

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 721

Short Title: Subdivision Ordinance/Land Develop. Changes. (Public)

Sponsors: Representatives Bryan, Stam, Bishop, and Bradford (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary IV.

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. ~~If a performance guarantee is required, the city shall provide a range of options~~
29 ~~of types of performance guarantees, including, but not limited to, surety bonds or letters of~~
30 ~~credit, from which the developer may choose.~~ For any specific development, the type of
31 performance guarantee ~~from the range specified by the city~~ shall be at the election of the
32 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



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

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

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

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

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

40 a. Surety bond issued by any company doing business in this State that
41 is among those listed annually as acceptable sureties on federal bonds
42 in Circular 570 of the U.S. Department of Treasury.

43 b. Letter of credit issued by any bank licensed to do business in this
44 State or any other state.

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

47 (2) The length of the performance guarantee shall not be more than six months
48 longer than the issuance of any final inspection approval for which the
49 performance guarantee is being required.

1 (3) The amount of the performance guarantee shall not exceed one hundred ten
2 percent (110%) of the cost of completion at the time the performance
3 guarantee is issued.

4 (4) The performance guarantee shall be used for completion of the development,
5 if needed, and not for repairs or maintenance after completion."

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

7 "**§ 153A-331. Contents and requirements of ordinance.**

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

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

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

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

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

49 (f) The ordinance may provide for the reservation of school sites in accordance with
50 comprehensive land use plans approved by the board of commissioners or the planning board.
51 For the authorization to reserve school sites to be effective, the board of commissioners or

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

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

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

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

18 **SECTION 1.(d)** G.S. 153A-349.6 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 2.(a)** G.S. 113A-61 is amended by adding a new subsection to read:

22 "(e) Any performance guarantee required under this section shall comply with
23 G.S. 160A-372(g)."

24 **SECTION 2.(b)** G.S. 143-214.7A is amended by adding a new subsection to read:

25 "(g) Any performance guarantee required under this section shall comply with
26 G.S. 160A-372(g)."

27 **SECTION 3.(a)** G.S. 160A-417 is amended by adding a new subsection to read:

28 "(e) No city may withhold issuing a permit under this section to compel, with respect to
29 another property or parcel, completion of work for a separate permit or compliance with land
30 use regulations under this Article."

31 **SECTION 3.(b)** G.S. 153A-357 is amended by adding a new subsection to read:

32 "(f) No county may withhold issuing a permit under this section to compel, with respect
33 to another property or parcel, completion of work for a separate permit or compliance with land
34 use regulations under this Article."

35 **SECTION 4.** This act becomes effective October 1, 2015, and applies to
36 performance guarantees required on or after that date.