

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1211
HOUSE BILL 1222

AN ACT TO AUTHORIZE THE ENACTMENT OF AN ORDINANCE
REGULATING THE SUBDIVISION OF LAND WITHIN THE CITY OF
FAYETTEVILLE AND ONE MILE THEREOF AND OTHER PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. The City Council of the City of Fayetteville and the Board of County Commissioners of Cumberland County, in joint session, are hereby authorized to enact an ordinance regulating the platting and recording of any subdivision of land, as defined in this Act, lying within one mile in all directions of the corporate limits of said city, excluding only that area, within said one mile of said limits, which is bounded on the West by Big Cross Creek, on the South by said limits, and on the East by the right of way of the Norfolk-Southern Railroad Company.

Sec. 2. Before said city council and said board of commissioners shall adopt a subdivision control ordinance or any amendment thereto under this Act, and said city council and board of county commissioners jointly shall hold a public hearing thereon. Notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published in the City of Fayetteville, said notice to be published the first time not less than fifteen nor more than twenty-five days prior to the date fixed for said hearing.

Sec. 3. If said city council and said board of commissioners adopt such ordinance regulating the subdivision of land as authorized herein, no subdivision plat of land within the area described in Section 1 shall be filed or recorded until it shall have been submitted to and approved by the Planning Board hereinafter referred to and approval entered in writing on such plat, provided a copy of such ordinance shall be filed by said city council and board of commissioners with the Register of Deeds of Cumberland County. Such register of deeds, upon receipt of such ordinance, shall not thereafter file or record a plat of a subdivision of land located within the area described in Section 1, without the approval of such plat by said Planning Board. The owner of land shown on any subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not such land is within the area described in Section 1. The Clerk of Superior Court of Cumberland County shall not order or direct the recording of a plat where such recording would conflict with this Section. Any action by said Planning Board acting under the provisions of an ordinance adopted under the provisions of this Act may be appealed to a joint meeting of said city

council and said board of county commissioners in a manner established by said ordinance.

Sec. 4. The City Council of Fayetteville and the Board of County Commissioners of Cumberland County shall exercise the authority of the Act only by adopting an ordinance fixing regulations governing the subdivision of land in the area described in Section 1. Such ordinance shall require at least that a preliminary plan of every proposed subdivision within said area shall be submitted for study, recommendation and tentative approval to a planning board created and appointed under the authority of this Act.

Such ordinance may provide for the orderly development of said area, for the coordination of streets within proposed subdivisions with existing or planned streets or with other public facilities, for the dedication or reservations of rights of way or easements for street and utility purposes, and for the distribution of population and traffic which shall avoid congestion and overcrowding.

Such ordinance may include requirements for the final plat to show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformity to good surveying practice and laws of the State of North Carolina.

Sec. 5. The approval of a plat by said Planning Board shall not, without specific consent of said city council recorded in the minutes thereof, be deemed to constitute or effect acceptance by the City of Fayetteville or the public of the dedication of any street or other ground, public utility line, or other public facility shown upon such plat.

Sec. 6. If said city council and said board of commissioners adopt such ordinance, any person who, being an owner or agent of an owner of any land located in the area described in Section 1, thereafter transfers or sells any part of such land by reference to a plat showing a subdivision of such land before such plat has been approved by said Planning Board and recorded in the office of the Register of Deeds of Cumberland County, shall be guilty of a misdemeanor, and the description by metes and bounds in the instrument or other document of transfer or sale shall not exempt the transaction from this Section. Either the City of Fayetteville or Cumberland County or both, through their respective attorneys or otherwise, may also enjoin such transfer or sale.

Sec. 7. For the purpose of this Act, the following definition shall apply:

Subdivision. A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by this Act: (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of said municipality as shown in its

subdivision regulations; (2) The division of land into parcels greater than five acres where no street right of way dedication is involved; (3) The public acquisition by purchase of strips of land for the widening or opening of streets; (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right of way dedication is involved and where the resultant lots are equal to or exceed the standards of said municipality, as shown in its subdivision regulations.

Sec. 8. The powers granted to the City of Fayetteville and Cumberland County in this Act shall be deemed supplementary to any powers heretofore or hereafter granted in said city's Charter or by general or local statute, and in any case where the provisions of this Act conflict with or are different from such provisions of such Charter or general or local statute, said city council and board of commissioners may at their discretion proceed in accordance with the provisions of such Charter or general or local statute or in accordance with this Act.

Sec. 9. If said city council and board of commissioners exercise the authority granted by this Act, the city council shall, without regard to the limitations of numbers of members of the Planning Board specified by G. S. 160-22, fix the membership of the Planning Board of the City of Fayetteville at ten. Five of such members shall be appointed by said city council from among citizens residing within the corporate limits of the City of Fayetteville. Five of such members shall be appointed by the Board of Commissioners of Cumberland County from among citizens resident in the area described in Section I that is outside but within one mile of the corporate limits of the City of Fayetteville. All such ten members shall have equal rights, privileges, and duties with respect to said Planning Board whether the land concerned is within or without the corporate limits of said city.

Sec. 10. Said Planning Board may adopt bylaws or regulations, including but not limited to, fixing of a quorum of its own members, times of its regular meetings, its own procedure, and implementing this Act and any city or county ordinance creating or affecting it or its work not inconsistent with this Act or any such ordinance.

Sec. 11. Until the time of the adoption of an ordinance as provided by this Act, by the said city council and board of county commissioners, or in case an ordinance adopted under these provisions is repealed, subdivision regulations within the corporate limits of the City of Fayetteville shall be governed by the Chapter 160, Article 18, Part 3-A of the General Statutes of North Carolina, but the provisions of said General Statutes relating to the authority of municipalities over subdivisions within one mile of the corporate limits of municipalities shall not be applicable to the City of Fayetteville.

Sec. 12. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1961.