

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 562

Short Title: Addressing the Workforce Housing Crisis. (Public)

Sponsors: Representatives Bradford, Zenger, and Clemmons (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government - Land Use, Planning and Development, if favorable, Finance,
if favorable, Rules, Calendar, and Operations of the House

April 5, 2023

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH WORKFORCE HOUSING DEVELOPMENTS TO ADDRESS
CRITICAL HOUSING SHORTAGES FOR FIREFIGHTERS, LAW ENFORCEMENT
OFFICERS, TEACHERS, NURSES, FIRST RESPONDERS, AND OTHER VITAL
WORKERS AND FIRST-TIME HOMEBUYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160D-102 reads as rewritten:

"§ 160D-102. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the following meanings indicated when used in this Chapter:

(1) Administrative decision. – Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

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(33a) Workforce housing development. – A development that meets the criteria for approval established in G.S. 160D-802.1.

(33b) Workforce housing improved lot. – A lot that is subdivided, developed with an owner-occupied dwelling unit, and conveyed to a qualifying person, as specified in G.S. 160D-802.1.

(34) Zoning map amendment or rezoning. – An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by



zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

- (35) Zoning regulation. – A zoning regulation authorized by Article 7 of this Chapter."

SECTION 2. G.S. 160D-702 reads as rewritten:

"§ 160D-702. Grant of power.

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

- (1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.
- (2) The structures are located in an area designated as a historic district on the National Register of Historic Places.
- (3) The structures are individually designated as local, State, or national historic landmarks.
- (4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- (5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
- (6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means 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, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning or other development regulation shall not do any of the following:

- (1) Set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.
- (2) Set a maximum parking space size larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.

(d) Except as provided in G.S. 160D-802.1, a local government may not implement or enforce a zoning regulation for a development that qualifies as a workforce housing development, including, without limitation, development standards regulating lot widths, setbacks, density, or building design elements."

SECTION 3. Article 8 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-802.1. Workforce housing developments.

(a) Notwithstanding any provision of law or any ordinance or regulation to the contrary, a development that meets the criteria for a workforce housing development provided in this section shall be permitted in any zoning district and in any territorial area of a local government and made subject only to the land development regulations set forth in this section.

(b) A local government shall, upon submission of an application for development approval by a landowner, issue a development approval as a workforce housing development for a development meeting the following criteria:

- (1) The development is at least 10 acres.
- (2) No fewer than twenty percent (20%) of the lots in the development will be improved with dwelling units as defined by the North Carolina Residential Code for One- and Two-Family Dwellings and conveyed as workforce housing improved lots. If a building is constructed on the remaining lots in the development, it must (i) conform with the North Carolina Residential Code for One- and Two-Family Dwellings or (ii) be an accessory building or accessory structure, as defined in the North Carolina Uniform Residential Building Code.
- (3) At least fifty percent (50%) of the workforce housing improved lots in the development will be conveyed to owner-occupants that qualify for lender financing based upon an income amount that does not exceed eighty percent (80%) of the most recently published area median income (AMI), as provided by the federal Department of Housing and Urban Development. The remaining workforce housing improved lots may be conveyed to owner-occupants that qualify for lender financing based upon an income amount that does not exceed one hundred percent (100%) of the most recently published AMI. For the purposes of this section, the AMI for the area where the majority of the development is situated shall be used.
- (4) Workforce housing improved lots will be conveyed subject to the following conditions:
 - a. The owner-occupant will move into the dwelling within 60 days of the conveyance.
 - b. The owner-occupant will maintain the dwelling as the principal residence for at least a majority of a calendar year after moving into the dwelling. After the first full year of owner-occupancy, the owner-occupancy requirement is extinguished.
 - c. The owner-occupant has either of the following:
 1. A greater than fifty percent (50%) ownership interest in the lot.

2. A beneficiary of a trust where the primary purpose of the trust is for estate planning and where the settlors of the trust have placed the lot into the trust.

d. The lot will be used solely for single family residential purposes. For the purposes of this sub-subdivision, the term "family" means the person who owns the lot and (i) any persons living together with the owner that are related by blood, adoption, or marriage or (ii) no more than three other persons who are not related to the owner. Single family residential use does not include fractional ownership or timeshares.

(c) Unless geographically impossible, a local government may require that a workforce housing development provide and maintain a vegetative buffer zone not exceeding 20 feet in width, including existing trees and shrubs, along the perimeter of the development between the development and any adjoining properties. A local government may not impose any type of vegetation requirement, including the removal, preservation, or use of trees and shrubs, in any area of the workforce housing development beyond the vegetative buffer described in this subsection.

(d) A local government may require that a workforce housing development be identified on a preliminary site plan or plat and that a permit application be administratively approved by the local government by its planning staff or a planning board subject only to the criteria provided in subsection (b) of this section and a local government may impose a reasonable fee for this purpose, not to exceed one hundred dollars (\$100.00). Notwithstanding any provision of law to the contrary, a local government receiving a permit application submitted pursuant to this subsection shall approve or deny the application within 45 days of receipt. During the initial 45-day period, the local government shall communicate with the applicant to resolve questions and issues with the application. If the local government requests additional information or requires that the application be resubmitted with changes, the local government shall review the requested information or resubmitted application and issue an approval or denial within 15 days from the receipt of the requested information or resubmitted application. If the local government does not issue a written approval or denial within 60 days of the initial application submission, the application shall be deemed approved. A local government may require a developer to record a declaration describing the limitations imposed upon a workforce housing development described by this section. Nothing in this section shall limit a developer from imposing restrictive covenants or other restrictions upon lots in the development.

(e) A local government may restrict the issuance of certificates of occupancy for the development to ensure that the workforce housing improved lots are constructed in a ratio roughly proportional to the other lots in the development. The local government may require a builder to certify that a purchaser of a workforce housing improved lot qualifies pursuant to this section.

(f) Notwithstanding any provision of law to the contrary, a local government may not require a connection to a public utility operated by the local government, nor may a local government deny an application to serve the workforce housing development with the extension or connection of a public utility operated by the local government, unless (i) the provision of service would exceed capacity limits established pursuant to applicable statutes or (ii) the nearest point of the existing public utility infrastructure is more than 3 miles from the development. If public utility infrastructure is denied due to lack of capacity or if either water or wastewater infrastructure is not contiguous to the workforce housing development, then the developer may provide the unavailable service to the development by private system under applicable law. A local government may not charge a higher rate to residents in a workforce housing development than the local government charges to other residential customers in its territorial area. For the purposes of this subsection, the term "local government" includes a city, county, sanitary district,

1 water and sewer authority, and any applicable interlocal agreement between a city or county and
2 a water and sewer authority.

3 (g) Nothing in this section shall prohibit a local government from enforcing any of the
4 following:

5 (1) Article 11 or Article 12 of this Chapter.

6 (2) With the exception of G.S. 160D-921, any local development regulation
7 described in Part 2 of Article 9 of this Chapter, subject to the limitations in
8 subdivision (h)(1) of this section.

9 (3) With the exception of dedications under G.S. 136-66.10 or G.S. 136-66.11,
10 any regulations providing for the dedication of rights-of-way or easements for
11 street or utility purposes or road or utility construction performance standards.

12 (4) G.S. 160D-804.1.

13 (h) A local government may not do any of the following:

14 (1) Implement or enforce an ordinance or regulation that is more restrictive than,
15 or that exceeds requirements necessary to comply with, federal or State law.

16 (2) Impose impact fees or water or wastewater system development fees on
17 workforce housing improved lots.

18 (i) A person aggrieved by the failure of a local government to comply with this section
19 may apply for an order in superior court compelling compliance by the local government. An
20 action brought pursuant to this subsection, and any subsequent appeals, shall be given preference
21 over other matters on the court's calendar. The provisions of G.S. 6-21.7 shall apply to an action
22 brought pursuant to this subsection. The remedies provided in this subsection shall supplement
23 any other remedy available at law.

24 (j) Nothing in this section shall be deemed to establish, alter, or expand a local
25 government's authority to enact or enforce owner-occupancy development standards, rent
26 control, or other standards related to affordable housing."

27 **SECTION 4.** This act becomes effective October 1, 2023.