

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 794

Short Title: Allow Schools in All Zoning Districts. (Public)

Sponsors: Representatives Arp, Saine, Brody, and Torbett (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 4, 2021

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE SCHOOLS AS A PERMITTED USE IN ALL ZONING DISTRICTS AND TO SPECIFY THAT CHARTER SCHOOLS ARE A SCHOOL FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160D-701 reads as rewritten:

"§ 160D-701. Purposes.

(a) Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction.

~~(b) The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.~~ Zoning regulations shall provide that schools are a permitted use in all zoning districts as provided in G.S. 160D-913.1."

SECTION 1.(b) Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-913.1. Schools are a permitted use.

(a) Local government development regulations shall provide that a school is a permitted use as a matter of right in all zoning districts. Except as required for a special use permit under subsection (b) of this section, the procedures of Article 6 of this Chapter shall not apply to a school. No development regulation for any zoning district may require a school to only be located on a site contiguous to a State-maintained road or highway.

(b) Prior to the commencement of any construction on a site, a school shall notify the local government with development jurisdiction of the school's intent to construct. Notice under this section shall be in writing at least 60 days prior to the commencement of construction. A



1 notice given under this section shall be valid for two years, excluding any time the school has a
2 building permit application pending before the local government.

3 (c) As used in this section, the following definitions shall apply:

4 (1) Construction. – The building, erection, renovation, or establishment of school
5 buildings, facilities, and infrastructure and shall not include routine
6 maintenance and repair.

7 (2) School. – As defined in G.S. 160A-307.1(b)(2)."

8 **SECTION 2.** G.S. 160A-307.1 reads as rewritten:

9 **"§ 160A-307.1. Limitation on city requirements for street improvements related to schools.**

10 (a) A city may only require street improvements related to schools that are required for
11 safe ingress and egress to the municipal street system and that are physically connected to a
12 driveway on the school site. The required improvements shall not exceed those required pursuant
13 to G.S. 136-18(29). G.S. 160A-307 shall not apply to schools. A city may only require street
14 improvements related to schools as provided in ~~G.S. 160A-372.~~ G.S. 160D-804. The cost of any
15 improvements to the municipal street system pursuant to this section shall be reimbursed by the
16 city. Any agreement between a school and a city to make improvements to the municipal street
17 system shall not include a requirement for acquisition of right-of-way by the school, unless the
18 school is owned by an entity that has eminent domain power. Any right-of-way costs incurred by
19 a school for required improvements pursuant to this section shall be reimbursed by the city.
20 Notwithstanding any provision of this Chapter to the contrary, a city may not condition the
21 approval of any ~~zoning, rezoning, or permit request~~ development approval on the waiver or
22 reduction of any provision of this section.

23 (b) ~~The term~~ As used in this section, the following definitions shall apply:

24 (1) Development approval. – As defined in G.S. 160D-102.

25 (2) ~~"school," as used in this section, means any facility engaged in the educational~~
26 ~~instruction of children in any grade or combination of grades from~~
27 ~~kindergarten through the twelfth grade at which attendance satisfies the~~
28 ~~compulsory attendance law and includes charter schools authorized under~~
29 ~~G.S. 115C-218.5.~~ School. – Any facility, including relocatable or modular
30 units as either accessory or primary facilities, that is part of a public school
31 unit, as defined in G.S. 115C-5, or part of any nonpublic school that meets the
32 requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General
33 Statutes."

34 **SECTION 3.** This act becomes effective July 1, 2021, and applies to school zoning
35 applications pending or submitted on or after that date.