

**MEMORANDUM RE: NEW DISCLOSURE REQUIREMENTS FOR
DEVELOPMENT-RELATED FEES**

TO: Foxfire Village
FROM: The Brough Law Firm, PLLC
DATE: October 12, 2026
SUBJECT: New Development Fee Disclosure Legislation

Introduction

North Carolina municipalities must comply with new rules enacted by Session Law 2026-59, Sec. 49.(a)-(c) and codified under N.C.G.S. 160D-402.1. The applicable part of the Session Law is attached. These rules are best understood as a transparency measure: They apply to fee disclosure, annual reporting, and fee estimation; they do not apply to the authority for, amount of, or use of development-related fees. To comply. The changes will require substantial upfront and ongoing action by local governments.

Timing and Deadlines

The rule changes create one-time and rolling deadlines. The following is a summary of the new requirements, with more detailed information below:

- Effective August, 2026, local governments shall update their websites with certain development fee information.
- Within 30 days of any adoption that changes fees, rates, or fee calculation methods, local governments shall show the changes on their websites.
- Annually, each local government shall report to the Local Government Commission a fee schedule and certain information. The exact annual deadline is not provided.
- Within 10 business days of receiving a completed development application or materially altered development application, and before issuing development approval, local governments must provide applicants with certain financial disclosures.
- When issuing a development approval, local governments must provide a final fee statement stating exact fees due.

Summary of Rules and Recommended Local Government Action

Website publishing. Each local government must “prominently” display on its official website the current development-related fee schedule. The fee schedule must include:

- All current fees that the local government may collect under Chapter 160D; under Chapter 162A, Article 8; or development-related fees authorized by local act (*e.g.*, impact fees and facility fees);
- Data used to calculate the fee rates; and
- Methodologies used to calculate the fee rates.¹

¹ The rule change does not determine that fees with undocumented data and methodologies are invalid. If the basis for a fee cannot be ascertained, local governments should develop a basis using data and methodologies and update the fee amount if necessary.

Further, the fee schedule must designate which fees are applicable to “each project category and purpose.”² Whenever the published data changes, the fee schedule must be updated within 30 days of the change.

Accordingly, local governments should list their fees identified in this section, as well as the respective data and methodologies used to calculate those fees. That information should be compiled into a chart that shows which fees are applicable to which categories of projects. A process should be implemented to ensure that updates to information in the publication are added to the website within 30 days.

Local Government Commission Report. Each local government must send a report to the LGC that includes the current fee schedule, fee collections, and a statement of N.C.G.S. 160D-402.1 compliance. The LGC is expected to issue further guidance on the details of reporting.

To prepare for this requirement, local governments are advised to keep a separate running record of the fees assessed and collected under this section.

Fee Statement Disclosure per Application. Within 10 business days after receiving a completed application, and prior to development approval, each local government must send the applicant the current fee schedule and a fee estimate based on the contents of the application. The local government cannot require any fees before sending the fee estimate.³ If the application materially changes after the initial fee estimate, the local government must send an updated fee estimate within 10 business days of the material change.⁴ When a development approval is issued on the development application, the approval must be accompanied by a final written fee statement that serves to bar the local government from assessing any fees greater than those named in the final fee statement, unless the local government adopts a new fee schedule by ordinance.

Local governments are advised to set clear parameters for when an application is “completed,” so that the 10-day timer starts at a certain time; to update procedures to not require fees before a fee estimate is provided; and to monitor incoming development information for anything indicating a material change in the development.

Conclusion

The new rules create immediate obligations for local governments to meet, and distant obligations for local governments to begin preparing for. The new rules also create and leave open several interpretive questions—some have been addressed here; many have not.⁵ Local governments may need to coordinate carefully across departments and seek further legal counsel to obtain compliance with the new rule changes.

² The rule change is vague and undefined here. A safe assumption is that the fee schedule must provide enough information for applicants to identify which fees may be applicable to their respective projects.

³ Presumably, a fee may still be charged on application, so long as payment is not actually required until the fee estimate is sent.

⁴ For these purposes, a “material change” should presumably be any change that creates a different fee estimate.

⁵ For example, there is little-to-no guidance on denied or withdrawn applications, fees that later arise due to failed inspections, or which fees must be included in estimates and statements.

AT-RISK BUILDING CHANGES

SECTION 48. G.S. 160D-1110.1 reads as rewritten:

"§ 160D-1110.1. Commercial and multifamily building permits for applications with sealed plans; third-party plan review alternatives; at-risk building foundation permits; at-risk building structure permits.

(a) Applicability. – This section applies to commercial and multifamily development project building permit applications that have plans and specifications that are complete and sealed for construction, as applicable, by a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes.

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(h) At-Risk Building Permit Options. – At-risk building permit options are available to an eligible building permit applicant that requested and attended a pre-submittal meeting in accordance with subsection (b) of this section to discuss a building project prior to permit application. An eligible permit applicant proceeding with an at-risk permit issued by a local government pursuant to this subsection assumes all risks of liability, and the local government is discharged and released from any liabilities, duties, and responsibilities attributable to the review, approval, or construction pursuant to that at-risk permit. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, a permit issued by a local government pursuant to this subsection is not an initial development permit for purposes of the vesting protections of G.S. 160D-108(e). The following at-risk building permit options are available:

- (1) At-risk building foundation permit. – At the time of permit application, an eligible building permit applicant may request an at-risk building foundation permit authorizing a permit applicant to proceed with building foundation ~~construction.~~ construction and any associated trade permit necessary to support the authorized foundation construction. A local government must issue an at-risk building foundation permit and any associated trade permit necessary for the authorized scope of work if a local government determines a permit applicant has submitted all necessary plans and sufficient information, as discussed at a pre-submittal meeting pursuant to subsection (b) of this section, and received all approvals necessary, for building foundation construction and associated trade permit work, notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. For the purposes of this subdivision, a permit applicant must have received an approved erosion and sedimentation control plan in accordance with Article 4 of Chapter 113A of the General Statutes for land-disturbing activity at a building foundation construction site.

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PROMOTE FEE TRANSPARENCY AND PREDICTABILITY FOR APPLICANTS PRIOR TO LOCAL GOVERNMENT DEVELOPMENT PERMIT APPROVAL OR ISSUANCE

SECTION 49.(a) G.S. 160D-102 is amended by adding three new subdivisions to read:

- "(16a) Fee estimate. – A statement projecting all fees that may reasonably be assessed in the fee statement for the applicant's project, including assumptions applied to the category or purpose of the fees to be charged.
- (16b) Fee schedule. – A statement of all current fees that may be collected by a local government for the administration and enforcement of provisions set forth in

this Chapter and Article 8 of Chapter 162A of the General Statutes and impact fees, facility fees, and other fees authorized by local act, applicable to each project category and purpose, including the data and methodologies used to calculate the fee rates.

(16c) Fee statement. – An itemized statement of any fees applicable to the applicant's particular project pursuant to this Chapter."

SECTION 49.(b) Article 4 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-402.1. Development fee transparency.

(a) Fee Schedule Publication. – Each local government shall prominently display on the local government's official website the local government's current fee schedules. The local government shall update the website to reflect any changes to fees, rates, or methodologies used to develop fees and rates within 30 days of the adoption of any ordinance amending the fees, rates, or methodologies. Each local government shall submit an annual report of its fee schedule, fee collections, and compliance with this section to the Local Government Commission.

(b) Local Government Commission Report. – The Local Government Commission shall publish and prominently display on the Commission's website a statewide report of local governments' current fee schedules.

(c) Required Disclosure. – Each local government shall provide to the applicant prior to a development approval the current fee schedule and a fee estimate. The local government shall deliver information required under this subsection to the applicant within 10 business days after submission of a completed application. If the project materially changes after the local government has delivered the fee estimate, the local government shall provide a revised estimate within 10 business days of receiving the updated project information. The local government shall not require payment of any fees specified in subsection (a) of this section before the local government provides the estimate.

(d) Final Fee Statement. – Each local government shall provide to the applicant, in writing, a final, binding fee statement of exact fees due when a development approval is issued on the application. The final fee amount may not exceed the most recent estimate provided under subsection (c) of this section, unless the local government adopts a new fee schedule by ordinance.

(e) Enforcement. – An applicant may commence a civil action in superior court of the county in which the applicant's project is located to compel the local government to comply with the requirements of this section. Nothing in this section shall limit any remedy otherwise available under Article 14 of this Chapter."

SECTION 49.(c) Nothing in this section shall be construed to limit or otherwise affect the power or authority of a local government to impose fees consistent with its statutory authority or constitutional requirements. This section shall not be construed to require the disclosure of confidential information under G.S. 132-1.2.

RESIDENTIAL CODE COUNCIL TEMPORARY RULEMAKING AUTHORITY

SECTION 50.(a) G.S. 150B-21.1(a) is amended by adding a new subdivision to read:

"(18) The need for the Residential Code Council to adopt rules amending the 2018 and 2024 North Carolina Residential Code, if the temporary rule is adopted on or after the date the Residential Code Council becomes fully constituted in accordance with the membership requirements of G.S. 143-136.1, as provided in Section 5.12(b)(2) of S.L. 2025-2.

SECTION 50.(b) This section is effective when it becomes law and expires two years after the date the Residential Code Council becomes fully constituted in accordance with the membership requirements of G.S. 143-136.1.