

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE DRS35462-LR-139 (05/12)**

Short Title: Apex Conditional Zoning/Roads.

(Local)

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Sponsors: Senator Stevens.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF APEX TO ENGAGE IN CONDITIONAL ZONING AND TO EXPEND FUNDS ON ROADS OUTSIDE OF ITS CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 356 of the 1985 Session Laws, as amended, being the Charter of the Town of Apex, is amended by adding a new section to Article VI as follows:

"Sec. 6.6. Conditional zoning.

(a) In addition to any other type of zoning district permitted by Chapter 160A of the General Statutes, the Board of Commissioners may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this section, a conditional zoning district shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. For purposes of this section, 'parallel conditional zoning district' shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit, or any other permitting process apart from the establishment of the district and its application to a particular property or particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the

1 unique aspects of each conditional zoning district development, site, and surrounding  
2 area.

3 (b) Property may be rezoned to a conditional zoning district only in response to  
4 and consistent with a petition of the owners of all of the property to be included in the  
5 district. A petition for conditional zoning must include a site plan and supporting  
6 information that specifies the actual use or uses intended for the property and any rules,  
7 regulations, and conditions that, in addition to all predetermined ordinance  
8 requirements, will govern the development and use of the property. If a petition for  
9 conditional zoning is approved, the development and use of the property shall be  
10 governed by the ordinance requirements applicable to such district category; the  
11 approved site plan for the district; and, with the owner's consent, any additional  
12 approved rules, regulations, and conditions; all of which shall constitute the zoning  
13 regulations for the approved district.

14 (c) The Board of Commissioners shall make conditional zoning decisions in  
15 consideration of identified relevant adopted land-use plans for the area including, but  
16 not limited to, comprehensive plans, strategic plans, district plans, area plans,  
17 neighborhood plans, corridor plans, and other land-use policy documents.

18 (d) Conditional zoning decisions under this act are made pursuant to a legislative  
19 process and are subject to judicial review using the same procedures and standard of  
20 review as apply to general use district zoning. Except as specifically modified by this  
21 section, the procedures to be followed by the Board of Commissioners in reviewing,  
22 granting, or denying any petition for conditional zoning shall be the same as those  
23 established for general use district zoning under Article 19 of Chapter 160A of the  
24 General Statutes. The consent of the Town or of an owner to a condition, regulation, or  
25 rule does not preclude any party from challenging the condition, regulation, or rule as  
26 being otherwise unlawful under federal or State law, provided that an action is brought  
27 within the two-month statute of limitation set forth in G.S. 1-54.1."

28 **SECTION 2.** Notwithstanding the provisions of Chapter 136 or Chapter  
29 160A of the General Statutes, the Town of Apex may appropriate funds not otherwise  
30 limited as to use by law to plan, design, construct, install, widen, pave, maintain, repair,  
31 reconstruct, replace, or otherwise improve public streets, roads, highways, sidewalks,  
32 bikeways, and landscaping in the public right-of-way (including any bridges, traffic  
33 control devices, signage, drainage, curb and gutter, and other appurtenances thereto for  
34 any such streets, roads, and highways) in areas outside of its corporate limits but within  
35 one mile thereof, only if the streets, roads, and highways are owned by the State and  
36 maintained by the Department of Transportation and the sidewalks and bikeways are  
37 located along public streets, roads, and highways owned by the State and maintained by  
38 the Department of Transportation. Any such expenditures made prior to the effective  
39 date of this act are confirmed and validated. The Town of Apex may not construct,  
40 install, widen, maintain, repair, or otherwise improve streets or roads within the  
41 corporate limits of another municipality without the consent of the other municipality.

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