

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 853  
Committee Substitute Favorable 5/11/21  
PROPOSED COMMITTEE SUBSTITUTE H853-CSBD-20 [v.17]  
06/16/2021 07:30:14 PM

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

(Public)

Sponsors:

Referred to:

May 5, 2021

A BILL TO BE ENTITLED  
AN ACT TO LIMIT THE SCOPE OF REQUIREMENTS FOR CERTIFICATES OF  
OCCUPANCY, TO ESTABLISH GENERAL REQUIREMENTS FOR LOCAL  
GOVERNMENTS WHEN APPROVING DEVELOPMENT PERMIT APPLICATIONS,  
AND TO APPROPRIATE FUNDS TO THE NORTH CAROLINA BUILDING CODE  
COUNCIL TO CONDUCT CERTAIN COST-BENEFIT ANALYSES.

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.**

When plans for commercial buildings are submitted under the seal of any design professional licensed under Chapters 83A, 89A, or 89C of the General Statutes and those plans are reviewed by the local government with development approval authority or, if authorized by statute, by a private engineering or architectural firm under contract with that local government to review commercial plans, that local government shall not condition the issuance of a certificate of occupancy on the imposition of any additional requirement unless that additional requirement is required by an applicable code. As used in this section, "applicable code" has the same meaning as in G.S. 160D-931(2)."

**SECTION 2.(a)** Article 1 of Chapter 160D of the General Statutes is amended by  
adding a new section to read:

**"§ 160D-112. Review of development permit applications.**

(a) All standards or requirements for the evaluation, consideration, issuance and approval of development permits shall be in writing and based on a policy, standard procedure, or ordinance adopted by the governing board, which shall be available for public inspection. The policy, standard procedure, or ordinance adopted by the governing board under this section shall comply with all of the following:

(1) The written policy, standard procedure, or ordinance adopted shall include a review schedule which shall incorporate at least all of the following:

- a. Provides a maximum of 30 days to approve or deny a complete development permit application.
- b. Allow additional time to approve or deny a complete development permit application when the local government's offices have been closed for the normal transaction of business due to declarations of emergency under G.S. 166A-19.20 or G.S. 166A-19.22 or other unforeseeable circumstances.



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- 1                   c.       Require publication of the review schedule on the website of the local  
2                               government, if the local government has a website.
- 3           (2)       The written policy, standard procedure, or ordinance shall require the  
4                               developer to be notified of all deficiencies and required or recommended  
5                               corrective actions prior to review for approval or disapproval. Upon receipt of  
6                               the completed or cured development permit application, the local government  
7                               shall approve or disapprove the development permit application. Notice of  
8                               deficiencies and corrective actions, must be in writing and contain all of the  
9                               following:
- 10                   a.       Reference to the specific written policy, standard procedure, or  
11                               ordinance in which the development permit application is deficient  
12                               and the specific corrective action required.
- 13                   b.       Any corrective action that is recommended, but not required by the  
14                               local government's written policy, standard procedure, or ordinance,  
15                               must be clearly designated as recommended or advisory only and not  
16                               required as a condition for approval of the development permit  
17                               application.
- 18           (3)       The written policy, standard procedure, or ordinance shall require the local  
19                               government to notify the developer in writing of approval or disapproval. If  
20                               the development permit application is disapproved, the writing shall reference  
21                               to the specific written policy, standard procedure, or ordinance in which the  
22                               development permit application failed to comply.
- 23           (4)       The written policy, standard procedure, or ordinance shall require that all  
24                               development permits related to the same proposed project shall be reviewed  
25                               concurrently by the local government. If the proposed project is in phases,  
26                               then concurrent permits shall be reviewed by the proposed phases.
- 27           (5)       The written policy, standard procedure, or ordinance may include formal  
28                               land-use maps, capital improvement plans, or fiscally constrained road  
29                               improvement requirements established by the local government or the  
30                               Department of Transportation.
- 31       (b)       All development fees charged by a local government shall be enumerated in a single  
32       fee schedule adopted as part of the annual budget under G.S. 159-8 for each local government.  
33       No budget ordinance shall provide for an automatic adjustment of any development fee. The  
34       development fee schedule shall be published with the review schedule, as required by subdivision  
35       (a)(2) of this section, on the website of the local government, if the local government has a  
36       website.
- 37       (c)       Each local government shall, on a quarterly basis and in any format, report  
38       compliance with the review schedule established under subdivision (a)(2) of this section. The  
39       report shall be delivered to the governing board, made available for public inspection, and  
40       published on the local government's website, if the local government a website. This report shall  
41       include at least all of the following:
- 42                   (1)       The number of development permit application reviews completed within the  
43                               time periods specified in the schedule.
- 44                   (2)       The number of development permit application reviews completed after the  
45                               expiration of the time periods.
- 46                   (3)       Events necessitating additional review time for a development permit."
- 47       **SECTION 2.(b)** Article 6 of Chapter 160D of the General Statutes is amended by  
48       adding a new section to read:  
49       **"§ 160D-606. Scope of development regulations.**  
50       Notwithstanding any other provision of this Chapter, all development regulations shall  
51       comply with the following:

- (1) No local government shall require a traffic impact analysis until the local government has issued a conditional approval of the development permit and the development project's density is determined. Final approval of the development permit may be conditioned upon implementing one or more recommendations in the traffic impact analysis.
- (2) No local government shall require a tree survey as part of the development approval process unless that local government has a tree ordinance authorized by law and the local government has issued a conditional approval of the development permit.
- (3) No local government shall require a biological survey for endangered species as part of the development approval process if the data pertaining to endangered species may be obtained by the local government on a geographic information system (GIS) mapping system publicly available to that local government.
- (4) A local government shall have the authority to regulate only the portion of any private road, driveway, or parking lot lying upon the public right-of-way as to slope, width, thickness of the pavement, and design that matches any existing roadway. All other aspects pertaining to private roads, driveways, and parking lots lying upon the public right-of-way contained within a submitted plan shall be approved by the local government if those aspects comply with all the following:
- a. The aspects are designed by a design professional licensed in this State.
- b. The aspects meet or exceed all applicable federal and State laws and regulations.
- (5) Any sedimentation and erosion control plan sealed by an engineer licensed under Chapter 89C of the General Statutes and submitted to a local government as part of a development plan shall not be altered by a local government unless the development plan is also altered accordingly. A local government may not require changes to the sealed sedimentation and erosion control plan if the licensed engineer attests that the required changes will not function properly, unless the local government assumes all liability for all failure attributable to the required changes.
- (6) A voluntary agreement, or any other type of agreement between an applicant for a development approval that has the intent or effect of reversing, subverting, or modifying State law, is prohibited. The development plan initially submitted to the local government for approval shall be recognized as the baseline to determine the extent to which modifications to that plan are voluntary. Nothing in this Chapter shall prevent the developer and the local government from entering into an agreement in which the developer voluntarily, knowingly, and willingly conveys real property, donates personal property, constructs amenities, or otherwise agrees to provide benefits to the public in conjunction with the development project. Any such voluntary agreement may not directly or indirectly be conditioned upon a development approval by the local government for that developer. Except as specifically authorized in the General Statutes, a development regulation shall not require a financial exaction or concession of any kind from a developer as a condition of any development approval.
- (7) If land is required for rights-of-way for the installation of infrastructure as part of the proposed project approvals then the local government shall use its authority under Chapter 40A of the General Statutes to acquire such land for

its public purpose. In addition to any development fees, the developer may be charged an amount equal to any monies expended by the local government to acquire such land."

**SECTION 3.** Article 4 of Chapter 160D of the General Statutes is amended by adding a new section to read:

**"§ 160D-408. Infrastructure improvement reimbursement.**

(a) Where infrastructure improvements are non-contiguous to the approved development and related to traffic, water, or sewer are required to be installed at a developer's expense pursuant to a development approval, then that original developer shall be reimbursed a proportional share of that infrastructure cost by each developer of a subsequent development project that impacts or utilizes that infrastructure. The amount of the reimbursement shall be a sum equal to the proportional impact or utilization, expressed in a percentage, that each new development has on the infrastructure as a whole taking into consideration the impact of the original development.

(b) The proportional impact under subsection (a) of this section of each new development shall be calculated by a professional engineer licensed under Chapter 89C of the General Statutes. The sum attributable to each new development shall, at the time of the development approval for that new development, be remitted to the local government having development approval jurisdiction over the new development. That local government shall remit this sum to the original developer within 30 days of its receipt from the new developer.

(c) Reimbursement under subsection (a) of this section shall not apply in the following instances:

(1) The proportional impact or utilization of a new development on the infrastructure is one percent (1%) or less.

(2) The original developer has, under the provisions of this section, been fully reimbursed for the cost of the infrastructure less the proportional share of the cost attributable to the original developer's development.

(3) The required infrastructure improvements are related to traffic and are already contained in a schedule of transportation improvement projects approved by the Board of Transportation under G.S. 143-350(f)(4) and funds have been appropriated for those required infrastructure improvements.

(d) Where the required infrastructure improvements to be installed by the original developer under subsection (a) of this section contain water or sewer lines dedicated to the public, in addition to the reimbursement under that subsection, that developer shall be entitled to one half of the fee collected by the local government to initially connect a parcel to that water or sewer line. The local government shall remit this sum to the original developer within 30 days of its receipt of that initial connection fee. Reimbursement under this subsection only applies to the initial connection of each parcel to the water or sewer line and shall cease upon the earlier of the following:

(1) When there are no further initial connections available to those water or sewer lines.

(2) When the original developer has, under either subsection (a) or this subsection, been fully reimbursed for the cost of the water or sewer lines.

(3) Ten years from the date of the development approval permitting the water or sewer lines."

**SECTION 4.** G.S. 160D-804(c)(1) reads as rewritten:

"(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. No local government development regulation may require the design and construction standards of

1 streets and rights-of-way to exceed the standards established pursuant to  
2 G.S. 136-102.6."

3 **SECTION 5.** If G.S. 143-138, as amended by Section 2 of House Bill 489 of the  
4 2021 Regular Session of the General Assembly, becomes law, there is appropriated from the  
5 General Fund of the State to the North Carolina Building Code Council the sum of twenty  
6 thousand dollars (\$20,000) in nonrecurring funds for the 2021-2022 fiscal year to be used by the  
7 North Carolina Building Code Council to implement the provisions of that section.

8 **SECTION 6.** This act is effective October 1, 2021, and applies to development permit  
9 applications submitted on or after that date.