

§ 160D-804. Contents and requirements of regulation.

(a) Purposes. – A subdivision regulation may provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(b) Plats. – The regulation may require a plat be prepared, approved, and recorded pursuant to the provisions of the regulation whenever any subdivision of land takes place. The regulation may include requirements that plats 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 conformance with good surveying practice.

(c) Transportation and Utilities. –

- (1) The regulation may provide for the dedication of rights-of-way or easements for street and utility purposes, including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.
- (2) A regulation adopted by a city may provide that in lieu of required street construction, a developer be required to provide funds for city use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this subdivision shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation.
- (3) A regulation adopted by a county may provide that in lieu of required street construction, a developer may provide funds to a county to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this subdivision shall be transferred to a city to be used solely for the development of roads, including design, land acquisition, and construction. Any city receiving funds from a county under this subdivision is authorized to expend the funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county.
- (4) Any formula adopted by a local government to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The regulation may require a combination of partial payment of funds and partial dedication of constructed streets when the governing board determines that a combination is in the best interests of the citizens of the area to be served.
- (5) A regulation adopted by a city shall not require a developer to design and construct pedestrian facilities, including sidewalks, within rights-of-way for new streets designated as public and to be submitted to the North Carolina Department of Transportation for review pursuant to G.S. 136-102.6, for small residential subdivisions located in areas subject to municipal planning and development regulation in an extraterritorial jurisdiction established pursuant to G.S. 160D-202, unless the city accepts long-term maintenance

responsibilities by written agreement with the North Carolina Department of Transportation prior to construction of pedestrian facilities. For the purposes of this subdivision, "small residential subdivision" means a subdivision development that contains 20 individual lots or less.

(d) Recreation Areas and Open Space. – The regulation may provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by cities pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. All funds received by counties pursuant to this subsection shall be used only for the acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

(e) Community Service Facilities. – The regulation may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with local government plans, policies, and standards.

(f) School Sites. – The regulation may provide for the reservation of school sites in accordance with plans approved by the governing board. In order for this authorization to become effective, before approving such plans, the governing board and the board of education with jurisdiction over the area shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the governing board shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the governing board and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision or site plan shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision or site plan within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation.

(g) Recodified as G.S. 160D-804.1 by Session Laws 2020-25, s. 20(b), effective June 19, 2020, and applicable to performance guarantees issued on or after that date.

(h) Power Lines Exemption. – The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

- (1) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(i) Minimum Square Footage Exemption. – The regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code.

(j) Private Driveway Pavement Design Standards. – The regulation shall not require pavement design standards for new private driveway construction that are more stringent than the minimum pavement design standards adopted by the North Carolina Department of Transportation. Notwithstanding any regulation adopted by the local government, the local government must accept engineered pavement design standards that do not meet minimum

standards required by the Department of Transportation if the proposed design standard is signed and sealed by a duly licensed professional engineer, under Chapter 89C of the General Statutes, and meets vehicular traffic and fire apparatus access requirements. This subsection applies to construction of new privately owned driveways, parking lots, and driving areas associated with parking lots within a new development or subdivision that the developer designates as private and that are intended to remain privately owned after construction. If driveways, parking lots, and driving areas associated with parking lots are constructed to pavement design standards that do not meet minimum standards required by a regulation adopted by the local government, as authorized by this subsection, the developer must include disclosures to prospective buyers as outlined in G.S. 136-102.6(f) prior to entering into any agreement or any conveyance with any prospective buyer. A local government is discharged and released from any liabilities, duties, and responsibilities imposed by this Article, or in common law, from any claim arising out of, or attributed to, the plan review or acceptance of signed and sealed pavement design standards submitted pursuant to this subsection. Nothing in this subsection limits the authority of local governments or the Department of Transportation to regulate private roads, driveways, or street connections to a public system, or to regulate transportation and utilities, pursuant to subsection (c) of this section, or as otherwise authorized by law.

(k) Curb and Gutter Design Standards. – Notwithstanding G.S. 160A-307 and G.S. 160D-916, the regulation shall not limit, or prohibit the use of, curb and gutter design standards adopted by the North Carolina Department of Transportation for subdivision roads adjacent to, and serving, dwellings subject to the North Carolina Residential Code. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 20(a), (b), (d), 51(a), (b), (d); 2023-108, ss. 1(e), 3(a); 2024-49, ss. 1.8(a), 1.9(a), 1.10.)