

N.C. Gen. Stat. § 160A-301

Current through Session Laws 2022-75 (end) of the 2022 Regular Session of the General Assembly.

General Statutes of North Carolina > Chapter 160A. Cities and Towns. (Arts. 1 — 32) > Article 15. Streets, Traffic and Parking. (§§ 160A-296 — 160A-310)

§ 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, tokens, cash, credit cards, debit cards, or electronic means. 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.

History

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; 2015-226, s. 1.

Annotations

Notes

Local Modification.

City of Ashville: 2001-46, s. 2, 2003-165, s. 1; city of Durham: 2014-34, s. 1; 2015-226, s. 2; city of Fayetteville: 1991 (Reg. Sess., 1992), c. 952; city of Greenville: 2001-46; city of Raleigh: 2009-164, s. 1; 2015-226, s. 2; city of Wilmington: 2001-9; 2015-226, s. 2; towns of Atlantic Beach and Beaufort: 2011-79; 2015-226, s. 2; town of Carolina Beach: 2001-9; 2015-226, s. 2; town of Chapel Hill: 2000-97, s. 3; 2001-46; 2009-164, s. 1; 2015-226, s. 2; town of Holden Beach: 2021-46, s. 2(a), as added by 2022-38, s. 1; town of Kure Beach: 2001-9; 2015-226, s. 2; town of Sunset Beach: 2016-9, s. 1; town of Surf City: 2021-46, s. 2(a); town of Wrightsville Beach: 1998-86; 2015-226, s. 2.

Editor's Note.

Session Laws 2013-360, s. 7.21(a)-(e), provides: "(a) A city or county may enter into an interagency agreement with the Department of Revenue and the Government Data Analytics Center (GDAC) to manage the collection of outstanding unpaid parking fines and penalties. The scope and manner of such collections services shall be determined by the agreement. A county or city that exercises the option to enter into such an arrangement may agree to the following, which are required terms in the agreement with the Department of Revenue and the GDAC:

"(1) That the city or county agrees to:

"a. Comply with State and federal law regarding data sharing, as appropriate.

"b. Provide for technical and business resources to support the analytics development.

"c. Provide for timely and responsive access to complete and accurate data, business rules, policies, and technical support.

"(2) That the GDAC be given access to all required information necessary to develop and support analytics allowing the identification of the owners of vehicles with associated unpaid parking fines and penalties.

"(b) In carrying out the purposes of this section and the agreements made under its provisions, the State Controller and the GDAC shall:

"(1) Ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

"(2) Leverage enterprise data sources, as allowed by State and federal law, and GDAC governance agreements, to provide analytics to integrate and match data to identify owner information associated with vehicles with unpaid parking fines and penalties.

"(3) Provide access to analytics reporting and information to the participating city or municipality and the Department of Revenue.

The revenue derived from on-street parking facilities is exacted in the performance of a governmental function, and must be set apart and used for a specific purpose. By whatever name called, it is in the nature of a tax. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289, 1952 N.C. LEXIS 590 (1952).

Validity of Making Parking Privilege Dependent on Amount of Money Placed in Meter. —

Where a municipal ordinance prescribed that parking in a designated zone should be limited to one hour, a motorist could not be convicted of overtime parking for parking in such zone for less than the prescribed one-hour period; hence, an additional provision of the ordinance, that a motorist would be subject to criminal prosecution if he parked in the one-hour zone for longer than 12 minutes upon the deposit of a one-cent coin or 24 minutes upon the deposit of two one-cent coins for successive periods, was unconstitutional as being discriminatory and as making the period of time dependent not upon public convenience but upon the amount of money deposited. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

Where a municipal ordinance prescribes one-hour and two-hour parking meter zones upon the deposit of a five-cent coin, the ordinance may permit, by nonpenal provisions, that a motorist may deposit a one-cent coin for a shorter length of time, provided the motorist is permitted, by depositing additional pennies, not to exceed a total of five, to remain in the parking space for the total length of time prescribed by the ordinance for such zone. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

Contract Binding City to Enact Parking Meter Ordinance Not Authorized. —

A municipality may not bind itself to enact or enforce on-street and off-street parking regulations by penal ordinance for the period during which bonds issued to provide off-street parking facilities should be outstanding, since it may not contract away or bind itself in regard to its freedom to enact governmental regulations. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289 (1952). But see, Town of Graham v. Karpark Corp., 194 F.2d 616 (4th Cir. 1952), upholding a contract with a parking meter manufacturer whereby city agreed to enact and enforce ordinances requiring parking meters until the meters were paid for.

City ordinance prohibiting parking of automobiles on one side of a street

on certain blocks where, because of the narrowness of the street, there was insufficient room for cars to pass between parked cars and a streetcar track in the street, was valid in the light of former G.S. 160-200(31). State v. Carter, 205 N.C. 761, 172 S.E. 415, 1934 N.C. LEXIS 61 (1934).

Zoning amendment, which addressed the number of vehicles that could be parked on a private lot, did not address the same subject as G.S. 160A-301, which governed ordinary parking on public vehicular areas; therefore, G.S. 160A-301 is not a more "specific" statute that renders the provisions of G.S. 160A-4 inapplicable because it simply addresses a different subject. Patmore v. Town of Chapel Hill N.C., 233 N.C. App. 133, 757 S.E.2d 302, 2014 N.C. App. LEXIS 298 (2014).

Zoning Amendment and Statute Did Not Address Same Subject. —

Fact that a town chose to restrict the number of cars parked on a lawn as a rough proxy for the number of tenants did not transform a zoning amendment into a "parking" ordinance because the amendment was intended to regulate the ratio of bedrooms to tenants in rental properties by restricting the number of vehicles parked in the yard; the doctrine of *expressio unius est exclusio alterius* was not applicable to the relationship between the statute and the zoning amendment. Patmore v. Town of Chapel Hill N.C., 233 N.C. App. 133, 757 S.E.2d 302, 2014 N.C. App. LEXIS 298 (2014).

Parking Improvements Permissible. —

"(4) Provide data to the Department of Revenue for use in the withholding of tax refunds of persons that have unpaid parking fines and penalties.

"(c) The Department of Transportation, Division of Motor Vehicles, shall provide the GDAC with access to historical and current information required to identify owners associated with vehicles with unpaid parking fines and penalties.

"(d) The Department of Revenue shall (i) receive data from the GDAC associated with persons that have unpaid parking fines and penalties; (ii) withhold tax refunds for the purpose of the collection of those fines and penalties as allowed by law; and (iii) from the withholdings, pay to the appropriate city or county the amounts due.

"(e) Any fee imposed by the Department of Revenue or the GDAC to cover the administrative costs of withholding for the collection of unpaid parking fines and penalties shall be borne by the city or county and shall be negotiated as part of the agreements authorized by this section."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5, is a severability clause.

Notwithstanding the provisions of G.S. 160A-301(a), a town may use the proceeds from parking meters on public streets in the same manner in which proceeds from off-street parking facilities are permitted under G.S. 160A-301(b).

Effect of Amendments.

Session Laws 2015-226, s. 1, effective August 25, 2015, substituted "coins, tokens, cash, credit cards, debit cards, or electronic means" for "coins or tokens" in the third sentence of subsection (a).

CASE NOTES

Editor's Note. —

Most of the cases cited below were decided under former G.S. 160-200(31).

A municipality may require a motorist who parks his vehicle in a parking meter zone to set the meter in operation by depositing a coin,

provided that the deposit of the coin is the method selected by its governing body in the exercise of its discretion for the purpose of regulating parking in the interest of the public convenience and not as a revenue raising measure. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

The deposit of a coin by a motorist at the time of parking, to activate the parking meter, is not a fee,

charge or toll for using the parking space, but is simply the method adopted by the governing authorities of the city for putting the meter in operation, and the revenue derived therefrom is expressly set apart and dedicated to a particular use by the legislature. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289, 1952 N.C. LEXIS 590 (1952).

But Revenue Derived Therefrom Is in the Nature of a Tax. —