



Office of the Chief of Police

SUNSET BEACH, NORTH CAROLINA

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While researching the regulation of parking on private property within our municipal limits, I discovered ordinances that the Town of Sunset Beach has in place that are not in accordance with North Carolina General Statute 160A-301(d), which is the only statute that allows such regulation.

Ordinance 72.20 includes “**vacant lots**” as one of the properties that can be regulated. The General Statute specifies **any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area**, but does not include vacant lots.

Ordinance 72.20 also says that the owner or other person in general charge of the operation and control of any private property may request in writing that the stopping, standing or parking be regulated. Ordinance 72.21 further explains that an application for such request is available from the Town Clerk-Treasurer. The Statute explicitly states that the governing body of any city may, **by ordinance**, regulate the stopping, standing, or parking of vehicles, provided the owner or person in general charge of the operation and control of that area **requests in writing that such an ordinance be adopted**.

Ordinance 72.22 places the responsibility of purchasing and installation of signs on the requesting party, and the approval of such signs on the Chief of Police. This is something that is not mentioned at all in General Statute 160A-301(d).

It is my opinion that in 1984, when these ordinances were adopted, the parties involved in researching and drafting the language grossly misinterpreted the North Carolina General Statutes. Therefore, to come into compliance with State Law, it is my opinion that the current Ordinances should be repealed immediately and a proper Ordinance be adopted.

In August, 2014, I met with members of The Town Council who are revising the current Parking Ordinances. This issue was brought to their attention during that meeting. Upon review of their revisions, it appears as though this issue has been overlooked.

The current Town Ordinances and North Carolina General Statute 160A-301 in their entirety are attached

North Carolina General Statutes

Chapter 160A Cities and Towns

§ 160A-301. Parking.

(a) On-Street Parking. – A city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city. When parking is permitted for a specified period of time at a particular location, a city may install a parking meter at that location and require any person parking a vehicle therein to place the meter in operation for the entire time that the vehicle remains in that location, up to the maximum time allowed for parking there. Parking meters may be activated by coins or tokens. Proceeds from the use of parking meters on public streets must be used to defray the cost of enforcing and administering traffic and parking ordinances and regulations.

(b) Off-Street Parking. – A city may by ordinance regulate the use of lots, garages, or other facilities owned or leased by the city and designated for use by the public as parking facilities. The city may impose fees and charges for the use of these facilities, and may provide for the collection of these fees and charges through parking meters, attendants, automatic gates, or any other feasible means. The city may make it unlawful to park any vehicle in an off-street parking facility without paying the established fee or charge and may ordain other regulations pertaining to the use of such facilities.

Revenues realized from off-street parking facilities may be pledged to amortize bonds issued to finance such facilities, or used for any other public purpose.

(c) Nothing contained in Public Laws 1921, Chapter 2, Section 29, or Public Laws 1937, Chapter 407, Section 61, shall be construed to affect the validity of a parking meter ordinance or the revenues realized therefrom.

(d) The governing body of any city may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. The owner of a vehicle parked in violation of an ordinance adopted pursuant to this subsection shall be deemed to have appointed any appropriate law-enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle.

(e) The registered owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation of an ordinance adopted pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation. (1917, c.136, subch. 5, s.1; 1919, cc.136,237; C.S., s.2787; 1941, c. 153, ss.1, 2; c.272; 1947, c. 7; 1953, c. 171; 1965, c. 945; 1971, c. 698, s.1; 1973, c. 426, s. 48; 1979, c. 745, s.2; 2003-380, s.1.)

Sunset Beach, North Carolina - Code of Ordinances
TITLE I - GENERAL PROVISIONS
CHAPTER 72. - PARKING REGULATIONS

PARKING ON PRIVATE PROPERTY

§ 72.20 - REGULATIONS AUTHORIZED.

Upon the written request of the owner or other person in general charge of the operation and control of any private property, including vacant lots, parking areas or driveways of a privately-owned hospital, shopping center, apartment house, condominium complex, commercial office complex or any other privately-owned public vehicular area, the Town Council may regulate or prohibit during specified hours the stopping, standing or parking of motor vehicles.

(Prior Code, § 72.20; Ord. 84.6.4, passed 6-4-84)

§ 72.21 - PROPERTY OWNER TO SUBMIT APPLICATION.

The owner or person in general charge of the operation and control of the property must submit a request for regulation, in writing, on application forms available from the Town Clerk-Treasurer.

(Prior Code, § 72.21; Ord. 84.6.4, passed 6-4-84)

§ 72.22 - ERECTION OF SIGNS.

(A) The cost of erecting, placing or installing signs and the cost of all necessary signs, as determined by the Chief of Police, shall be paid by the person requesting regulation.

(B) All signs erected must be approved prior to placement by the Chief of Police or the applicant may request that the town place the signs upon payment by the applicant of all costs.

(Prior Code, § 72.22; Ord. 84.6.4, passed 6-4-84)

§ 72.23 - PARKING PROHIBITED IN DESIGNATED AREAS.

No person shall stop, leave standing or park a motor vehicle in any area specified in § 72.20 when signs are placed, erected or installed giving notice that stopping, standing or parking is regulated, prohibited or prohibited during certain hours in that space or area.

(Prior Code, § 72.23; Ord. 84.6.4, passed 6-4-84)

Cross reference— Penalty, see § 70.99