

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 565
SENATE BILL 439

AN ACT TO PERMIT FAMILY CARE HOMES FOR HANDICAPPED PEOPLE IN ALL
RESIDENTIAL AND OTHER ZONING DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168 of the General Statutes is amended by adding the following new Article:

"ARTICLE 3.

"Family Care Homes.

"§ 168-20. **Public policy.** — The General Assembly has declared in Article 1 of this Chapter that it is the public policy of this State to provide handicapped persons with the opportunity to live in a normal residential environment.

"§ 168-21. **Definitions.** — As used in this Article:

- (1) 'Handicapped person' means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122-58.2(1)b.
- (2) 'Family care home' means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.

"§ 168-22. **Zoning; family care home.** — A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions. No political subdivision may require that a family care home, its owner, or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance from any such zoning ordinance or plan; provided, however, that a political subdivision may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

"§ 168-23. **Certain private agreements void.** — Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property which would permit residential use of property but prohibit the use of such property as a family care home shall, to the extent of such prohibition, be void as against public policy and shall be given no legal or equitable force or effect."

Sec. 2. All laws and parts thereof, either public or local, which are in conflict with this act are repealed to the extent of the conflict.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.