



SENATE BILL 143: Pinehurst-Limit Commercial Devel. Moratoria.

2023-2024 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: April 26, 2023
Introduced by: Sen. McInnis	Prepared by: Brad Krehely
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *Senate Bill 143 would (1) create additional hearings for commercial development moratoria in the Village of Pinehurst; (2) permit the Village of Pinehurst's governing board to impose a single 60-day moratorium on commercial development within its corporate limits or ETJ; and (3) provide that no part of the area included in the initial moratorium could be included in any subsequent moratoria unless at least 5 years have passed since the initial moratorium.*

CURRENT LAW: North Carolina local governments have authority under G.S. 160D-107 to adopt ordinances imposing temporary moratoria on development approvals except moratoria for the purpose of developing or amending residential development regulations. Moratoria must be reasonable in duration and may not extend beyond the time needed to address the condition warranting its imposition. G.S. 160D-107(a).

Except in cases of imminent threats to public safety, prior to adopting a development moratoria ordinance, local governments must conduct a legislative public hearing after first publishing a notice of hearing at least seven days prior to the hearing. Moratoria 61 days or longer have additional public notice requirements. G.S. 160D-107(b).

Absent an imminent threat to public health or safety, the following projects are exempt from moratoria when:

- A valid building permit has been issued.
- A special use permit application has been accepted as complete.
- A site-specific statutory right has vested.
- A common law development right has vested.
- A preliminary or final subdivision plats that have been accepted for review. G.S. 160D-107(c).

G.S. 160D-107(d) requires the development moratoria ordinance to include, at the time of adoption, each of the following statements:

- (1) A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.
- (2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- (3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

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(4) A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

Once adopted, the development moratoria ordinance may not be renewed or extended unless (i) the local government has taken all reasonable steps to address the problems necessitating imposition of the moratorium and (ii) new facts and conditions warrant the extension. The ordinance renewing or extending the moratorium must include, at the time of adoption, the findings set forth in G.S. 160D-107(d)(1)-(4) and must set forth the new facts or conditions warranting the extension. G.S. 160D-107(e).

BILL ANALYSIS: Senate Bill 143 would create additional hearings for commercial development moratoria in the Village of Pinehurst. Before adopting a development regulation imposing a commercial development moratorium within the Village's corporate limits or ETJ, the Village would be required to hold (i) two legislative hearings on different dates wherever legislative hearings are usually held and (ii) two legislative hearings on different dates at a location within the area of the corporate limits or ETJ affected by the moratorium. All four hearings would be required to be held within 30 days of the final hearing.

The bill would permit the Village of Pinehurst's governing board to impose a single, 60-day moratorium on commercial development within its corporate limits or ETJ. No part of the area included in the initial moratorium could be included in any subsequent moratoria unless at least 5 years have passed since the initial moratorium. This provision would not be intended to limit the ability of the governing board to address cases involving an imminent and substantial threat to public health or safety.

Any moratoria on commercial development currently imposed by the Village would be void as of the effective date of the act. No portion of the corporate limits or ETJ included in the current moratorium could be included in any subsequent moratorium for a period of 5 years from the effective date of the act.

EFFECTIVE DATE: The act would apply to the Village of Pinehurst only. Except as otherwise provided, it would be effective when it became law and would apply to moratoria imposed on or after that date.

*Billy Godwin, Staff Attorney, contributed to the drafting of this summary.