

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH30213-LR-36 (02/11)

Short Title: Forsyth/Winston-Salem Zoning Amendments. (Local)

Sponsors: Representatives Womble, Parmon, L. Brown, and McGee (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ENABLING LAWS RELATING TO CITY-COUNTY
PLANNING AND ZONING IN FORSYTH COUNTY AND THE CITY OF
WINSTON-SALEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Chapter 677 of the 1947 Session Laws, as amended by
S.L. 2008-41 and S.L. 2010-62, reads as rewritten:

"SEC. 24. Violations, Penalty, Abatement, and Notice of Lis Pendens. – Any person, firm or corporation who may violate any of the provisions of the zoning ordinance of the City of Winston-Salem, North Carolina, within the one mile area surrounding the corporate limits of the City of Winston-Salem, or within the three mile area surrounding such city limits if the board of county commissioners shall have approved such zoning provisions, shall, upon conviction, be fined not more than five hundred dollars (\$500) or imprisoned not more than thirty (30) days; any person, firm or corporation who shall continue to violate or shall permit any land, structure or building to continue to exist or to be used in violation of the zoning ordinance of the City of Winston-Salem, pursuant to the authority given by this Act, or who shall cause, permit or continue to exist any occupancy or use of any land, structure or building in violation of any of said ordinances, resolutions, regulations or restrictions for as long as five days after notice of such violation, issued by the Building Inspector or Administrative Officer of the City of Winston-Salem, or his designee, and served upon him by any police officer of the City of Winston-Salem or by any police officer of Forsyth County, or by personal service, by registered or certified mail in conjunction with regular mail and posting, shall be guilty of a separate offense for each day he permits such violation to continue after the expiration of five days from such notice, and shall be punished as above set forth. If the regular mail is not returned within 10 days of its mailing, and the certified or registered mail is returned refused or unclaimed, service by regular mail shall be deemed sufficient. If regular mail is used, a notice of the violation shall be posted in a conspicuous place on the premises in violation.

Pursuant to this section, the Building Inspector or Administrative Officer or that person's designee is authorized to summarily abate any violation that continues to exist after the expiration of the notice period provided by this section. 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 abatement action occurred. A lien established pursuant to this section shall have the same priority and be collected as unpaid ad valorem taxes. 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. This secondary lien established



1 pursuant to this section is inferior to all prior liens and shall be collected as a money judgment.
2 This section does not apply if the person in default can show that the violation was created
3 solely by the actions of another.

4 Furthermore, the Building Inspector or Administrative Officer or that person's designee is
5 authorized to provide, upon the issuance of a notice of violation, for the filing of a notice of lis
6 pendens in the office of the Clerk of Superior Court of Forsyth County. When a notice of lis
7 pendens and a copy of the notice of violation are filed with the Clerk of Superior Court, it shall
8 be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From
9 the date and time of indexing, the notice of violation shall be binding upon the successors and
10 assigns of the owner or owners of the premises in violation. A copy of the notice of lis pendens
11 shall be served upon the owner or owners of the premises in violation at the time of filing in
12 accordance with the procedure for serving the notice of violation set forth herein. The notice of
13 lis pendens shall remain in full force and effect until cancelled. The Building Inspector or
14 Administrative Officer or that person's designee may authorize the cancellation of the notice of
15 lis pendens upon compliance with the notice of violation, and receipt of such cancellation, the
16 Clerk of Superior Court shall cancel the notice of lis pendens.

17 The Building Inspector or Administrative Officer, or that person's designee, may notify a
18 chronic violator of the City's zoning ordinance that, if the violator's property is found to be in
19 violation of the zoning ordinance, the City shall, without further notice in the calendar year in
20 which notice (hereinafter 'chronic violator notice') is given, take action to remedy the violation,
21 and the expense of the action shall become a lien upon the property and shall be collected as
22 unpaid taxes. The chronic violator notice shall be served by registered or certified mail in
23 conjunction with regular mail and posting. If regular mail is not returned in 10 days, and the
24 registered or certified mail is returned refused or unclaimed, service by regular mail shall be
25 deemed sufficient. A 'chronic violator' is a person who owns property whereupon, during the
26 18-month period prior to the issuance of the chronic violator notice, the City took remedial
27 action at least three times under the City's zoning ordinance."

28 **SECTION 2.** This act applies to the City of Winston-Salem only.

29 **SECTION 3.** This act is effective when it becomes law.