

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 06/03/2008

Ordinance Amending the Land Development Code (LDC-9-508)

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety and welfare by amending the Land Development Code to recognize the Cape Fear Public Utility Authority as the utility provider for water and sewer services within the city.

THEREFORE, BE IT ORDAINED:

Section 1. Subsection 18-60(d) of the Wilmington City Code is hereby amended to read:

"(d) *Infrastructure Improvements* . Where required to satisfy the city's or Cape Fear Public Utility Authority's level of service standards or technical standards, approval of site plans shall be conditioned to include requirements that street and utility, or other improvements be made to the same extent as required by Article 7, Subdivision Regulations. The approval may require payment in lieu of the dedication of property and rights-of-way or construction of improvements to the same extent as required by this chapter. This provision shall not apply to site plans for individual detached, single- and two-family units to be constructed on previously subdivided lots. This provision shall not apply to additions of less than five (5) percent of gross floor area on an annual basis unless such addition causes an increase in the off-street parking requirement or a change in occupancy as occupancy is defined by the North Carolina State Building Code."

Section 2. Section 18-69 of the Wilmington City Code is hereby amended to read:

"Section 18-69. Required improvements.

After approval of the preliminary plan, the necessary construction permits shall be obtained from the city engineer and the Cape Fear Public Utility Authority for the installation of the required

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improvements in compliance with Article 7, Division II of this chapter. After installation of the improvements in accordance with the preliminary plan by the subdivider, inspection and approval shall be secured from the City Manager prior to submission of the final plat. The final plat may be submitted prior to completion of required improvements under conditions as outlined in Article 7, Division II, Sec. 18-366 and under any applicable condition as outlined in Sec. 18-68 of this division."

Section 3. Subsection 18-70(a)(4) of the Wilmington City Code is hereby amended to read:

"(4) When all public and/or private improvements have been installed, inspected and approved by the city in accordance with subparagraphs (2) and (3) above except for any extensions of water and/or sewer lines necessary to serve the subdivision ~~which that the city Cape Fear Public Utility Authority has elected to install and for which the subdivider has deposited with the city Cape Fear Public Utility Authority~~ the full estimated cost of the extensions in accordance with the ~~city's water and sewer extension~~ policy. Division II of Article 7 of this chapter."

Section 4. Section 18-230 of the Wilmington City Code is hereby amended to read:

"Section 18-230. Conditions to approval of petition.

In approving a petition for the reclassification of property to a conditional zoning district, the planning commission may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the city, Cape Fear Public Utility Authority, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the City Council. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification."

Section 5. Subsection 18-340(c)(4) of the Wilmington City Code is hereby amended to read:

"(4) If a temporary use is to be installed for six (6) months or more, the facility shall be connected to city public water and sanitary sewer in accordance with the ordinances and policies of the City of Wilmington provided by the Cape Fear Public Utility Authority. Otherwise,

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approved portable toilets shall be provided."

Section 6. Subsection 18-340(c)(8) d. ii. of the Wilmington City Code is hereby amended to read:

"ii. All manufactured housing units shall be connected to ~~city utilities~~ for public water and sanitary sewer provided by the Cape Fear Public Utility Authority."

Section 7. Section 18-347 of the Wilmington City Code is hereby amended to read:

"Section 18-347. No service until full compliance.

The installation, construction and extension of public water and sanitary sewer service shall be in accordance with the approved plans and specifications and shall comply with the requirements of the city, including zoning, subdivision and building controls and the requirements of the Cape Fear Public Utility Authority.

No water or sanitary sewer system, drainage system, ~~sanitary sewer collection system~~, street or other public right-of-way shall be accepted in accordance with Sec. 18-72(a)(5) or be maintained by the city or Cape Fear Public Utility Authority, nor shall any permit be issued nor any service fee accepted, except as provided in Sec. 18-366. *Standards; surety*, of this article, by an administrative agent or department of the city for the construction of any building requiring a permit or fee, upon any land concerning which a final plat is required to be approved, unless and until there is full compliance with the requirements set forth in this chapter."

Section 8. Subsection 18-351(b)(4) of the Wilmington City Code is hereby amended to read:

"(4) Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build or operate any public facilities or utilities ~~which are not in existence as of the date of the acceptance of the lands and facilities~~. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to ~~the city's~~ water, sanitary sewer, storm sewer, drainage or other public utilities."

Section 9. Subsection 18-366(a)(3) of the Wilmington City Code is hereby amended to read:

"(3) The design standards as specified in Division III of this article and the adopted standards of the Cape Fear Public Utility Authority."

Section 10. Subsection 18-369(e) of the Wilmington City Code is hereby amended to read:

"(e) *Deeds of easement*. Easements to be dedicated to the City of Wilmington or the Cape Fear Public Utility Authority for the operation, use, replacement and maintenance of public utilities, including but not limited to water mains, sanitary sewer mains, storm drainage lines, and all appurtenances, together with the means of access to them, shall be dedicated for the public use by

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a separate deed of easement. If such easements are correctly and adequately described on the final subdivision plat, the easements may be described in the separate deed of easement by reference to the recorded final plat. The City Engineer shall ascertain that the easements are correctly and adequately described on the final plat. The deed of easement shall be in the format as determined and approved by the City Attorney. All utilities within the easement to be dedicated shall be constructed to the specifications of the city and the Cape Fear Public Utility Authority, and will remain the property of the subdivider until officially accepted for operation, use and maintenance as part of the city's and/or Cape Fear Public Utility Authority's system. Official acceptance shall be by resolution of the City Council. The deed of easement shall be recorded at the New Hanover County Registry."

Section 11. Section 18-375 of the Wilmington City Code is hereby amended to read:

"Section 18-375. Sewage disposal.

The subdivider shall be required to connect to the sewage system of the ~~City of Wilmington~~ Cape Fear Public Utility Authority in order to provide sewer service to every lot within the subdivision. Due consideration shall be given for existing or potential sewer lines for adjoining property in the design and arrangement of sewer lines for the proposed subdivision. Sewer connections shall be constructed under the supervision and approval of the City Manager and the Cape Fear Public Utility Authority."

Section 12. Section 18-382 of the Wilmington City Code is hereby amended to read:

"Section 18-382. Water supply.

The subdivider within the city limits shall connect to the water system of the ~~City of Wilmington~~ Cape Fear Public Utility Authority in order to provide water to every lot within the subdivision. Mains shall be constructed in accordance with city Cape Fear Public Utility Authority standards and policies. Water connections shall be constructed under the supervision and approval of the City Manager and the Cape Fear Public Utility Authority."

Section 13. Section 18-398. Applicability of minimum design standards of the Wilmington City Code is hereby amended by deleting subsections (k) and (p) in their entirety.

Section 14. Subsection 18-421(b)(16) of the Wilmington City Code is hereby rewritten to read:

"(16) Any additional information which may be requested by the ~~public works~~ department City Manager, or the subdivision review board or the Cape Fear Public Utility Authority that will facilitate the review."

Section 15. Subsection 18-421(c)(1) d of the Wilmington City Code is hereby amended to read:

"d. The availability of water and/or sewer service to the lots in this subdivision is subject to the completion of certain water and/or sewer line extensions ~~by the city~~, and certificates of occupancy will not be issued for structures

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on such lots until such extensions are completed and accepted."

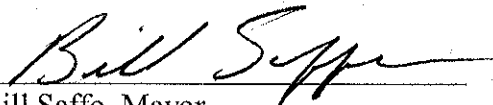
Section 16. Article 14 of Chapter 18 of the Wilmington City Code is hereby amended by repealing Division II, Water and Sewer Extensions, in its entirety.

Section 17: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

Section 18: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

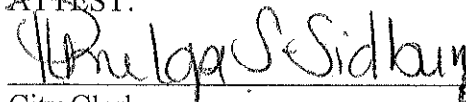
Section 19: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

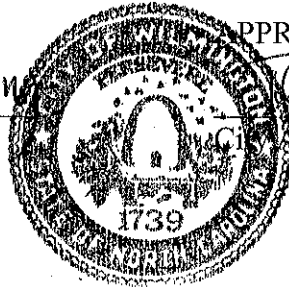
Section 20: That this ordinance shall be effective on and after July 1, 2008.


Bill Saffo, Mayor

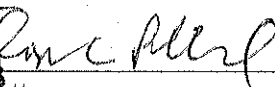
Adopted at a regular meeting
on June 3, 2008

ATTEST:


City Clerk



APPROVED AS TO FORM:


Attorney

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