

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 853

Short Title: Plan Review & Cert of Occup. Scope Changes. (Public)

Sponsors: Representatives Brody, Moffitt, and Zenger (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government - Land Use, Planning and Development, if favorable, Rules, Calendar, and Operations of the House

May 5, 2021

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE SCOPE OF REQUIREMENTS FOR CERTIFICATES OF OCCUPANCY AND TO ESTABLISH GENERAL REQUIREMENTS FOR LOCAL GOVERNMENTS WHEN APPROVING DEVELOPMENT PERMIT APPLICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-403.1. Commercial plan review for sealed plans.

For development approvals, a local government reviewing plans, or a local government that contracts with a private engineering or architectural firm for plan review, for commercial buildings that are submitted under the seal of any design professional licensed under Chapters 83A, 89A, or 89C of the General Statutes shall not place additional requirements as a condition of the issuance of a certificate of occupancy unless otherwise required by an applicable code, as defined in G.S. 160D-931(2)."

SECTION 2. Article 4 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-407. General requirements for approving permit applications.

The following shall apply to local governments evaluating and approving construction permits related to site construction and land use permitting:

(1) All standards or requirements for the issuance of a construction permit shall be included in a written policy, standard procedure, or ordinance adopted or authorized by the governing body and shall be available for public inspection. A written policy, standard procedure, or ordinance may include formal land-use maps, capital improvement plans, or fiscally constrained road improvements established by the local government or the Department of Transportation.

(2) The governing body shall adopt a written policy, standard, procedure, or ordinance establishing or authorizing a department to establish a schedule that shall be used by the department in reviewing permit applications, including the maximum number of days in which a department shall have to approve or deny a complete application. The schedule may allow for extenuating circumstances which make adherence impractical; provided, however, that any schedule exceptions imposed shall be noted in the quarterly report, as defined in subdivision (4) of this section. The schedule shall be made available



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1 for public inspection and shall be published on the local government's website,
2 if available. If the governing body authorizes a department to establish a
3 schedule as provided in this subdivision, the governing body shall approve the
4 schedule before it is implemented for use by the public.

5 (3) A local government shall not require a permittee to reserve land, dedicate
6 rights-of-way, adhere to planning or land use conditions, or make
7 accommodations for future construction activities, including the installation
8 of future infrastructure, unless the requirement is included in a written policy,
9 standard procedure, or ordinance adopted or authorized by the governing
10 body.

11 (4) A department responsible for reviewing construction permit applications
12 shall, on a quarterly basis, submit to the governing body a report detailing the
13 department's compliance with the schedule established under subdivision (2)
14 of this section, including the number of permit application reviews that were
15 completed within the time periods specified in the schedule, the number
16 completed prior to the expiration of the time periods, and the number
17 completed after the expiration of the time periods. The department's report
18 shall be made available for public inspection and shall be published on the
19 local government's website, if available. The local government may present
20 the data in the format of its choosing provided it is in compliance with this
21 section.

22 (5) A written policy, standard procedure, or ordinance shall not require a
23 construction permit to be reviewed if another agency or department, including
24 a State agency or department, has conducted its own review of the same or
25 another permit related to the same project. Written policies, standard
26 procedures, or ordinances adopted by the local government shall require that
27 construction permits issued by the local government shall be reviewed
28 concurrently with another permit related to the same project. The requirement
29 for departments or agencies to review concurrently does not apply if the
30 project is proposed to be constructed in phases, making a concurrent review
31 impractical, or if the permittee requests nonconcurrent reviews.

32 (6) A local government may establish an online permit application and review
33 process and require its use.

34 (7) A local government shall not require a permittee to construct off-site
35 infrastructure improvements, including improvements related to utilities or
36 traffic, unless the improvements are roughly proportionate and reasonably
37 proximate to the impact of the permittee's development.

38 (8) A sedimentation and erosion control plan sealed by an engineer licensed under
39 Chapter 89C of the General Statutes and submitted to a local government as
40 part of the development plan shall not be altered by a local government unless
41 the development plan has been altered. A local government may not impose
42 changes to the sealed sedimentation and erosion control plan if the licensed
43 engineer attests that the changes will not function properly, unless the local
44 government accepts all liability.

45 (9) A voluntary agreement, or any other type of agreement that has the intent or
46 effect of reversing, subverting, or modifying State law, shall be prohibited.
47 The plan initially submitted to the local government for approval shall be
48 recognized as the determinant of the voluntariness of any subsequent
49 agreement. Nothing in this Chapter shall prevent the developer and the local
50 government from entering into an agreement in which the developer
51 voluntarily, knowingly, and willingly conveys real property, donates personal

1 property, constructs amenities, or otherwise agrees to provide benefits to the
2 public in conjunction with the development project; provided, however, that
3 the agreement is not directly or indirectly conditioned upon a development
4 approval by the local government for that development or any other
5 development by that developer. Except as specifically authorized in this
6 Chapter, a development regulation shall not require a financial extraction or
7 concession of any kind from a developer as a condition of any development
8 approval.

9 (10) A development fee ordinance shall not allow for an automatic adjustment of
10 a development fee, absent a subsequent ordinance enactment by the local
11 government. All local government development fees shall be provided in a
12 single fee schedule adopted as an ordinance on an annual basis after a public
13 hearing in which all of the following apply:

14 a. Beginning not less than 24 hours prior to the public hearing, the public
15 is provided a means by which persons may sign up to speak which
16 must include an online portal if that local government maintains a
17 website or other similar means.

18 b. Persons speaking at the public hearing shall have not less than two
19 minutes to speak. No limit is placed on the number of persons who
20 may speak.

21 (11) A local government shall not require a tree survey as part of the development
22 process if that local government does not have a tree ordinance approved in
23 accordance with applicable statutes. Nothing in this subdivision shall be
24 deemed to prohibit a local government from establishing development
25 parameter buffer zones and other designated preservation areas; provided that
26 any buffer zones or designated preservation areas are provided in the written
27 policy, standard procedure, or ordinance as required in subdivision (1) of this
28 section.

29 (12) A local government shall have the authority to regulate the portion of any
30 private road, driveway, or parking lot that lies upon the public right-of-way as
31 to slope, width, thickness of the pavement, and design that matches any
32 existing roadway. All other aspects pertaining to private roads, driveways, and
33 parking lots contained within a submitted plan shall be approved by the local
34 government if they (i) are designed by a design professional licensed in this
35 State and (ii) meet or exceed all applicable federal and State laws and
36 regulations."

37 **SECTION 3.** This act is effective when it becomes law and applies to site plans
38 submitted for approval on or after that date.