter 18B of the General Statutes to utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee. (2021-150, s. 21.2.)

#### **§ 160A-205.6. Removal and disposal of abandoned vessels.**

(a) A city may, by ordinance, prohibit the abandonment of vessels in navigable waters within the city's ordinance-making jurisdiction, subject to the provisions of G.S. 160A-303. The provisions of G.S. 160A-303 shall apply to abandoned vessels in the same manner that they apply to abandoned or junked motor vehicles to the extent that the provisions may apply to abandoned vessels. For purposes of this section, an "abandoned vessel" is one that meets any of the following:

- (1) A vessel that is moored, anchored, or otherwise located for more than 30 consecutive days in any 180 consecutive-day period without permission of the dock owner.
- (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is located such that it is a hazard to navigation or is an immediate danger to other vessels.

(b) Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have been in place for more than 10 years shall not be considered abandoned vessels and shall not be removed under the provisions of this section without the approval of the Department of Natural and Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22 and G.S. 121-23. (2023-27, s. 2.)

**§ 160A-205.7. Limitations on regulations of auxiliary containers; shopping carts.**

(a) Except as provided under subsection (b) of this section, no city may adopt an ordinance, resolution, regulation, or rule to:

- (1) Restrict, tax, charge a fee, prohibit, or otherwise regulate the use, disposition, or sale of an auxiliary container.
- (2) Regulate the use of shopping carts, including the imposition of a fee or fine on a business for failure to take possession of a shopping cart that was removed from the premises of the business.

(b) A city is authorized to:

- (1) Operate a recycling program, a composting program, and a solid waste disposal program as authorized by law.
- (2) Regulate the use of auxiliary containers on property owned or maintained by the city.

(c) The following definitions shall apply in this section:

- (1) Auxiliary container. – A bag, cup, package, container, bottle, device, or other packaging made of cloth, paper, plastic, foamed plastic, fiber, expanded plastic, cardboard, corrugated material, aluminum, glass, post-consumer recycled material, or similar coated or laminated material that is designed for the consumption, transportation, or protection of merchandise, food, or beverage at a food service facility, manufacturing facility, distribution facility, processing facility, or retail facility.
- (2) Shopping cart. – As defined in G.S. 14-72.3(a)(1). (2023-134, s. 5.9(e).)