

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 721
Committee Substitute Favorable 4/22/15

Short Title: Subdivision Ordinance/Land Develop. Changes.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS RELATED TO LAND DEVELOPMENT.
3 The General Assembly of North Carolina enacts:

4 SECTION 1.(a) G.S. 160A-372 reads as rewritten:
5 "§ 160A-372. Contents and requirements of ordinance.

6 (a) A subdivision control ordinance may provide for the orderly growth and
7 development of the city; for the coordination of transportation networks and utilities within
8 proposed subdivisions with existing or planned streets and highways and with other public
9 facilities; for the dedication or reservation of recreation areas serving residents of the
10 immediate neighborhood within the subdivision or, alternatively, for provision of funds to be
11 used to acquire recreation areas serving residents of the development or subdivision or more
12 than one subdivision or development within the immediate area, and rights-of-way or
13 easements for street and utility purposes including the dedication of rights-of-way pursuant to
14 G.S. 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a manner
15 that will avoid congestion and overcrowding and will create conditions that substantially
16 promote public health, safety, and the general welfare.

17 (b) The ordinance may require a plat be prepared, approved, and recorded pursuant to
18 the provisions of the ordinance whenever any subdivision of land takes place. The ordinance
19 may include requirements that plats show sufficient data to determine readily and reproduce
20 accurately on the ground the location, bearing, and length of every street and alley line, lot line,
21 easement boundary line, and other property boundaries, including the radius and other data for
22 curved property lines, to an appropriate accuracy and in conformance with good surveying
23 practice.

24 (c) The ordinance may provide for the more orderly development of subdivisions by
25 requiring the construction of community service facilities in accordance with municipal plans,
26 policies, and standards. To assure compliance with these and other ordinance requirements, the
27 ordinance may provide for performance guarantees to assure successful completion of required
28 ~~improvements.~~ improvements at the time the plat is recorded as provided in subsection (b) of
29 this section. ~~If a performance guarantee is required, the city shall provide a range of options of~~
30 ~~types of performance guarantees, including, but not limited to, surety bonds or letters of credit,~~
31 ~~from which the developer may choose.~~ For any specific development, the type of performance
32 guarantee ~~from the range specified by the city~~ shall be at the election of the developer.

33 (d) The ordinance may provide for the reservation of school sites in accordance with
34 comprehensive land use plans approved by the council or the planning board. In order for this
35 authorization to become effective, before approving such plans the council or planning board
36 and the board of education with jurisdiction over the area shall jointly determine the specific



1 location and size of any school sites to be reserved, which information shall appear in the
2 comprehensive land use plan. Whenever a subdivision is submitted for approval which includes
3 part or all of a school site to be reserved under the plan, the council or planning board shall
4 immediately notify the board of education and the board of education shall promptly decide
5 whether it still wishes the site to be reserved. If the board of education does not wish to reserve
6 the site, it shall so notify the council or planning board and no site shall be reserved. If the
7 board of education does wish to reserve the site, the subdivision shall not be approved without
8 such reservation. The board of education shall then have 18 months beginning on the date of
9 final approval of the subdivision within which to acquire the site by purchase or by initiating
10 condemnation proceedings. If the board of education has not purchased or begun proceedings
11 to condemn the site within 18 months, the subdivider may treat the land as freed of the
12 reservation.

13 (e) The ordinance may provide that a developer may provide funds to the city whereby
14 the city may acquire recreational land or areas to serve the development or subdivision,
15 including the purchase of land that may be used to serve more than one subdivision or
16 development within the immediate area. All funds received by the city pursuant to this
17 paragraph shall be used only for the acquisition or development of recreation, park, or open
18 space sites. Any formula enacted to determine the amount of funds that are to be provided
19 under this paragraph shall be based on the value of the development or subdivision for property
20 tax purposes. The ordinance may allow a combination or partial payment of funds and partial
21 dedication of land when the governing body of the city determines that this combination is in
22 the best interests of the citizens of the area to be served.

23 (f) The ordinance may provide that in lieu of required street construction, a developer
24 may be required to provide funds that the city may use for the construction of roads to serve the
25 occupants, residents, or invitees of the subdivision or development and these funds may be used
26 for roads which serve more than one subdivision or development within the area. All funds
27 received by the city pursuant to this paragraph shall be used only for development of roads,
28 including design, land acquisition, and construction. However, a city may undertake these
29 activities in conjunction with the Department of Transportation under an agreement between
30 the city and the Department of Transportation. Any formula adopted to determine the amount
31 of funds the developer is to pay in lieu of required street construction shall be based on the trips
32 generated from the subdivision or development. The ordinance may require a combination of
33 partial payment of funds and partial dedication of constructed streets when the governing body
34 of the city determines that a combination is in the best interests of the citizens of the area to be
35 served.

36 (g) For purposes of this section, all of the following shall apply with respect to
37 performance guarantees:

38 (1) The term "performance guarantee" shall mean any of the following forms of
39 guarantee:

40 a. Surety bond issued by any company authorized to do business in this
41 State.

42 b. Letter of credit issued by any financial institution licensed to do
43 business in this State.

44 c. Other form of guarantee of equivalent security than a surety bond or
45 letter of credit.

46 (2) The performance guarantee shall be returned upon the completion of the
47 improvements for which the performance guarantee is being required. If the
48 improvements are not complete, the performance guarantee shall be
49 extended, and the form of such guarantee shall remain at the election of the
50 developer.

1 (3) The amount of the performance guarantee shall not exceed one hundred
2 twenty-five percent (125%) of the reasonably estimated cost of completion
3 at the time the performance guarantee is issued.

4 (4) The performance guarantee shall only be used for completion of the required
5 improvements shown on the plat and not for repairs or maintenance after
6 completion."

7 **SECTION 1.(b)** G.S. 153A-331 reads as rewritten:

8 "**§ 153A-331. Contents and requirements of ordinance.**

9 (a) A subdivision control ordinance may provide for the orderly growth and
10 development of the county; for the coordination of transportation networks and utilities within
11 proposed subdivisions with existing or planned streets and highways and with other public
12 facilities; for the dedication or reservation of recreation areas serving residents of the
13 immediate neighborhood within the subdivision and of rights-of-way or easements for street
14 and utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or
15 G.S. 136-66.11; and for the distribution of population and traffic in a manner that will avoid
16 congestion and overcrowding and will create conditions that substantially promote public
17 health, safety, and the general welfare.

18 (b) The ordinance may require that a plat be prepared, approved, and recorded pursuant
19 to the provisions of the ordinance whenever any subdivision of land takes place. The ordinance
20 may include requirements that the final plat show sufficient data to determine readily and
21 reproduce accurately on the ground the location, bearing, and length of every street and alley
22 line, lot line, easement boundary line, and other property boundaries, including the radius and
23 other data for curved property lines, to an appropriate accuracy and in conformity with good
24 surveying practice.

25 (c) A subdivision control ordinance may provide that a developer may provide funds to
26 the county whereby the county may acquire recreational land or areas to serve the development
27 or subdivision, including the purchase of land that may be used to serve more than one
28 subdivision or development within the immediate area.

29 (d) The ordinance may provide that in lieu of required street construction, a developer
30 may provide funds to be used for the development of roads to serve the occupants, residents, or
31 invitees of the subdivision or development. All funds received by the county under this section
32 shall be transferred to the municipality to be used solely for the development of roads,
33 including design, land acquisition, and construction. Any municipality receiving funds from a
34 county under this section is authorized to expend such funds outside its corporate limits for the
35 purposes specified in the agreement between the municipality and the county. Any formula
36 adopted to determine the amount of funds the developer is to pay in lieu of required street
37 construction shall be based on the trips generated from the subdivision or development. The
38 ordinance may require a combination of partial payment of funds and partial dedication of
39 constructed streets when the governing body of the county determines that a combination is in
40 the best interest of the citizens of the area to be served.

41 (e) The ordinance may provide for the more orderly development of subdivisions by
42 requiring the construction of community service facilities in accordance with county plans,
43 policies, and standards. To assure compliance with these and other ordinance requirements, the
44 ordinance may provide for performance guarantees to assure successful completion of required
45 ~~improvements.~~ improvements at the time the plat is recorded as provided in subsection (b) of
46 this section. If a performance guarantee is required, the county shall provide a range of options
47 of types of performance guarantees, including, but not limited to, surety bonds or letters of
48 credit, from which the developer may choose. For any specific development, the type of
49 performance guarantee from the range specified by the county shall be at the election of the
50 developer.

1 (f) The ordinance may provide for the reservation of school sites in accordance with
2 comprehensive land use plans approved by the board of commissioners or the planning board.
3 For the authorization to reserve school sites to be effective, the board of commissioners or
4 planning board, before approving a comprehensive land use plan, shall determine jointly with
5 the board of education with jurisdiction over the area the specific location and size of each
6 school site to be reserved, and this information shall appear in the plan. Whenever a
7 subdivision that includes part or all of a school site to be reserved under the plan is submitted
8 for approval, the board of commissioners or the planning board shall immediately notify the
9 board of education. The board of education shall promptly decide whether it still wishes the site
10 to be reserved and shall notify the board of commissioners or planning board of its decision. If
11 the board of education does not wish the site to be reserved, no site may be reserved. If the
12 board of education does wish the site to be reserved, the subdivision may not be approved
13 without the reservation. The board of education must acquire the site within 18 months after the
14 date the site is reserved, either by purchase or by exercise of the power of eminent domain. If
15 the board of education has not purchased the site or begun proceedings to condemn the site
16 within the 18 months, the subdivider may treat the land as freed of the reservation.

17 (g) Any performance guarantee shall comply with G.S. 160A-372(g)."

18 **SECTION 1.(c)** G.S. 160A-400.25 is amended by adding a new subsection to read:

19 "(e) Any performance guarantees under the development agreement shall comply with
20 G.S. 160A-372(g)."

21 **SECTION 1.(d)** G.S. 153A-349.6 is amended by adding a new subsection to read:

22 "(e) Any performance guarantees under the development agreement shall comply with
23 G.S. 160A-372(g)."

24 **SECTION 2.(a)** G.S. 160A-417 is amended by adding a new subsection to read:

25 "(e) No city may withhold issuing a building permit or certificate of occupancy under
26 this section to compel, with respect to another property or parcel, completion of work for a
27 separate permit or compliance with land use regulations under this Article."

28 **SECTION 2.(b)** G.S. 153A-357 is amended by adding a new subsection to read:

29 "(f) No county may withhold issuing a building permit or certificate of occupancy under
30 this section to compel, with respect to another property or parcel, completion of work for a
31 separate permit or compliance with land use regulations under this Article."

32 **SECTION 3.** This act becomes effective October 1, 2015, and applies to
33 performance guarantees issued on or after that date.