

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS15204-LD-3A (09/05)

Short Title: Mining Permit Application Review by Locals.

(Public)

Sponsors: Senator Snow.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A DETERMINATION OF WHETHER A PROPOSED MINING PERMIT, OR A PROPOSED MODIFICATION TO A MINING PERMIT TO ADD LAND TO THE PERMITTED AREA, IS CONSISTENT WITH LOCAL ZONING REGULATIONS AND ORDINANCES PRIOR TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TAKING FURTHER ACTION UPON THE APPLICATION FOR THE PERMIT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 74-65 reads as rewritten:

"§ 74-65. **Effect of mining operation on local zoning ~~regulations~~regulations; determination to be made prior to consideration of permit application.**

(a) Rule. – No provision of this Article shall be construed to supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina, except insofar as a provision of ~~said~~the regulation or ordinance is in direct conflict with this Article.

(b) Procedure for Determination. – An applicant for a mining permit under this Article or for a modification of a mining permit to add land to the permitted area shall request each local government having jurisdiction over any part of the land subject to the permit to issue a determination as to whether the local government has in effect any zoning regulation or ordinance applicable to the mining operation and whether the proposed mining operation would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the proposed mining operation is inconsistent with a zoning regulation or ordinance, shall include a copy of the regulation or ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when it is submitted to the Department. The Department shall not act upon an application for a mining permit under this Article until it has received a determination from each local government requested to make a determination by the applicant. Unless the local government makes a subsequent determination of consistency with all zoning regulations and ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited regulations or ordinances, the Department



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1 shall attach as a condition of the permit a requirement that the applicant, prior to construction  
2 or operation of the mining operation under the permit, comply with all lawfully adopted local  
3 zoning regulations and ordinances, including those cited in the determination, that apply to the  
4 mining operation at the time of construction or operation of the mining operation. If a local  
5 government fails to submit a determination to the Department as provided by this subsection  
6 within 15 days after receipt of the request, the Department may proceed to consider the permit  
7 application without regard to local zoning regulation and ordinances. This subsection shall not  
8 limit any opportunity a local government has to comment on a permit application under any  
9 other law or rule."

10           **SECTION 2.** This act is effective when it becomes law and applies to any  
11 application for a permit that is submitted on or after that date.