BULLETIN ON LOCAL GOVERNMENTS' USE OF BUILDING CODE ENFORCEMENT FEES

The North Carolina Office of the State Fire Marshal ("OSFM") issues this Bulletin to remind the State's local governments of the law mandating that all fees that their building inspection departments collect in administering the North Carolina State Building Code ("Code") "shall be used to support the administration and operations of the building inspection department and for no other purposes."[1]

Local governments, including most North Carolina cities, towns, and villages, are authorized to enact and administer "development regulations," which include ordinances for planning, zoning, development, and other related services (together, "planning/zoning") and ordinances for enforcement of the Code.[2] Local governments can enforce their development regulations by charging fees.[3]

Prior to July 1, 2024, the law required that local governments use all fees they collected from development regulations for "no other purpose" besides the ongoing enforcement of those regulations.[4] For example, this former requirement meant that a local government had to reinvest not only all its Code inspection fees but also all its planning/zoning fees solely in the ongoing enforcement of the governments' development regulations.

Effective July 1, 2024, however, only those fees that a local government's building inspection department collects for Code enforcement are required to be reinvested in the building inspection department itself.[5] For example, if a building inspection department collects fees for commercial building permits and commercial certificates of appropriateness, then the local government has to reinvest those fees solely in the inspection department.

In North Carolina, citizens generally can sue a local government "to restrain the unlawful use of public funds."[6] OSFM therefore encourages local governments to consult with their attorneys to determine what Code-related fees collected by inspection departments must be reinvested in those departments versus what planning/zoning and other fees can be invested in other governmental operations.

---

[1] N.C. Gen. Stat. § 160D-402(d) (emphasis added).

[2] *See* N.C. Gen. Stat. §§ 160A-1(2) and 160D-102(5) (defining "city" to include most towns and villages); N.C. Gen. Stat. § 160D-102(14) (defining "development regulation"); N.C. Gen. Stat. § 160D-401(a) (authorizing local governments to adopt ordinances containing development regulations pursuant to N.C. Gen. Ch. 160D); N.C. Gen. Stat. § 160D-1102(a) (authorizing local governments to form Code inspection departments).

[3] N.C. Gen. Stat. § 160D-402(b) and (d).

[4] *See* S.L. 2024-49, § 1.3.(a).

[5] *Id.* (building inspection department fees "shall be used to support the administration and operations of the building inspection department and for no other purposes.").

[6] *Goldston v. State*, 361 N.C. 26, 33, 637 S.E.2d 876, 881 (2006) (*quoting Teer v. Jordan*, 232 N.C. 48, 51, 59 S.E.2d 359, 362 (1950)).

OFFICE OF STATE FIRE MARSHAL
1202 MAIL SERVICE CENTER | RALEIGH NC 27699 -1202 | TEL 919.647.0000 | FAX 866.851.6508 | NCOSFM.GOV