



2023-2024 General Assembly

SENATE BILL 607: Regulatory Reform Act of 2024, Sec. 12: Prohibit Public Water and Sewer Systems from Imposing Unauthorized Conditions and Implementing Preference Systems for Allocating Service for Residential Development

Committee:
Introduced by:
Analysis of: Sec. 12 of S.L. 2024-45

Date: August 19, 2024
Prepared by: Aaron McGlothlin
Staff Attorney

OVERVIEW: Section 12 of S.L. 2024-45 prohibits local government units from requiring an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions include, without limitation, any of the following:

- Payment of taxes, impact fees or other fees, or contributions to any fund.
- Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).
- Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

This section also prohibits local government units from implementing a scoring or preference system to allocate water or sewer service among applicants for water or sewer service for residential development that does any of the following:

- Includes consideration of building design elements, as defined in G.S. 160D-702(b).
- Sets a minimum square footage of any structures subject to regulation under the North Carolina Residential Code.
- Requires a parking space to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.
- Requires additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code.

This section became effective July 9, 2024.

BACKGROUND/ EXISTING LAW:

Cities and counties can adopt zoning and development regulations as authorized under Chapter 160D of the General Statutes, subject to various limitations that include the following:

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- G.S. 160D-702(b) prohibits cities and counties from regulating "building design elements"¹ for residential structures, with exceptions for safety regulations, floodplain management regulations, and regulations for structures that are historic sites or manufactured housing. Property owners can voluntarily consent to building design element requirements as part of obtaining a zoning amendment or zoning, subdivision, or development approval.
- G.S. 160D-702(c) prohibits cities and counties from adopting zoning or development regulations that: (i) set a minimum square footage requirement for residential structures; (ii) require a parking space to be larger than 9 feet by 20 feet long unless the parking space is designed for handicap, parallel, or diagonal parking; or (iii) require additional entrances into a residential subdivision that are not in compliance with the number of entrance requirements for residential subdivisions set forth in the North Carolina Fire Code.

Article 8, Chapter 162A of the General Statutes authorizes local government units to impose system development fees on new development within its territorial jurisdiction to fund certain capital costs attributable to that new development.

For purposes of this fee, "local government units" are counties, cities, sanitary districts, water and sewer authorities, metropolitan water districts, metropolitan sewerage districts, metropolitan water and sewerage districts, and county water and sewer districts.

BILL ANALYSIS:

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- Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

This section also prohibits local government units from implementing a scoring or preference system to allocate water or sewer service among applicants for water or sewer service for residential development that does any of the following:

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¹ "Building design elements" include exterior building color; type, or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors; the number and type of rooms; and the interior layout of rooms. The phrase "building design elements" specifically excludes the height, bulk, orientation, or location of a structure on a zoning lot; the use of buffering or screening to minimize visual impacts or mitigate the impacts of light or noise; and regulations governing permitted uses of land.

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developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code.

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