2019-2020

HOUSE
REGULATORY REFORM

MINUTES

North Carolina General Assembly

House Regulatory Reform

2019-20 Session

Chairs

Representatives Mark Brody, Dennis Riddell & Larry Yarborough

Co-Chair

Representative Yvonne Holley

Committee Clerks

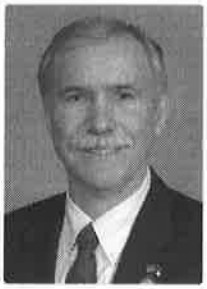
Leslie Murray & Polly Riddell

REGULATORY REFORM

House Standing Committee

Chairs


Rep. Brody


Rep. Riddell


Rep. Yarborough

Vice Chair

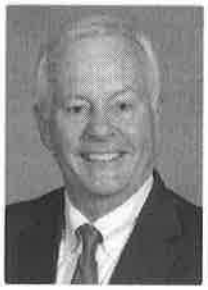

Rep. Holley

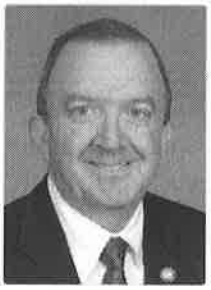
Members

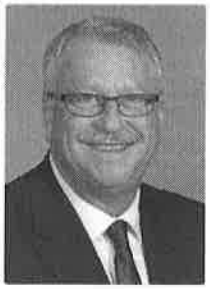

Rep. Adcock


Rep. Ager


Rep. Belk


Rep. Blackwell


Rep. Brewer


Rep. Carter


Rep. Clark


Rep. Conrad


Rep. Henson


Rep. Kidwell


Rep. McElraft


Rep. Meyer


Rep. Presnell


Rep. Queen


Rep. Stevens

Pursuant to House Rules 26(e) and 26(f), the Chair of the Committee on Rules, Calendar and Operations of the House, the Speaker Pro Tempore, the Majority Leader, and the Deputy Majority Leader are ex officio members of each standing committee and permanent subcommittee with the right to vote. The previous sentence does not apply to the Standing Committee on Ethics. For the purposes of determining a quorum, when serving only as ex officio members, these members shall be counted among the membership of the committee or subcommittee only when present.

HOUSE COMMITTEE ON REGULATORY REFORM

MEMBER		ASSISTANT	PHONE	OFFICE	SEAT
Brody, Mark	Chair	Neva Helms	715-3029	416B	61
Riddell, Dennis	Chair	Polly Riddell	733-5905	416A	49
Yarborough, Larry	Chair	Leslie Murray	715-0850	2219	65
Holley, Yvonne	Vice Chair	Lee Lewis	733-5758	1219	71
Adcock, Gale		Suzanne Smith	733-5602	1213	119
Ager, John		Meredith Graf	733-5746	509	79
Belk, Mary		Ralph Belk	733-5607	1313	116
Blackwell, Hugh		Brooke Mason	733-5805	541	102
Brewer, Scott		Judy Veorse	733-5823	542	31
Carter, Jerry		Theresa Lopez	733-5779	418B	110
Clark, Christy		Beth Nichols	733-5828	1319	91
Conrad, Debra		Ginny Taylor	733-5787	635	41
Henson, Cody		Megan Klutz	715-4466	537	101
Kidwell, Keith		Joy Albright	733-5881	2213	113
McElraft, Pat		Nancy Fox	733-6275	634	9
Meyer, Graig		Daphne Quinn	715-3019	1017	57
Presnell, Michele		Candace Slate	733-5732	306B2	51
Queen, Joe Sam		Brady Blackburn	715-3005	1002	34
Stevens, Sarah		Lisa Brown	715-1883	419	7

-

ATTENDANCE

HOUSE COMMITTEE ON REGULATORY REFORM

2019-2020 SESSION

DATES	3-28-2019	4-11-2019	4-16-2019	4-30-2019	5-2-2019	6-4-2019	6-20-2019	6-25-2019	8-6-2019						
BRODY, Mark CHAIR	X	X	X	X	X	X	X	X	X						
RIDDELL, Dennis CHAIR	X	X	X	X	X	X	X	X	X						
YARBOROUGH, Larry CHAIR	X	X	X	X	X	X	X	X	X						
GOODMAN, Ken VICE-CHAIR **resigned**															
HOLLEY, Yvonne VICE-CHAIR	X	X	X	X	X	X	X	X							
ADCOCK, Gale	X	X	X	X					X						
AGER, John	X	X	X	X	X	X	X	X	X						
BELK, Mary	X	X	X	X	X	X	X	X	X						
BLACKWELL, Hugh			X			X	X	X	X						
BREWER, Scott -**appointed**						X	X	X	X						
CARTER, Jerry	X	X		X		X	X	X	X						
CLARK, Christy		X	X	X			X	X	X						
CONRAD, Debra	X	X	X	X	X	X	X	X							
HENSON, Cody – **resigned**		X	X	X	X	X		X							

JOHNSON, Jake - **appointed**									X						
KIDWELL, Keith	X	X	X	X		X	X	X	X						
MCELRAFT, Pat	X	X	X	X	X	X			X						
MEYER, Greg	X		X	X	X	X	X	X	X						
PRESNELL, Michelle		X	X	X		X	X	X	X						
QUEEN, Joe Sam	X	X	X	X	X	X	X	X	X						
STEVENS, Sarah		X	X	X				X							
MORAN-BATES, Jason STAFF	X	X	X		X	X	X	X	X						
PATTERSON, Bill							X								
RAY, Jeremy STAFF	X	X	X	X		X	X	X	X						
MURRAY, Leslie CLERK		X				X		X							
RIDDELL, Polly CLERK	X	X	X	X	X		X		X						
HELMS, Neva CLERK									X						
BELL, John EX-OFFICIO			X						X						
JONES, Brenden EX-OFFICIO			X						X						
LEWIS, David EX-OFFICIO															

House Committee on Regulatory Reform
Thursday, March 28, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on March 28, 2019 in Room 1228/1327 of the Legislative Building. Representatives Adcock, Ager, Belk, Brody, Carter, Conrad, Holley, Kidwell, McElraft, Meyer, Queen, Riddell, and Yarborough attended.

Representative Dennis Riddell, Chair, presided.

Representative Riddell called the meeting to order at 11:00 AM and welcomed everyone and recognized the pages, and thanked the staff and sergeant-at-arms for their assistance.

The following bills were considered:

HB 77 Electric Standup Scooters. (Representatives Torbett, Presnell, Iler, Shepard) Representative Riddell motioned for the bill to be brought before the committee. Representative Torbett presented the bill. There was discussion on the bill. Rep. Adcock motioned for a favorable report and the motion passed.

HB 308 Expand Agricultural Outdoor Advertising. (Representatives Dixon, Strickland, Barnes, Conrad) Representative Meyer made a motion for the proposed committee substitute to be brought before the committee. Representative Dixon presented the bill. There was discussion on the bill before Representative McElraft motioned for an unfavorable report to the original bill, but favorable to the proposed committee substitute and the bill passed.

The meeting adjourned at 11:10 AM.

Representative Dennis Riddell, Chair
Presiding

Polly Riddell, Committee Clerk

Updated #2: Remove HB268 and add HB308

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, March 28, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 77	Electric Standup Scooters.	Representative Torbett Representative Presnell Representative Iler Representative Shepard
HB 308	Expand Agricultural Outdoor Advertising.	Representative Dixon Representative Strickland Representative Barnes Representative Conrad

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:24 PM on Monday, March 18, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Thursday, March 28, 2019, 11:00 AM
1228/1327 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB77	Electric Standup Scooters	Torbett, Presnell, Iler, Shepard
HB308	Expand Agricultural Outdoor Advertising	Dixon, Strickland, Barnes, Conrad

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

HB 77 **(CS#1)** Electric Standup Scooters.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Torbett

TOTAL REPORTED: 1

CMR185-V-1

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **308** Expand Agricultural Outdoor Advertising.

Draft Number:	H308-PCS40250-TQ-4
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Dixon

TOTAL REPORTED: 1

CMR186-V-1

HOUSE BILL 77:
Electric Standup Scooters.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	March 28, 2019
Introduced by:	Reps. Torbett, Presnell, Iler, Shepard	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: ***House Bill 77 would provide a statutory definition for electric standup scooters and exempt them from registration requirements.***

CURRENT LAW: Current law does not provide a definition for scooters or specifically authorize their use. It is unclear whether a scooter may fall under the definition of moped and be regulated as such.

BILL ANALYSIS: ***Section 1*** of House Bill 77 would provide a statutory definition for "electric standup scooter." Electric standup scooter would further be specifically excluded from the definitions of "moped" and "motor vehicle." The definition of "vehicle" would be amended to include electric standup scooters in the same manner as bicycles, in that the provisions of Chapter 20 would apply to them when they are operated upon a highway to the extent that it makes sense to do so.

Section 2 of the bill makes clear that electric standup scooters would be exempt from registration requirements.

Section 3 of the bill provides that any ordinance adopted by a municipality that conflicts with the provisions of this act would be void. It also directs municipalities with ordinances affecting scooters to review those ordinances to ensure compliance.

EFFECTIVE DATE: The act would be effective when it becomes law and would apply to offenses committed on or after that date.

**Wendy Graf Ray, Staff Attorney for the Legislative Analysis Division, contributed to this summary.*

aren Cochrane-Brown
Director

H77-SMBH-23-E2-V-2

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 77
PROPOSED COMMITTEE SUBSTITUTE H77-PCS30089-SU-2

Short Title: Electric Standup Scooters. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO DEFINE AND AUTHORIZE THE USE OF ELECTRIC STANDUP SCOOTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(7c) Electric Standup Scooter. – A device with no more than three 12-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the user while riding, and is powered by an electric motor that is capable of propelling the device with or without human propulsion at a speed no greater than 20 miles per hour on a paved level surface.

~~(7c)~~(7d) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382.

...

(23) Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include ~~mopeds or~~ mopeds, electric assisted ~~bicycles.~~bicycles, or electric standup scooters.

...

(27) Passenger Vehicles. –

...

j. Moped. – A vehicle, other than a motor-driven ~~bicycle or~~ bicycle, electric assisted bicycle, or electric standup scooter, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

...

(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter ~~bicycles and~~ bicycles, electric assisted ~~bicycles~~ bicycles, and electric standup scooters shall be deemed vehicles and every rider of a ~~bicycle or~~ bicycle, an electric assisted ~~bicycle~~ bicycle, or electric standup scooter upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in subdivision (7b) of this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

SECTION 2. G.S. 20-51 is amended by adding a new subdivision to read:

"(18) Electric standup scooters as defined in G.S. 20-4.01(7c)."

SECTION 3. Any and all ordinances in effect on the effective date of this act or hereinafter adopted by a municipality that conflict with the provisions of this act shall be null and void. Upon the effective date of this act, any municipality that has adopted an ordinance or regulation affecting electric standup scooters shall conduct a review of those ordinances and regulations to ensure compliance with this act.

SECTION 4. This act is effective when it becomes law and applies to offenses committed on or after that date.

HOUSE BILL 308:
Expand Agricultural Outdoor Advertising.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	March 28, 2019
Introduced by:	Reps. Dixon, Strickland, Barnes, Conrad	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	PCS to First Edition H308-CSTQ-4		

OVERVIEW: House Bill 308 would expand outdoor advertising near a highway right-of-way for bona fide farm property owned or leased by the owner or lessee, by increasing the size of the sign allowed, broadening the area where the sign could be placed, expanding who could place the sign, and allowing the sign to stand year-round.

[The PCS to House Bill 308 would change bona fide farm property for purposes of the sign's location, to mean any bona fide farm property owned or leased by the owner or lessee of the bona fide farm.]

CURRENT LAW: Outdoor advertising is generally prohibited within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to not be visible from the main-traveled way thereof, subject to certain exceptions. One exception is for outdoor advertising that advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown is permitted, provided:

- The sign is no more than two feet long on any side;
- The sign is located on the property owned or leased by the grower where the crop is grown;
- The grower is also the seller; and
- The sign is kept in place by the grower for no more than 30 days.

BILL ANALYSIS: House Bill 308 would allow outdoor advertising within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State to promote a bona fide farm that is exempt from zoning regulations pursuant to G.S. 153-340(b), subject only to the following limitations:

- The sign no more than three feet long on any side; and
- The sign is located on any bona fide farm property owned or leased by the owner or lessee of the bona fide farm.

EFFECTIVE DATE: This act would be effective when it becomes law.

**Kyle Evans, Staff Attorney for the Legislative Analysis Division, contributed to this summary.*

ıren Cochrane-Brown
Director

H308-SMBH-22 CSTQ-4 -V-1

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 308
PROPOSED COMMITTEE SUBSTITUTE H308-CSTQ-4 [v.3]
03/26/2019 11:30:10 AM

Short Title: Expand Agricultural Outdoor Advertising. (Public)

Sponsors:

Referred to:

March 11, 2019

A BILL TO BE ENTITLED

AN ACT TO EXPAND OUTDOOR ADVERTISING FOR BONA FIDE FARMS ON THEIR OWN PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-129 reads as rewritten:

"**§ 136-129. Limitations of outdoor advertising devices.**

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

...

(2a) Outdoor advertising ~~which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i)~~ to promote a bona fide farm that is exempt from zoning regulations pursuant to G.S. 153A-340(b) or G.S. 160A-360(k), provided the sign is no more than ~~two~~ three feet long on any ~~side; (ii)~~ side and the sign is located on ~~property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.~~any bona fide farm property owned or leased by the owner or lessee of the bona fide farm.

...."

SECTION 2. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 3/28/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
TJ Bugbee	NCOAA
[illegible]	NMFS
Joe Stewart	11 ANC
[illegible]	MFS
[illegible]	[illegible]
Whitney Christopher	Ward & Smith
Paul Sherman	NCFB
JEFF BARNHART	MWC
Tyler Ford	MWC
Deans Eatman	NCDOT
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 3/28/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	
Reshea Fortson	SEANC
Claudia Boemaker	governors office
Beau Mills	Metro Mayors
Alfine Whitely	NCWA
Bernard Shadley	NAIOP
Doug Lasitter	NCSTA
Dave Horne	SA

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 3/28/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Martin	Cap-Hdl
Amanda Donovan	KTS

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Regulatory Reform

DATE: 3/28/2019 Room: 1228/1327 LB

House Sgt-At Arms:

1. Name: Ken Gilbert
2. Name: Rex Foster
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Thursday, March 28, 2019
Session: 8:30 AM

Committee	Room	Time	Staff	Comments	Member
Appropriations, Health and Human Services	643	8:30 AM	Aria Harrell		Rep. Evonne Holley
			Everett McAteer		Rep. John Szoka
Appropriations, Agriculture and Natural and Economic Resources	421	9:00 AM	Blake Ellison		Rep. George G. Cleveland
			Samuel Hart		Rep. Marcia Morey
Regulatory Reform	1228/1327	11:00 AM	Blake Ellison		Rep. George G. Cleveland
			Lauren Johnson		Speaker Tim Moore
			Everett McAteer		Rep. John Szoka
			Kai Nilsen		Rep. Verla Insko

House Committee on Regulatory Reform
Thursday, April 11, 2019 at 10:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 10:00 AM on April 11, 2019 in Room 1228/1327 of the Legislative Building. Representatives Brody, Riddell, Yarborough, Holley, Adcock, Ager, Belk, Carter, Clark, Conrad, Henson, Kidwell, McElraft, Presnell, Queen, and Stevens attended.

Representative Larry Yarborough, Chair, presided.

The following bills were considered:

HB 268 Disapprove Certain On-Site Wastewater Rules. (Representatives Brody, Wray)
Rep. Brody brought forth an amendment to redo the rules. Rep. Henson made a motion to adopt the amendment.
The amendment was adopted. Rep. Brody explained the bill as amended. Tricia Angely with the Division of Public Health
In DHHS answered questions by Reps. Adcock, Holly, and Queen. Rep. Henson made the following motion.
Favorable Com Sub, Unfavorable Original Bill & Re-referred. Serial Referral: Health

HB 554 Funeral Practice Licensure Tech. Corrections. (Representatives Boles, Alexander, Hunter, Jones)
REMOVED

HB 607 Massage Board Membership. (Representative McNeill)
Rep. Stevens brought forth an amendment clarifying dates. Rep. Stevens mad a motion to adopt the amendment.
The amendment was adopted. Rep. McNeil continued to explain the bill. Charles Wilkins, Liaison for NC Massage and Body Work Board
answered questions by Reps. Adcock and Kidwell. Rep. Stevens made the following motion.
Favorable Com Sub, Unfavorable Original Bill & Re-referred. Serial Referral: Rules
Recommended Referral: Finance

The meeting adjourned at 11:00 AM.

Representative Larry Yarborough, Chair
Presiding

Leslie Murray, Committee Clerk

Updated #2: Time Change to 10:00 AM

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, April 11, 2019
TIME: **10:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Yarborough will be presiding**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 268	Disapprove Certain Onsite Wastewater Rules.	Representative Brody Representative Wray
HB 554	Funeral Practice Licensure Tech. Corrections.	Representative Boles Representative Alexander Representative Hunter Representative Jones
HB 607	Massage Board Membership.	Representative McNeill

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:43 PM on Wednesday, April 10, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

Updated #1: Add HB 268, HB 554, HB 607

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, April 11, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Yarborough will be presiding**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 268	Disapprove Certain Onsite Wastewater Rules.	Representative Brody Representative Wray
HB 554	Funeral Practice Licensure Tech. Corrections.	Representative Boles Representative Alexander Representative Hunter Representative Jones
HB 607	Massage Board Membership.	Representative McNeill

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:31 PM on Wednesday, April 10, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

House Committee on Regulatory Reform
Thursday, April 11, 2019, 10:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 268	Disapprove Certain Onsite Wastewater Rules.	Representative Brody Representative Wray
HB 554	Funeral Practice Licensure Tech. Corrections.	Representative Boles Representative Alexander Representative Hunter Representative Jones
HB 607	Massage Board Membership.	Representative McNeill

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **268** Disapprove Certain Onsite Wastewater Rules.

Draft Number:	H268-PCS40341-BCf-15
Serial Referral:	**HEALTH**
Recommended Referral:	None
Long Title Amended:	Yes
Floor Manager:	Brody

HB **607** Massage Board Membership.

Draft Number:	H607-PCS10426-BCf-16
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	**FINANCE**
Long Title Amended:	No
Floor Manager:	McNeill

TOTAL REPORTED: 2

HOUSE BILL 268:
Task Group Recommendations.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 9, 2019
Introduced by:	Reps. Brody, Wray	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	Amendment to First Edition H268-ABCf-12		

AMENDMENT ANALYSIS:

Section 5 would create the Onsite Wastewater Task Force (Task Force).

Section 6 would set the membership for the Task Force.

Section 7 would require the Task Force to meet for the first time no later than October 31, 2019. It would also require a majority of the members to be present for any meeting at which action is to be taken.

Section 8 would require the Legislative Services Commission to provide meeting space for the Task Force and allocate sufficient funds for its operation.

Section 9 would require the Task Force to conduct a study and make recommendations for new rules to (1) replace the ones disapproved by the bill and (2) prevent municipalities from prohibiting the design and installation of on-site wastewater treatment and dispersal systems.

Section 10 would require the Task Force to transmit a copy of its report to Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Joint Legislative Oversight Committee on Health and Human Services, and the Commission for Public Health no later than February 1, 2020.

Section 11 would keep the on-site wastewater rules found in Chapter 18A of Title 15A of the North Carolina Administrative Code in effect until the Commission for Public Health takes action on the rules recommended by the Task Force.

Section 12 would add a new section to Chapter 130A to establish regulations for the approval of non-engineered wastewater systems.

- 130A-336.2(a) would allow licensed soil scientists who are also certified by the North Carolina On Site Wastewater Contractors and Inspectors Certification Board to prepare site evaluations for non-engineered wastewater systems. Licensed soil scientists who were certified by the North Carolina On Site Wastewater Contractors and Inspectors Certification Board would be known as Authorized Onsite Wastewater Evaluators (Evaluators).
- 130A-336.2(b) would require system owners who wish to use the services of an Evaluator to submit notice of their intent to do so to their local health department.
- 130A-336.2(c) would require local health departments to decide whether to approve non-engineered systems within 5 days of receiving the notice of intent described in 130A-336.2(b).

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Owners would have an opportunity to cure incomplete submissions, and local health departments would then have 5 additional days to decide whether to approve the system.

- 130A-336.2(d) would require Evaluators to do all of the following:
  - Use standards incorporated in recognized soil and siting practices in North Carolina.
  - Prepare a sealed statement of special instructions for the system.
  - Assist the system owner in selecting an onsite wastewater system contractor (Contractor).
- 130A-336.2(e) would require the Contractor to do all of the following:
  - Maintain certification under Article 5 of Chapter 90A.
  - Be responsible for all aspects of construction and installation of the system.
  - Submit a signed statement of responsibility for the system to the system owner.
- 130A-336.2(f) would relieve the Department of Health and Human Services, its authorized agents, and local health departments from any liability arising from systems developed by an Evaluator.
- 130A-336.2(g) would allow local health departments to inspect a non-engineered systems at any time. It would also allow Evaluators to periodically inspect the system while it was being constructed and installed.
- 130A-336.2(h) would require system owners to comply with all rules adopted by local health departments.
- 130A-336.2(i) would require Evaluators to create an operation program for the system and require system owners to contract with a water pollution control system operator (Operator) certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
- 130A-336.2(j) would require the Evaluator to conduct a post-construction conference, which must include start-up of the system and verification of system components.
- 130A-336.2(k) would require the Evaluator to provide the system owner with copies of all reports, the system operation program, and reports and findings related to the evaluation, siting, and construction of the system.
- 130A-336.2(*l*) would require the system owner to submit the Evaluator's report, notarized acceptance of the system, and a fee to the local health department.
- 130A-336.2(m) would require the local health department to issue an authorization to operate the system within 5 days of receiving the documents described in 130A-336.2(*l*).
- 130A-336.2(n) would permit local health departments to asses a fee that is no more than 30% of the fees established for similar systems.
- 130A-336.2(o) would allow systems authorized by this section to remain authorized despite a change in ownership.
- 130A-336.2(p) would clarify that Evaluators, Contractors, and Operators are only subject to discipline by the boards that license or certify them.
- 130A-336.2(q) would grant rule-making authority necessary to implement this section.
- 130A-336.2(r) would require the Department of Health and Human Services to report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and

Human Services on the program established under this section. The report must include the efficiency and effectiveness of the program developed under this section and whether the program aided in reducing the length of time in issuing permits. The report is due January 1, 2020, and annually thereafter.

HOUSE BILL 268:
Disapprove Certain Onsite Wastewater Rules.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	March 15, 2019
Introduced by:	Reps. Brody, Wray	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	First Edition		

OVERVIEW: House Bill 268 would disapprove a set of wastewater rules adopted by the North Carolina Commission for Public Health.

BILL ANALYSIS:

Section 1 of the bill would disapprove 11 rules adopted by the North Carolina Commission for Public Health (CPH) which were adopted on August 8, 2018, and were approved by the Rules Review Commission (RRC) on October 18, 2018.

Section 2 of the bill would disapprove 28 rules adopted by CPH on August 8, 2018, which were approved by RRC on November 15, 2018.

Section 3 of the bill would disapprove 2 rules adopted by CPH on August 8, 2018.

Section 4 of the bill would disapprove 1 rule adopted by CPH on August 8, 2018.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND: Pursuant to G.S. 150B-21.3(b1), any member of the General Assembly may file a bill to disapprove a rule promulgated by an executive agency before the thirty-first legislative day of the legislative session beginning after the rule was promulgated. If the disapproval bill is ratified, the disapproved rules will not become effective. If the disapproval bill is not ratified, the rules will become effective on the date of unfavorable final legislative action is taken against the bill or the date the General Assembly adjourns its session, whichever comes first.

ıren Cochrane-Brown
Director

H268-SMBC-12-E1-V-1

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 268

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H268-ABCf-12 [v.18]

Amends Title [YES]
First Edition

Date _____ ,2019

Representative _____

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"HEALTH, TO CREATE A TASK FORCE TO RECOMMEND NEW WASTEWATER TREATMENT AND DISPERSAL RULES, AND TO CREATE STANDARDS FOR AN ONSITE WASTEWATER EVALUATOR."

and on page 2, lines 34-35, by inserting a line between the lines to read:

"**SECTION 5.** There is established the On-Site Wastewater Task Force (Task Force).

SECTION 6. The Task Force shall consist of ten members, appointed as follows:

(1) One member from the North Carolina Division of Public Health, On-Site Water Protection Branch.
(2) One member from the North Carolina Department of Environmental Quality.
(3) One member from the North Carolina Association of County Commissioners.
(4) One member from the North Carolina Home Builders Association.
(5) One member from the North Carolina On-Site Wastewater Contractor Inspector Certification Board.
(6) One member from the Carolinas Association of General Contractors.
(7) One member from the North Carolina Septic Tank Association.
(8) One member from the Consulting Soil Scientists Association of North Carolina.
(9) One member from the Professional Engineers of North Carolina with experience in designing on-site wastewater systems.
(10) One member from the North Carolina Board for Licensing of Soil Scientists.

SECTION 7. The first meeting of the Task Force shall be held no later than October 31, 2019. The Task Force member from the North Carolina Home Builders Association shall chair the first meeting of the Task Force. The permanent chair of the Task Force shall be elected by a majority of the members of the Task Force present and voting at the first meeting. A majority of the Task Force members shall constitute a quorum for the transaction of business. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 8. The Task Force may meet at various locations around the State in order to promote greater public participation in its deliberations and to accommodate the travel considerations of the members. The Legislative Services Commission shall grant adequate meeting space to the Task Force in the State Legislative Building or the Legislative Office

Building. The Legislative Services Commission shall allocate from a portion of the funds appropriated to the General Assembly sufficient funds for the operation of the Task Force. The Task Force may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. Members of the Task Force shall receive subsistence and travel expenses at the rates provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 9. The Task Force shall conduct a study and issue a report to recommend new wastewater rules to the Commission of Public Health. In conducting this study, the Task Force may collaborate with any stakeholders it deems appropriate. The report must make recommendations for all of the following:

(a) New rules to replace the rules adopted by the Commission of Public Health and approved by the Rules Review Commission, which were to be codified in Chapter 18E of Title 15A of the North Carolina Administrative Code. The new rule recommendations should replace the rules disapproved by Section 1 through Section 4 of this act, as well as any rules that meet all of the following criteria: (i) adoption by the Commission of Public Health on August 8, 2018; (ii) approval by the Rules Review Commission on October 18, 2018, or November 15, 2018; (iii) codification in Chapter 18E of Title 15A of the North Carolina Administrative Code; and (iv) relation to on-site wastewater treatment and dispersal.

(b) New rules designed to prohibit municipalities from prohibiting the design and installation of on-site wastewater treatment and dispersal systems.

SECTION 10. The Task Force shall transmit its report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Joint Legislative Oversight Committee on Health and Human Services, and the Commission for Public Health no later than February 1, 2020. The Task Force will terminate on the earlier of the date it transmits its report or February 1, 2020.

SECTION 11. The rules for on-site wastewater treatment and dispersal found in Chapter 18A of Title 15A of the North Carolina Administrative Code shall remain in effect until the Commission for Public Health takes action on the recommendations made by the Task Force.

SECTION 12. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-336.2. Alternative wastewater system approvals for non-engineered systems.**

(a) Authorized Onsite Wastewater Evaluator. – A individual licensed as a soil scientist pursuant to Chapter 89F of the General Statutes and further certified under conditions developed and administered by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board may, at the direction of the owner of a proposed wastewater system, prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system in accordance with this section and rules adopted pursuant to this section. An Authorized Onsite Wastewater Evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system who wishes to use an Authorized Onsite Wastewater Evaluator shall submit a notice of intent to construct a wastewater system using an Authorized Onsite Wastewater Evaluator to the local

health department with jurisdiction over the location of the proposed wastewater system. The Department of Health and Human Services shall develop a common form for use as a notice of intent to construct that includes all of the following:

(1) The owner's name, email address, mailing address, and phone number.
(2) The physical location of proposed site.
(3) Proof of errors and omissions, liability, or other insurance adequate for the proposed wastewater system.
(4) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.
(5) The type of wastewater system proposed.
(6) The estimated wastewater flow and wastewater characteristics.
(7) Any proposed landscape, site, drainage, or soil modifications.
(8) A soil evaluation that is conducted and signed and sealed by either a licensed soil scientist or licensed geologist.
(9) A plat, as defined in G.S. 130A-334(7a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether the notice of intent to construct required pursuant to subsection (b) of this section is complete within 5 business days after receiving the notice of intent to construct. A determination of completeness means that the notice of intent to construct incudes all of the required components. If the local health department determines that the notice of intent to construct is incomplete, the local health department shall notify the owner and list the information needed to complete the notice. The owner may then submit additional information to the local health department to cure the deficiencies in the initial notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within 5 business days after the department receives the additional information. If the local health department fails to act within any time period set out in this subsection, the owner may treat the failure to act as a determination of completeness.

(d) Soil and Site Evaluation, Construction, and Activities. –

(1) The Authorized Onsite Wastewater Evaluator shall use standards incorporated in recognized soil and siting practices in North Carolina. The evaluation and findings shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). An Authorized Onsite Wastewater Evaluator may employ technologies not yet approved in this State, but shall not form a direct business relationship with any technology that may result in a conflict of interest.
(2) The Authorized Onsite Wastewater Evaluator shall prepare a signed and sealed statement of special inspections that includes the following items:
    a. The materials, systems, components, and work subject to special inspections and testing.
    b. The type, frequency, and extent of each special inspection and each test. For the purposes of this subdivision, "special inspections" means any continuous or intermittent inspection or visitation performed by

the Authorized Onsite Wastewater Evaluator at the construction site on behalf of the owner.

(3) The Authorized Onsite Wastewater Evaluator shall assist the owner in the selection of an onsite wastewater system contractor who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.

(4) The Authorized Onsite Wastewater Evaluator may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.

(e) Responsibilities of the Onsite Wastewater System Contractor. – The onsite wastewater system contractor retained by the site owner shall do all of the following:

(1) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(2) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the Authorized Onsite Wastewater Evaluator.

(3) Submit a signed and dated statement of responsibility to the owner of the wastewater system, prior to commencement of work, that contains acknowledgement of the requirements of the onsite wastewater system specified by the Authorized Onsite Wastewater Evaluator.

(f) No Public Liability. – The Department, the Department's authorized agents, and local health departments shall have no liability for wastewater systems developed by the Authorized Onsite Wastewater Evaluator; however, nothing in this section shall relieve the Department, the Department's authorized agents, and local health departments from any of their other obligations under State law or administrative rule.

(g) Inspections, Construction Observations, and Reports. –

(1) A local health department may, at any time, conduct a site visit of the wastewater system.

(2) An Authorized Onsite Wastewater Evaluator shall make periodic visits to the site to observe the progress and quality of the construction.

(3) An Authorized Onsite Wastewater Evaluator may employ independent inspectors to observe and direct the construction of the wastewater system. Authorized Onsite Wastewater Evaluators shall be liable for any errors or omissions made by independent inspectors they employ or contract with.

(4) All construction and inspection reports shall be signed by the authorized inspector or Authorized Onsite Wastewater Evaluator. Copies shall be furnished to the owner and the certified contractor and shall be included in the submittal package to the local health department.

(h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater system from complying with all rules adopted by a local health department pursuant to G.S. 130A-335(c) that are in effect at the time the owner submits the notice of intent to construct described in subsection (b) of this section. The local health department shall notify the owner of the wastewater system of any issues of compliance related to such modifications or additions.

(i) Operation and Management. –

(1) An Authorized Onsite Wastewater Evaluator shall establish a written operation and management program based on the rules established for similar wastewater systems and shall provide this information to the owner of the system.

(2) If necessary to comply with rules adopted by the Commission, the owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.

(3) The owner shall be responsible for the continued adherence to the operations and management program established by the Authorized Onsite Wastewater Evaluator pursuant to subdivision (1) of this subsection.

(j) Post-Construction Conference. – The Authorized Onsite Wastewater Evaluator shall hold a post-construction conference with the owner, the certified contractor, the certified water pollution control system operator, if any, and representatives from the local health department. The post-construction conference shall include start-up and any required verification of system components.

(k) Required Documents. – At the post-construction conference, the Authorized Onsite Wastewater Evaluator shall provide the owner with the following documents:

(1) A signed and sealed copy of reports on the soil and site evaluations, layouts, drawings, specifications, and any special inspection reports or corrections made during the construction of the system.

(2) The owner's operation and management program established for the specific wastewater system under subdivision (1) of subsection (i) of this section.

(3) Any reports and findings related to the evaluation, siting, and construction of the wastewater system.

(*l*) After reviewing the Authorized Onsite Wastewater Evaluator's report, the owner shall sign and notarize a document confirming acceptance and receipt of the report. The owner shall then submit the following to the local health department:

(1) A copy of the Authorized Onsite Wastewater Evaluator's report.

(2) A copy of the operations and management program established for the system by the Authorized Onsite Wastewater Evaluator.

(3) The fee established pursuant to subsection (n) of this section.

(4) A notarized letter that documents the owner's acceptance of the system.

(m) Authorization to Operate. – Within 5 business days of receipt of the required documents and fees described in subsection (*l*) of this section, the local health department shall issue the owner an authorization to operate confirming the all the requirements of this section have been met and all rules adopted by the Commission pertaining to non-engineered on-site wastewater systems have been complied with.

(n) Fees. – The local health department may assess a fee for the system developed by the Authorized Onsite Wastewater Evaluator of up to thirty percent (30%) of the cumulative total of the fees established for similar systems permitted by the local health department. The fee shall only be used by the local health department in support of its work pursuant to duties established by this section.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change of ownership of the site for the wastewater system, provided both the site for the wastewater system and the type of facility the system serves are unchanged.

(p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized Onsite Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be subject only to the disciplinary authority of the their individual certifying boards. An owner's remedies against Authorized Onsite Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be limited to the remedies provided in the statutes and rules governing each individual professional.

(q) Rule-making. –

(1) The Commission shall have the power to adopt rules to implement the provisions of this section.

(2) Notwithstanding any provision of law to the contrary, the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall have the exclusive authority to promulgate rules regarding certification of, and issuance of permits for on-site wastewater treatment and dispersal systems in instances where review by professional engineers is not necessary by, Authorized Onsite Wastewater Evaluators.

(r) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services by January 1, 2020, and annually thereafter, on the program established under this section. The Department shall specifically include the efficiency and effectiveness of the program developed under this section and whether the program aided in reducing the length of time in issuing permits. The Department shall obtain activity reports from the local health departments showing the wastewater systems developed under this section. The annual report shall include any suggestions for the improvement of this section, including adequate and appropriate insurance coverage, operator reporting requirements, or fee allowance."";

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 268

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H268-ABCf-12 [v.18]

Amends Title [YES]
First Edition

Date 4/11 ,2019

Representative Brody

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"HEALTH, TO CREATE A TASK FORCE TO RECOMMEND NEW WASTEWATER TREATMENT AND DISPERSAL RULES, AND TO CREATE STANDARDS FOR AN ONSITE WASTEWATER EVALUATOR."

and on page 2, lines 34-35, by inserting a line between the lines to read:

"**SECTION 5.** There is established the On-Site Wastewater Task Force (Task Force).

SECTION 6. The Task Force shall consist of ten members, appointed as follows:

(1) One member from the North Carolina Division of Public Health, On-Site Water Protection Branch.
(2) One member from the North Carolina Department of Environmental Quality.
(3) One member from the North Carolina Association of County Commissioners.
(4) One member from the North Carolina Home Builders Association.
(5) One member from the North Carolina On-Site Wastewater Contractor Inspector Certification Board.
(6) One member from the Carolinas Association of General Contractors.
(7) One member from the North Carolina Septic Tank Association.
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(9) One member from the Professional Engineers of North Carolina with experience in designing on-site wastewater systems.
(10) One member from the North Carolina Board for Licensing of Soil Scientists.

SECTION 7. The first meeting of the Task Force shall be held no later than October 31, 2019. The Task Force member from the North Carolina Home Builders Association shall chair the first meeting of the Task Force. The permanent chair of the Task Force shall be elected by a majority of the members of the Task Force present and voting at the first meeting. A majority of the Task Force members shall constitute a quorum for the transaction of business. No action may be taken except by a majority vote at a meeting at which a quorum is present.

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Building. The Legislative Services Commission shall allocate from a portion of the funds appropriated to the General Assembly sufficient funds for the operation of the Task Force. The Task Force may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. Members of the Task Force shall receive subsistence and travel expenses at the rates provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 9. The Task Force shall conduct a study and issue a report to recommend new wastewater rules to the Commission of Public Health. In conducting this study, the Task Force may collaborate with any stakeholders it deems appropriate. The report must make recommendations for all of the following:

(a) New rules to replace the rules adopted by the Commission of Public Health and approved by the Rules Review Commission, which were to be codified in Chapter 18E of Title 15A of the North Carolina Administrative Code. The new rule recommendations should replace the rules disapproved by Section 1 through Section 4 of this act, as well as any rules that meet all of the following criteria: (i) adoption by the Commission of Public Health on August 8, 2018; (ii) approval by the Rules Review Commission on October 18, 2018, or November 15, 2018; (iii) codification in Chapter 18E of Title 15A of the North Carolina Administrative Code; and (iv) relation to on-site wastewater treatment and dispersal.

(b) New rules designed to prohibit municipalities from prohibiting the design and installation of on-site wastewater treatment and dispersal systems.

SECTION 10. The Task Force shall transmit its report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the Joint Legislative Oversight Committee on Health and Human Services, and the Commission for Public Health no later than February 1, 2020. The Task Force will terminate on the earlier of the date it transmits its report or February 1, 2020.

SECTION 11. The rules for on-site wastewater treatment and dispersal found in Chapter 18A of Title 15A of the North Carolina Administrative Code shall remain in effect until the Commission for Public Health takes action on the recommendations made by the Task Force.

SECTION 12. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-336.2. Alternative wastewater system approvals for non-engineered systems.**

(a) Authorized Onsite Wastewater Evaluator. – A individual licensed as a soil scientist pursuant to Chapter 89F of the General Statutes and further certified under conditions developed and administered by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board may, at the direction of the owner of a proposed wastewater system, prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system in accordance with this section and rules adopted pursuant to this section. An Authorized Onsite Wastewater Evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system who wishes to use an Authorized Onsite Wastewater Evaluator shall submit a notice of intent to construct a wastewater system using an Authorized Onsite Wastewater Evaluator to the local

health department with jurisdiction over the location of the proposed wastewater system. The Department of Health and Human Services shall develop a common form for use as a notice of intent to construct that includes all of the following:

(1) The owner's name, email address, mailing address, and phone number.
(2) The physical location of proposed site.
(3) Proof of errors and omissions, liability, or other insurance adequate for the proposed wastewater system.
(4) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.
(5) The type of wastewater system proposed.
(6) The estimated wastewater flow and wastewater characteristics.
(7) Any proposed landscape, site, drainage, or soil modifications.
(8) A soil evaluation that is conducted and signed and sealed by either a licensed soil scientist or licensed geologist.
(9) A plat, as defined in G.S. 130A-334(7a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether the notice of intent to construct required pursuant to subsection (b) of this section is complete within 5 business days after receiving the notice of intent to construct. A determination of completeness means that the notice of intent to construct incudes all of the required components. If the local health department determines that the notice of intent to construct is incomplete, the local health department shall notify the owner and list the information needed to complete the notice. The owner may then submit additional information to the local health department to cure the deficiencies in the initial notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within 5 business days after the department receives the additional information. If the local health department fails to act within any time period set out in this subsection, the owner may treat the failure to act as a determination of completeness.

(d) Soil and Site Evaluation, Construction, and Activities. –

(1) The Authorized Onsite Wastewater Evaluator shall use standards incorporated in recognized soil and siting practices in North Carolina. The evaluation and findings shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). An Authorized Onsite Wastewater Evaluator may employ technologies not yet approved in this State, but shall not form a direct business relationship with any technology that may result in a conflict of interest.
(2) The Authorized Onsite Wastewater Evaluator shall prepare a signed and sealed statement of special inspections that includes the following items:
    a. The materials, systems, components, and work subject to special inspections and testing.
    b. The type, frequency, and extent of each special inspection and each test. For the purposes of this subdivision, "special inspections" means any continuous or intermittent inspection or visitation performed by

the Authorized Onsite Wastewater Evaluator at the construction site on behalf of the owner.

(3) The Authorized Onsite Wastewater Evaluator shall assist the owner in the selection of an onsite wastewater system contractor who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.

(4) The Authorized Onsite Wastewater Evaluator may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.

(e) Responsibilities of the Onsite Wastewater System Contractor. – The onsite wastewater system contractor retained by the site owner shall do all of the following:

(1) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(2) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the Authorized Onsite Wastewater Evaluator.

(3) Submit a signed and dated statement of responsibility to the owner of the wastewater system, prior to commencement of work, that contains acknowledgement of the requirements of the onsite wastewater system specified by the Authorized Onsite Wastewater Evaluator.

(f) No Public Liability. – The Department, the Department's authorized agents, and local health departments shall have no liability for wastewater systems developed by the Authorized Onsite Wastewater Evaluator; however, nothing in this section shall relieve the Department, the Department's authorized agents, and local health departments from any of their other obligations under State law or administrative rule.

(g) Inspections, Construction Observations, and Reports. –

(1) A local health department may, at any time, conduct a site visit of the wastewater system.

(2) An Authorized Onsite Wastewater Evaluator shall make periodic visits to the site to observe the progress and quality of the construction.

(3) An Authorized Onsite Wastewater Evaluator may employ independent inspectors to observe and direct the construction of the wastewater system. Authorized Onsite Wastewater Evaluators shall be liable for any errors or omissions made by independent inspectors they employ or contract with.

(4) All construction and inspection reports shall be signed by the authorized inspector or Authorized Onsite Wastewater Evaluator. Copies shall be furnished to the owner and the certified contractor and shall be included in the submittal package to the local health department.

(h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater system from complying with all rules adopted by a local health department pursuant to G.S. 130A-335(c) that are in effect at the time the owner submits the notice of intent to construct described in subsection (b) of this section. The local health department shall notify the owner of the wastewater system of any issues of compliance related to such modifications or additions.

(i) Operation and Management. –

(1) An Authorized Onsite Wastewater Evaluator shall establish a written operation and management program based on the rules established for similar wastewater systems and shall provide this information to the owner of the system.

(2) If necessary to comply with rules adopted by the Commission, the owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.

(3) The owner shall be responsible for the continued adherence to the operations and management program established by the Authorized Onsite Wastewater Evaluator pursuant to subdivision (1) of this subsection.

(j) Post-Construction Conference. – The Authorized Onsite Wastewater Evaluator shall hold a post-construction conference with the owner, the certified contractor, the certified water pollution control system operator, if any, and representatives from the local health department. The post-construction conference shall include start-up and any required verification of system components.

(k) Required Documents. – At the post-construction conference, the Authorized Onsite Wastewater Evaluator shall provide the owner with the following documents:

(1) A signed and sealed copy of reports on the soil and site evaluations, layouts, drawings, specifications, and any special inspection reports or corrections made during the construction of the system.

(2) The owner's operation and management program established for the specific wastewater system under subdivision (1) of subsection (i) of this section.

(3) Any reports and findings related to the evaluation, siting, and construction of the wastewater system.

(*l*) After reviewing the Authorized Onsite Wastewater Evaluator's report, the owner shall sign and notarize a document confirming acceptance and receipt of the report. The owner shall then submit the following to the local health department:

(1) A copy of the Authorized Onsite Wastewater Evaluator's report.

(2) A copy of the operations and management program established for the system by the Authorized Onsite Wastewater Evaluator.

(3) The fee established pursuant to subsection (n) of this section.

(4) A notarized letter that documents the owner's acceptance of the system.

(m) Authorization to Operate. – Within 5 business days of receipt of the required documents and fees described in subsection (*l*) of this section, the local health department shall issue the owner an authorization to operate confirming the all the requirements of this section have been met and all rules adopted by the Commission pertaining to non-engineered on-site wastewater systems have been complied with.

(n) Fees. – The local health department may assess a fee for the system developed by the Authorized Onsite Wastewater Evaluator of up to thirty percent (30%) of the cumulative total of the fees established for similar systems permitted by the local health department. The fee shall only be used by the local health department in support of its work pursuant to duties established by this section.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change of ownership of the site for the wastewater system, provided both the site for the wastewater system and the type of facility the system serves are unchanged.

(p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized Onsite Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be subject only to the disciplinary authority of the their individual certifying boards. An owner's remedies against Authorized Onsite Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be limited to the remedies provided in the statutes and rules governing each individual professional.

(q) Rule-making. –

(1) The Commission shall have the power to adopt rules to implement the provisions of this section.

(2) Notwithstanding any provision of law to the contrary, the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall have the exclusive authority to promulgate rules regarding certification of, and issuance of permits for on-site wastewater treatment and dispersal systems in instances where review by professional engineers is not necessary by, Authorized Onsite Wastewater Evaluators.

(r) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services by January 1, 2020, and annually thereafter, on the program established under this section. The Department shall specifically include the efficiency and effectiveness of the program developed under this section and whether the program aided in reducing the length of time in issuing permits. The Department shall obtain activity reports from the local health departments showing the wastewater systems developed under this section. The annual report shall include any suggestions for the improvement of this section, including adequate and appropriate insurance coverage, operator reporting requirements, or fee allowance."";

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

Committee Bill Action Sheet

Date: 4/11/19

Committee: REGULATORY REFORM

Chair: YARBOROUGH

Bill #: 268

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: YES - to redo rules Rep Brody brought forth amendment & explained

Serial referral to: Health

Representative/Senator Brody explained the bill.

Floor Manager: _____

Rep. Henson motioned for: Adoption of amendment

____Favorable Report

____Favorable to PCS, unfavorable to original bill

✓ Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers Tricia Angley
On Site Water - Division of Public Health DHHS

Attached Handouts: YES/NO

Questions by Adcock, Holly & Queen

HOUSE BILL 554:
Funeral Practice Licensure Tech. Corrections.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 10, 2019
Introduced by:	Reps. Boles, Alexander, Hunter, Jones	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	First Edition		

OVERVIEW: House Bill 554 would make technical and clarifying changes to the exam requirements for the practice of funeral service and require certificates of compliance with preneed funeral contracts to be filed with the Board of Funeral Service. Crematory licensees would be required to comply with federal regulations, to follow rules for disposal of pacemakers and other hazardous devices, and to obtain necessary documentation before cremating an individual who died in another state. Finally, it would require medical examiners to sign a death certificate within 5 days of receiving paperwork from a funeral home.

BILL ANALYSIS:

Section 1 would make technical changes to the exam requirements for the practice of funeral service and clarify that a passing score on an exam is good for five years. It would also require licensees who accept transfers of preneed funeral contracts to file a certificate of compliance with the Board of Funeral Service, require crematory licensees to comply with the federal Funeral Industry Practices in C.F.R. § 453, and require all licensees to comply with all regulations regarding the removal of pacemakers or other hazardous devices.

Section 2 would prevent crematory licensee from cremating individuals who died outside North Carolina without obtaining a burial transit form.

Section 3 would require medical examiners to sign death certificates within 5 days of receiving paperwork from a funeral home.

EFFECTIVE DATE: This act would be effective October 1, 2019, and apply to cremations on or after that date and licenses granted or renewed on or after that date.

Karen Cochrane-Brown
Director

H554-SMBC-26 E1 -V-3

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL 554

Short Title:	Funeral Practice Licensure Tech. Corrections.	(Public)
Sponsors:	Representatives Boles, Alexander, Hunter, and Jones (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House	

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO MODIFY FUNERAL SERVICE AND CREMATORY LICENSES AND PRACTICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-210.25(a) reads as rewritten:

"(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:

...

c. Possesses a degree in mortuary science or has graduated from a Funeral Director Program, or the equivalent, from a program approved by the Board ~~and~~ or accredited by the American Board of Funeral Service Education.

...

e. Within the last three years, has obtained passing scores on all of the following examinations:

1. Entry-level examination in funeral ~~directing administered by The International Conference of Funeral Service Examining Boards.~~directing.

...

(3) To be licensed for the practice of funeral service under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:

...

e. Within the last three years, has passed an oral or written funeral service examination on the following subjects:

1. Entry-level examination in funeral ~~directing administered by The International Conference of Funeral Service Examining Boards.~~directing.
2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
3. Repealed by Session Laws 1997-399, s. 7.
4. Examination of the laws of North Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),

pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

A funeral service examination taken and passed on or before October 1, 2018, for the purposes of attaining licensure under this section shall be considered valid for a five-year period following the date on which the applicant passed the examination.

f. Has paid all applicable fees.

(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under the supervision of either a licensed embalmer or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or embalming full time for a minimum of five years. A person training to become a funeral director may serve under the supervision of either a licensed funeral director or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or funeral directing full time for a minimum of five years. A person training to become a funeral service licensee shall serve under the supervision of a funeral service licensee who is in good standing with the Board and who has practiced funeral service full time for a minimum of five years. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.

...

m. A 12-month resident traineeship that is completed on or before October 1, 2018, shall be recognized as a qualifying traineeship for licensure under this section for the five-year period following the completion date of the traineeship.

...."

SECTION 1.(b) G.S. 90-210.63 is amended by adding a new subsection to read:

"(c) Any licensee holding a permit under Articles 13A or 13F of this Chapter that accepts the transfer of a preneed funeral contract after the death of the preneed contract beneficiary shall file the certificate of performance with the Board and mail a copy to the contracting preneed licensee. If the preneed funeral contract is performed by a funeral establishment in another state, the original contracting preneed licensee shall make reasonable efforts to obtain the information needed to accurately complete the certificate of performance and shall file the certificate no later than the time allowed under G.S. 90-210.64."

SECTION 1.(c) G.S. 90-210.123 is amended by adding a new subsection to read:

"(d1) Crematory licensees that offer at-need cremation goods and services to the public shall comply with the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended."

SECTION 1.(d) G.S. 90-210.123(i) reads as rewritten:

"(i) The Board may hold hearings in accordance with the provisions of this Article and Article 3A of Chapter 150B of the General Statutes. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been

corrected. The Board may obtain preliminary and final injunctions whenever a violation of this Article has occurred or threatens to occur. The Board may enforce compliance with the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended, and in accordance with subsection (d1) of this section.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor."

SECTION 1.(e) G.S. 90-210.129(c1) reads as rewritten:

"(c1) For any death occurring outside North Carolina, a crematory licensee shall not cremate a dead human body without first obtaining a copy of ~~[the]~~ the burial-transit or disposal permit issued ~~by the jurisdiction where the~~ under the law of the state, province, or foreign government in which death ~~occurred and one of the following documents:~~or disinterment occurred.

~~(1) A death certificate from the other jurisdiction that meets the same content and signature requirements of subsection (a) of this section.~~

~~(2) Any document or certificate required to authorize cremation in the jurisdiction where the death occurred that is signed by a physician, medical examiner, or other authorized person and that contains all information required by subdivisions (1) through (9) of subsection (a) of this section.~~

The provisions of this subsection shall not be construed to waive the jurisdiction of the medical ~~examiner.~~examiner, or subsection (b) of this section."

SECTION 1.(f) G.S. 90-210.129(d) reads as rewritten:

"(d) No body shall knowingly be cremated with a pacemaker or defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral ~~director and~~ director, funeral service licensee, or the crematory ~~licensee~~ licensee, whichever is applicable, on the cremation authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral ~~director~~ director, funeral service licensee, or the crematory licensee, whichever is applicable or responsible for obtaining the information required to complete the decedent's death certificate, shall also be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory. Anyone removing a hazardous implanted device or material under this subsection shall comply with the laws and rules governing the handling of such material and with any other regulations enforced by the proper regulating authority."

SECTION 1.(g) G.S. 90-210.136(g) reads as rewritten:

"(g) Unless specified otherwise by the manufacturer of the equipment used for hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or ~~other material or implant that would be potentially hazardous if cremated.~~defibrillator. Any other potentially hazardous implanted device or material shall be handled in accordance with G.S. 90-210.129(d)."

SECTION 2. G.S. 130A-113 is amended by adding a new subsection to read:

"(b1) For any death occurring outside North Carolina, a crematory licensee shall not cremate a dead human body without obtaining a copy of the burial-transit or disposal permit issued under the law of the state, province, or foreign government in which death or disinterment occurred before cremation. Nothing in this subsection shall be construed to waive the provisions of G.S. 130A-388."

SECTION 3. G.S. 130A-385 is amended by adding a new subsection to read:

"**§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.**

(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take charge of the body, make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed for that purpose.

The Chief Medical Examiner or the county medical examiner is authorized to inspect and copy the medical records of the decedent whose death is under investigation. In addition, in an investigation conducted pursuant to this Article, the Chief Medical Examiner or the county medical examiner is authorized to inspect all physical evidence and documents which may be relevant to determining the cause and manner of death of the person whose death is under investigation, including decedent's personal possessions associated with the death, clothing, weapons, tissue and blood samples, cultures, medical equipment, X rays and other medical images. The Chief Medical Examiner or county medical examiner is further authorized to seek an administrative search warrant pursuant to G.S. 15-27.2 for the purpose of carrying out the duties imposed under this Article. In addition to the requirements of G.S. 15-27.2, no administrative search warrant shall be issued pursuant to this section unless the Chief Medical Examiner or county medical examiner submits an affidavit from the office of the district attorney in the district in which death occurred stating that the death in question is not under criminal investigation.

The Chief Medical Examiner shall provide directions as to the nature, character and extent of an investigation and appropriate forms for the required reports. The facilities of the central and district offices and their staff services shall be available to the medical examiners and designated pathologists in their investigations.

(b) The medical examiner shall complete a certificate of death, stating the name of the disease which in his opinion caused death. If the death was from external causes, the medical examiner shall state on the certificate of death the means of death, and whether, in the medical examiner's opinion, the manner of death was accident, suicide, homicide, execution by the State, or undetermined. The medical examiner shall also furnish any information as may be required by the State Registrar of Vital Statistics in order to properly classify the death.

(b1) In cases where a physician has not signed a death certificate, the medical examiner is directed to sign the death certificate within five days of receiving paperwork from a funeral home. Under the cause or manner of death, the medical examiner may list "undetermined" if the decedent had not seen a physician within three months preceding the decedent's death. A certificate with a cause or manner of death listed as "undetermined" may be used for the purpose of cremation.

...."

SECTION 4. This act becomes effective October 1, 2019, and applies to cremations on or after that date, and licenses granted or renewed on or after that date.

Committee Bill Action Sheet

Committee: REG REFORM Date: 4/11/19

Chair: Yarborough

Bill #: 554

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: _____

Representative/Senator BOLES explained the bill.

Floor Manager: _____

Rep._____ motioned for:

REMOVED

____Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

HOUSE BILL 607:
Massage Board Membership.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 10, 2019
Introduced by:	Rep. McNeill	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	PCS to First Edition H607-CSBCf-14		

OVERVIEW: The Proposed Committee Substitute to House Bill 607 would add a member to the Board of Massage and Bodywork Therapy. It would also raise the fees for licensure and the maximum civil penalty the Board can levy. Finally, it would allow the Board to assess the costs of investigation and disciplinary hearings against individuals who violate the Massage and Bodywork Therapy Practice Act.

The PCS adds Sections 2 through 4 to the original bill and makes a change to the Effective Date.

[As introduced, this bill was identical to S311, as introduced by Sens. Bishop, Lowe, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Currently, there are seven members on the Board of Massage and Bodywork Therapy. The maximum fees and civil penalties are described in the Bill Analysis section below.

BILL ANALYSIS:

Section 1 of the PCS would increase the membership of the Board of Massage and Bodywork therapy from seven members to eight members. The new member would be an owner of a massage and bodywork therapy establishment who would be appointed by the Governor.

Section 2 of the PCS would make the following fee increases:

- Application for licensure would increase from $20 to $40.
- Initial license fee would increase from $150 to $300.
- License renewal fee would increase from $100 to $200.
- Late renewal penalty would increase from $75 to $150.
- Duplicate license fee would increase from $25 to $50.

Section 3 would change the education requirement for licensure from 500 in-class hours to 650 in-class hours.

Section 4 would increase the maximum civil penalty the Board could levy from $1,000 to $2,000. It would also permit the Board to assess investigation and disciplinary hearing costs against individuals found to be in violation of the Massage and Bodywork Therapy Practice Act.

EFFECTIVE DATE: The act would be effective July 1, 2019.

Karen Cochrane-Brown
Director

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 607
PROPOSED COMMITTEE SUBSTITUTE H607-CSBCf-14 [v.2]
04/10/2019 12:10:09 PM

Short Title: Massage Board Membership. (Public)

Sponsors:

Referred to:

April 8, 2019

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MASSAGE AND BODYWORK THERAPY BOARD TO INCLUDE AN ESTABLISHMENT OWNER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-625(a) reads as rewritten:

"(a) The North Carolina Board of Massage and Bodywork Therapy is created. The Board shall consist of ~~seven~~ eight members who are residents of this State and are as follows:

(1) Five members shall be massage and bodywork therapists who have been licensed under this Article and have been in the practice of massage and bodywork therapy for at least five of the last seven years prior to their serving on the Board. Consideration shall be given to geographical distribution, practice setting, clinical specialty, involvement in massage and bodywork therapy education, and other factors that will promote diversity of the profession on the Board. Two of the five members shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, two shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the Governor.

(2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90 of the General Statutes or a person once licensed as a physician whose license lapsed while the person was in good standing with the profession and eligible for licensure. The appointment shall be made by the Governor and may be made from a list provided by the North Carolina Medical Society.

(3) One member shall be a member of the general public who shall not be licensed under Chapter 90 of the General Statutes or the spouse of a person who is so licensed, or have any financial interest, directly or indirectly, in the profession regulated under this Article. The appointment shall be made by the Governor.

(4) One member shall be an individual who is currently licensed to operate a massage and bodywork therapy establishment under this Article, or if the Board has not begun to issue any establishment licenses, a current owner of a massage and bodywork therapy establishment. This appointment shall be made by the Governor."

SECTION 2. G.S. 90-628 reads as rewritten:

"**§ 90-628. Expenses and fees.**

(a) All salaries, compensation, and expenses incurred or allowed for the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized

by this Article or from funds received from other sources. In no case shall any salary, expense, or other obligations of the Board be charged against the General Fund.

(b) The Board may impose the following fees up to the amounts listed below for a license to practice massage and bodywork therapy:

(1) Application for license ..... ~~$20.00~~$40.00
(2) Initial license fee ..... ~~150.00~~300.00
(3) License renewal ..... ~~100.00~~200.00
(4) Late renewal penalty ..... ~~75.00~~150.00
(5) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008.
(6) Duplicate license ..... ~~25.00~~50.00
(7) Repealed by Session Laws 2008-224, s. 8, effective August 17, 2008. "

SECTION 3. G.S. 90-629 reads as rewritten:

"**§ 90-629. Requirements for licensure to practice.**

Upon application to the Board and the payment of the required fees, an applicant may be licensed as a massage and bodywork therapist if the applicant meets all of the following qualifications:

(1) Has obtained a high school diploma or equivalent.
(2) Is 18 years of age or older.
(3) Is of good moral character as determined by the Board.
(4) Has successfully completed a training program consisting of a minimum of ~~500~~ 650 in-class hours of supervised instruction at a Board-approved school.
(5) Has passed a competency assessment examination that meets generally accepted psychometric principles and standards and is approved by the Board.
(6) Has submitted fingerprint cards in a form acceptable to the Board at the time the license application is filed and consented to a criminal history record check by the North Carolina Department of Public Safety.
(7) Demonstrates satisfactory proof of proficiency in the English language."

SECTION 4. G.S. 90-634.1 reads as rewritten:

"**§ 90-634.1. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of ~~one~~ two thousand dollars ~~($1,000)~~($2,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. The continuation of the same act for which the penalty is imposed shall not be the basis for an additional penalty unless the penalty is imposed against the same party who has repeated the same act for which the discipline has previously been imposed. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) ~~Transcriptions~~ Costs. – The Board may assess investigative and discipline hearing costs ~~the costs of transcriptions of a disciplinary hearing held by the Board or the Office of Administrative Hearings to include the recording of the hearing by a court reporter and transcription of the proceeding~~ against a person found to be in violation of this Article or rules adopted by the Board."

SECTION 5. As enacted by Section 1 of this act, the initial term of office for the member who is currently licensed to operate a massage and bodywork therapy establishment under this Article and appointed by the Governor shall begin on July 1, 2019, and shall expire on June 30, 2022. Consistent with G.S. 90-625(c), subsequent appointees to these positions shall be appointed for a term of three years, but notwithstanding the appointment for a term of three years, the member shall serve at the will of the appointing authority.

SECTION 6. This act is effective July 1, 2019.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 607 DATE 4/11/19

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Stevens
)
Sen.)

moves to amend the bill on page 3, line 7

( ) WHICH CHANGES THE TITLE

by rewriting the bill to read:

"SECTION 6 This act is effective July 1, 2019 and applies to persons first licensed on or after that date. Section 3 of this act is effective July 1, 2019, and applies to individuals first licensed on or after that date. The remainder of this act is effective July 1, 2019."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

Committee Bill Action Sheet

Date: 4/11/19

Committee: REGULATORY REFORM

Chair: YARBOROUGH

Bill #: 607

PCS: YES/NO YES Motion made PCS before the Committee_____

Amendments: YES Stevens brought forth - adopted

Serial referral to: Recommended to Finance

Representative/Senator McNeil explained the bill.

Floor Manager: _____

Rep. Stevens motioned for:

____Favorable Report

____Favorable to PCS, unfavorable to original bill

__✓__Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers Charles Wilkins - NC Massage and Body Work Board Liason to ↑

_____

_____

Attached Handouts: YES/NO

Kidwell asked why increase in fees

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 4/11/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charles Wilkins	BUST
Elizabeth Kirk	"
Tony Adams	Adams and Associates
Doug Lassiter	NCSTA
Stephen Davis	NC Board of Funeral Service
Amy Mauldin	NC Board of Funeral Service
Tim Minton	NC Home Builders
Demetrius Delaloich	NCLM
Cameron Hanley	MCIA
Jim Harrell	BTH
Dana Simpson	SA

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 4/11/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Resha Fuertson	SEANC
Suzanne Beesley	SEANC
Sallie James	Governor's Office
Michelle Aurelius	DHHS - OCME
Maribeth Wooten	DHHS - DPH
Tricia Angoli	DHHS - DPH - OSWP
Shrikar Nunna	DFC
[illegible]	NCAFC
Leo John	Secy of State
Anne Lowry	CCPHD

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 4/11/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dana Sapp	SA
Holly Parkinson	Parkinson Law
Elizabeth Robinson	NCRMA

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 4/11/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe McCain	McCrory Com
Jeni Bare	NWOC
Lisa Martin	Cup. Ad
Bob Thompson	NC Child
Mike Hager	Former Majority Leader
Matt Crook	DHHS

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Regulatory Reform

DATE: 4/11/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Thursday, April 11, 2019
Session: 11:00 AM

Committee	Room	Time	Staff	Comments	Member
Rules, Calendar, and Operations of the House	643	9:30 AM	Chloe Schubert		Rep. Bobby Hanig
			Natalie Stone		Rep. Lisa Stone Barnes
Regulatory Reform	1228/1327	10:00 AM	Erin Bembridge		Rep. Bobby Hanig

House Committee on Regulatory Reform
Tuesday, April 16, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on April 16, 2019 in Room 1228/1327 of the Legislative Building. Representatives Adcock, Ager, Belk, Blackwell, Brody, Clark, Conrad, Holley, Kidwell, McElraft, Meyer, Presnell, Queen, Riddell, Stevens, and Yarborough attended.

Representative Dennis Riddell, Chair, presided.

Representative Riddell asked Representative Yarborough to act as chair for the meeting. Representative Yarborough called the meeting to order at 11:00 AM. and recognized the staff and sergeant at arms.

The following bills were considered:

HB 554 Funeral Practice Licensure Tech. Corrections. (Representatives Boles, Alexander, Hunter) Representative Adcock motioned for the measure to be brought before the committee. She then brought an amendment for approval of the committee. The amendment passed and then the bill was before the committee for a vote. The bill passed.

HJR 390 Application for a Convention of the States. (Representatives Riddell, Saine, Setzer, D. Hall) Representative Yarborough stated that HJR 390 was before the committee. Representative Riddell explained the resolution. After discussion and debate, Representative Brody moved for a favorable report. The vote was called and the measure passed.

The meeting adjourned at 11:42 AM.

Representative Dennis Riddell, Chair
Presiding

Polly Riddell, Committee Clerk

Updated #1: Add HJR390

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, April 16, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 554	Funeral Practice Licensure Tech. Corrections.	Representative Boles Representative Alexander Representative Hunter
HJR 390	Application for a Convention of the States.	Representative Riddell Representative Saine Representative Setzer Representative D. Hall

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:47 PM on Tuesday, August 20, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Tuesday, April 16, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 554	Funeral Practice Licensure Tech. Corrections.	Representative Boles Representative Alexander Representative Hunter Representative Jones
HJR 390	Application for a Convention of the States.	Representative Riddell Representative Saine Representative Setzer Representative D. Hall

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT
Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **554** Funeral Practice Licensure Tech. Corrections.

Draft Number:	H554-PCS40387-BC-20
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Boles

TOTAL REPORTED: 1

CMR284-V-2

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT
Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

HJR **390** Application for a Convention of the States.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Riddell

TOTAL REPORTED: 1

CMR281-V-1

This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 554:
Funeral Practice Licensure Tech. Corrections.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 10, 2019
Introduced by:	Reps. Boles, Alexander, Hunter, Jones	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	First Edition		

OVERVIEW: House Bill 554 would make technical and clarifying changes to the exam requirements for the practice of funeral service and require certificates of compliance with preneed funeral contracts to be filed with the Board of Funeral Service. Crematory licensees would be required to comply with federal regulations, to follow rules for disposal of pacemakers and other hazardous devices, and to obtain necessary documentation before cremating an individual who died in another state. Finally, it would require medical examiners to sign a death certificate within 5 days of receiving paperwork from a funeral home.

BILL ANALYSIS:

Section 1 would make technical changes to the exam requirements for the practice of funeral service and clarify that a passing score on an exam is good for five years. It would also require licensees who accept transfers of preneed funeral contracts to file a certificate of compliance with the Board of Funeral Service, require crematory licensees to comply with the federal Funeral Industry Practices in C.F.R. § 453, and require all licensees to comply with all regulations regarding the removal of pacemakers or other hazardous devices.

Section 2 would prevent crematory licensee from cremating individuals who died outside North Carolina without obtaining a burial transit form.

Section 3 would require medical examiners to sign death certificates within 5 days of receiving paperwork from a funeral home.

EFFECTIVE DATE: This act would be effective October 1, 2019, and apply to cremations on or after that date and licenses granted or renewed on or after that date.

ıren Cochrane-Brown
Director

H554-SMBC-26 E1 -V-4

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House Committee on Regulatory Reform
Tuesday, June 4, 2019 at 11:30 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:30 AM on June 4, 2019 in Room 1228/1327 of the Legislative Building. Representatives Brody, Riddell, Yarborough, Holley, Agner, Belk, Blackwell, Brewer, Carter, Clark, Conrad, Henson, Kidwell, MeElraft, Meyer, Presnell, and Queen attended.

Select or Type Name of Presiding Chair, presided.

The following bills were considered:

SB 55 Continuing Education for General Contractors. (Senators Gunn, Newton, D. Davis)
Favorable and Re-Referred to Finance

HB 816 Study Biomanufacturing. (Representatives White, Reives, Grange)
Favoroable Com Sub, Unfavorable Original Bill and Re-Referred to Rules

SB 648 Support Shellfish Aquaculture. (Senators Sanderson, Rabon)
Favorable and Re-Referred to Rules

The meeting adjourned at 12:45 PM.

Select or Type Name of Presiding Chair
Presiding

Leslie Murray, Committee Clerk

Updated #1: Time Change

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, June 4, 2019
TIME: **11:30 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Representative Yarborough Chairing**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing/Nutrient Allocation.	Representative White Representative Reives Representative Grange
SB 648	Support Shellfish Aquaculture.	Senator Sanderson Senator Rabon

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:27 PM on Monday, June 03, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, June 4, 2019
TIME: **12:00 PM**
LOCATION: **1228/1327 LB**
COMMENTS: **Representative Yarborough Chairing**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing/Nutrient Allocation.	Representative White Representative Reives Representative Grange
SB 648	Support Shellfish Aquaculture.	Senator Sanderson Senator Rabon

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:44 PM on Thursday, May 30, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will **NOT** meet as follows:

DAY & DATE: Thursday, May 30, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing/Nutrient Allocation. PCS	Representative White Representative Reives Representative Grange

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 3:41 PM on Wednesday, May 29, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, May 30, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing/Nutrient Allocation. PCS	Representative White Representative Reives Representative Grange

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:21 PM on Wednesday, May 29, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

House Committee on Regulatory Reform
Tuesday, June 4, 2019, 11:30 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing/Nutrient Allocation.	Representative White Representative Reives Representative Grange
SB 648	Support Shellfish Aquaculture.	Senator Sanderson Senator Rabon

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

SB **55** **(CS#1)** Continuing Education for General Contractors.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	**FINANCE**
Long Title Amended:	No
Floor Manager:	Yarborough

SB **648** **(CS#1)** Support Shellfish Aquaculture.

Draft Number:	None
Serial Referral:	**ENVIRONMENT**
Recommended Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Long Title Amended:	No
Floor Manager:	Yarborough

TOTAL REPORTED: 2

CMR508-V-1

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT
Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **816** Study Biomanufacturing/Nutrient Allocation.

Draft Number:	H816-PCS10657-BCfa-40
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	Yes
Floor Manager:	White

TOTAL REPORTED: 1

CMR509-V-1

SENATE BILL 55:
Continuing Education for General Contractors.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	May 29, 2019
Introduced by:	Sens. Gunn, Newton, D. Davis	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 55 would establish a continuing education requirement for general contractors of eight hours a year, effective for licenses renewed on or after January 1, 2020.

CURRENT LAW: There is no continuing education requirement for renewal of a general contractor's license. To be licensed as a general contractor, an applicant, or an individual identified by an applicant as its qualifier, must pass an examination to establish that the applicant has an ability to read plans and specifications and has a proficient knowledge of the contracting business. The license, once granted, must be renewed annually by paying the requisite fee amount.

BILL ANALYSIS: Senate Bill 55 would establish a continuing education requirement for renewal of the following general contracting licenses: (i) building contractor; (ii) residential contractor; and (iii) unclassified license classification. If an entity holds the license, and has multiple qualifiers, at least one qualifier of the licensee must compete the continuing education requirement. A licensee may request to be inactive. An inactive licensee must continue to pay the annual renewal fee, but does not need to complete continuing education; however, during his period, the contractor's license is invalid. The licensee may seek reinstatement by completing the required hours of continuing education. The required number of hours may vary depending on the length of time between inactive status and reinstatement.

The continuing education requirement would be for eight hours of instruction a year. Two of the eight hours would be a mandatory course approved by the State Licensing Board for General Contractors and taught by persons who attended a training program established, approved, and administered by the Board. The remaining six hours would be elective courses whose materials and instructors have been evaluated, approved, and accredited by the Board.

The Board may establish fees to administer the continuing education program. The fee charged to a sponsor of a course to review and approve the course materials may not exceed $25 per credit hour for the initial review and $12.50 for the annual renewal of a course previously approved. The fee payable by a course provider for each person completing an approved course may not exceed $5.00 per credit hour.

EFFECTIVE DATE: The continuing education requirement would become applicable for licenses renewed on or after January 1, 2020. The continuing education courses may be provided live or by video of a previously recorded presentation. Effective for licenses renewed on or after January 1, 2021, the approved courses may also be offered by Internet transmission.

****Jeff Hudson and Shawn Middlebrooks of the Legislative Analysis Division substantially contributed to this summary.****

aren Cochrane-Brown
Director

Legislative Analysis
Division
919-733-2578

S55-SMBC-79 E2 -V-1

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 2

SENATE BILL 55

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/3/19

Short Title: Continuing Education for General Contractors. (Public)

Sponsors:

Referred to:

February 14, 2019

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAW GOVERNING THE LICENSURE OF CERTAIN GENERAL CONTRACTORS TO REQUIRE CONTINUING EDUCATION FOR THE PURPOSE OF ENHANCING THE PROFESSIONAL COMPETENCE AND PROFESSIONAL RESPONSIBILITY OF THOSE LICENSEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-10.2. Continuing education.**

(a) As a condition of license renewal, at least one qualifier or qualifying party of a licensee holding a building contractor, residential contractor, or unclassified contractor license classification shall complete, on an annual basis, eight hours of continuing education approved in accordance with this section. Where an entity holding a building contractor, residential contractor, or unclassified contractor license classification has multiple qualifiers or qualifying parties, at least one qualifier or qualifying party of the licensee shall complete this requirement for the license to remain valid.

(b) Of the eight hours of annual continuing education required by this section, two hours shall be a mandatory course approved by the Board and the remaining six hours shall be elective courses approved by the Board. Each qualifier or qualifying party shall complete the mandatory course each year. Each qualifier or qualifying party may accumulate and carry forward up to four hours of elective course credit to the next calendar year. The Board shall evaluate and approve:

(1) The content of continuing education courses.

(2) Accreditation of continuing education sponsors and programs.

(3) Computation of credit.

(4) General compliance procedures.

(c) All prospective providers of the mandatory course shall attend a training program established, approved, and administered by the Board to ensure the quality and consistency of mandatory course information. All prospective providers of elective courses shall submit course materials and instructor qualifications for Board evaluation, approval, and accreditation.

(d) Continuing education credit hours may only be given for courses that are taught live by an instructor approved by the Board. To receive credit, a qualifier or qualifying party shall attend and view the live teaching of the course and shall certify this requirement in the manner required by the Board. Only the period of live instruction shall apply to the satisfaction of the continuing education requirement established by this section. Continuing education providers shall certify the attendance of course attendees and shall transmit the qualifier or qualifying party's certification to the Board. For the purposes of this subsection, "live instruction" includes

credit hours presented by video or by Internet transmission of a previously recorded and approved presentation by an approved instructor or instructors provided the presentation is either proctored by the approved sponsor or contains safeguards as approved by the Board that allow the approved sponsor to certify that the qualifier or qualifying party has viewed the presentation. The Board shall implement procedures to ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements of this section through approved courses offered by approved providers by Internet transmission.

(e) False certification of attendance shall be grounds for the suspension or revocation of the course provider's privilege to provide courses in this State. The Board may take disciplinary action against any licensee on account of a false certification of attendance by that licensee's qualifier or qualifying party at any continuing education course.

(f) The Board shall maintain and distribute to licensees and qualifiers, as appropriate, records of the educational coursework successfully completed by each qualifier or qualifying party, including the subject matter and the number of hours of each course.

(g) Continuing education requirements shall begin on January 1 of any calendar year and shall be completed by November 30 of that calendar year. The Board shall establish a 90-day grace period following November 30 of each calendar year for any qualifier or qualifying party who has failed to complete the continuing education requirement. Failure of the qualifier or qualifying party of the entity holding a building contractor, residential contractor, or unclassified contractor license classification to satisfy the annual continuing education requirement by the expiration of the grace period shall result in the license of the entity being invalidated until such time that continuing education and all other licensing requirements have been met.

(h) Any licensee who chooses not to complete the annual continuing education as required by this section may request that the Board place the licensee's license in an inactive status and the license shall become invalid. However, in order for the license to be maintained as inactive, the licensee shall pay the same annual renewal fee paid by active licensees. Should the licensee desire to return to active status, the qualifier or qualifying party of the licensee shall satisfactorily complete the following continuing education requirements prior to seeking reinstatement:

(1) If the licensee seeks reinstatement during the first two years after the license becomes inactive, the qualifier or qualifying party shall complete eight hours of continuing education, including the mandatory course offered during the year of reinstatement.

(2) If the licensee seeks reinstatement more than two years after the license becomes inactive, the qualifier or qualifying party shall complete 16 hours of continuing education, including the mandatory course offered during the year of reinstatement.

(i) The Board shall establish nonrefundable fees for the purpose of administering the continuing education program. The Board may charge the sponsor of a proposed course a nonrefundable fee not to exceed twenty-five dollars ($25.00) per credit hour for the initial review of the course and a nonrefundable fee of twelve dollars and fifty cents ($12.50) per credit hour for the annual renewal of a course previously approved. The Board shall require an approved course provider to pay a fee, not to exceed five dollars ($5.00) per credit hour per qualifier or qualifying party, for each qualifier or qualifying party completing an approved continuing education course conducted by that provider.

(j) The Board may modify the continuing education requirements set forth in this Article in cases of certified illness or undue hardship as provided for in the rules of the Board.

(k) The Board may adopt rules to implement the requirements of this section."

SECTION 2. G.S. 87-10 reads as rewritten:

"**§ 87-10. Application for license; examination; certificate; renewal.**

...

(e) A license shall expire on the first day of January following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewal applications shall be submitted with a fee not to exceed one hundred twenty-five dollars ($125.00) for an unlimited license, one hundred dollars ($100.00) for an intermediate license, and seventy-five dollars ($75.00) for a limited license. Renewal applications shall be accompanied by evidence of continued financial responsibility ~~satisfactory to the Board.~~ and evidence of satisfactory completion of continuing education as required by G.S. 87-10.2. Renewal applications received by the Board on or after the first day of January shall be accompanied by a late payment of ten dollars ($10.00) for each month or part after January.

(f) After a license has been ~~inactive~~ invalid for four years, a licensee shall not be permitted to renew the license, and the license shall be deemed archived. If a licensee wishes to be relicensed subsequent to the archival of the license, the licensee shall fulfill all requirements of a new applicant as set forth in this section. Archived licensed numbers shall not be renewed."

SECTION 3. The State Licensing Board for General Contractors shall adopt temporary rules to implement G.S. 87-10.2, as enacted by Section 1 of this act, and G.S. 87-10, as amended by Section 2 of this act. Notwithstanding G.S. 150B-21.1(d), the temporary rules required by this act shall remain in effect until the effective date of the permanent rule adopted to replace these temporary rules. The Board is exempt from the fiscal note requirement of G.S. 150B-21.4 in adopting rules to implement this act.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law. The continuing education requirement established by G.S. 87-10.2(a), as enacted by Section 1 of this act, becomes effective January 1, 2020, and applies to licenses renewed on or after that date. The requirement that the State Licensing Board for General Contractors ensure that qualifiers and qualifying parties may satisfy all of the continuing education requirements by approved courses offered by Internet transmission, as provided in G.S. 87-10.2(d), as enacted by Section 1 of this act, becomes effective January 1, 2021.

Gavled in 11:30

Committee Bill Action Sheet

Date: 6/4/19

Committee: REG REFORM

Chair: Rep Yarborough

Bill #: SB 55

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: Finance

Representative/Senator Gunn explained the bill.

Floor Manager: Sen Gunn

Rep. Meyer motioned for:

✓ Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

HOUSE BILL 816:
Study Biomanufacturing/Nutrient Allocation.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	May 29, 2019
Introduced by:	Reps. White, Reives, Grange	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	PCS to Second Edition H816-CSBCfa-40		

OVERVIEW: The Proposed Committee Substitute to House Bill 816 would establish the Joint Select Committee on Biomanufacturing to study how to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation.

BILL ANALYSIS:

The PCS would establish the Joint Select Committee on Biomanufacturing (Committee) to study what is needed to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation, including examination of biomanufacturing's workforce, water, wastewater, educational, and training needs; identification of locations that can accommodate new biomanufacturing operations, and identification of wastewater treatment strategies and technologies that can be used to meet the State's biomanufacturing wastewater treatment needs. The Committee would be directed to make a final report to the 2021 Regular Session of the General Assembly and would expire at the earlier of the convening of the 2021 Regular Session or the filing of its final report.

The Committee would be made up of members of the General Assembly, individuals recommended by the North Carolina Biotechnology Center, the North Carolina Biosciences Organization, the Secretary of the Department of Environmental Quality, the Secretary of Commerce, the North Carolina Economic Development Association, the North Carolina Manufacturers Alliance, the President of The University of North Carolina, and the North Carolina Community College System. The chair of the NCWorks Commission would also be an ex officio member.

$10,000 in nonrecurring funds for the 2019-20 fiscal year would be allocated to be used in supporting the work of the Committee.

EFFECTIVE DATE: This act would become effective July 1, 2019.

****Chris Saunders of the Legislative Analysis Division substantially contributed to this summary.****

aren Cochrane-Brown
Director

H816-SMBC-78 CSBCFA-40 -V-2

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL 816
Corrected Copy 4/25/19

Short Title:	Study Biomanufacturing/Nutrient Allocation.	(Public)
Sponsors:	Representatives White, Reives, and Grange (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Environment, if favorable, Rules, Calendar, and Operations of the House	

April 18, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT SELECT COMMITTEE ON BIOMANUFACTURING AND TO LOWER THE PURCHASE PRICE FOR NONPOINT SOURCE NUTRIENT ALLOCATION FOR NEW AND EXPANDING WASTEWATER TREATMENT PLANTS.

The General Assembly of North Carolina enacts:

BIOMANUFACTURING STUDY

SECTION 1. Establishment; membership; holdover of legislative members. – There is established the Joint Select Committee on Biomanufacturing. The membership is as follows:

(1) Three members of the Senate appointed by the President Pro Tempore of the Senate.
(2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
(3) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Biotechnology Center.
(4) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the North Carolina Biosciences Organization.
(5) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the Secretary of the Department of Environmental Quality.
(6) One member appointed by the Speaker of the House upon the recommendation of the Secretary of Commerce.
(7) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the North Carolina Economic Development Association.
(8) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Manufacturers Alliance.
(9) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the President of The University of North Carolina.
(10) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Community College System.
(11) The chair of the NCWorks Commission, ex officio.

Committee members who are members of the General Assembly may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes

resignation or removal from service on the Committee. The appointing officer as set forth in this section shall nominate persons to fill vacancies created by resignation or removal in the same manner as the member was originally selected.

SECTION 2. Chairs; meetings; quorum. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives must each designate a cochair of the Committee. The Committee shall meet upon the joint call of the cochairs. A quorum of the Committee is a majority of its members.

SECTION 3. Purpose. – The Committee is directed to study what is needed to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation, including all of the following:

(1) Estimates of current and future biomanufacturing workforce needs and identification of existing and potential bottlenecks that would limit or hinder meeting those needs.

(2) Estimates of current and future biomanufacturing water and wastewater needs and identification of existing and potential bottlenecks that would limit or hinder meeting those needs.

(3) Assessment and characterization of the State's existing biomanufacturing workforce education and training assets, together with an estimate of future workforce training needs and identification of investments in personnel, facilities, and equipment needed to meet those needs.

(4) Identification of locations in the State that can readily accommodate new biomanufacturing operations.

(5) Identification of existing and emerging wastewater treatment strategies and technologies that can be used to meet the State's biomanufacturing wastewater treatment needs and remove bottlenecks identified in subdivision (2) of this section.

(6) Any other recommendations as the Committee considers appropriate to support the future growth of North Carolina's biomanufacturing sector.

SECTION 4. Per diem; staff. – Members of the Committee receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work.

SECTION 5. Report. – The Committee may submit an interim report to the 2019 Regular Session of the General Assembly prior to its reconvening in 2020 and shall make a final report to the 2021 Regular Session of the General Assembly prior to its first convening after adjourning its organizational session. The Committee shall also submit its report to the Secretary of Commerce, the Secretary of Environmental Quality, the President of The University of North Carolina, the President of the North Carolina Community College System, and other entities as may be designated by the cochairs, the Speaker of the House, or the President Pro Tempore of the Senate.

SECTION 6. Termination. – The Committee terminates when the 2021 Regular Session of the General Assembly first convenes after adjourning its organizational session or upon the filing of its final report, whichever occurs first.

NUTRIENT SENSITIVE WATERS NONPOINT SOURCE ALLOCATION PURCHASES

SECTION 7.(a) Definitions. – "Nonpoint Source Allocation Purchase Rule" means items (7)(b) and (8)(d) of 15A NCAC 02B .0234 (Neuse River Basin-Nutrient Sensitive Waters Management Strategy: Wastewater Discharge Requirements) for purposes of this section and its implementation.

SECTION 7.(b) Nonpoint Source Allocation Purchase Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and local air permitting programs shall implement the Nonpoint Source Allocation Purchase Rule as provided in subsection (c) of this section.

SECTION 7.(c) Implementation. – In cases where new and expanding wastewater treatment facilities cannot obtain estuary point source allocation and must purchase a portion of the nonpoint source load allocation, the purchase rate shall be one hundred ten percent (110%) of the cost as set in 15A NCAC 02B .0240.

SECTION 7.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Nonpoint Source Allocation Purchase Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 7.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 7.(f) This section is effective when it becomes law.

SECTION 8. Section 7 of this act is effective when it becomes law. The remainder of this act is effective July 1, 2019.

Committee Bill Action Sheet

Date: 6/4/19

Committee: REG REFORM

Chair: Rep Yarborough

Bill #: HB 816

PCS: YES/NO ✓ Motion made PCS before the Committee approved

Amendments: _____

Serial referral to: Rules

Representative/Senator White explained the bill.

Floor Manager: White

Rep. Meyer motioned for:

____Favorable Report

✓ Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

SENATE BILL 648:
Support Shellfish Aquaculture.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Environment. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 4, 2019
Introduced by:	Sens. Sanderson, Rabon	**Prepared by:**	Jeff Hudson Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: ***Senate Bill 648 would make various changes to State laws governing shellfish aquaculture.***

BILL ANALYSIS:

Authorize Establishment of Shellfish Aquaculture Enterprise Areas

Section 1 would authorize the Secretary of the Department of Environmental Quality (Secretary) to establish Shellfish Aquaculture Enterprise Areas and the Marine Fisheries Commission (MFC) to adopt rules necessary to implement the process for establishing Shellfish Aquaculture Enterprise Areas. Section 1 would also direct the Division of Marine Fisheries (DMF) of the Department of Environmental Quality (DEQ) to identify areas in waters that are under a shellfish leasing moratorium that could potentially be established as Shellfish Aquaculture Enterprise Areas.

Establish Pamlico Sound Shellfish Aquaculture Pilot Project

Section 2 would establish a pilot project under which the Secretary could grant up to three shellfish cultivation leases or water column leases in Pamlico Sound. Each lease could be up to 50 acres in size, must be separated from any other lease and from the shoreline by at least 250 yards, and no person could hold more than 100 acres of leases. DMF will study the advantages and disadvantages associated with leasing such areas within Pamlico Sound and will submit an interim report to the General Assembly no later than January 1, 2025, and a final report no later than January 1, 2030. In its final report, DMF will include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. The pilot project would terminate July 1, 2030, and any leases granted pursuant to it would terminate no later than July 1, 2031.

Increase Production and Planting Requirements for Shellfish Leases

Section 3 would increase the annual production and planting requirements for shellfish cultivation leases as follows:

- For shellfish bottom leases:
    - Production requirements would be increased from 10 bushels of shellfish per acre to 20 bushels of shellfish per acre.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

- For intensive culture bottom operations, the planting requirements would be increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 23,000 shellfish seed per acre.
- For extensive culture bottom operations, the planting requirements would be increased from 25 bushels of seed shellfish per acre or 50 bushels of cultch per acre to purchasing 15,000 shellfish seed per acre.

- For water column leases:
  - Production requirements would be increased from 40 bushels of shellfish per acre to 50 bushels of shellfish per acre.
  - Planting requirements would be increased from 100 bushels of seed shellfish or cultch to 23,000 shellfish seed per acre.

Facilitate the Transition of Terminated Leases to Productive Uses

Section 4 would provide that, in addition to throwing open terminated shellfish leases for public use, the Secretary could also make the bottom available for new lease applications for a period of 18 months or designate the bottom as a Shellfish Aquaculture Enterprise Area. Section 4 would also provide that the former holders of a terminated lease must remove gear in addition to markers.

Allow Transplanting of Seed Oysters and Seed Clams from Permitted Aquaculture Operations Nursery Facilities in Prohibited Waters

Section 5 would allow the transport of seed oysters and seed clams from aquaculture operations in prohibited waters unless the Secretary determines that it would be a risk to public health.

Administrative Remedy for Shellfish Leasing Appeals

Section 6 would establish a new process for appeals of shellfish lease decisions. Under the new process, the Chair of the MFC would appoint a three- member Shellfish Cultivation Lease Review Committee to determine whether a contested case is appropriate for a person, other than the lease applicant, who is affected by the decision and wishes to appeal it.

Moratorium on Shellfish Leasing in the New Hanover County Area

Section 7 would provide that until July 1, 2021, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established for the New Hanover County area.

Moratorium on Shellfish Leasing in Bogue Sound

Section 8 would provide that until July 1, 2021, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established for Bogue Sound.

Studies

Sections 9 through 12 would establish the following studies related to shellfish aquaculture:

- Direct DMF and the MFC to study how to reduce user conflict related to shellfish cultivation leases.
- Direct DMF to study penalties associated with violations of law regarding taking shellfish and shellfish aquaculture operations.
- Direct the North Carolina Coastal Federation to study a low-interest loan program to provide start-up and expansion capital to shellfish growers in North Carolina.
- Direct the Department of Agriculture and Consumer Services to study crop insurance and other risk of loss mitigation and protection programs available to shellfish growers.

EFFECTIVE DATE: Except as otherwise provided, the act would become effective July 1, 2019.

SENATE BILL 648

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/2/19

Short Title: Support Shellfish Aquaculture. (Public)

Sponsors:

Referred to:

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER SUPPORT TO THE SHELLFISH AQUACULTURE INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

AUTHORIZE ESTABLISHMENT OF SHELLFISH AQUACULTURE ENTERPRISE AREAS

SECTION 1.(a) G.S. 113-201.1 reads as rewritten:

"**§ 113-201.1. Definitions.**

As used in this Article:

(1) "Natural shellfish bed" means an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.

(2) "Riparian owner" means the holder(s) of the fee title to land that is bordered by waters of an arm of the sea or any other navigable body of water.

(3) "Shellfish" means oysters, clams, scallops, mussels or any other species of mollusks that the Marine Fisheries Commission determines suitable for cultivation, harvesting, and marketing from public grounds and private beds.

(3a) "Shellfish Aquaculture Enterprise Area" means an area established pursuant to G.S. 113-202(s) or G.S. 113-202.1(j).

(4) "Single family unit" means the husband and wife and any unemancipated children in the household.

(5) "Water column" means the vertical extent of water, including the surface, above a designated area of submerged bottom land."

SECTION 1.(b) G.S. 113-202 is amended by adding a new subsection to read:

"(s) The Secretary may establish Shellfish Aquaculture Enterprise Areas for bottom leasing pursuant to this subsection. The Secretary may establish one or more Shellfish Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection."

SECTION 1.(c) G.S. 113-202.1 is amended by adding a new subsection to read:

"(j) The Secretary may establish Shellfish Aquaculture Enterprise Areas for water column leasing pursuant to this subsection. The Secretary may establish one or more Shellfish

Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Requirements under this section include the notice, public hearing, and public comment requirements of this section. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection."

SECTION 1.(d) The Division of Marine Fisheries of the Department of Environmental Quality shall identify areas in waters that are under a moratorium for shellfish leasing that could potentially be established as Shellfish Aquaculture Enterprise Areas. The Division shall report its findings to the General Assembly no later than April 1, 2020.

ESTABLISH PAMLICO SOUND SHELLFISH AQUACULTURE PILOT PROJECT

SECTION 2. Notwithstanding any other provision of law, the Secretary of Environmental Quality may grant up to three shellfish cultivation leases or water column leases in Pamlico Sound as provided in the pilot project established by this section. Under the pilot project, each lease may be up to 50 acres in size; each lease must be separated from any other lease and from the shoreline by at least 250 yards; and no person, including a corporate entity, or single family unit, may hold more than 100 acres of leases. The Division of Marine Fisheries of the Department of Environmental Quality shall, to the extent practicable, grant leases in different geographic areas of Pamlico Sound. The Division shall study the advantages and disadvantages associated with leasing such areas within Pamlico Sound. In conducting this study, the Division shall consult with shellfish growers, nearby riparian owners, and other users of the public bottoms and waters. The Division shall submit an interim report of its findings, including any recommendations, to the General Assembly no later than January 1, 2025, and a final report of its findings, including any recommendations, to the General Assembly no later than January 1, 2030. In its final report, the Division shall include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. This section shall terminate July 1, 2030, and any leases granted pursuant to this section shall terminate no later than July 1, 2031.

INCREASE PRODUCTION AND PLANTING REQUIREMENTS FOR SHELLFISH LEASES

SECTION 3.(a) Definitions. – For purposes of this section and its implementation:

(1) "Extensive shellfish culture" means shellfish grown on the bottom without the use of cages, racks, bags, or floats.

(2) "Intensive shellfish culture" means shellfish grown on the bottom or in the water column using cages, racks, bags, or floats.

(3) "Shellfish Production and Planting Requirements Rule" means 15A NCAC 03O .0201 (Standards and Requirements for Shellfish Bottom Leases and Franchises and Water Column Leases) for purposes of this section and its implementation.

SECTION 3.(b) Shellfish Production and Planting Requirements Rule. – Until the effective date of the revised permanent rule that the Marine Fisheries Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Shellfish Production Requirements Rule as provided in subsection (c) of this section.

SECTION 3.(c) Implementation. – Shellfish leases shall be terminated unless they comply with the following requirements:

(1) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall be terminated unless:

a. They produce a minimum of 20 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or

b. For intensive culture bottom operations, the holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually and for extensive culture bottom operations, the holder of the lease plants a minimum of 15,000 shellfish seed per acre per year.

(2) Water column leases shall be terminated unless:

a. They produce a minimum of 50 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or

b. The holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Shellfish Production Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 3.(e) Applicability and Sunset. – This section and rules adopted pursuant to this section apply to all new and renewal shellfish leases granted after July 1, 2019. This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

FACILITATE THE TRANSITION OF TERMINATED LEASES TO PRODUCTIVE USES

SECTION 4.(a) G.S. 113-202(n) reads as rewritten:

"(n) Upon final termination of any leasehold, ~~the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally.~~the Secretary may do any of the following:

(1) Make the bottom available for a new lease application for a period of 18 months.

(2) Designate the bottom as a Shellfish Aquaculture Enterprise Area.

(3) Make the bottom open to the public for use in accordance with laws and rules governing use of public grounds generally.

Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned gear and markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned gear and markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned gear and markers and the State may bring suit to recover the costs thereof."

SECTION 4.(b) G.S. 113-202(a) reads as rewritten:

"(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the Secretary may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when the Secretary determines, in accordance with his duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

(1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.

(2) ~~The~~ Except as provided under subsection (n) of this section, the area leased must not contain a natural shellfish bed.

...."

SECTION 4.(c) This section becomes effective July 1, 2019, and applies to leases terminated on or after that date.

ALLOW TRANSPLANTING OF SEED OYSTERS AND SEED CLAMS FROM PERMITTED AQUACULTURE OPERATION NURSERY FACILITIES IN PROHIBITED WATERS

SECTION 5. G.S. 113-203 reads as rewritten:

"**§ 113-203. Transplanting of oysters and clams.**

...

(a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the ~~restricted~~ prohibited, restricted, or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

(1) When transplanting seed clams less than 12 millimeters in their largest dimension.

(2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

ADMINISTRATIVE REMEDY FOR SHELLFISH LEASING APPEALS

SECTION 6.(a) G.S. 143B-289.57 is amended by adding a new subsection to read:

"(f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202. The Committee shall include one Commission member, who shall serve as the hearing officer, and two public members. One public member shall have expertise or other relevant experience in shellfish aquaculture, and the other public member shall have expertise or other relevant experience with respect to coastal property or property assessment. The Commission shall adopt rules to establish procedures for the appeals and may adopt temporary rules."

SECTION 6.(b) G.S. 113-202(g) reads as rewritten:

"(g) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision ~~or another person aggrieved by the decision~~ may commence a contested case by filing a petition under G.S. 150B-23 within ~~20~~ 30 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary. A person other than the applicant who is aggrieved by the Secretary's decision may file a petition for a contested case hearing only if the Shellfish Cultivation Lease Review Committee established pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made. A

determination of the appropriateness of a contested case shall be made by the Review Committee within 90 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

(1) Has alleged that the decision is contrary to a statute or rule.

(2) Is directly affected by the decision.

(3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Review Committee determines that a contested case is appropriate, the petition for a contested case shall be filed within 30 days after the Review Committee makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Review Committee erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

The applicant or another person aggrieved by a final decision under this section may appeal the decision to the superior court of the county where the proposed lease or any part thereof is located, pursuant to the provisions of Chapter 150B of the General Statutes."

SECTION 6.(c) This section becomes effective July 1, 2019, and applies to decisions of the Secretary made on or after that date.

MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA

SECTION 7. Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 13.10221' N -77° 48.79544' W on the mainland side near Wrightsville Beach Bridge; running southeasterly to a point at 34° 12.51584' N -77° 47.81847' W on Wrightsville Beach; following the shoreline southwesterly to a point at 34° 11.121' N -77° 48.848' W at Masonboro Inlet; running southwesterly to a point at 34° 10.927' N -77° 48.771' W at Masonboro Inlet; continuing southwesterly to a point at 34° 05.04108' N -77° 52.08324' W near IWW marker #159 continuing running southwesterly to a point at 34° 03.64140' N -77° 53.41338' W on the mainland adjacent to the eastern mouth of Snow's Cut; running northeasterly along the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

MORATORIUM ON SHELLFISH LEASING IN BOGUE SOUND

SECTION 8. Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 43.24641' N -76° 41.68436' W; running easterly following the Highway 70 High Rise Bridge to a point at 34° 43.27819' N -76° 41.22259' W; running southerly to a point 34° 42.375275' N -76° 40.80078' W on the southern tip of Radio Island; running southerly to a point 34° 41.98273' N -76° 40.81929' W; following the shoreline westerly to the Emerald Isle Bridge at a point 34° 40.05410' N -77° 03.80531' W; running northwesterly following the bridge to a point 34° 40.77658' N -77° 04.02674' W on the mainland near the Emerald Isle High Rise Bridge; running easterly following the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

STUDY HOW TO REDUCE USER CONFLICT RELATED TO SHELLFISH CULTIVATION LEASES

SECTION 9. The Division of Marine Fisheries and the Marine Fisheries Commission shall study how to reduce user conflict related to shellfish cultivation leases. The Division and Commission shall complete this study no later than January 1, 2020, and shall adopt rules and reform internal operating procedures consistent with the findings of the study no later than March 1, 2021.

STUDY PENALTIES ASSOCIATED WITH VIOLATIONS OF LAWS REGARDING TAKING SHELLFISH AND SHELLFISH AQUACULTURE OPERATIONS

SECTION 10. The Division of Marine Fisheries of the Department of Environmental Quality, in consultation with the North Carolina Department of Justice and the North Carolina Sentencing and Policy Advisory Commission, shall study the penalties associated with violations of laws regarding taking shellfish and shellfish aquaculture operations. The agencies shall specifically review G.S. 113-207 (Taking shellfish from certain areas forbidden; penalty), G.S. 113-208 (Protection of private shellfish rights), G.S. 113-218 (Protection of private marine aquaculture rights), and G.S. 113-269 (Robbing or injuring hatcheries and other aquaculture operations), and may review other statutes with penalties associated with violations of laws regarding taking shellfish and shellfish aquaculture operations. In their review of the statutes, the agencies shall consider the levels of criminal penalties, fines, and restitution; the consistency and proportionality of the statutes; and whether any of the statutes or their provisions are duplicative. The agencies shall develop recommendations for amendment of the statutes that would make the penalties more consistent and proportional and less duplicative and that would serve to better protect the wild and cultured shellfish resources in the State. The agencies shall report the results of their study, including their recommendations, to the General Assembly no later than March 1, 2020.

STUDY OF SHELLFISH LOAN PROGRAM

SECTION 11. The North Carolina Coastal Federation (Federation) shall study a low-interest loan program to provide start-up and expansion capital to shellfish growers in waters of the State. As part of its study, the Federation shall investigate and recommend optimal loan terms, a recommended administrative structure for the program, and limitations on loan amounts and on uses of loaned funds necessary to maximize public economic benefits and target funding support where need is greatest. The Federation may use administrative funds provided to it under S.L. 2018-5 for the study. The Federation shall submit its report, including funding needs and any legislative proposals, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than March 15, 2020.

STUDY CROP INSURANCE FOR SHELLFISH AQUACULTURE

SECTION 12. The Department of Agriculture and Consumer Services shall study crop insurance and other risk of loss mitigation and protection programs available to persons engaging in shellfish aquaculture in North Carolina. The Department shall include all of the following in its study:

(1) An overview and assessment of currently available State or federal programs, including programs offered in other states, and identification of gaps or shortfalls in the coverage provided by those programs.

(2) The identification of options for insurance or other risk protection programs subsidized or underwritten by the State, including an analysis of feasibility, cost, and whether the option would provide sufficient spread of risk to be an actuarially sound investment of public funds.

(3) If the Department finds that no program limited to this State is actuarially sound, an assessment of legal, practical, or political barriers to a federal or multistate crop insurance or other risk mitigation program for shellfish aquaculture.

The Department shall submit its report, including recommendations for required funding and any legislative changes needed, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than November 1, 2020.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 13.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 13.(b) Except as otherwise provided, this act becomes effective July 1, 2019.

Committee Bill Action Sheet

Date: 6/4/19

Committee: REG REFORM

Chair: Rep Yarborough / Riddell

Bill #: SB 648

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: RULES

Representative/Senator Rep Yarborough explained the bill.

Floor Manager: Sen Sanderson

Rep. Yarborough motioned for:

✓ Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers Rob Lamm - Carolina Coastal Federation - support
Jerry Schill - NC Fisheries Assoc - support

Attached Handouts: YES/NO

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 6/4/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sallie James	Gov's office
Kari Barsness	BPS
Resha Fortson	SEANC
Corey Sugerik	Sierra Club
Preston Howard	NCMA
Tyler Ford	NCMC
Jacqueline Scott	Williams Mullen
John Lucey	DEQ
Joy Hicks	DEQ
Shirley Norris	DEQ
Abre Crumbaly	NCCW

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 6/4/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Haywood Pittman	Neuse River Compliance Asso.
Phil Day	BMG
Sarah Collins	NCLM
John Harden	MFS
Will Morgan	MFS
Bri Glass	MFS
Angela McKinney	MFS
Sam Taylor	NCBIO
Rob Lamm	PLA
Jerry Schill	NC Fisheries Assn.

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 6/4/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Peterson	allate advocacy
Brooks Rainey Pearson	SELC
Mary Maclean Asbill	SELC
Rachel Gonsenhauser	NC LCV
Suzanne Mullens	NC LCV
Dan Crawford	NCLCV
Joel Lanier	CSH
CS Hollis	CSH
Grace Innis	NPV
Tommy Stevens	Stevens Lobby

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform — 6/4/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Hamilton	DEQ - DWR
Julie Grzyb	DEQ-DWR
Linda Culpepper	DEQ - DWR
Rich Gannon	DEQ - DWR
Sarah Woolard	DEQ - DWR
AB Swindell	Waste Ind

Committee Sergeants at Arms

NAME OF COMMITTEE: House Committee on Regulatory Reform

DATE: 6/4/2019 Room: 1227/1328

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Tuesday, June 04, 2019
Session: 12:30 PM

Committee	Room	Time	Staff	Comments	Member
Transportation	544	11:00 AM	Michael Calabrese		Rep. John Faircloth
			Joel Miles		Rep. Grier Martin
			Daniel Park		Rep. Verla Insko
			Jared Reeder		Rep. Allen McNeill
Regulatory Reform	1228/1327	11:30 AM	Charlotte Bland		Rep. Frank Iler
			Emily Cawood		Rep. Donny Lambeth
			Alexandra Rupkalvis		Rep. Frank Iler
			Lauren Seshul		Rep. Jay Adams
Rules, Calendar, and Operations of the House	1228/1327	3:30 PM	Elizabeth Colston		Rep. Michael H. Wray
			Lanie Norris		Rep. Larry C. Strickland
			Kennedy Rouser		Speaker Tim Moore
			Jackson White		Rep. William O. Richardson

House Committee on Regulatory Reform
Thursday, June 20, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on June 20, 2019 in Room 1228/1327 of the Legislative Building. Representatives Ager, Belk, Blackwell, Brewer, Brody, Carter, Clark, Conrad, Holley, Kidwell, Meyer, Presnell, Queen, Riddell, and Yarborough attended.

Representative Dennis Riddell, Chair, presided.

Representative Riddell recognized the sergeant at arms and pages after calling the meeting to order.

The following bills were considered:

SB 88 Electrician Requirements for Certain Orgs. (Senators Sawyer, T. Alexander) Representative Riddell put the bill before the committee. Senator Sawyer explained the bill. The bill was discussed and debated. Representative Brody made a motion for a favorable report. The vote was called and the motion carried.

SB 313 Perf. Guar. to Streamline Afford. Housing. (Senators Wells, Krawiec, Woodard) Representative Riddell put the bill before the committee and Representative Brody explained the bill. There was discussion and debate before Representative Meyer made a motion for a favorable report. The vote was called and the motion passed.

SB 316 Affordable Housing. (Senators Wells, Krawiec, Edwards) Representative Riddell put the bill before the committee. Representative Brody explained the bill. After a time of discussion, Representative Holley motioned for approval of the measure. The measure passed.

SB 355 Land-Use Regulatory Changes. (Senators Bishop, Newton, Searcy) Representative Riddell put the bill before the committee. Senator Newton explained the bill. There was discussion and then Representative Kidwell motioned for a favorable report. The vote was taken and it passed.

The meeting adjourned at 11:30 AM.

Representative Dennis Riddell, Chair
Presiding

Polly Riddell, Committee Clerk

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, June 20, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Riddell will preside.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 88	Electrician Requirements for Certain Orgs.	Senator Sawyer Senator T. Alexander
SB 313	Perf. Guar. to Streamline Afford. Housing.	Senator Wells Senator Krawiec Senator Woodard
SB 316	Affordable Housing.	Senator Wells Senator Krawiec Senator Edwards
SB 355	Land-Use Regulatory Changes.	Senator Bishop Senator Newton Senator Searcy

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:41 PM on Tuesday, June 18, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Thursday, June 20, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 88	Electrician Requirements for Certain Orgs.	Senator Sawyer Senator T. Alexander
SB 313	Perf. Guar. to Streamline Afford. Housing.	Senator Wells Senator Krawiec Senator Woodard
SB 316	Affordable Housing.	Senator Wells Senator Krawiec Senator Edwards
SB 355	Land-Use Regulatory Changes.	Senator Bishop Senator Newton Senator Searcy

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

SB **88** **(CS#1)** Electrician Requirements for Certain Orgs.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

SB **313** Perf. Guar. to Streamline Afford. Housing.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

SB **316** **(CS#1)** Affordable Housing.

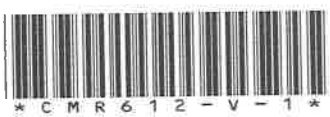
Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB **355** **(CS#1)** Land-Use Regulatory Changes.

Draft Number:	S355-PCS35299-TG-32
Serial Referral:	**JUDICIARY**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	D. Hall

TOTAL REPORTED: 4



SENATE BILL 88:
Electrician Requirements for Certain Orgs.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 19, 2019
Introduced by:	Sens. Sawyer, T. Alexander	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: ***Senate Bill 88 would make several clarifying changes to provide that electrical contractors employed by local boards of education, hospitals, and nonprofit organizations may make repairs and conduct maintenance at any building or facility owned or possessed by a local board of education when done at the direction of the local board of education, hospital, or nonprofit organization.***

CURRENT LAW: Current law provides that an electrical contractor's license is not required for the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment upon one's own property.

BILL ANALYSIS:

Section 1 of the bill would clarify that the exception from licensure for a person performing electrical work on the person's own property does not limit the ability of a local board of education, a hospital, or a nonprofit organization to employ a licensed electrical contractor to perform maintenance and repairs on property owned or possessed by the local board of education, hospital, or nonprofit organization.

Section 2 would provide that a licensed electrical contractor who is regularly employed by a local board of education, hospital, or nonprofit organization may maintain an individual license and may contract with or perform work at the direction of the contractor's employer for any building or facility owned or possessed by the employer, regardless of whether all or a portion of the building or facility is being leased or otherwise provided for another entity or event.

Section 3 would provide that local boards of education may employ licensed electrical contractors.

EFFECTIVE DATE: This act would be effective when it becomes law.

****Staff Attorney Chris Saunders substantially contributed to this summary.****

Karen Cochrane-Brown
Director

S88-SMBC-90 E2 -V-1

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 2

SENATE BILL 88

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/19

Short Title: Electrician Requirements for Certain Orgs. (Public)

Sponsors:

Referred to:

February 20, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE STATUTES REGULATING ELECTRICAL CONTRACTORS TO ENABLE LICENSED ELECTRICAL CONTRACTORS EMPLOYED BY SCHOOLS, HOSPITALS, AND NONPROFITS TO MAKE REPAIRS AND CONDUCT MAINTENANCE AT ALL FACILITIES AT ALL TIMES WHEN DONE AT THE DIRECTION OF THE SCHOOL, HOSPITAL, OR NONPROFIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-43.1 reads as rewritten:

"**§ 87-43.1. Exceptions.**

The provisions of this Article shall not apply:

(1) To the installation, construction or maintenance of facilities for providing electric service to the public ahead of the point of delivery of electric service to the ~~customer;~~customer.

(2) To the installation, construction, maintenance, or repair of telephone, telegraph, or signal systems, by public utilities, or their corporate affiliates, when said work pertains to the services furnished by said public ~~utilities;~~utilities.

(3) To any person in the course of his work as a bona fide employee of a licensee of this ~~Board;~~Board.

(4) To the installation, construction or maintenance of electrical equipment and wiring for temporary use by contractors in connection with the work of ~~construction;~~construction.

(5) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by persons, firms or corporations, upon their own property when such property is not intended at the time for rent, lease, sale or gift, who regularly employ one or more electricians or mechanics for the purpose of installing, maintaining, altering or repairing of electrical wiring, devices or equipment used for the conducting of the business of said persons, firms or ~~corporations;~~corporations.

(5a) To any person ~~who~~ when that person is ~~himself and for himself~~ installing, maintaining, altering or repairing electric work, wiring, devices, appliances or equipment upon ~~his~~ that person's own property and for that person's own benefit when such property is not intended at the time for rent, lease, or ~~sale;~~sale. This subdivision shall not be construed to limit the ability of local boards of education, hospitals as defined in G.S. 131E-76, or nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal

Revenue Code (26 U.S.C. § 501(c)(3)), to employ personnel who are licensed under this Article to perform maintenance and repairs on property owned or in the possession of that local board of education, hospital, or nonprofit organization.

(6) To the installation, construction, maintenance or repair of electrical wiring, devices, appliances or equipment by State institutions and private educational institutions which maintain a private electrical ~~department;~~department.

(7) To the replacement of lamps and fuses and to the installation and servicing of cord-connected appliances and equipment connected by means of attachment plug-in devices to suitable receptacles which have been permanently installed or to the servicing of appliances connected to a permanently installed junction box. This exception does not apply to permanently installed receptacles or to the installation of the junction box.

(8) To the bonding of corrugated stainless steel tubing (CSST) gas piping systems as required under Section 310.1.1 of the 2012 N.C. Fuel Gas Code.

(9) To the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under this Article. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subdivision applies to all existing installations.

(10) To the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch."

SECTION 2. G.S. 87-43.2 reads as rewritten:

"**§ 87-43.2. Issuance of license.**

(a) A person, partnership, firm, or corporation shall be eligible to be licensed as an electrical contractor and to have such license renewed, subject to the provisions of this Article, provided:

(1) At least one listed qualified individual shall be regularly employed by the applicant at each separate place of business to have the specific duty and authority to supervise and direct electrical contracting done by or in the name of the licensee;

(2) An application is filed with the Board which contains a statement of ownership, states the names and official positions of all employees who are listed qualified individuals and provides such other information as the Board may reasonably require;

(3) The applicant, through an authorized officer or owner, shall agree in writing to report to the Board within five days any additions to or loss of the employment of listed qualified individuals; and

(4) The applicant furnishes, upon the initial application for a license, a bonding ability statement completed by a bonding company licensed to do business in North Carolina, verifying the applicant's ability to furnish performance bonds for electrical contracting projects having a value in excess of the project value

limit for a limited license established pursuant to G.S. 87-43.3 for the intermediate license classification and in excess of the project value limit for an intermediate license established pursuant to G.S. 87-43.3 for the unlimited license classification. In lieu of furnishing the bonding ability statement, the applicant may submit for evaluation and specific approval of the Board other information certifying the adequacy of the applicant's financial ability to engage in projects of the license classification applied for. The bonding ability statement or other financial information must be submitted in the same name as the license to be issued. If the firm for which a license application is filed is owned by a sole proprietor, the bonding ability statement or other financial information may be furnished in either the firm name or the name of the proprietor. However, if the application is submitted in the name of a sole proprietor, the applicant shall submit information verifying that the person in whose name the application is made is in fact the sole proprietor of the firm.

(5) Repealed by Session Laws 1989, c. 709, s. 5.

(b) A license shall indicate the names and classifications of all listed qualified individuals employed by the applicant. A license shall be cancelled if at any time no listed qualified individual is regularly employed by the applicant; provided, that work begun prior to such cancellation may be completed under such conditions as the Board shall direct; and provided further that no work for which a license is required under this Article may be bid for, contracted for or initiated subsequent to such cancellation until said license is reinstated by the Board.

(c) Nothing in this Article shall be deemed to limit the ability of a licensee under this Article who is regularly employed by a local board of education, a hospital as defined in G.S. 131E-76, or a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) to maintain an individual license or to contract or perform work at the direction of the local board of education, hospital, or nonprofit organization for any building or facility owned or in possession of that local board of education, hospital, or nonprofit organization, regardless of whether all or a portion of that building or facility is being leased or otherwise provided for another entity or event."

SECTION 3. G.S. 115C-524 reads as rewritten:

"**§ 115C-524. Repair of school property; use of buildings for other than school purposes.**

(a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(a1) Local boards of education may employ personnel who are licensed to perform maintenance and repairs on school property for plumbing, heating, and fire sprinklers pursuant to Article 2 of Chapter 87 of the General Statutes, or personnel who are licensed as electrical contractors pursuant to Article 4 of Chapter 87 of the General Statutes.

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

(c) Notwithstanding the provisions of G.S. 115C-263 and 115C-264, local boards of education may adopt rules and regulations under which they may enter into agreements permitting non-school groups to use school real and personal property, except for school buses,

for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. No liability shall attach to any board of education or to any individual board member for personal injury suffered by reason of the use of such school property pursuant to such agreements.

(d) Local boards of education may make outdoor school property available to the public for recreational purposes, subject to any terms and conditions each board deems appropriate, (i) when not otherwise being used for school purposes and (ii) so long as such use is consistent with the proper preservation and care of the outdoor school property. No liability shall attach to any board of education or to any individual board member for personal injury suffered by reason of the use of such school property."

SECTION 4. This act is effective when it becomes law.

SENATE BILL 313:
Perf. Guar. to Streamline Afford. Housing.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 19, 2019
Introduced by:	Sens. Wells, Krawiec, Woodard	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 313 makes various changes to State law concerning performance guarantees for the successful completion of required improvements.

CURRENT LAW: G.S. 153A-331 and G.S. 160A-372 authorize cities and counties, as a part of their subdivision ordinances, to require performance guarantees to assure successful completion of improvements required under the ordinance. The requirements for performance guarantees required by cities are found in G.S. 160A-372(g). Pursuant to G.S. 153A-331(g), those same requirements apply to performance guarantees required by counties.

BILL ANALYSIS:

SECTION 1 of the bill amends State law governing performance guarantees as part of a subdivision ordinance as follows:

- Makes conforming changes to G.S. 160A-372(c), by removing and transferring language to a revised G.S. 160A-372(g).
- Creates a new subsection (1a) which applies to the *duration* of performance guarantees.
    - The duration of the performance guarantee would initially be one year unless the developer determines that the scope of the work for the improvements requires a longer duration. In the case of a bonded obligation, it would be set at one year from the date the bond is issued unless the developer determines that the scope of the work for the improvements requires a longer duration.
- Creates a new subsection (1b) which applies to *extensions* of performance guarantees.
    - Provides that extensions, or the issuance of a new performance guarantee as the result of a performance guarantee that is likely to expire prior to completion of improvements, only be for a duration necessary to complete the improvements.
        - For new performance guarantees issued, the amount could not exceed one hundred and twenty-five percent (125%) of the reasonably estimated cost of completion at the time it is issued and must include the total cost of all incomplete improvements.
        - Extensions could not exceed one hundred and twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is granted.
- Revises subsection (2) which applies to *releases* of performances guarantees.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

- Would require a city or county to return letters of credit or escrowed funds upon the completion of improvements to their specifications, or upon acceptance of the improvements, if such acceptance is required. For improvements secured by a bond, a city or county would be required to provide written acknowledgement that the improvements have been completed following the completion or acceptance of the improvements and upon receiving such a request for acknowledgment by the developer.

- Revises subsection (3) which applies to the *amount* of performance guarantees.
  - Performance guarantees would remain at an amount not to exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. In determining this amount, a city or county may determine the amount, or use a cost estimate determined by the developer. The reasonably estimated cost of completion would include one hundred percent (100%) of the costs for labor and materials necessary for completion of the improvements, based on unit price where applicable, and the remaining twenty-five percent (25%) would include inflation and all costs of administration.
- Creates a new subsection (3a) which applies to timing of performance guarantees.
  - Would clarify that a city or county at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded, or at a time subsequent to recordation.
- Makes conforming changes to subsections (4) and (5).
- Creates a new subsection (6) which applies to *multiple guarantees*.
  - The developer would have the option to post one type of a performance guarantee in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring the performance guarantee. Performance guarantees associated with erosion control and stormwater control measures would not be subject to these provisions.

SECTION 2. makes conforming changes to G.S. 153A-331(e).

EFFECTIVE DATE: This act is effective when it becomes law and applies to performance guarantees issued on or after that date.

****Jeremy Ray of the Legislative Analysis Division substantially contributed to this summary.****

HOUSE BILL 554

Short Title:	Funeral Practice Licensure Tech. Corrections.	(Public)
Sponsors:	Representatives Boles, Alexander, Hunter, and Jones (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House	

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO MODIFY FUNERAL SERVICE AND CREMATORY LICENSES AND PRACTICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-210.25(a) reads as rewritten:

"(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:

…

c. Possesses a degree in mortuary science or has graduated from a Funeral Director Program, or the equivalent, from a program approved by the Board ~~and~~ or accredited by the American Board of Funeral Service Education.

…

e. Within the last three years, has obtained passing scores on all of the following examinations:

1. Entry-level examination in funeral ~~directing administered by The International Conference of Funeral Service Examining Boards.~~directing.

…

(3) To be licensed for the practice of funeral service under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:

…

e. Within the last three years, has passed an oral or written funeral service examination on the following subjects:

1. Entry-level examination in funeral ~~directing administered by The International Conference of Funeral Service Examining Boards.~~directing.
2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
3. Repealed by Session Laws 1997-399, s. 7.
4. Examination of the laws of North Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984),

pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.

A funeral service examination taken and passed on or before October 1, 2018, for the purposes of attaining licensure under this section shall be considered valid for a five-year period following the date on which the applicant passed the examination.

f. Has paid all applicable fees.

(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under the supervision of either a licensed embalmer or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or embalming full time for a minimum of five years. A person training to become a funeral director may serve under the supervision of either a licensed funeral director or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or funeral directing full time for a minimum of five years. A person training to become a funeral service licensee shall serve under the supervision of a funeral service licensee who is in good standing with the Board and who has practiced funeral service full time for a minimum of five years. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.

...

m. A 12-month resident traineeship that is completed on or before October 1, 2018, shall be recognized as a qualifying traineeship for licensure under this section for the five-year period following the completion date of the traineeship.

...."

SECTION 1.(b) G.S. 90-210.63 is amended by adding a new subsection to read:

"(c) Any licensee holding a permit under Articles 13A or 13F of this Chapter that accepts the transfer of a preneed funeral contract after the death of the preneed contract beneficiary shall file the certificate of performance with the Board and mail a copy to the contracting preneed licensee. If the preneed funeral contract is performed by a funeral establishment in another state, the original contracting preneed licensee shall make reasonable efforts to obtain the information needed to accurately complete the certificate of performance and shall file the certificate no later than the time allowed under G.S. 90-210.64."

SECTION 1.(c) G.S. 90-210.123 is amended by adding a new subsection to read:

"(d1) Crematory licensees that offer at-need cremation goods and services to the public shall comply with the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended."

SECTION 1.(d) G.S. 90-210.123(i) reads as rewritten:

"(i) The Board may hold hearings in accordance with the provisions of this Article and Article 3A of Chapter 150B of the General Statutes. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been

corrected. The Board may obtain preliminary and final injunctions whenever a violation of this Article has occurred or threatens to occur. The Board may enforce compliance with the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), as amended, and in accordance with subsection (d1) of this section.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor."

SECTION 1.(e) G.S. 90-210.129(c1) reads as rewritten:

"(c1) For any death occurring outside North Carolina, a crematory licensee shall not cremate a dead human body without first obtaining a copy of ~~[the]~~ the burial-transit or disposal permit issued ~~by the jurisdiction where the~~ under the law of the state, province, or foreign government in which death ~~occurred and one of the following documents:~~or disinterment occurred.

~~(1) A death certificate from the other jurisdiction that meets the same content and signature requirements of subsection (a) of this section.~~

~~(2) Any document or certificate required to authorize cremation in the jurisdiction where the death occurred that is signed by a physician, medical examiner, or other authorized person and that contains all information required by subdivisions (1) through (9) of subsection (a) of this section.~~

The provisions of this subsection shall not be construed to waive the jurisdiction of the medical ~~examiner.~~examiner, or subsection (b) of this section."

SECTION 1.(f) G.S. 90-210.129(d) reads as rewritten:

"(d) No body shall knowingly be cremated with a pacemaker or defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator not approved for cremation by the pacemaker's manufacturer or proper regulating agency or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral ~~director and~~ director, funeral service licensee, or the crematory ~~licensee~~ licensee, whichever is applicable, on the cremation authorization form of the presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral ~~director~~ director, funeral service licensee, or the crematory licensee, whichever is applicable or responsible for obtaining the information required to complete the decedent's death certificate, shall also be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory. Anyone removing a hazardous implanted device or material under this subsection shall comply with the laws and rules governing the handling of such material and with any other regulations enforced by the proper regulating authority."

SECTION 1.(g) G.S. 90-210.136(g) reads as rewritten:

"(g) Unless specified otherwise by the manufacturer of the equipment used for hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or ~~other material or implant that would be potentially hazardous if cremated.~~defibrillator. Any other potentially hazardous implanted device or material shall be handled in accordance with G.S. 90-210.129(d)."

SECTION 2. G.S. 130A-113 is amended by adding a new subsection to read:

"(b1) For any death occurring outside North Carolina, a crematory licensee shall not cremate a dead human body without obtaining a copy of the burial-transit or disposal permit issued under the law of the state, province, or foreign government in which death or disinterment occurred before cremation. Nothing in this subsection shall be construed to waive the provisions of G.S. 130A-388."

SECTION 3. G.S. 130A-385 is amended by adding a new subsection to read:

"**§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.**

(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take charge of the body, make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed for that purpose.

The Chief Medical Examiner or the county medical examiner is authorized to inspect and copy the medical records of the decedent whose death is under investigation. In addition, in an investigation conducted pursuant to this Article, the Chief Medical Examiner or the county medical examiner is authorized to inspect all physical evidence and documents which may be relevant to determining the cause and manner of death of the person whose death is under investigation, including decedent's personal possessions associated with the death, clothing, weapons, tissue and blood samples, cultures, medical equipment, X rays and other medical images. The Chief Medical Examiner or county medical examiner is further authorized to seek an administrative search warrant pursuant to G.S. 15-27.2 for the purpose of carrying out the duties imposed under this Article. In addition to the requirements of G.S. 15-27.2, no administrative search warrant shall be issued pursuant to this section unless the Chief Medical Examiner or county medical examiner submits an affidavit from the office of the district attorney in the district in which death occurred stating that the death in question is not under criminal investigation.

The Chief Medical Examiner shall provide directions as to the nature, character and extent of an investigation and appropriate forms for the required reports. The facilities of the central and district offices and their staff services shall be available to the medical examiners and designated pathologists in their investigations.

(b) The medical examiner shall complete a certificate of death, stating the name of the disease which in his opinion caused death. If the death was from external causes, the medical examiner shall state on the certificate of death the means of death, and whether, in the medical examiner's opinion, the manner of death was accident, suicide, homicide, execution by the State, or undetermined. The medical examiner shall also furnish any information as may be required by the State Registrar of Vital Statistics in order to properly classify the death.

(b1) In cases where a physician has not signed a death certificate, the medical examiner is directed to sign the death certificate within five days of receiving paperwork from a funeral home. Under the cause or manner of death, the medical examiner may list "undetermined" if the decedent had not seen a physician within three months preceding the decedent's death. A certificate with a cause or manner of death listed as "undetermined" may be used for the purpose of cremation.

...."

SECTION 4. This act becomes effective October 1, 2019, and applies to cremations on or after that date, and licenses granted or renewed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 554

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H554-ABC-23 [v.2]

Amends Title [NO]
First Edition

Date 4/16 ,2019

Representative Adcock

moves to amend the bill on page 4, line 36, by rewriting the line to read:

"(b1) In cases where a physician, nurse practitioner, or physician assistant has not signed a death certificate, the medical examiner is";

and on page 4, line 39, by rewriting the line to read:

"decedent had not seen a physician, nurse practitioner, or physician assistant within three months preceding the decedent's death. A"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

HOUSE JOINT RESOLUTION 390: Application for a Convention of the States.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 16, 2019
Introduced by:	Reps. Riddell, Saine, Setzer, D. Hall	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	First Edition		

OVERVIEW: House Joint Resolution 390 would request that Congress call an Article V Convention for proposing amendments to the United State Constitution.

CURRENT LAW: Article V of the United States Constitution provides that the federal Constitution can be amended in the following ways:

For proposal of amendments:

- Two-thirds of Congress can propose amendments, or
- Two-thirds of state legislatures (34 states) can request that Congress call a convention for proposing amendments. (Article V Convention)

Ratification of amendments may be made by either:

- Three-fourths of state legislatures (38 states), or
- Three-fourths of state conventions.

BILL ANALYSIS: HJR 390 would request that Congress call an Article V convention for proposing amendments to the United State Constitution on:

- Imposing fiscal restraints on the federal government.
- Limiting the power and jurisdiction of the federal government.
- Limiting the terms of office for federal government officials and for members of Congress.

The application for a convention would continue until its expiration on December 31, 2028. The North Carolina Secretary of State would be required to transmit the application to the President of the United State, the Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of North Carolina's congressional delegation, and the presiding officers of all state legislatures in the several States requesting their cooperation.

EFFECTIVE DATE: HJR 390 would become effective upon ratification.

**Kara McCraw, Staff Attorney for the Legislative Analysis Division, substantially contributed to this summary.*

ıren Cochrane-Brown
Director

H390-SMBH-42 E1 -V-1

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE JOINT RESOLUTION DRHJR30175-LG-17

Sponsors: Representatives Riddell, Saine, Setzer, and D. Hall (Primary Sponsors).

Referred to:

A JOINT RESOLUTION APPLYING TO CONGRESS FOR AN ARTICLE V CONVENTION OF THE STATES WITH THE PURPOSE OF PROPOSING AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Whereas, the founders of the United States Constitution empowered state legislators to be guardians against actual or potential abuses of power by the federal government; and

Whereas, the federal government has increasingly usurped legitimate roles of the states; and

Whereas, the federal government has created a crushing national debt through unsustainable budgeting and spending; and

Whereas, it is the solemn duty of the states to protect freedom and opportunity for our citizens, including the generations to come; and

Whereas, Article V of the Constitution of the United States authorizes a process to propose amendments to the United States Constitution through a convention of the states to place clear restraints on these and related abuses of power; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The legislature of the State of North Carolina hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the United States Constitution that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

SECTION 2. This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject. This application expires on December 31, 2028.

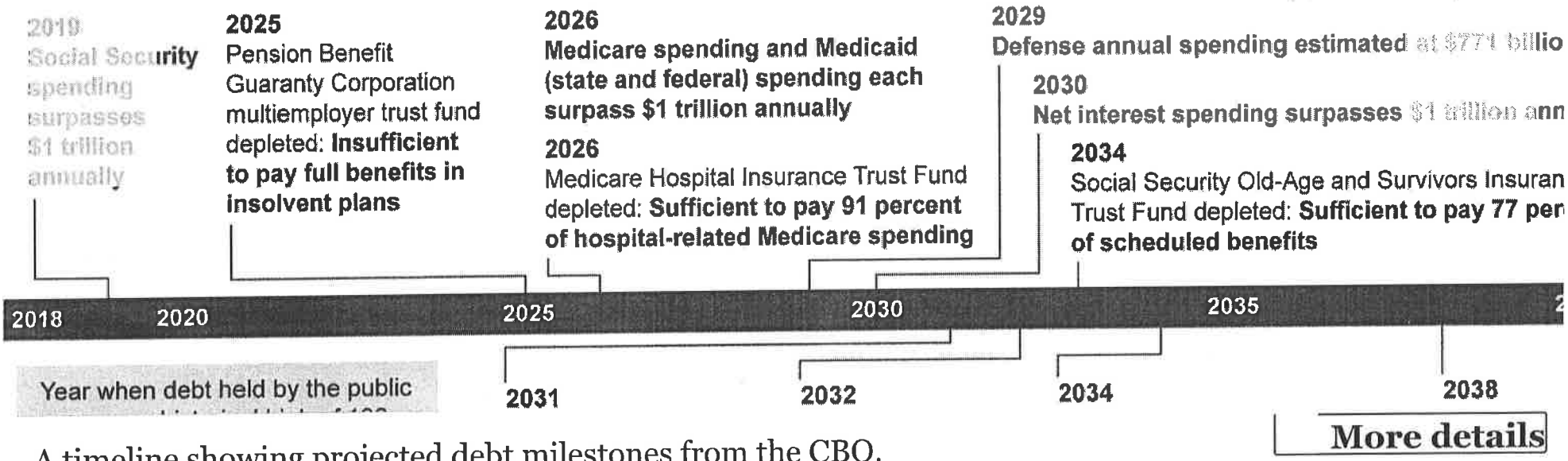
SECTION 3. The Secretary of State shall transmit copies of this application to the President of the United States, Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of North Carolina's congressional delegation, and the presiding officers of all state legislatures in the several states requesting their cooperation.

SECTION 4. This resolution is effective upon ratification.

REPRESENTATIVE DENNIS RIDDELL
N.C. HOUSE OF REPRESENTATIVES
ALAMANCE COUNTY - 64TH DISTRICT

416A LEGISLATIVE OFFICE BUILDING
300 N. SALISBURY STREET
RALEIGH, NC 27603-5925
(919) 733-5905
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DISTRICT ADDRESS:
6343 BEALE ROAD
SNOW CAMP, NC 27349
(336) 222-1303



A timeline showing projected debt milestones from the CBO.

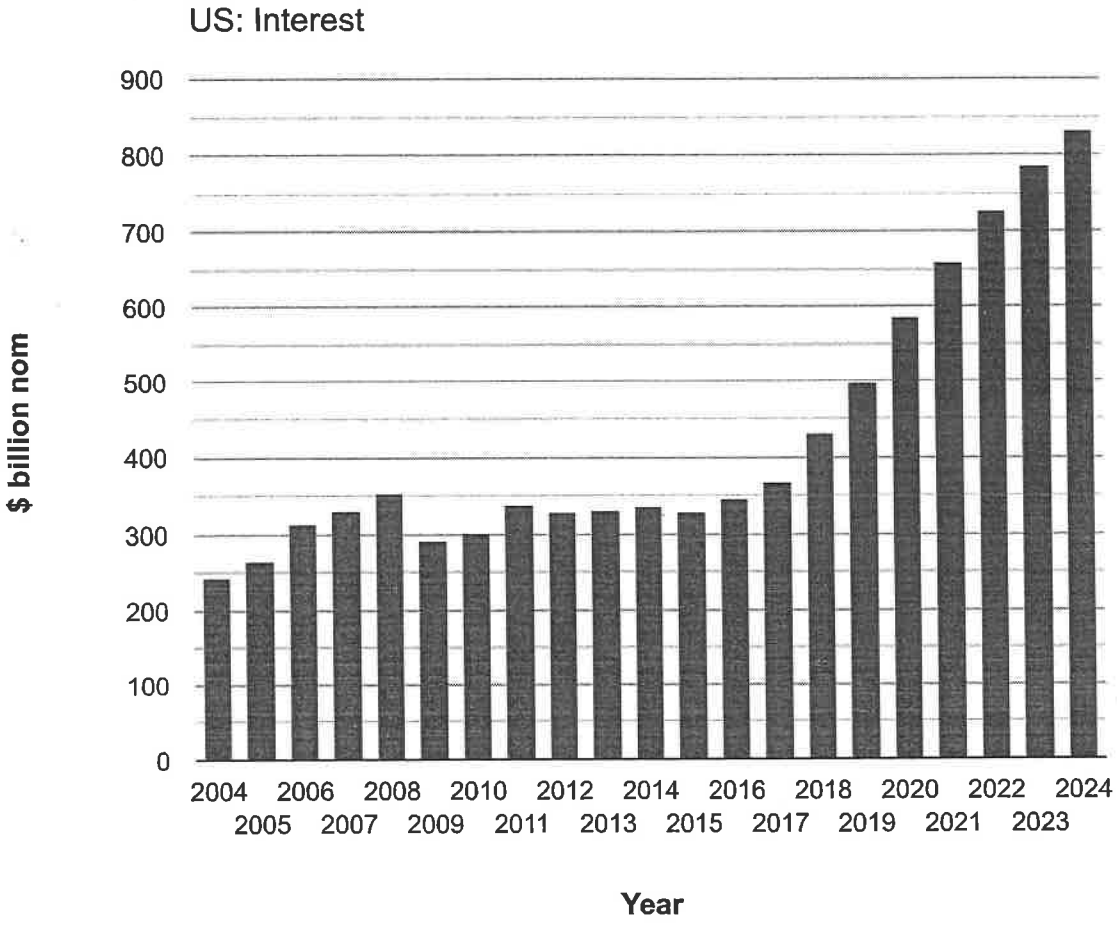
U.S. Government Accountability Office - https://www.gao.gov/products/GAO-19-314SP

Public Domain

A timeline showing projected debt milestones from the CBO.

File: CBO debt milestone timeline.png
Created: 10 April 2019

About this interface | Discussion | Help


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VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/16/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Cornick	Wake Forest
Connie Gaudette	Alliance
Janet Weinberg	Orange County
Gary W. Norris	COS
Tim Wilson	COS
Dick Toomey	COS
Doug Lassiter	NCSTA
Mike Hager	CSS

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/16/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Convention of States
Henry M Lancaster	LCA/FOMAC
LT McCrimmon	DHHS
Michelle Aurelius	OCME - DHHS
Macibeth Wooten	DHHS
Gerry P. Coleman	
Wynne Coleman	No Convention of States NC, Chair

3 minutes

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
390 Robert Colwell	CITIZEN HJR 390
390 Wynne Coleman	Chair of No Convention of State NC Citizen HJR 390
390 Tom Coburne	C.O.S. Former U.S. Senator
554 Michelle Auvelius	OCME-office of the Chief Medical Examiner Raleigh

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Regulatory Reform

DATE: 4/16/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Kim Blackman
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Committee on Regulatory Reform
Tuesday, April 30, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on April 30, 2019 in Room 1228/1327 of the Legislative Building. Representatives Adcock, Ager, Belk, Brody, Carter, Clark, Conrad, Holley, Kidwell, McElraft, Meyer, Presnell, Queen, Riddell, Stevens, and Yarborough attended.

Representative Mark Brody, Chair, presided.

Representative Brody called the committee to order and recognized the staff, sergeant at arms, and pages.

The following bills were considered:

HB 858 Interior Design Profession Act. (Representatives Riddell, Saine, Beasley, Ross) Representative Yarborough motioned for the bill to be brought before the committee. Representative Riddell explained the bill. After discussion and debate, Representative Kidwell moved for an unfavorable report to the original bill, but a favorable to the PCS. The vote was called and the motion passed.

HB 730 Trash Collection/Multifamily Residential. (Representatives Szoka, Corbin, Howard, Richardson) Rep. Brody stated that the bill was before the committee and Representative Szoka explained the bill. Representative Riddell motioned for an amendment by Representative Szoka to be adopted. The amendment passed. After discussion and debate, Representative Riddell motioned for a vote to pass the measure. The vote was called and the motion carried.

The meeting adjourned at 11:54.

Representative Mark Brody, Chair
Presiding

Polly Riddell, Committee Clerk

Updated #2: Add H730

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, April 30, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 858	Interior Design Profession Act.	Representative Riddell Representative Saine Representative Beasley Representative Ross
HB 165	Electrician Requirements for Certain Orgs.	Representative Saine
HB 730	Trash Collection/Multifamily Residential.	Representative Szoka Representative Corbin Representative Howard Representative Richardson

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:48 PM on Tuesday, August 20, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Tuesday, April 30, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 858	Interior Design Profession Act.	Representative Riddell Representative Saine Representative Beasley Representative Ross
HB 165	Electrician Requirements for Certain Orgs.	Representative Saine
HB 730	Trash Collection/Multifamily Residential.	Representative Szoka Representative Corbin Representative Howard Representative Richardson

Presentations

Other Business

Adjournment

HOUSE BILL 730:
Trash Collection/Multifamily Residential.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 30, 2019
Introduced by:	Reps. Szoka, Corbin, Howard, Richardson	**Prepared by:**	Jeremy Ray Staff Attorney
Analysis of:	First Edition		

OVERVIEW: House Bill 730 would require that certain doorstep refuse and recycling collection containers be allowed in exit access corridors of certain apartment occupancies when certain conditions are met.

CURRENT LAW: The 2018 North Carolina Fire Prevention Code (NCFPC) as adopted by the Building Code Council (Council), regulates the placement of door step refuse and recycling containers in exit access corridors in apartment occupancies. These provisions are found in Chapter 3 (General Requirements) and Chapter 10 (Means of Egress) of the NCFPC.[1]

BILL ANALYSIS: House Bill 730 would authorize the placement of certain doorstep refuse and recycling collection containers which stand upright on their own and do not leak liquids when standing upright in exit corridors and require the Council through rulemaking to make substantively identical changes to the NCFPC consistent with the implementation of this requirement, when all of the following conditions exist:

- Maximum container size of 13 gallons (apartment occupancies with enclosed corridors); or 27 gallons (apartment occupancies with open-air corridors or balconies served by exterior exit stairs).
- Waste is not placed in the exit corridor for single periods exceeding five hours.
- Containers do not occupy the exit access corridors for single periods exceeding 12 hours.
- Placement of such containers maintain certain egress widths required by the NCFC.
- Management staff have written policies and procedures in place and enforce them to ensure compliance with the requirements and provide a copy to code enforcement authorities having jurisdiction.

Code enforcement authorities having jurisdiction would be given authority to approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety as the conditions set forth above, and would be required to allow apartment occupancies a phase in period until December 31, 2020 to comply with the new requirements.

EFFECTIVE DATE: This act would become effective July 1, 2019. Section 3 would expire when permanent rules adopted pursuant to Section 4 of this act become effective.

[1]Under section 1031.2 (Reliability) of Chapter 10 (Means of Egress) of the NCFPC, "[r]equired *exit accesses*, *exits* and *exit discharges* shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency where the building area served by the *means of egress* is occupied."(emphasis in original).

aren Cochrane-Brown
Director

H730-SMBH-49-E1-V-2

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL 730

Short Title:	Trash Collection/Multifamily Residential.	(Public)
Sponsors:	Representatives Szoka, Corbin, Howard, and Richardson (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Regulatory Reform, if favorable, Insurance, if favorable, Rules, Calendar, and Operations of the House	

April 15, 2019

A BILL TO BE ENTITLED

AN ACT REQUIRING THAT DOORSTEP REFUSE AND RECYCLING COLLECTION CONTAINERS BE ALLOWED IN EXIT ACCESS CORRIDORS OF CERTAIN APARTMENT OCCUPANCIES UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – As used in this act, "Council" means the Building Code Council, "Code" means the 2018 North Carolina Fire Prevention Code (NCFPC) as adopted by the Council, and "exit obstruction and waste accumulation provisions" means sections 1031.2 (Reliability), 1031.3 (Obstructions), 304.1 (Waste accumulation prohibited), and 304.2 (Storage) of the Code.

SECTION 2. New Code amendment. – Until the effective date of the Code amendment that the Council is required to adopt pursuant to Section 4 of this act, the Council and local governments enforcing the Code shall follow the provisions of Section 3 of this act with respect to exit obstruction and waste accumulation.

SECTION 3. Implementation. – Notwithstanding any provision of the Code to the contrary, code enforcement authorities with jurisdiction over apartment occupancies shall permit doorstep refuse and recycling collection containers which stand upright on their own and do not leak liquids when standing upright in exit access corridors as follows:

(1) With respect to apartment occupancies with enclosed corridors, when all of the following conditions exist:
   a. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons.
   b. Waste in a doorstep refuse and recycling collection container is not placed in the exit access corridors for single periods exceeding five hours.
   c. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.
   d. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under sections 1005 and 1020.2 of the Code.
   e. Management staff of the apartment occupancy have written policies and procedures in place and enforce them to ensure compliance with this subdivision, and, upon request, provide a copy of such policies and procedures to the code enforcement authority having jurisdiction.

(2) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, when all of the following conditions exist:
   a. The maximum doorstep refuse and recycling collection container size does not exceed 27 gallons.
   b. Waste in a doorstep refuse and recycling collection container is not placed in the exit access corridors for single periods exceeding five hours.
   c. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under sections 1005 and 1020.2 of the Code.
   d. Management staff of the apartment occupancy have written policies and procedures in place and enforce them to ensure compliance with this subdivision, and, upon request, provide a copy of such policies and procedures to the code enforcement authority having jurisdiction.

(3) The code enforcement authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under subdivisions (1) and (2) of this section.

(4) To provide a transition period for compliance with the requirements of this section, code enforcement authorities having jurisdiction shall allow apartment occupancies a phase in period until December 31, 2020, to comply with this subsection.

SECTION 4. Rule-making authority. – Notwithstanding G.S. 150B-19(4), the Commission shall revise the exit obstruction and waste accumulation provisions of the NCFPC in a manner substantively identical to the provisions of Section 3 of this act.

SECTION 5. Sunset. – Section 3 of this act expires on the date that permanent rules adopted pursuant to Section 4 of this act become effective. The Council may adopt temporary rules to implement this act.

SECTION 6. Effective date. – This act is effective July 1, 2019.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 730

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H730-ABH-12 [v.1]

Amends Title [NO]
First Edition

Date April 30 ,2019

Representative Szoka

moves to amend the bill on page 2, line 24, by deleting the word "Commission" and substituting the word "Council".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

HOUSE BILL 858:
Interior Design Profession Act.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 30, 2019
Introduced by:	Reps. Riddell, Saine, Beasley, Ross	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	PCS to First Edition H858-CSBH-11		

OVERVIEW: The Proposed Committee Substitute (PCS) for House Bill 858 would establish a voluntary registration for interior designers to be administered by the Department of Insurance. The PCS would also allow registered interior designers to obtain building permits from local governments.

[The PCS adds exemptions for certain individuals from the provisions of the Chapter while those individuals are engaged in the proper scope of their professions and technical changes.]

CURRENT LAW AND BILL ANALYSIS:

SECTION 1. would establish a voluntary registration for interior designers in the Department of Insurance (Department) as follows:

- The Department would register interior designers who meet certain requirements, including passage of an examination administered by the Council for Interior Design Qualification (CIDQ) and payment of a $100 application fee.
- Registered interior designers would be required to renew their registrations, complete continuing education requirements, and pay a $50 renewal fee every two years in order to maintain their registration.
- The Department would register interior designers who are licensed, certified, or registered in other jurisdictions if the Department determined that the requirements of the other jurisdictions were substantially the same as those in North Carolina and that the interior designer was familiar with the State Building Code. The Department would charge a $50 reciprocal registration fee.
- The Department could refuse to issue or renew or suspend or revoke a registration for a number of reasons, including fraud, use of another's certificate of registration, and gross malpractice or gross incompetency. The Department could assess a civil penalty not to exceed $1,000 per offense against a registrant and could seek injunctive relief to prohibit violation of the new registration law.
- Each of the following would be a Class 2 misdemeanor:
  - Improper use of a registered interior designer's signature or seal.
  - Use of an expired, inactive, suspended, or revoked registration or seal.
  - Obtaining or attempting to obtain a registration by fraud.
- A registered interior designer would be authorized to obtain permits from the State and local governments for interior alteration or construction projects within the scope of the practice of interior

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

design. Having an interior designer registration would not authorize that person to practice either of the following:

- Architecture, under Chapter 83A of the General Statutes.
- Engineering, under Chapter 89C of the General Statutes.

- Registration under the Chapter would not be construed at restricting the practices, services, or activities of any person licensed in this State under any other law from engaging in the profession or occupation for which the person is licensed.
- The following persons would be exempt from the new registration law while engaged in the proper scope of their professions:
  - Interior decorators.
  - Licensed design professionals (architect, landscape architect, engineer, or land surveyor).
  - Attorneys.
  - Licensed general contractors.
  - Unregistered interior designers.

SECTIONS 2 & 3. Under current law, a local government may not issue a building permit unless the plans for the work are prepared by a licensed architect or licensed engineer as required by State law.

Sections 2 and 3 would add registered interior designers to the types of professionals required for certain building permits issued by a local government.

SECTION 4. Would require the Department to report to the Joint Legislative Oversight Committee on General Government on the progress of administering Chapter 93F of the General Statutes no later than February 1, 2020.

EFFECTIVE DATE: The PCS for House Bill 858 would become effective October 1, 2019.

**Karen Cochrane-Brown, Jeffrey Hudson, and Greg Roney, with the Legislative Analysis Division, substantially contributed to this summary.*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 858
PROPOSED COMMITTEE SUBSTITUTE H858-CSBH-11 [v.2]
04/29/2019 04:59:12 PM

Short Title: Interior Design Profession Act. (Public)

Sponsors:

Referred to:

April 18, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A FRAMEWORK FOR THE VOLUNTARY REGISTRATION OF INDIVIDUALS IN THE PROFESSION OF INTERIOR DESIGN AND TO ALLOW REGISTERED PROFESSIONAL INTERIOR DESIGNERS TO OBTAIN PERMITS FROM LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 93F.**

"**Interior Design.**

"**§ 93F-1. Title.**

This Chapter shall be known and may be cited as the "Interior Design Profession Act."

"**§ 93F-2. Purpose.**

It is the purpose and intent of this act to promote the health, safety, and welfare of the public by establishing standards for education and expertise for the practice of interior design and to ensure a high standard of professional conduct on the part of registered interior designers.

"**§ 93F-3. Definitions.**

In this Chapter, unless the context otherwise requires, the following definitions shall apply:

(1) Building equipment. – Mechanical, plumbing, electrical, or structural components designed for or located in a building or structure, including motorized vertical transportation systems.

(2) Nonstructural element. – An element which does not require structural bracing and which is something other than a load-bearing element of a structure which is essential to its structural integrity.

(3) Department. – The North Carolina Department of Insurance.

(4) Good moral character. – Such character as tends to assure the faithful discharge of the fiduciary duties of an interior designer to a client. Evidence of lack of such character shall include the willful commission of an offense justifying discipline under this Chapter, the practice of interior design in violation of this Chapter or of the laws of another jurisdiction, or the conviction of a felony.

(5) CIDQ. – The Council for Interior Design Qualification.

(6) Practice of interior design. – Includes the following professional activities:

a. Programming, planning, predesign analysis, and conceptual design, including the selection of materials, furniture, fixtures, and equipment, but not building equipment.

b. Interior nonstructural element alteration or interior nonstructural element construction and interior technical submissions related thereto.

c. The preparation of a physical plan of space within a proposed or existing building or structure, including determinations of (i) internal circulation systems or patterns, (ii) the location of internal exit requirements based on occupancy loads, and (iii) assessment and analysis of interior life safety factors for compliance with State and local government building codes.

d. Reviewing, analyzing, evaluating, and interpreting building codes, fire codes, accessibility standards, including the Americans with Disabilities Act, or other federal, State, or local regulations, codes, and standards as applicable to interior technical submissions.

e. The rendering of designs, plans, drawings, specifications, contract documents, or other interior technical submissions and the administration of interior construction and contracts relating to nonstructural elements in interior alteration or construction of a proposed or existing building or structure.

"Practice of interior design" does not include making changes or additions to (i) foundations, beams, trusses, columns, or other primary structural framing members or seismic systems, (ii) structural concrete slabs, roof framing structures, or load-bearing and shear walls, (iii) opening in roofs, exterior walls, or load-bearing and shear walls, (iv) exterior penetrations, such as adding or removing windows and doors, or (v) heating, ventilating, or air conditioning equipment or distribution systems, building management systems, high or medium voltage electrical distribution systems, standby or emergency power systems or distribution systems, plumbing or plumbing distribution systems, fire alarm systems, fire sprinkler systems, security or monitoring systems, or related building systems.

(7) Registered interior designer. – A person who voluntarily holds a certificate of registration pursuant to this Chapter as an interior designer.

"**§ 93F-4. Application for registration.**

(a) An applicant for registration shall be registered upon satisfactory proof to the Department that the applicant is of good moral character and meets the following requirements:

(1) Submission of a signed application in a form to be established by the Department.

(2) Passage of the examination administered by the CIDQ.

(3) Submission of a statement of personal qualification that includes at least all of the following information about the applicant:

a. Full legal name and name submitted for registration.

b. Date of birth.

c. Personal and business mailing addresses, telephone numbers, and e-mail addresses.

d. State and county of residence.

e. Employer's name, address, and telephone number, if the applicant is employed at the time of application.

f. All issuances, denials, revocations, suspensions, or restrictions of a license, certificate, or registration pertaining to the practice of interior design in this State or any other jurisdiction.

g. Proof of general liability insurance.

(4) Payment of the application fee established by the Department pursuant to this Chapter of one hundred dollars ($100.00).

"**§ 93F-5. Expiration and renewals; continuing education.**

(a) Registrations shall expire two years following issuance or renewal and shall become invalid after that date unless renewed. A registrant may apply for renewal of a registration no earlier than 10 weeks prior to the expiration date of the current registration.

(b) The Department shall issue a renewal of registration to an applicant upon proof satisfactory to the Department that the applicant is of good moral character and meets all of the following requirements:

(1) Submission of a signed application for renewal in a form to be established by the Department.

(2) Submission of proof of completion of at least 30 continuing education units by providing the following information:

a. Documentation of successful completion of the continuing education units from the providers.

b. Documentation that at least 15 of the continuing education units are focused on one or more of the following subject matters:

1. Public safety, including application of State and local fire codes, building codes, and regulations.

2. Application of federal, State, and local laws pertaining to accessibility standards, including the Americans with Disabilities Act, and any other topics related to health, safety, and welfare of building occupants.

(3) Payment of the renewal fee established by the Department pursuant to this Chapter of fifty dollars ($50.00).

(4) Proof of general liability insurance.

"**§ 93F-6. Reciprocity.**

The Department shall issue a registration to an applicant who, at the time of application, holds a valid license, certificate, or registration as an interior designer issued by another state or a political territory or jurisdiction acceptable to the Department if, in the Department's determination, the requirements for that license, certificate, or registration are substantially equal to or greater than the requirements for registration pursuant to this Chapter. In addition to the application requirements provided in G.S. 93F-4, applicants seeking reciprocal registration shall pay to the Department an additional fee of fifty dollars ($50.00) and demonstrate to the Department a familiarity with the State Building Code.

"**§ 93F-7. Disqualifications for registration.**

(a) The Department either may refuse to issue or to renew or may suspend or revoke a registration if the applicant or registrant:

(1) Obtains a certificate of registration by fraudulent misrepresentation.

(2) Uses or attempts to use another's certificate of registration to practice interior design.

(3) Uses or attempts to use another's name for purposes of obtaining a certificate of registration or practicing interior design.

(4) Has demonstrated gross malpractice or gross incompetency as determined by the Department.

(5) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice interior design or that indicates the person has deceived or defrauded the public.

(6) Has been declared mentally incompetent by a court of competent jurisdiction.

(7) Has willfully violated any of the provisions of this Chapter or Departmental rules.

(b) At any time after suspension, revocation, or the taking of any other disciplinary action with regard to any registration, the Department may reinstate the registration or take any other action to reinstate the registration to good standing.

(c) Any person may file with the Department a charge of unprofessional conduct, negligence, incompetence, dishonest practice, or other misconduct of any violation of this Chapter. Upon receipt of such charge, the Department may give notice of an administrative hearing under the Administrative Procedure Act or may dismiss the charge as unfounded or trivial. Regardless of the Department's decision, the Department shall mail a statement to the registrant and the person who filed the charge by registered or certified mail that explains the Department's decision and the reasons behind that decision.

"**§ 93F-8. Misdemeanors.**

Each of the following acts constitutes a Class 2 misdemeanor:

(1) The affixing of a registered interior designer's signature or seal to any interior technical submissions without the permission of the registrant.

(2) Using or attempting to use an expired, inactive, suspended, or revoked registration or seal.

(3) Using or attempting to use the registration or seal of another.

(4) Impersonating another registrant.

(5) Obtaining or attempting to obtain a registration by fraud.

(6) The making of any willfully false oath or affirmation in any matter or proceeding where an oath or affirmation is required by this Chapter.

"**§ 93F-9. Civil penalties; disciplinary costs.**

(a) The Department may assess a civil penalty not in excess of one thousand dollars ($1,000) per offense for the violation by a registrant of any of the reasons provided in G.S. 93F-7. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Before imposing and assessing a civil penalty, the Department shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) The Department shall establish a schedule of civil penalties for violations of this Chapter and rules adopted by the Department.

(d) The Department may, in a disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the registered interior designer against whom the proceedings were brought.

"**§ 93F-10. Enjoining illegal practices.**

The Department may apply to the superior court for an injunction to restrain any person from violating the provisions of this Chapter or its rules. Actions under this section shall be brought in the county where the defendant resides or maintains his or her principal place of business or where the alleged acts occurred.

"**§ 93F-11. Authority and duties of registrants.**

(a) A registered interior designer shall possess the authority to sign and seal interior technical submissions covering the scope of the practice of interior design and shall have the authority to submit them to a State or local government entity for the purpose of obtaining requisite permits for an interior alteration or construction project. A registered interior designer may only sign and seal interior technical submissions within the scope of the practice of interior design defined by this Chapter.

(b) A registered interior designer shall have a reproducible seal or facsimile, the print of which shall contain the full name and registration number of the registered interior designer on file with the Department, the registrant's business city and state, and the words "Registered Interior Designer, North Carolina." The seal shall be created and granted to each registered interior designer by the Department.

(c) The registered interior designer shall affix the signature, current date, date of registration expiration, and seal to all sheets or electronically submitted sets of interior design technical submissions.

(d) The sheet of interior technical submissions in which the seal is affixed shall indicate that those documents or parts thereof for which the seal shall apply. The seal and dates may be electronically affixed. The registrant may provide, at the registrant's sole discretion, an original signature in the registrant's handwriting, a scanned copy of the document bearing an original signature, or a signature generated by a computer.

(e) No registered interior designer shall affix, or permit to be affixed, the registered interior designer's registration number, seal, or signature to any interior technical submissions which the registrant is not competent to perform.

(f) A registered interior designer shall not sign and seal interior technical submissions that were not prepared by or under the registered interior designer's supervision and control with the exception of any of the following circumstances:

(1) The registered interior designer may sign and seal those portions of the interior technical submissions that were prepared by or under the supervision and control of other individuals who are also registered interior designers.

(2) A partner or corporate officer of a business entity registered in this State, who is a registered interior designer, and who has professional knowledge of the content of the interior technical submissions and intends to be responsible for the adequacy of the interior technical submissions, may sign and seal interior technical submissions that are prepared by or under the supervision and control of a registered interior designer and who is in the regular employment of the business entity.

(g) A registered interior designer shall have the ability to submit all documents required to obtain a building permit for interior alteration or construction, so long as those documents that are not personally prepared by the registered interior designer have been previously prepared, signed, and sealed by one or more other registered interior designers or licensed design professionals.

"**§ 93F-12. Departmental powers and duties.**

The Department has the following powers and duties pursuant to this Chapter:

(1) To issue certificates of registration to individuals meeting the qualifications to be a registered interior designer.

(2) To adopt rules required for the administration of this act.

(3) To prescribe, by rule, individually identifiable seals to be used by registered interior designers.

(4) To take disciplinary action as it deems proper, including, but not limited to, the assessment of civil penalties pursuant to G.S. 93F-9.

"**§ 93F-13. Applicability of Chapter.**

(a) Nothing in this Chapter shall be construed as doing any of the following:

(1) Requiring a person to obtain an interior designer registration to engage in an activity traditionally performed by an interior designer or other design professional including professional services limited to the planning, design, and implementation of kitchen and bath spaces or the specification of products for kitchen and bath areas.

(2) Preventing or restricting the practices, services, or activities of any person licensed in this State under any other law from engaging in the profession or occupation for which the person is licensed.

(b) Having an interior designer registration issued under this chapter does not authorize a person to practice either of the following:

(1) Architecture, under Chapter 83A of the General Statutes.

(2) Engineering, under Chapter 89C of the General Statutes.

(c) Nothing in this Chapter shall preclude an unregistered interior designer from the practice of interior design. The following persons are exempt from the provisions of this Chapter while engaged in the proper scope of their professions:

(1) Interior decorators.

(2) Licensed design professionals.

(3) Attorneys at law, licensed pursuant to Chapter 84 of the General Statutes.

(4) General contractors, licensed pursuant to Article 1 of Chapter 87 of the General Statutes.

(5) Unregistered interior designers."

SECTION 2. G.S. 153A-357 reads as rewritten:

"**§ 153A-357. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed ~~architect or~~ architect, licensed engineer, or registered interior designer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a licensed ~~architect or of a~~ architect, licensed ~~engineer.~~ engineer, or registered interior designer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor.

...

(e) No city or county may withhold issuing a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land use regulations under this Article unless otherwise authorized by law or unless the city or county reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

...."

SECTION 3. G.S. 160A-417 reads as rewritten:

"**§ 160A-417. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that

plans for certain types of work be prepared only by a licensed ~~architect or~~ architect, licensed engineer, or registered interior designer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed ~~architect or of a~~ architect, licensed ~~engineer.~~ engineer, or registered interior designer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

...

(e) No city or county may withhold issuing a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land use regulations under this Article unless otherwise authorized by law or unless the city or county reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

...."

SECTION 4. The North Carolina Department of Insurance shall report to the Joint Legislative Oversight Committee on General Government on the progress of administering Chapter 93F of the General Statutes no later than February 1, 2020.

SECTION 5. This act becomes effective October 1, 2019.

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT
Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB **730** Trash Collection/Multifamily Residential.

Draft Number:	H730-PCS10609-BH-12
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Szoka

HB **858** Interior Design Profession Act.

Draft Number:	H858-PCS10612-BH-11
Serial Referral:	**FINANCE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Riddell

TOTAL REPORTED: 2

SPEAKERS

~~VISITOR REGISTRATION SHEET~~

House Committee on Rules, Calendar, and Operations — 11/28/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS	
X	Richard Alsop	American Institute of Architects H858	1
	Jason Shepherd	NC FIRE CODE REVISION COMMITTEE ORANGE COUNTY FIRE MARSHAL OFFICE H730	
	William Rakatansky	American Institute of Architects H858	2
	VIM WILLIAMS	LITTLE & AIA NC - HB858	3
X	EMMY WILLIAMS	AMERICAN SOCIETY OF INTERIOR DESIGNERS - H858	1
	SUSAN CARSON	ASID H858	2
X	KEVIN SCHWARTZ	H730 VALIT LIVING, TAMPA FL	

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/30/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sean Gleason	Professional Engineers of NC 2905 Meridian Parkway Durham 27713
TRACY DAVIS, PE	Professional Engineers of NC " "
David Collins	PENC
Brian Taylor	DOT/OSFM
Rob Roegner	DOT/OSFM
Bill Martin	HHB Engineering of NC
Brian Glidewell	SAME
Liz Phipps	KCI
John Weavil	SAME
Rob Klag	CGZ
JSmith	NCDOT

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/30/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cathe M. Evans	NC Board of Architecture 127 W Hargett St RAL NC
Walker Jones	[illegible]
Mike Slusher	DMP 6415 Old Plank Rd High Point NC 27265
Eddie MacEldowney	DAVIS-MARTIN-POWELL & ASSOC 6415 Old Plank Rd HP NC 27265
Elizabeth Pruf	walkwest
MATT TEAGUE	TFF Architects, Greensboro, NC American Institute of Architects National Strategic Council
Daphne Quinn	Rep. Meyers CA
Walt Gray	MS consultants
Jordan Holt	Bordeaux Construction

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/30/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hunt McKinnon	North Carolina Chapter American Institute of Architects
Theresa Joan Rosenberg	AIA-NC
CUMMER CEASE	AIANC
JIM RAINS	AIA NORTH CAROLINA

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — Name of Committee

4/30/2019 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LC Pengram	CBS
Hamilton Cort	AIA North Carolina
Donald Green	AIA North Carolina
GraceWallace	AIA NC
Richard Acsop	AIANC
Alex Miller	AMGA
Rhaegan Jackson	FPA
CLIFF ISAAC	NCDOI - OSFM
Nick Fountain	young moore attorneys
JIM COMPTON	CLINE DESIGN, ARCHITECTS
CARL WINSTEAD	CLINE DESIGN, ARCHITECTS

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/30/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Joe Bost	CRBA

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 4/30/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sherry L Browning	RWM Group 21136 Norman Shores Dr. Cornelius, NC 28031
William Raketansky	American Institute of Architects
GARY L. HUBLER	AMERICAN INSTITUTE OF ARCHITECTS
JIM WILLIAMS	LITTLE & AIA-NC
JOHN PAQUIN	ZAPATA & AIA NC
DAVID MURRAY	MBP & AIA-NC
TRIPP ANDERSON	AITON ANDERSON ARCHITECTURE AIA NC
Richard Alsop, Jr.	American Institute of Architects - JR Alsop Architect PLLC
Tim M.	NCHBA
Sallie James	Governor's office
NICK TENNYSON	E.L. ROBINSON ENGINEERING

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — Name of Committee

4/30/2019 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jeremy Pott	HDR 555 Fayetteville St, Suite 900 Raleigh, NC 27601
Brock Stortuster	Withers Ravenel 115 Mackenzie Drive, Cary, NC 27511
Leigh Lawrence	NCGA
Emmy Williams	ASID - American Society of Interior Designers
Susan CARSON	ASID
LAURA PURYEAR	NWC
Kerri Burke	NWC
MICAH MARTIN	AIA NC
Stephen Thomas	Guilford County Fire Marshal's Office
Jason B. Shepherd	ORANGE COUNTY FIRE MARSHAL OFFICE
DAVID TOBIN	TOBIN, PLLC / AIA CHARLOTTE

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Regulatory Reform

DATE: 4/30/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Tuesday, April 30, 2019
Session: 9:30 AM

Committee	Room	Time	Staff	Comments	Member
Regulatory Reform	1228/1327	11:00 AM	Hayden Blohm		Rep. John Fraley
Judiciary I	643	11:30 AM	Jacob Dillman		Rep. Cecil Brockman
			Bronwyn McVeigh		Rep. James L. Boles, Jr.
Commerce and Job Development	1228/1327	12:00 PM	Ethan Brooks		Speaker Tim Moore
Education - K-12	643	1:00 PM	Ethan Brooks		Speaker Tim Moore
			Mya Hernandez		Rep. Tim Moore
Environment	1228/1327	1:00 PM	Jesse Ellis		Speaker Tim Moore
			Rowan Marquez		Speaker Tim Moore

House Committee on Regulatory Reform
Thursday, May 2, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on May 2, 2019 in Room 1228/1327 of the Legislative Building. Representatives Ager, Belk, Brody, Conrad, Henson, Holley, McElraft, Meyer, Queen, Riddell, and Yarborough attended.

Representative Dennis Riddell, Chair, presided.

Representative Riddell welcomed all and recognized the pages, staff and sergeant-at-arms.

The following bills were considered:

HB 156 Swain County Settlement Trust Fund. (Representative Warren) Representative Warren explained the bill to the committee and there was a short discussion of the bill. Representative Yarborough motioned for a favorable report. Representative Riddell called for a vote and the motion carried.

HB 816 Study Biomanufacturing. (Representatives White, Reives, Grange) This bill was brought before the committee for discussion only.

The meeting adjourned at 11:26 AM.

Representative Dennis Riddell, Chair
Presiding

Polly Riddell, Committee Clerk

Updated #2: H816 is for discussion only

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Thursday, May 2, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Riddell will preside**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 156	Swain County Settlement Trust Fund.	Representative Warren
HB 816	Study Biomanufacturing.	Representative White Representative Reives Representative Grange

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:46 PM on Tuesday, August 20, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Thursday, May 2, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 156	Disapprove Certain On-Site Wastewater Rules.	Representative Warren
HB 816	Study Biomanufacturing/Nutrient Allocation.	Representative White Representative Reives Representative Grange

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT
Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

HB **156** Disapprove Certain On-Site Wastewater Rules.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Warren

TOTAL REPORTED: 1



HOUSE BILL 156:
Disapprove Certain On-Site Wastewater Rules.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 30, 2019
Introduced by:	Rep. Warren	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	First Edition		

OVERVIEW: House Bill 156 would disapprove 15A NCAC 18E. 0505 (Soil Depth).

BILL ANALYSIS: The bill would disapprove 15A NCAC 18E. 0505 (Soil Depth), which was adopted by the Commission for Public Health on August 8, 2018, and approved by the Rules Review Commission on October 18, 2018.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND: Pursuant to G.S. 150B-21.3(b1), any member of the General Assembly may file a bill to disapprove a rule promulgated by an executive agency before the thirty-first legislative day of the legislative session beginning after the rule was promulgated. If the disapproval bill is ratified, the disapproved rules will not become effective. If the disapproval bill is not ratified, the rules will become effective on the date of unfavorable final legislative action is taken against the bill or the date the General Assembly adjourns its session, whichever comes first.

The rule to be disapproved reads as follows:

15A NCAC 18E .0505 SOIL DEPTH

(a) The soil depth shall be measured from the naturally occurring soil surface to rock, saprolite, or parent material.

(b) Soil depth to saprolite, rock, or parent material greater than or equal to 18 inches shall be suitable.

(c) Soil depth to unsuitable saprolite, rock, or parent material less than 18 inches shall be unsuitable.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL 156

Short Title:	Disapprove Certain On-Site Wastewater Rules.	(Public)
Sponsors:	Representative Warren. *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House	

February 26, 2019

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE A RULE ADOPTED BY THE NORTH CAROLINA COMMISSION FOR PUBLIC HEALTH REDUCING SUITABLE SOIL DEPTH FOR ALL WASTEWATER DISPERSAL TECHNOLOGIES.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 15A NCAC 18E .0505 (Soil Depth), as adopted by the North Carolina Commission for Public Health on August 8, 2018, and approved by the Rules Review Commission on October 18, 2018, is disapproved.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 816:
Study Biomanufacturing/Nutrient Allocation.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	May 1, 2019
Introduced by:	Reps. White, Reives, Grange	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	Second Edition		

OVERVIEW: The Proposed Committee Substitute to House Bill 816 would establish the Joint Select Committee on Biomanufacturing to study how to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation. The PCS would also direct the Environmental Management Commission to modify the Nonpoint Source Allocation Purchase Rule.

The PCS adds a $10,000 nonrecurring appropriation for the 2019-20 fiscal year to support the work of the Joint Select Committee on Biomanufacturing.

BILL ANALYSIS:

Section 1 would establish the Joint Select Committee on Biomanufacturing (Committee) to study what is needed to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation, including examination of biomanufacturing's workforce, water, wastewater, educational, and training needs; identification of locations that can accommodate new biomanufacturing operations, and identification of wastewater treatment strategies and technologies that can be used to meet the State's biomanufacturing wastewater treatment needs. The Committee would be directed to make a final report to the 2021 Regular Session of the General Assembly and would expire at the earlier of the convening of the 2021 Regular Session or the filing of its final report.

The Committee would be made up of members of the General Assembly, individuals recommended by the North Carolina Biotechnology Center, the North Carolina Biosciences Organization, the Secretary of the Department of Environmental Quality, the Secretary of Commerce, the North Carolina Economic Development Association, the North Carolina Manufacturers Alliance, the President of The University of North Carolina, and the North Carolina Community College System. The chair of the NCWorks Commission would also be an ex officio member.

$10,000 in nonrecurring funds for the 2019-20 fiscal year would be allocated to be used in supporting the work of the Committee.

Section 2 would direct the Environmental Management Commission to modify the Nonpoint Source Allocation Purchase Rule.

EFFECTIVE DATE: Section 1 of this act would become effective July 1, 2019. Section 2 would become effective when it becomes law.

****Chris Saunders of the Legislative Analysis Division substantially contributed to this summary.****

aren Cochrane-Brown
Director

H816-SMBC-58 E2 -V-1

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL 816:
Study Biomanufacturing/Nutrient Allocation.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	May 1, 2019
Introduced by:	Reps. White, Reives, Grange	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	Second Edition		

OVERVIEW: The Proposed Committee Substitute to House Bill 816 would establish the Joint Select Committee on Biomanufacturing to study how to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation. The PCS would also direct the Environmental Management Commission to modify the Nonpoint Source Allocation Purchase Rule.

The PCS adds a $10,000 nonrecurring appropriation for the 2019-20 fiscal year to support the work of the Joint Select Committee on Biomanufacturing.

BILL ANALYSIS:

Section 1 would establish the Joint Select Committee on Biomanufacturing (Committee) to study what is needed to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation, including examination of biomanufacturing's workforce, water, wastewater, educational, and training needs; identification of locations that can accommodate new biomanufacturing operations, and identification of wastewater treatment strategies and technologies that can be used to meet the State's biomanufacturing wastewater treatment needs. The Committee would be directed to make a final report to the 2021 Regular Session of the General Assembly and would expire at the earlier of the convening of the 2021 Regular Session or the filing of its final report.

The Committee would be made up of members of the General Assembly, individuals recommended by the North Carolina Biotechnology Center, the North Carolina Biosciences Organization, the Secretary of the Department of Environmental Quality, the Secretary of Commerce, the North Carolina Economic Development Association, the North Carolina Manufacturers Alliance, the President of The University of North Carolina, and the North Carolina Community College System. The chair of the NCWorks Commission would also be an ex officio member.

$10,000 in nonrecurring funds for the 2019-20 fiscal year would be allocated to be used in supporting the work of the Committee.

Section 2 would direct the Environmental Management Commission to modify the Nonpoint Source Allocation Purchase Rule.

EFFECTIVE DATE: Section 1 of this act would become effective July 1, 2019. Section 2 would become effective when it becomes law.

****Chris Saunders of the Legislative Analysis Division substantially contributed to this summary.****

Karen Cochrane-Brown
Director

H816-SMBC-58 E2 -V-1

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 816
Corrected Copy 4/25/19
PROPOSED COMMITTEE SUBSTITUTE H816-CSBCfa-30 [v.1]
05/01/2019 09:53:30 AM

Short Title: Study Biomanufacturing/Nutrient Allocation. (Public)

Sponsors:

Referred to:

April 18, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT SELECT COMMITTEE ON BIOMANUFACTURING AND TO LOWER THE PURCHASE PRICE FOR NONPOINT SOURCE NUTRIENT ALLOCATION FOR NEW AND EXPANDING WASTEWATER TREATMENT PLANTS.

The General Assembly of North Carolina enacts:

BIOMANUFACTURING STUDY

SECTION 1. Establishment; membership; holdover of legislative members. – There is established the Joint Select Committee on Biomanufacturing. The membership is as follows:

(1) Three members of the Senate appointed by the President Pro Tempore of the Senate.
(2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
(3) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Biotechnology Center.
(4) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the North Carolina Biosciences Organization.
(5) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the Secretary of the Department of Environmental Quality.
(6) One member appointed by the Speaker of the House upon the recommendation of the Secretary of Commerce.
(7) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the North Carolina Economic Development Association.
(8) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Manufacturers Alliance.
(9) One member appointed by the President Pro Tempore of the Senate upon the recommendation of the President of The University of North Carolina.
(10) One member appointed by the Speaker of the House upon the recommendation of the North Carolina Community College System.
(11) The chair of the NCWorks Commission, ex officio.

Committee members who are members of the General Assembly may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes

resignation or removal from service on the Committee. The appointing officer as set forth in this section shall nominate persons to fill vacancies created by resignation or removal in the same manner as the member was originally selected.

SECTION 2. Chairs; meetings; quorum. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives must each designate a cochair of the Committee. The Committee shall meet upon the joint call of the cochairs. A quorum of the Committee is a majority of its members.

SECTION 3. Purpose. – The Committee is directed to study what is needed to keep North Carolina at the forefront of emerging biomanufacturing technologies and job creation, including all of the following:

(1) Estimates of current and future biomanufacturing workforce needs and identification of existing and potential bottlenecks that would limit or hinder meeting those needs.

(2) Estimates of current and future biomanufacturing water and wastewater needs and identification of existing and potential bottlenecks that would limit or hinder meeting those needs.

(3) Assessment and characterization of the State's existing biomanufacturing workforce education and training assets, together with an estimate of future workforce training needs and identification of investments in personnel, facilities, and equipment needed to meet those needs.

(4) Identification of locations in the State that can readily accommodate new biomanufacturing operations.

(5) Identification of existing and emerging wastewater treatment strategies and technologies that can be used to meet the State's biomanufacturing wastewater treatment needs and remove bottlenecks identified in subdivision (2) of this section.

(6) Any other recommendations as the Committee considers appropriate to support the future growth of North Carolina's biomanufacturing sector.

SECTION 4. Per diem; staff. – Members of the Committee receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work.

SECTION 5. Report. – The Committee may submit an interim report to the 2019 Regular Session of the General Assembly prior to its reconvening in 2020 and shall make a final report to the 2021 Regular Session of the General Assembly prior to its first convening after adjourning its organizational session. The Committee shall also submit its report to the Secretary of Commerce, the Secretary of Environmental Quality, the President of The University of North Carolina, the President of the North Carolina Community College System, and other entities as may be designated by the cochairs, the Speaker of the House, or the President Pro Tempore of the Senate.

SECTION 6. Termination. – The Committee terminates when the 2021 Regular Session of the General Assembly first convenes after adjourning its organizational session or upon the filing of its final report, whichever occurs first.

SECTION 7. Appropriation – There is appropriated from the General Fund to the Joint Select Committee on Biomanufacturing the sum of ten thousand dollars ($10,000) in nonrecurring funds for fiscal year 2019-20 to be used to assist with implementation of this act.

NUTRIENT SENSITIVE WATERS NONPOINT SOURCE ALLOCATION PURCHASES

SECTION 8.(a) Definitions. – "Nonpoint Source Allocation Purchase Rule" means items (7)(b) and (8)(d) of 15A NCAC 02B .0234 (Neuse River Basin-Nutrient Sensitive Waters

Management Strategy: Wastewater Discharge Requirements) for purposes of this section and its implementation.

SECTION 8.(b) Nonpoint Source Allocation Purchase Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and local air permitting programs shall implement the Nonpoint Source Allocation Purchase Rule as provided in subsection (c) of this section.

SECTION 8.(c) Implementation. – In cases where new and expanding wastewater treatment facilities cannot obtain estuary point source allocation and must purchase a portion of the nonpoint source load allocation, the purchase rate shall be one hundred ten percent (110%) of the cost as set in 15A NCAC 02B .0240.

SECTION 8.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Nonpoint Source Allocation Purchase Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 8.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 8.(f) This section is effective when it becomes law.

SECTION 9. Section 8 of this act is effective when it becomes law. The remainder of this act is effective July 1, 2019.

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Regulatory Reform

DATE: 5/2/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Wednesday, May 01, 2019
Session: 8:30 AM

Committee	Room	Time	Staff	Comments	Member
Pensions and Retirement	415	9:00 AM	Isabelle Lam		Rep. Debra Conrad
Energy/Public Utilities	1228/1327	9:00 AM	Jacob Dillman		Rep. Cecil Brockman
Insurance	1228/1327	10:00 AM	Rowan Marquez		Speaker Tim Moore
			Colin Vess		Rep. Jon Hardister
State and Local Government I	422	10:00 AM	Ethan Brooks		Speaker Tim Moore
			Bronwyn McVeigh		Rep. James L. Boles, Jr.
Regulatory Reform	1228/1327	11:00 AM	Jesse Ellis		Speaker Tim Moore
			Mya Hernandez		Speaker Tim Moore
Wildife Resources	425	11:00 AM	Gerald Blohm		Rep. John Fraley

Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will **NOT** meet as follows:

DAY & DATE: Thursday, May 30, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 55	Continuing Education for General Contractors.	Senator Gunn Senator Newton Senator D. Davis
HB 816	Study Biomanufacturing. PCS	Representative White Representative Reives Representative Grange

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:37 AM on Monday, November 18, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Laura Bone (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 313

Short Title:	Perf. Guar. to Streamline Afford. Housing.	(Public)
Sponsors:	Senators Wells, Krawiec, and Woodard (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 20, 2019

A BILL TO BE ENTITLED

AN ACT TO REDUCE COSTS AND AID HOUSING AFFORDABILITY BY STREAMLINING THE PERFORMANCE GUARANTEE PROCESS BETWEEN DEVELOPERS AND LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-372 reads as rewritten:

"**§ 160A-372. Contents and requirements of ordinance.**

...

(c) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees to assure successful completion of required ~~improvements at the time the plat is recorded as provided in subsection (b) of this section. For any specific development, the type of performance guarantee shall be at the election of the developer.~~improvements.

...

(g) For purposes of this section, all of the following shall apply with respect to performance guarantees:

(1) Type. – The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" shall mean any of the following forms of guarantee:

a. Surety bond issued by any company authorized to do business in this State.

b. Letter of credit issued by any financial institution licensed to do business in this State.

c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(1a) Duration. – The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(1b) Extension. – A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not

completed to the specifications of the city or county, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

(2) Release. – The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the city or county that the improvements for which the performance guarantee is being required are complete. ~~If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.~~The city or county shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the city or county, or upon acceptance of the required improvements, if the required improvements are subject to city or county acceptance. When required improvements that are secured by a bond are completed to the specifications of the city or county, or are accepted by the city or county, if subject to city or county acceptance, upon request by the developer, the city or county shall timely provide written acknowledgement that the required improvements have been completed.

(3) Amount. – The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. ~~Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.~~The city or county may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(3a) Timing. – A city or county, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(4) Coverage. – The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) Legal Responsibilities. – No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

a. The local government to whom such performance guarantee is provided.

b. The developer at whose request or for whose benefit such performance guarantee is given.

c. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

(6) Multiple Guarantees. – The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section."

SECTION 2. G.S. 153A-331 reads as rewritten:

"**§ 153A-331. Contents and requirements of ordinance.**

...

(e) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees to assure successful completion of required ~~improvements at the time the plat is recorded as provided in subsection (b) of this section. For any specific development, the type of performance guarantee from the range specified by the county shall be at the election of the developer.~~improvements.

...."

SECTION 3. This act is effective when it becomes law and applies to performance guarantees issued on or after that date.

SENATE BILL 316: Affordable Housing.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 20, 2019
Introduced by:	Sens. Wells, Krawiec, Edwards	**Prepared by:**	Jeremy Ray Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: Senate Bill 316 directs municipalities with a population of at least 90,000 to report to the General Assembly on local government funding, subsidies, and activities related to affordable housing.

BILL ANALYSIS: Senate Bill 316 requires every municipality with a population of at least 90,000 according to population estimates published by the Office of State Budget and Management to prepare a report on the amount of affordable housing units currently in use in the municipality that are subsidized by local government revenue or tax credits. The report must detail the strategies the municipalities are using to reduce the cost of privately developed housing and must include information on the extent to which those municipalities are engaged in twelve enumerated activities in the bill. The report must be submitted on or before October 1, 2019, to the Joint Legislative Oversight Committee on Local Government and the Fiscal Research Division.

EFFECTIVE DATE: The act is effective when it becomes law.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 3

SENATE BILL 316
State and Local Government Committee Substitute Adopted 4/30/19
Third Edition Engrossed 5/2/19

Short Title: Affordable Housing. (Public)

Sponsors:

Referred to:

March 21, 2019

A BILL TO BE ENTITLED

AN ACT TO DIRECT CERTAIN MUNICIPALITIES TO REPORT TO THE GENERAL ASSEMBLY ON LOCAL GOVERNMENT FUNDING, SUBSIDIES, AND ACTIVITIES RELATED TO AFFORDABLE HOUSING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Every municipality in this State with a population of at least 90,000, according to the July 1, 2016, Standard Population Estimates published by the Office of State Budget and Management, shall prepare a report on the amount of affordable housing units currently in use in the municipality that are subsidized by local government revenue or tax credits, or that have local government oversight. Affordable housing is defined as housing affordable for a household with income of up to eighty percent (80%) of area median income (AMI), and moderate income housing is defined as housing affordable for a household with income that is greater than eighty percent (80%), but not more than one hundred twenty percent (120%) AMI. In addition, the report shall detail the strategies the municipalities are employing to limit the cost of privately developed housing, and shall, at a minimum, include the extent to which municipalities are engaged in the following activities:

(1) Rezoning for densities necessary to assure the production of moderate income housing.
(2) Facilitating the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing.
(3) Encouraging the rehabilitation of existing uninhabitable housing stock into moderate income housing.
(4) Considering general fund subsidies to waive construction-related fees that are otherwise generally imposed by the city.
(5) Creating or allowing for, and reducing regulations related to, accessory dwelling units in residential zones.
(6) Allowing for housing in commercial and mixed-use zones.
(7) Encouraging higher density or moderate income residential development near major transit investment corridors.
(8) Eliminating or reducing parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities.
(9) Allowing for single-room occupancy developments.
(10) Preserving existing moderate income housing.

(11) Considering utilization of State or federal funds or tax incentives to promote the construction of moderate income housing.

(12) Considering utilization of programs offered by the Housing Finance Agency within that agency's funding capacity.

SECTION 1.(b) The report detailed in subsection (a) of this section shall be submitted on or before October 1, 2019, to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 355:
Land-Use Regulatory Changes.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 19, 2019
Introduced by:	Sens. Bishop, Newton, Searcy	**Prepared by:**	Bill Patterson Staff Attorney
Analysis of:	PCS to Second Edition S355-CSTG-32		

OVERVIEW: Part I of the Proposed Committee Substitute for Senate Bill 355 would make various changes to the land-use regulatory laws of the State. Part II would reorganize and consolidate statutes governing the regulation of land use planning and development by cities and counties. The PCS made changes to Part I of the bill as described in italics in the full summary.

CURRENT LAW AND BILL ANALYSIS:

PART I

Permit Choice Changes

Current law provides that if a permit applicant submits an application for any type of development permit issued by the State or by a local government, and a rule or ordinance changes between the time the application was submitted and the time a permit decision is made, the applicant can choose which version of the rule or ordinance will apply to the permit.

Sections 1.1 and 1.2 of the PCS for Senate Bill 355 would:

- *As modified by the PCS, provide that if, for a period of six consecutive months or more, a permit application is placed on hold at the applicant's request or the applicant fails to provide information reasonably requested by the local or state government, the application review shall be discontinued and development regulations in effect at the time permit processing is resumed shall apply to the application.*
- Clarify that permit choice statutes apply to land development regulations, and define the terms "development," "development permit," and "land development regulation."
- Provide that if the applicant opts for the version of a rule or ordinance in place at the time of the application for the development permit, that applicant cannot be required to wait for action on the outcome of any pending changes to that rule or ordinance.
- Provide that any person aggrieved by State or local government noncompliance with the permit choice statutes may seek a court order compelling compliance.
- Provide for expedited calendaring and review of permit choice related court actions at both the trial and appellate level.
- Make conforming and clarifying changes to county and city permit choice statutes.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Vested Rights Statutes Changes

Section 1.3 would amend county and city land development statutes to define the terms "development," "development permit," and "land development regulation" as they are defined in the permit choice statute, as amended by Section 1.1 of the bill, and to provide that:

- Without the land owner's written consent, amendments to land development regulations are not enforceable with regard to:
    - Uses of buildings or land, or subdivisions of land, for which a development permit application was submitted, and the permit subsequently issued, in accordance with permit choice statutes.
    - Vested rights established by a development agreement between a developer and a local government.
- Statutory vesting starts when the application for the development permit or building permit is submitted and lasts for as long as the permit remains valid.
- Local development permits expire one year after issuance if work authorized by the permit has not substantially commenced, unless otherwise specified in statute.
- The establishment of a vested right under one law does not preclude vesting under another, or vesting by application of common law principles.
- A vested right, once established, precludes any action by a county or city that would change, delay, or stop the development or use of the property, except where a change in State or federal law mandating local government enforcement occurring after the development application has a fundamental and retroactive effect on such development or use.
- Provide that except where a longer vesting period is provided by statute, the vesting period established by this section expires:
    - For an uncompleted project, if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.
    - For a nonconforming use of property, if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.

  As modified by the PCS, the discontinuance period would be tolled during the pendency of any board of adjustment proceeding or state or federal civil action regarding the permit validity, use of the property, or the existence of the statutory vesting period, and during the pendency of any litigation involving the project or property that is the subject of the vesting.
- Where a local government requires multiple development permits in order for a development project to be completed, the project applicant can choose the version of each local land regulation applicable to the project upon submitting the initial development permit application. *As modified by the PCS, this provision would only apply to subsequent development permit applications filed within 18 months of the initial permit's approval date.* An erosion and sedimentation control permit or a sign permit would not be considered an erosion and sedimentation control permit.

Section 1.3 would also expand the current definition of the term "multi-phased development" as used in county and city land development statutes by reducing the minimum size of a multi-phased development from 100 acres to 25 acres and by eliminating the current requirement that the master development plan include a requirement to offer land for public use as a condition of plan approval.

Down Zoning Amendments Not Initiated by a City or County

Section 1.4 and 1.5 would prohibit initiation or enforcement of a zoning amendment that down zones property without the written consent of all property owners subject to the amendment, unless the amendment is initiated by a city or county, and would delete a notice requirement that would be rendered obsolete by these changes. These sections also define the term "down zoning."

Procedure for Challenges to Land Regulation Decisions

Section 1.6 would provide that when a notice of violation or other enforcement order is stayed upon by an appeal to the board of adjustment, the stay applies to any accumulation of fines during the pendency of the appeal to the board of adjustment and any subsequent appeal, or during the pendency of any civil proceeding authorized by law, including a civil action authorized under Section 1.7 of the bill, and related appeals. *The PCS struck a provision that in order for a decision to be effective, the required written notice of the decision must state that the determination is final and that the party to whom the notice is given may appeal the decision as provided by law.*

Section 1.7 would add a new section to the General Statutes authorizing landowners or permit applicants to bring an original civil action in superior court or federal court challenging the enforceability, validity, or effect of a local land development regulation based on grounds of unconstitutionality, preemption, or exceeding statutory authority. *As modified by the PCS, this section would also provide that, subject to state and federal law limitations, an action would not be rendered moot if the aggrieved person loses the applicable property interest as a result of a challenge to the local government action, and exhaustion of an appeal is required to preserve a claim for damages.*

Section 1.8 would provide that a statute of limitation will not bar a party in an action provided for in Section 1.7 of the bill from raising as a claim or defense the enforceability or invalidity of an ordinance.

Section 1.9 would provide that in an appeal to superior court from a quasi-judicial decision of a city council, planning board, board of adjustment or other similar board, the court must allow the record to be supplemented through discovery if the appeal raises issues of lack of standing, due process violations, or action exceeding the board's statutory authority. *As modified by the PCS, this section would also provide that in an appeal raising these issues, whether the record contains competent, material, and substantial evidence is reviewable de novo.*

Section 1.10 would provide that in a proceeding brought before a board of adjustment or in any civil action challenging conditions that were imposed without consent of a landowner or permit applicant, a city or county cannot assert the defense of estoppel based on a landowner's or permit applicant's having proceeded with development authorized under the permit choice statutes.

Section 1.11 would require a court to award attorneys' fees and costs to a party successfully challenging a city's or county's action, upon a finding that the city or county violated a statute or case law setting forth unambiguous limits on its authority, or took action inconsistent with or in violation of the permit choice statutes.

Restrictions on Permit Conditions Not Authorized by Otherwise Applicable Law

Sections 1.12 and 1.13 would prohibit cities and counties from including as a permit condition any of the following requirements for which either the city or county does not have authority to regulate: taxes, impact fees, certain building elements, driveway-related improvements in excess of those statutorily authorized, or other unauthorized limitations on land development or use. *The PCS deleted provisions that would have prohibited denial of a development permit on the basis that public facilities are inadequate to serve the property described in the permit.*

Sections 1.14 and 1.15 would prohibit, without the written consent of the rezoning applicant, the denial of a conditional rezoning request based on conditions not authorized by statute or the enforcement of such unauthorized conditions.

Miscellaneous Provisions

Section 1.16 would prohibit a city from requiring a permit applicant for driveway improvements to acquire right-of-way from property the applicant does not own.

Section 1.17 would provide that the definition of "building" and "dwelling" a city uses when adopting zoning regulations must be consistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council.

PART II

CURRENT LAW: Counties and cities are authorized to adopt ordinances regulating land use to govern property development within their jurisdictions.

Land use regulations may involve any of the following:

- Extraterritorial jurisdiction (cities only)
- Subdivision ordinances
- Zoning ordinances
- Zoning regulation for manufactured homes
- Historical districts
- Building inspections and minimum housing codes
- Blighted areas
- Development agreements
- Cell towers
- Acquisition of open space
- Stormwater management

The authority granted to cities under Article 18 of Chapter 153A is substantially the same as that granted to counties under Article 19 of Chapter 160A, but there are some variances.

BILL ANALYSIS: Sections 2.2 and 2.3 of the bill would repeal Article 18 of Chapter 153A and Article 19 of Chapter 160A in, and **Section 2.4** would replace them with new Chapter 160D governing all local planning and development regulation.

In addition to consolidating and reorganizing existing planning and development regulations, Chapter 160D would make the following substantive changes to current law:

- G.S. 160D-1-5 would permit zoning maps to incorporate by reference floodplain rate maps and watershed boundary maps officially adopted by State and federal agencies, including updates to those maps.
- G.S. 160D-1-9 would limit participation by board members and staff in decisions when the applicant or other person affected by the decision is a person with whom the board member or staff has a close familial, business, or other associational relationship. If an objection is raised to a board member's participation and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- G.S. 160D-2-3 would permit multiple local governments sharing jurisdiction over a single parcel to agree to assign exclusive jurisdiction to one unit of government, with landowner approval.

- G.S. 160D-2-4 would provide that, when a change in local government jurisdiction has been proposed, the local government that would potentially receive jurisdiction under the proposal can receive and process an application for development approval, provided that no final decision could be made until jurisdiction is transferred.
- G.S. 160D-5-1 would require a local government to have a comprehensive development plan in place before adopting and applying zoning regulations. The plan would have to set forth goals, policies and programs intended to guide the jurisdiction's physical, social and economic development. (Under Section 2.9.(c) of the bill, local governments without such a plan in place would have until January 1, 2022 to adopt one.)
- G.S. 160D-6-5 would limit the required board statement of reasonableness to zoning map amendments (dispensing with this requirement for zoning text amendments).
- G.S. 160D-7-3 would establish uniform terminology for zoning districts and would authorize administrative review and approval of minor modifications in conditional district standards that do not change permitted uses or the density of overall permitted development.
- G.S. 160D-10-6 would shorten the list of mandated contents in development agreements and would authorize the parties to the agreements to negotiate terms for providing public facilities and other amenities and sharing in their costs.
- G.S. 160D-10-8 would provide that any party to a development agreement may enforce it by an action for injunctive relief.

Section 2.5 would make conforming changes to various statutory provisions.

Section 2.6 would repeal provisions in other articles of Chapters 153A and 160A, which are being relocated to Chapter 160D.

Section 2.7 would move two sections that are not being relocated to Chapter 160D from Article 18 to Article 23 of Chapter 153A.

Section 2.8 contains a severability clause.

Section 2.9 would provide transition provisions for application of Chapter 160D and would provide a full year after the effective date of the Act for any local government without a land use plan to prepare and adopt a plan in order to retain authority to adopt zoning regulations.

Section 2.10 would state the legislative intent that any changes enacted this session to the local land use planning and zoning laws be incorporated into the reorganization and consolidation of those laws contained in this bill and directs the General Statutes Commission to recommend to the 2020 General Assembly any changes needed to accomplish this intent.

BACKGROUND: Part II of Senate Bill 355 is the product of a multi-year effort of the Zoning, Planning, and Land Use Law Section of the North Carolina Bar Association.

PART III

EFFECTIVE DATE: Part I of this act is effective when it becomes law. Sections 1.4, 1.5, and 1.16 of Part I of this act apply to applications for down zoning amendments or for driveway improvements submitted, and to related appeals filed, on or after that date. The remainder of Part I of this act applies to ordinances adopted before, on, and after that date.

Part II of this act becomes effective January 1, 2021, and applies to local government development regulation decisions made on or after that date and to ordinances adopted before, on, and after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S D

SENATE BILL 355
Judiciary Committee Substitute Adopted 5/1/19
PROPOSED HOUSE COMMITTEE SUBSTITUTE S355-CSTG-32 [v.2]
06/19/2019 03:53:34 PM

Short Title: Land-Use Regulatory Changes. (Public)

Sponsors:

Referred to:

March 27, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. PROVISIONS TO CLARIFY AND CHANGE THE LAND-USE REGULATORY LAWS OF THE STATE

SECTION 1.1. G.S. 143-755 reads as rewritten:

"**§ 143-755. Permit choice.**

(a) If a development permit applicant submits a permit application for any type of development and a rule or ordinance ~~changes~~ is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the ~~permit.~~permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(b) This section applies to all development permits issued by the State and by local governments.

(b1) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or state government for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.

(c) Repealed by Session Laws 2015 246, s. 5(a), effective September 23, 2015.

(d) Any person aggrieved by the failure of a State agency or local government to comply with this section or G.S. 160A-360.1 or G.S. 153A-320.1 may apply to the appropriate division

of the General Court of Justice for an order compelling compliance by the offending agency or local government, and the court shall have jurisdiction to issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

(e) For purposes of this section, the following definitions shall apply:

(1) Development. – Without altering the scope of any regulatory authority granted by statute or local act, any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. Excavation, grading, filling, clearing, or alteration of land.

c. The subdivision of land as defined in G.S. 153A-335 or G.S. 160A-376.

d. The initiation of substantial change in the use of land or the intensity of the use of land.

(2) Development permit. – An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:

a. Zoning permits.

b. Site plan approvals.

c. Special use permits.

d. Variances.

e. Certificates of appropriateness.

f. Plat approvals.

g. Development agreements.

h. Building permits.

i. Subdivision of land.

j. State agency permits for development.

k. Driveway permits.

l. Erosion and sedimentation control permits.

m. Sign permit.

(3) Land development regulation. – Any State statute, rule, or regulation, or local ordinance affecting the development or use of real property, including any of the following:

a. Unified development ordinance.

b. Zoning regulation, including zoning maps.

c. Subdivision regulation.

d. Erosion and sedimentation control regulation.

e. Floodplain or flood damage prevention regulation.

f. Mountain ridge protection regulation.

g. Stormwater control regulation.

h. Wireless telecommunication facility regulation.

i. Historic preservation or landmark regulation.

j. Housing code."

SECTION 1.2.(a) G.S. 160A-360.1 reads as rewritten:

"**§ 160A-360.1. Permit choice.**

(a) If a rule or ~~ordinance changes~~ ordinance is amended, including an amendment to any applicable land development regulation, between the time a development permit application is submitted and a development permit decision is ~~made,~~ made or if a rule or ordinance is amended

after a development permit decision has been challenged and found to be wrongfully denied or illegal, then G.S. 143-755 shall apply.

(b) For purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 1.2.(b) G.S. 153A-320.1 reads as rewritten:

"**§ 153A-320.1. Permit choice.**

(a) If a rule or ~~ordinance changes~~ ordinance is amended, including an amendment to any applicable land development regulation, between the time a development permit application is submitted and a development permit decision is ~~made,~~ made or if a rule or ordinance is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, then G.S. 143-755 shall apply.

(b) For purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 1.3.(a) G.S. 160A-385(c) is recodified as G.S. 160A-385(b)(5).

SECTION 1.3.(b) G.S. 160A-385, as amended by this section, reads as rewritten:

"**§ 160A-385. ~~Changes.~~Changes to land development regulations.**

(a) Citizen Comments. –

(1) ~~Zoning~~ Subject to the limitations in this Chapter, zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ~~ordinance~~ ordinance, including a zoning map or text, that has been properly initiated as provided in G.S. 160A-384, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(2), (3) Repealed by Session Laws 2015-160, s. 1, effective August 1, 2015, and applicable to zoning ordinance changes initiated on or after that date.

(b) Amendments in ~~zoning ordinances~~ land development regulations, shall not be applicable or enforceable without the written consent of the owner with regard to ~~buildings and uses for which either (i) building permits have been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (ii)~~ any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) ~~a~~ A vested right ~~has been~~ established pursuant to G.S. 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. 160A-385.1.

(4) A vested right established by the terms of a development agreement authorized by Part 3D of this Article.

(5) ~~Amendments in zoning ordinances, subdivision ordinances, and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a~~ A multi-phased development as ~~defined in G.S. 160A-385.1(b)(7).~~ provided for in this subdivision, in accordance with G.S. 143-755. A multi-phased development shall be vested

for the entire development with the ~~zoning ordinances, subdivision ordinances, and unified development ordinances~~ land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this ~~subsection~~ subdivision shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(c) Recodified.

(d) Subject to subsection (f) of this section, upon issuance of a development permit, the statutory vesting granted by this section for a development shall be effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by statute, local development permits expire one year after issuance unless work authorized by such permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

(e) Subject to subsection (f) of this section, where multiple local development permits are required to complete a development project, this section, together with G.S. 143-755, authorizes the development permit applicant to choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit shall not be considered an initial development permit.

(f) The establishment of a vested right under any subdivision of subsection (b) of this section does not preclude vesting under one or more other subdivisions of subsection (b) of this section or vesting by application of common law principles. A vested right, once established as provided for in this section, precludes any action by a city that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on such development or use. Except where a longer vesting period is provided by statute, the statutory vesting granted by this section shall expire for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property shall expire if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period shall be automatically tolled during the pendency of any board of adjustment proceeding or civil action in a state or federal trial or appellate court regarding the validity of a development permit, the use of the property or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period shall also be tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting. The vested rights granted by this section shall run with the land except for the use of land for outdoor advertising governed by G.S 136-131.1 and G.S. 136-131.2, in which case the rights granted by this section shall run with the owner of a permit issued by the North Carolina Department of Transportation.

(g) As used in this section, the following terms mean:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. –As defined in G.S. 143-755(e)(2).

(3) Land development regulation. –As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 1.3.(c) G.S. 160A-385.1 reads as rewritten:

"**§ 160A-385.1. Vested rights.**

…

(b) Definitions. –

…

~~(7) "Multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.~~

…."

SECTION 1.3.(d) G.S. 153A-344(b1) is recodified as G.S. 153A-344(b)(5).

SECTION 1.3.(e) G.S. 153A-344 reads as rewritten:

"**§ 153A-344. Planning board; zoning plan; certification to board of commissioners.**

…

(b) Amendments in ~~zoning ordinances~~ land development regulations, shall not be applicable or enforceable without the written consent of the owner with regard to ~~buildings and uses for which either (i) building permits have been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii)~~ any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit authorizing the subdivision has been issued in accordance with G.S. 143-755.

(3) ~~a~~ A vested right ~~has been~~ established pursuant to G.S. 153A-344.1 and such vested right remains valid and unexpired pursuant to G.S. 153A-385.1.

(4) A vested right established by the terms of a development agreement authorized by Part 3D of this Article.

(5) ~~Amendments in zoning ordinances, subdivision ordinances, and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a~~ A multi-phased development as ~~defined in G.S. 153AA-344.1(b)(7).~~ provided for in this subdivision, in accordance with G.S. 143-755. A multi-phased development shall be vested for the entire development with the ~~zoning ordinances, subdivision ordinances, and unified development ordinances~~ land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this ~~subsection~~ subdivision shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(b1) Recodified.

(c) Subject to the exceptions set forth in subsection (e) of this section, upon issuance of a development permit, the statutory vesting granted by this section for a development shall be effective upon filing of the application in accordance with G.S. 143-755 for so long as the permit remains valid pursuant to law. Unless otherwise specified by statute, local development permits

expire one year after issuance unless work authorized by such permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

(d) Subject to the exceptions set forth in subsection (e) of this section, where multiple local development permits are required to complete a development project, this section, together with G.S. 143-755, authorizes the development permit applicant to choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit shall not be considered an initial development permit.

(e) The establishment of a vested right under any subdivision of subsection (b) of this section does not preclude vesting under one or more other subdivisions of subsection (b) of this section or vesting by application of common law principles. A vested right, once established as provided for in this section, precludes any action by a county that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on such development or use. Except where a longer vesting period is provided by statute, the statutory vesting granted by this section shall expire for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property shall expire if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period shall be automatically tolled during the pendency of any board of adjustment proceeding or civil action in a state or federal trial or appellate court regarding the validity of a development permit, the use of the property or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period shall also be tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting. The vested rights granted by this section shall run with the land except for the use of land for outdoor advertising governed by G.S 136-131.1 and G.S. 136-131.2, in which case the rights granted by this section shall run with the owner of a permit issued by the North Carolina Department of Transportation.

(f) As used in this section, the following terms mean:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 1.3.(f) G.S. 153A-344.1 reads as rewritten:

"**§ 153A-344.1. Vesting rights.**

…

(b) Definitions.

…

~~(7) "Multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.~~

...."

SECTION 1.4. G.S. 160A-384 reads as rewritten:

"**§ 160A-384. Method of procedure.**

(a) ~~The~~ Subject to the limitations of this Chapter, the city council shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, in accordance with the provisions of this Article. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. ~~Except for a city-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the city council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the city council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.~~ No amendment to zoning regulations or a zoning map that down zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down zoning amendment, unless the down zoning amendment is initiated by the city. For purposes of this section, "down zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice provided for in this subsection. In this instance, a city may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

~~(b1) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by~~

~~the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment.~~

(c) When a zoning map amendment is proposed, the city shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the city shall post sufficient notices to provide reasonable notice to interested persons."

SECTION 1.5. G.S. 153A-343 reads as rewritten:

"**§ 153A-343. Method of procedure.**

(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. ~~Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the board of commissioners that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.~~ No amendment to zoning regulations or a zoning map that down zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down zoning amendment, unless the down zoning amendment is initiated by the county. For purposes of this section, "down zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, a county may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearings required by G.S. 153A-323, but provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

~~(b1) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies~~

~~only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a county-initiated zoning map amendment.~~

(c) Repealed by Session Laws 2005-418, s. 4, effective January 1, 2006.

(d) When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons."

SECTION 1.6. G.S. 160A-388 reads as rewritten:

"**§ 160A-388. Board of adjustment.**

...

(b1) Appeals. – The board of adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

...

(6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed ~~from~~ from, including any accumulation of fines, during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160A-393 or during the pendency of any civil proceeding authorized by law, including G.S. 160A-393.1, or appeals therefrom, unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

...."

SECTION 1.7. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-393.1 Civil action for declaratory relief, injunctive relief, other remedies; joinder of complaint and petition for writ of certiorari in certain cases.**

(a) Review of Vested Rights Claim. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The zoning administrator's or officer's determination may be appealed under G.S. 160A-388(b1). On appeal, the question of law regarding the existence of a vested right shall be reviewed de novo. In lieu of an appeal under G.S. 160A-388(b1), a person claiming a vested right may bring an original civil action as provided by subsection (b) of this section.

(b) Civil Action. – Except as otherwise provided in this section for claims involving questions of interpretation, in lieu of any remedies available under G.S. 160A-388(b1), a person with standing, as defined in subsection (c) of this section, may bring an original civil action seeking declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity, in superior court or federal court to challenge the enforceability, validity, or effect of a local land development regulation for any of the following claims:

(1) The ordinance, either on its face or as applied, is unconstitutional.

(2) The ordinance, either on its face or as applied, is ultra vires, preempted, or otherwise in excess of statutory authority.

(3) The ordinance, either on its face or as applied, constitutes a taking of property.

If the decision being challenged is from an administrative official charged with enforcement of a local land development regulation, the party with standing must first bring any claim that the ordinance was erroneously interpreted to the applicable board of adjustment pursuant to G.S. 160A-388(b1). An adverse ruling from the board of adjustment may then be challenged in an action brought pursuant to this subsection with the court hearing the matter de novo together with any of the claims listed in this subsection.

(c) Standing. – Any of the following criteria shall provide standing to bring an action under this section:

(1) The person has an ownership, leasehold, or easement interest in, or possesses an option or contract to, purchase the property that is the subject matter of a final and binding decision made by an administrative official charged with applying or enforcing a land development regulation.

(2) The person was a development permit applicant before the decision-making board whose decision is being challenged.

(3) The person was a development permit applicant who is aggrieved by a final and binding decision of an administrative official charged with applying or enforcing a land development regulation.

Subject to the limitations in the state and federal constitutions and state and federal case law, an action filed under this section shall not be rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160A-393.1.

(d) Time for Commencement of Action. – Any action brought pursuant to this section shall be commenced within one year after the date on which written notice of the final decision is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

(e) Joinder. – An original civil action authorized by this section may, for convenience and economy, be joined with a petition for writ of certiorari and decided in the same proceedings. For the claims raised in the original civil action, the parties shall be governed by the Rules of Civil Procedure. The record of proceedings in the appeal pursuant to G.S. 160A-393 may not be supplemented by discovery from the civil action unless supplementation is otherwise allowed under G.S. 160A-393(j). The standard of review in the original civil action for the cause or causes of action pled as authorized by subsection (b) of this section shall be de novo. The standard of review of the petition for writ of certiorari shall be as established in G.S. 160A-393(k).

(f) For the purposes of this section, the definitions in G.S. 143-755 shall apply."

SECTION 1.8. G.S. 160A-364.1 reads as rewritten:

"**§ 160A-364.1. Statute of limitations.**

...

(c) Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party in an action involving the enforcement of a zoning or unified development ordinance or in an action authorized by G.S. 160A-393.1 from raising as a claim or defense ~~to such enforcement action~~ in such proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or

in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that such party is in violation of a zoning or unified development ordinance from raising in the appeal the invalidity of such ordinance as a defense to such order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

…."

SECTION 1.9. G.S. 160A-393 reads as rewritten:

"**§ 160A-393. Appeals in the nature of certiorari.**

…

(d) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons shall have standing to file a petition under this section:

(1) Any person meeting any of the following criteria:

a. Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. Has an option or contract to purchase the property that is the subject of the decision being appealed.

c. Was an applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A city whose decision-making board has made a decision that the council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of an ordinance adopted by that council.

Subject to the limitations in the state and federal constitutions and state and federal case law, an action filed under this section shall not be rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160A-393.1.

…

(j) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection ~~(h)~~ (i) of this section. Except that the court ~~may, in its discretion,~~ shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the ~~record is not adequate to allow an appropriate determination~~ petition raises any of the following ~~issues:~~issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure shall apply to the supplementation of the record of said issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160A-388(e)(2), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (k) of this section.

(k) Scope of Review. –

(1) When reviewing the decision of a decision-making board under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the ~~city~~ city, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by ~~substantial competent~~ competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, ~~shall~~ shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way would affect the value of other property.

b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(*l*) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (k) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall be guided by the following in determining what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by substantial competent evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on substantial competent evidence or was otherwise based on an error of law, the court ~~may~~ shall remand with instructions that the permit be issued, subject to ~~reasonable and appropriate conditions.~~any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on substantial competent evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

...."

SECTION 1.10. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-393.2. No estoppel effect when challenging development conditions.**

A city or county may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant."

SECTION 1.11. G.S. 6-21.7 reads as rewritten:

"**§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of their authority.**

In any action in which a city or county is a party, upon a finding by the court that the city or county ~~acted outside the scope of its legal authority,~~ violated a statute or case law setting forth unambiguous limits on its authority, the court ~~may~~ shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's ~~action, provided that if the court also finds that the city's or county's action was an abuse of its discretion, the court shall award attorneys' fees and costs.~~action. In any action in which a city or county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of, G.S. 160A-360.1, 153A-320.1, or 143-755, the court shall award reasonable attorneys' fees and

costs to the party who successfully challenged the local government's failure to comply with any of those provisions. In all other matters, the court may award reasonable attorneys' fees and costs to the prevailing private litigant. For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

SECTION 1.12. G.S. 160A-381 reads as rewritten:

"**§ 160A-381. Grant of power.**

...

(c) The regulations may also provide that the board of adjustment, the planning board, or the city council may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Conditions and safeguards imposed under this subsection shall not include requirements for which the city does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the ~~city.~~ city, including, without limitation, taxes, impact fees, building design elements within the scope of subsection (h) of this section, driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. When deciding special use permits or conditional use permits, the city council or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the city council or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the city council or planning board shall be subject to review of the superior court in the nature of certiorari in accordance with G.S. 160A-388.

Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made of recreational space and facilities.

...."

SECTION 1.13. G.S. 153A-340 reads as rewritten:

"**§ 153A-340. Grant of power.**

...

(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Conditions and safeguards imposed under this subsection shall not include requirements for which the county does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the ~~county.~~ county, including, without limitation, taxes, impact fees, building design elements within the scope of subsection (*l*) of this section, driveway-related improvements in excess of those allowed in G.S. 136-18(29), or other unauthorized limitations on the development or use of land. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners

or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388.

...."

SECTION 1.14. G.S. 160A-382 reads as rewritten:

"**§ 160A-382. Districts.**

...

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions ~~mutually~~ approved by the city and consented to by the petitioner in writing may be incorporated into the zoning regulations or permit requirements. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, including the establishment of special or conditional use districts or conditional zoning, a city may not require, enforce, or incorporate into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160A-381(h), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

...."

SECTION 1.15. G.S. 153A-342 reads as rewritten:

"**§ 153A-342. Districts; zoning less than entire jurisdiction.**

...

(b) Property may be placed in a special use district, conditional use district, or conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to the districts may be proposed by the petitioner or the county or its agencies, but only those conditions ~~mutually~~ approved by the county and consented to by the petitioner in writing may be incorporated into the zoning regulations or permit requirements. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, including the establishment of special or conditional use districts or conditional zoning, a county may not require, enforce, or incorporate into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 153A-340(*l*), driveway-related improvements in excess of those allowed in G.S. 136-18(29), or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to county ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.

...."

SECTION 1.16. G.S. 160A-307 reads as rewritten:

"**§ 160A-307. Curb cut regulations.**

(a) A city may by ordinance regulate the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. The ordinance may require the construction or reimbursement of the cost of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley ~~if:~~if all of the following apply:

(1) The need for such improvements is reasonably attributable to the traffic using the ~~driveway; and~~driveway.

(2) The improvements serve the traffic of the driveway.

(b) No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. ~~However, if there is a conflict between the written driveway regulations of the Department of Transportation and the related driveway improvements required by the city, the more stringent requirement shall apply.~~A city shall not require the applicant to acquire right-of-way from property not owned by the applicant. However, an applicant may voluntarily agree to acquire such right-of-way."

SECTION 1.17.(a) G.S. 153A-346 reads as rewritten:

"**§ 153A-346. Conflict with other laws.**

...

(b) When adopting regulations under this Part, a county may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is ~~more expansive than~~ inconsistent with any definition of the same in another statute or in a rule adopted by a State ~~agency.~~agency, including the State Building Code Council."

SECTION 1.17.(b) G.S. 160A-390 reads as rewritten:

"**§ 160A-390. Conflict with other laws.**

...

(b) When adopting regulations under this Part, a city may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is ~~more expansive than~~ inconsistent with any definition of the same in another statute or in a rule adopted by a State ~~agency.~~agency, including the State Building Code Council."

PART II. PROVISIONS TO REORGANIZE, CONSOLIDATE, MODERNIZE, AND CLARIFY STATUTES REGARDING LOCAL PLANNING AND DEVELOPMENT REGULATION

SECTION 2.1.(a) The General Assembly finds that a coherent organization of the statutes that authorize local government planning and development regulation is needed to make the statutes simpler to find, easier to follow, and more uniform for all local governments.

SECTION 2.1.(b) The General Assembly finds that the parallel system of separate city and county statutes regarding planning and development regulation has led to redundancy and unintended differences in the wording of planning and development regulation statutes on the same subject.

SECTION 2.1.(c) The General Assembly finds that numerous specialized statutes affecting local planning and development regulation have been added in disparate Chapters of the General Statutes over past decades, and that antiquated and confusing language exists in the planning and development regulation statutes.

SECTION 2.1.(d) The General Assembly finds that, other than collecting some of these statutes into Article 19 of Chapter 160A of the General Statutes in 1971 and Article 18 of Chapter 153A of the General Statutes in 1973, no comprehensive reorganization of North Carolina's planning and development regulation statutes has been undertaken.

SECTION 2.1.(e) The intent of the General Assembly by enactment of Part II of this act is to collect and organize existing statutes regarding local planning and development into a single Chapter of the General Statutes and to consolidate the statutes affecting cities and counties.

SECTION 2.1.(f) The intent of the General Assembly by enactment of Part II of this act is to neither eliminate, diminish, enlarge, nor expand the authority of local governments to exact land, construction, or money as part of the development approval process or otherwise materially alter the scope of local authority to regulate development and any modifications from earlier versions of Part II of this bill should not be interpreted to affect the scope of local government authority.

SECTION 2.2. Article 18 of Chapter 153A of the General Statutes is repealed.

SECTION 2.3. Article 19 of Chapter 160A of the General Statutes is repealed.

SECTION 2.4. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 160D.**

"**Local Planning and Development Regulation.**

"Article 1.

"General Provisions.

"**§ 160D-1-1. Application.**

(a) The provisions of this Article shall apply to all development regulations and programs adopted pursuant to this Chapter or applicable or related local acts. To the extent there are contrary provisions in local charters or acts, G.S. 160D-1-11 is applicable unless this Chapter expressly provides otherwise. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there are conflicts between the provisions of this Article and the provisions of other Articles of this Chapter, the more specific provisions shall control.

(c) Local governments may also apply any of the definitions and procedures authorized by this Chapter to any ordinance that does not substantially affect land use and development adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Chapter to any or all aspects of those ordinances.

(d) This Chapter does not expand, diminish, or alter the scope of authority for planning and development regulation authorized by other Chapters of the General Statutes.

"**§ 160D-1-2. 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.

(2) Administrative hearing. – A proceeding to gather facts needed to make an administrative decision.

(3) Bona fide farm purposes. – Agricultural activities as set forth in G.S. 160D-9-3.

(4) Charter. – As defined in G.S. 160A-1(2).

(5) City. – As defined in G.S. 160A-1(2).

(6) Comprehensive plan. – The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.

(7) Conditional zoning. – A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

(8) County. – Any one of the counties listed in G.S. 153A-10.

(9) Decision-making board. – A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this Chapter.

(10) Determination. – A written, final, and binding order, requirement, or determination regarding an administrative decision.

(11) Developer. – A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

(12) Development. – Unless the context clearly indicates otherwise, the term means any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. The excavation, grading, filling, clearing, or alteration of land.

c. The subdivision of land as defined in G.S. 160D-8-2.

d. The initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by this Chapter.

(13) Development approval. – An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

(14) Development regulation. – A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

(15) Dwelling. – Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

(16) Evidentiary hearing. – A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.

(17) Governing board. – The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of

commissioners" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

(18) Landowner or owner. – The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

(19) Legislative decision. – The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.

(20) Legislative hearing. – A hearing to solicit public comment on a proposed legislative decision.

(21) Local act. – As defined in G.S. 160A-1(2).

(22) Local government. – A city or county.

(23) Manufactured home or mobile home. – A structure as defined in G.S. 143-145(7).

(24) Person. – An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(25) Planning and development regulation jurisdiction. – The geographic area defined in Part 2 of this Chapter within which a city or county may undertake planning and apply the development regulations authorized by this Chapter.

(26) Planning board. – Any board or commission established pursuant to G.S. 160D-3-1.

(27) Property. – All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

(28) Quasi-judicial decision. – A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

(29) Site plan. – A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of

objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

(30) Special use permit. – A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

(31) Subdivision. – The division of land for the purpose of sale or development as specified in G.S. 160D-8-2.

(32) Subdivision regulation. – A subdivision regulation authorized by Article 8 of this Chapter.

(33) Vested right. – The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-1-8 or under common law.

(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.

"**§ 160D-1-3. Unified development ordinance.**

A local government may elect to combine any of the regulations authorized by this Chapter into a unified ordinance. Unless expressly provided otherwise, a local government may apply any of the definitions and procedures authorized by law to any or all aspects of the unified ordinance and may employ any organizational structure, board, commission, or staffing arrangement authorized by law to any or all aspects of the ordinance. Inclusion of a regulation authorized by this Chapter or local act in a unified development ordinance does not expand, diminish, or alter the scope of authority for those regulations.

"**§ 160D-1-4. Development approvals run with the land.**

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Chapter attach to and run with the land.

"**§ 160D-1-5. Maps.**

(a) Zoning Map. – Zoning district boundaries adopted pursuant to this Chapter shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government.

(b) Incorporation by Reference. – Development regulations adopted pursuant to this Chapter may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies.

For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection (a) of this section.

(c) Copies. – Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the local government clerk in accordance with G.S. 160A-79 or G.S. 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map.

"**§ 160D-1-6. Refund of illegal fees.**

If a local government is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the local government shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

"**§ 160D-1-7. Moratoria.**

(a) Authority. – As provided in this section, local governments may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

(b) Hearing Required. – Except in cases of imminent and substantial threat to public health or safety, before adopting a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-6-1.

(c) Exempt Projects. – Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160D-11-8 is outstanding, to any project for which a special use permit application has been accepted as complete, to development set forth in a site-specific or phased vesting plan approved pursuant to G.S. 160D-1-8, to development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by the local government prior to the call for a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the local government prior to the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-1-8(b) shall be applicable when permit processing resumes.

(d) Required Statements. – Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:

(1) A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.

(2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(e) Limit on Renewal or Extension. – No moratorium may be subsequently renewed or extended for any additional period unless the local government shall have taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of subsection (d) of this section, including what new facts or conditions warrant the extension.

(f) Expedited Judicial Review. – Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the enforcement of the moratorium. Actions brought pursuant to this section shall be scheduled for expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In such actions, the local government shall have the burden of showing compliance with the procedural requirements of this subsection.

"**§ 160D-1-8. Vested rights and permit choice.**

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Chapter and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals is as set forth in subsection (d) of this section.

(c) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-4-5. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-4-5(c).

(d) Types and Duration of Statutory Vested Rights. – Except as provided by this section and subject to subsection (b) of this section, amendments in local development regulations shall

not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Chapter so long as one of the types of approvals listed in this subsection remains valid and unexpired. Each type of vested right listed in this subsection is defined by and is subject to the limitations provided in this section. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by local government approvals are as follows:

(1) Six months – Building permits. – Pursuant to G.S. 160D-11-9, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.

(2) One year – Other local development approvals. – Pursuant to G.S. 160D-4-3(c), unless otherwise specified by statute or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.

(3) Two to five years – Site-specific vesting plans. –

a. Duration. – A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government. A local government may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations. This determination shall be in the discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with sub-subdivision c. of this subdivision.

b. Relation to building permits. – A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D-11-9 and G.S. 160D-11-13 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.

c. Requirements for site-specific vesting plans. – For the purposes of this section, a "site-specific vesting plan" means a plan submitted to a local government pursuant to this section describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings,

structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan shall be defined by the relevant development regulation, and the development approval that triggers vesting shall be so identified at the time of its approval. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In the event a local government fails to adopt a regulation setting forth what constitutes a site-specific vesting plan, any development approval shall be considered to be a site-specific vesting plan. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

d. Process for approval and amendment of site-specific vesting plans. – If a site-specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting plan established under this subdivision. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-6-2 shall be held. A local government may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by its terms and conditions will result in a forfeiture of vested rights. A local government shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the local government's decision approving the plan or such other date as determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(4) Seven years – Multiphase developments. – A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject

to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(5) Indefinite – Development agreements. – A vested right of reasonable duration may be specified in a development agreement approved under Article 10 of this Chapter.

(e) Continuing Review. – Following approval or conditional approval of a statutory vested right, a local government may make subsequent reviews and require subsequent approvals by the local government to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The local government may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(f) Exceptions. – The provisions of this section are subject to the following:

(1) A vested right, once established as provided for by subdivision (3) or (4) of subsection (d) of this section, precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except when any of the following conditions are present:

a. The written consent of the affected landowner.

b. Findings made, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the approved vested right.

c. The extent to which the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as is provided in G.S. 160D-1-6. Compensation shall not include any diminution in the value of the property that is caused by such action.

d. Findings made, after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right.

e. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

(2) The establishment of a vested right under subdivision (3) or (4) of subsection (d) of this section shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new

regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change, or impair the authority of a local government to adopt and enforce development regulation provisions governing nonconforming situations or uses.

(g) Miscellaneous Provisions. – A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights. Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

"**§ 160D-1-9. Conflicts of interest.**

(a) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(b) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(d) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(e) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(f) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

"**§ 160D-1-10. Chapter construction.**

(a) G.S. 153A-4 and G.S. 160A-4 are applicable to this Chapter.

(b) "Written" or "in writing" is deemed to include electronic documentation.

(c) Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent.

"**§ 160D-1-11. Effect on prior laws.**

(a) The enactment of this Chapter shall not require the readoption of any local government ordinance enacted pursuant to laws that were in effect before the effective date of this Chapter and are restated or revised herein. The provisions of this Chapter shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of the effective date of this Chapter. The enactment of this Chapter shall not be deemed to amend the geographic area within which local government development regulations adopted prior to January 1, 2019, are effective.

(b) G.S. 153A-3 and G.S. 160A-3 are applicable to this Chapter. Nothing in this Chapter repeals or amends a charter or local act in effect as of the effective date of this Chapter unless this Chapter or a subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or supersede that charter or local act.

(c) Whenever a reference is made in another section of the General Statutes or any local act, or any local government ordinance, resolution, or order, to a portion of Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes that is repealed or superseded by this Chapter, the reference shall be deemed amended to refer to that portion of this Chapter that most nearly corresponds to the repealed or superseded portion of Article 19 of Chapter 160A or Article 18 of Chapter 153A of the General Statutes.

"Article 2.

"Planning and Development Regulation Jurisdiction.

"**§ 160D-2-1. Planning and development regulation jurisdiction.**

(a) Municipalities. – All of the powers granted by this Chapter may be exercised by any city within its corporate limits and within any extraterritorial area established pursuant to G.S. 160D-2.

(b) Counties. – All of the powers granted by this Chapter may be exercised by any county throughout the county except in areas subject to municipal planning and development regulation jurisdiction.

"**§ 160D-2-2. Municipal extraterritorial jurisdiction.**

(a) Geographic Scope. – Any city may exercise the powers granted to cities under this Chapter within a defined area extending not more than one mile beyond its contiguous corporate limits. In addition, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. In determining the population of a city for the purposes of this Chapter, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration. Pursuant to G.S. 160A-58.4, extraterritorial municipal planning and development regulation may

be extended only from the primary corporate boundary of a city and not from the boundary of satellite areas of the city.

(b) Authority in the Extraterritorial Area. – A city may not exercise any power conferred by this Chapter in its extraterritorial jurisdiction that it is not exercising within its corporate limits. A city may exercise in its extraterritorial area all powers conferred by this Chapter that it is exercising within its corporate limits. If a city fails to extend a particular type of development regulation to the extraterritorial area, the county may elect to exercise that particular type of regulation in the extraterritorial area.

(c) County Approval of City Jurisdiction. – Notwithstanding subsection (a) of this section, no city may extend its extraterritorial powers into any area for which the county has adopted and is enforcing county zoning and subdivision regulations. However, the city may do so where the county is not exercising both of these powers, or when the city and the county have agreed upon the area within which each will exercise the powers conferred by this Chapter. No city may extend its extraterritorial powers beyond one mile from its corporate limits without the approval of the board or boards of county commissioners with jurisdiction over the area.

(d) Notice of Proposed Jurisdiction Change. – Any municipality proposing to exercise extraterritorial jurisdiction under this Chapter shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160D-6-1, and of the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning board and the board of adjustment, as provided in G.S. 160D-3-3. The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to the city council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

(e) Boundaries. – Any council exercising extraterritorial jurisdiction under this Chapter shall adopt an ordinance specifying the areas to be included based upon existing or projected urban development and areas of critical concern to the city, as evidenced by officially adopted plans for its development. A single jurisdictional boundary shall be applicable for all powers conferred in this Chapter. Boundaries shall be defined, to the extent feasible, in terms of geographical features identifiable on the ground. Boundaries may follow parcel ownership boundaries. A council may, in its discretion, exclude from its extraterritorial jurisdiction areas lying in another county, areas separated from the city by barriers to urban growth, or areas whose projected development will have minimal impact on the city. The boundaries specified in the ordinance shall at all times be drawn on a map, set forth in a written description, or shown by a combination of these techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for the delineation of the corporate limits and shall be recorded in the office of the register of deeds of each county in which any portion of the area lies.

Where the extraterritorial jurisdiction of two or more cities overlaps, the jurisdictional boundary between them shall be a line connecting the midway points of the overlapping area unless the city councils agree to another boundary line within the overlapping area based upon existing or projected patterns of development.

(f) County Authority Within City Jurisdiction. – The county may, on request of the city council, exercise any or all of these powers in any or all areas lying within the city's corporate limits or within the city's specified area of extraterritorial jurisdiction.

(g) Transfer of Jurisdiction. – When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the county, the county development regulations and powers of enforcement shall remain in effect until (i) the

city has adopted such development regulations or (ii) a period of 60 days has elapsed following the annexation, extension, or incorporation, whichever is sooner. Prior to the transfer of jurisdiction, the city may hold hearings and take any other measures consistent with G.S. 160D-2-4 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

(h) Relinquishment of Jurisdiction. – When a city relinquishes jurisdiction over an area that it is regulating under this Chapter to a county, the city development regulations and powers of enforcement shall remain in effect until (i) the county has adopted such development regulation or (ii) a period of 60 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. Prior to the transfer of jurisdiction, the county may hold hearings and take other measures consistent with G.S. 160D-2-4 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

(i) Process for Local Government Approval. – When a local government is granted powers by this section subject to the request, approval, or agreement of another local government, the request, approval, or agreement shall be evidenced by a formally adopted resolution of the governing board of the local government. Any such request, approval, or agreement can be rescinded upon two years' written notice to the other governing boards concerned by repealing the resolution. The resolution may be modified at any time by mutual agreement of the governing boards concerned.

(j) Local Acts. – Nothing in this section shall repeal, modify, or amend any local act that defines the boundaries of a city's extraterritorial jurisdiction by metes and bounds or courses and distances.

(k) Effect on Vested Rights. – Whenever a city or county, pursuant to this section, acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights in the surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take any action regarding such a development approval, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its development regulations. Except as provided in this subsection, any building, structure, or other land use in a territory over which a city or county has acquired jurisdiction is subject to the development regulations of the city or county.

"**§ 160D-2-3. Split jurisdiction.**

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.

"**§ 160D-2-4. Pending jurisdiction.**

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

"Article 3.

"Boards and Organizational Arrangements.

"**§ 160D-3-1. Planning boards.**

(a) Composition. – A local government may by ordinance provide for the appointment and compensation of a planning board or may designate one or more boards or commissions to perform the duties of a planning board. A planning board established pursuant to this section may include, but shall not be limited to, one or more of the following:

(1) A planning board of any size or composition deemed appropriate, organized in any manner deemed appropriate; provided, however, the board shall have at least three members.

(2) A joint planning board created by two or more local governments pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.

(b) Duties. – A planning board may be assigned the following powers and duties:

(1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

(2) To facilitate and coordinate citizen engagement and participation in the planning process.

(3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(4) To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-6-4.

(5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.

(6) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

(7) To perform any other related duties that the governing board may direct.

"**§ 160D-3-2. Boards of adjustment.**

(a) Composition. – A local government may by ordinance provide for the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three-year terms. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the governing board may appoint certain members for less than three years so that the terms of all members shall not expire at the same time. The governing board may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

(b) Duties. – The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under this Chapter. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals. If any board other than the board of adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a board of adjustment in making quasi-judicial decisions.

"**§ 160D-3-3. Historic preservation commission.**

(a) Composition. – Before it may designate one or more landmarks or historic districts pursuant to Part 4 of Article 9 of this Chapter, the governing board shall establish a historic preservation commission. The governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the planning and development regulation jurisdiction of the local government as established pursuant to this Chapter. The commission may appoint advisory bodies and committees as appropriate. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the commission but shall serve without pay unless otherwise provided in the ordinance establishing the commission.

(b) Alternative Forms. – In lieu of establishing a historic preservation commission, a local government may designate as its historic preservation commission (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Chapter to deal only with historic districts or landmarks respectively, (ii) a planning board established pursuant to this Chapter, or (iii) a community appearance commission established pursuant to this Chapter. In order for a commission or board other than the historic preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of a local government, the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning board or a community appearance commission.

(c) Joint Commissions. – Local governments may establish or designate a joint preservation commission. If a joint commission is established or designated, it shall have the same composition as specified by this section, and the local governments involved shall determine the residence requirements of members of the joint preservation commission.

(d) Duties. – The historic preservation commission shall have the duties specified in G.S. 160D-9-42.

"**§ 160D-3-4. Appearance commission.**

(a) Composition. – Each local government may create a special commission, to be known as the appearance commission. The commission shall consist of not less than seven nor more than 15 members, to be appointed by the governing board for terms not to exceed four years, as the governing board may by ordinance provide. All members shall be residents of the local government's area of planning and development regulation jurisdiction at the time of appointment. Where possible, appointments shall be made in such a manner as to maintain on the commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to the commission but shall serve without pay unless otherwise provided in the ordinance establishing the commission. Membership of the commission is an office that may be held concurrently with any other elective or appointive office pursuant to Section 9 of Article VI of the North Carolina Constitution.

(b) Joint Commissions. – Local governments may establish a joint appearance commission. If a joint commission is established, it shall have the same composition as specified by this section, and the local governments involved shall determine the residence requirements for members of the joint commission.

(c) Duties. – The community appearance commission shall have the duties specified in G.S. 160D-9-60.

"**§ 160D-3-5. Housing appeals board.**

(a) Composition. – The governing board may by ordinance provide for the creation and organization of a housing appeals board. Instead of establishing a housing appeals board, a local government may designate the board of adjustment as its housing appeals board. The housing appeals board, if created, shall consist of five members to serve for three-year staggered terms.

(b) Duties. – The housing appeals board shall have the duties specified in G.S. 160D-12-8.

"**§ 160D-3-6. Other advisory boards.**

A local government may by ordinance establish additional advisory boards as deemed appropriate. The ordinance establishing such boards shall specify the composition and duties of such boards.

"**§ 160D-3-7. Extraterritorial representation on boards.**

(a) Proportional Representation. – When a city elects to exercise extraterritorial powers under this Chapter, it shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the planning board, board of adjustment, appearance commission, and the historic preservation commission if there are historic districts or designated landmarks in the extraterritorial area.

(b) Appointment. – Membership of joint municipal-county planning agencies or boards of adjustment may be appointed as agreed by counties and municipalities. The extraterritorial representatives on a city advisory board authorized by this Article shall be appointed by the board of county commissioners with jurisdiction over the area. The county shall make the appointments within 90 days following the hearing. Once a city provides proportional representation, no power available to a city under this Chapter shall be ineffective in its extraterritorial area solely because county appointments have not yet been made. If there is an insufficient number of qualified residents of the extraterritorial area to meet membership requirements, the board of county commissioners may appoint as many other residents of the county as necessary to make up the requisite number. When the extraterritorial area extends into two or more counties, each board of county commissioners concerned shall appoint representatives from its portion of the area, as specified in the ordinance. If a board of county commissioners fails to make these appointments within 90 days after receiving a resolution from the city council requesting that they be made, the city council may make them.

(c) Voting Rights. – If the ordinance so provides, the outside representatives may have equal rights, privileges, and duties with the other members of the board to which they are appointed, regardless of whether the matters at issue arise within the city or within the extraterritorial area; otherwise, they shall function only with respect to matters within the extraterritorial area.

"**§ 160D-3-8. Rules of procedure.**

Rules of procedure that are consistent with the provisions of this Chapter may be adopted by the governing board for any or all boards created under this Article. In the absence of action by the governing board, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the local government clerk or such other official as designated by ordinance and posted on the local government Web site if one exists. Each board shall keep minutes of its proceedings.

"**§ 160D-3-9. Oath of office.**

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

"**§ 160D-3-10. Appointments to boards.**

Unless specified otherwise by statute or local ordinance, all appointments to boards authorized by this Chapter shall be made by the governing board of the local government. The governing board may establish reasonable procedures to solicit, review, and make appointments.

"Article 4.

"Administration, Enforcement, and Appeals.

"**§ 160D-4-1. Application.**

(a) The provisions of this Article shall apply to all development regulations adopted pursuant to this Chapter. Local governments may apply any of the definitions and procedures authorized by this Article to any ordinance adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes, and Article 6 of Chapter 153A of the General Statutes, respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Article to any or all aspects of those ordinances. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there is a conflict between the provisions of this Article and other Articles, the more specific provision shall control. This Article does not expand, diminish, or alter the scope of authority for development regulations authorized by this Chapter.

"**§ 160D-4-2. Administrative staff.**

(a) Authorization. – Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter.

(b) Duties. – Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Staff Arrangements. – A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-2-2.

A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government.

(d) Financial Support. – The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter, and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings.

"**§ 160D-4-3. Administrative development approvals and determinations.**

(a) Development Approvals. – To the extent consistent with the scope of regulatory authority granted by this Chapter, no person shall commence or proceed with development without first securing any required development approval from the local government with jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. A local government may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

(b) Determinations and Notice of Determinations. – A development regulation enacted under the authority of this Chapter may designate the staff member or members charged with making determinations under the development regulation.

The officer making the determination shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least 6 inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(c) Duration of Development Approval. – Unless a different period is specified by this Chapter or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a development approval issued pursuant to this Chapter shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Unless provided otherwise by this Chapter or other specific applicable law or a longer period is provided by local ordinance, if after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under G.S. 160D-1-8.

(d) Changes. – After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A local government may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The local government shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

(e) Inspections. – Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(f) Revocation of Development Approvals. – In addition to initiation of enforcement actions under G.S. 160D-4-4, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable.

(g) Certificate of Occupancy. – A local government may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of this Chapter shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-11-14 has been issued.

(h) Optional Communication Requirements. – A regulation adopted pursuant to this Chapter may require notice and/or informational meetings as part of the administrative decision-making process.

"**§ 160D-4-4. Enforcement.**

(a) Notices of Violation. – When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-11-23 or G.S. 160D-12-6 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-4-5.

(b) Stop Work Orders. – Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-11-12 and G.S. 160D-12-8, a stop work order may be appealed pursuant to G.S. 160D-4-5. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(c) Remedies. –

(1) Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by this Chapter may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Chapter or of any development regulation or other regulation made under authority of this Chapter, the local government, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(2) When a development regulation adopted pursuant to authority conferred by this Chapter is to be applied or enforced in any area outside the planning and development regulation jurisdiction of a city as set forth in Article 2 of this Chapter, the city and the property owner shall certify that the application or

enforcement of the city development regulation is not under coercion or otherwise based on representation by the city that the city's development approval would be withheld without the application or enforcement of the city development regulation outside the jurisdiction of the city. The certification may be evidenced by a signed statement of the parties on any development approval.

(3) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to this Chapter is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the local government, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this Chapter for violation of an ordinance.

"**§ 160D-4-5. Appeals of administrative decisions.**

(a) Appeals. – Except as provided in subsection (c) of this section, appeals of decisions made by the staff under this Chapter shall be made to the board of adjustment unless a different board is provided or authorized otherwise by statute or an ordinance adopted pursuant to this Chapter. If this function of the board of adjustment is assigned to any other board pursuant to G.S. 160D-3-2(b), that board shall comply with all of the procedures and processes applicable to a board of adjustment hearing appeals. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the board of adjustment unless required by a local government ordinance or code provision.

(b) Standing. – Any person who has standing under G.S. 160D-14-2(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the local government clerk or such other local government official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

(c) Judicial Challenge. – A person with standing may bring a separate and original civil action to challenge the constitutionality of an ordinance or development regulation, or whether the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of statutory authority, without filing an appeal under subsection (a) of this section.

(d) Time to Appeal. – The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-4-3(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(e) Record of Decision. – The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(f) Stays. – An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the

development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(g) Alternative Dispute Resolution. – The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

"**§ 160D-4-6. Quasi-judicial procedure.**

(a) Process Required. – Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) Notice of Hearing. – Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner *did not* initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) Administrative Materials. – The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) Presentation of Evidence. – The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-14-2(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-14-2. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) Appearance of Official New Issues. – The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) Oaths. – The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. – The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-14-2(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(h) Appeals in Nature of Certiorari. – When hearing an appeal pursuant to G.S. 160D-9-47(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-14-2(j).

(i) Voting. – The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-1-9(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(j) Decisions. – The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(k) Judicial Review. – Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-14-2. Appeals shall be filed within the times specified in G.S. 160D-14-5(d).

"Article 5.

"Planning.

"**§ 160D-5-1. Plans.**

(a) Preparation of Plans and Studies. – As a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction.

A comprehensive plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, a local government may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land-use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

(b) Contents. – A comprehensive plan may, among other topics, address any of the following as determined by the local government:

(1) Issues and opportunities facing the local government, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.

(2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.

(3) Employment opportunities, economic development, and community development.

(4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.

(5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

(6) Recreation and open spaces.

(7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.

(8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.

(9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

(10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(c) Adoption and Effect of Plans. – Plans shall be adopted by the governing board with the advice and consultation of the planning board. Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-6-1. Plans adopted under this Chapter may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under this Chapter shall be advisory in nature without independent regulatory effect. Plans adopted under this Chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this Chapter. Plans adopted under this Chapter shall be considered by the planning board and governing board when

considering proposed amendments to zoning regulations as required by G.S. 160D-6-4 and G.S. 160D-6-5.

If a plan is deemed amended by G.S. 160D-6-5 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

"**§ 160D-5-2. Grants, contracts, and technical assistance.**

(a) Grants and Services. – A local government may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. A local government may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the local government and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

(b) Contracts. – Any local government may enter into and carry out contracts with any other city, county, or regional council, planning agency, or private consultant under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any local government may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government for technical planning assistance.

(c) Appropriations, Compensation, and Financing. – A local government is authorized to make appropriations that may be necessary to carry out activities or contracts authorized by this Article or to support and compensate members of a planning board that it may create pursuant to this Chapter and to levy taxes for these purposes as a necessary expense.

"**§ 160D-5-3. Coordination of planning.**

A local government may undertake any of the planning activities authorized by this Article in coordination with other local governments, State agencies, or regional agencies created under Article 19 of Chapter 153A of the General Statutes or Article 20 of Chapter 160A of the General Statutes.

"Article 6.

"Development Regulation.

"**§ 160D-6-1. Procedure for adopting, amending, or repealing development regulations.**

(a) Hearing with Published Notice. – Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) Notice to Military Bases. – If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

(c) A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

"**§ 160D-6-2. Notice of hearing on proposed zoning map amendments.**

(a) Mailed Notice. – An ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-2-2, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(b) Optional Notice for Large-Scale Zoning Map Amendments. – The first-class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-6-1, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

(c) Posted Notice. – When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

(d) Actual Notice. – Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

(e) Optional Communication Requirements. – When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

"**§ 160D-6-3. Citizen comments.**

Subject to the limitations of this Chapter, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or

repeal to a zoning regulation, including a text or map amendment, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-7-5 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

"**§ 160D-6-4. Planning board review and comment.**

(a) Initial Zoning. – In order to exercise zoning powers conferred by this Chapter for the first time, a local government shall create or designate a planning board under the provisions of this Article or of a special act of the General Assembly. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed district boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation.

(b) Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(c) Review of Other Ordinances and Actions. – Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to this Chapter may be referred to the planning board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the planning board for review and comment. Any other action proposed to be taken pursuant to this Chapter may be referred to the planning board for review and comment.

(d) Plan Consistency. – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(e) Separate Board Required. – Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board.

"**§ 160D-6-5. Governing board statement.**

(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency

statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) Additional Reasonableness Statement for Rezonings. – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement on reasonableness may address the overall rezoning.

(c) Single Statement Permissible. – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

"Article 7.

"Zoning Regulation.

"**§ 160D-7-1. Purposes.**

Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.

"**§ 160D-7-2. Grant of power.**

(a) A Local Government May Adopt Zoning Regulations. – 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-8-4.

(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-9-7 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-6-4 or G.S. 160D-6-5 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 shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

"**§ 160D-7-3. Zoning districts.**

(a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but shall not be limited to, the following:

(1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

(2) Conditional districts, in which site plans or individualized development conditions are imposed.

(3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.

(4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

(5) Districts allowed by charter.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions mutually approved by the local government and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-5-1, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification.

(c) Uniformity Within Districts. – Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

"**§ 160D-7-4. Incentives.**

For the purpose of reducing the amount of energy consumption by new development, a local government may adopt ordinances to grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives within its planning and development regulation jurisdiction, if the person receiving the incentives agrees to construct new development or reconstruct existing development in a manner that the local government determines, based on generally recognized standards established for such purposes, makes a significant contribution to the reduction of energy consumption and increased use of sustainable design principles.

In order to encourage construction that uses sustainable design principles and to improve energy efficiency in buildings, a local government may charge reduced building permit fees or provide partial rebates of building permit fees for buildings that are constructed or renovated using design principles that conform to or exceed one or more of the following certifications or ratings:

(1) Leadership in Energy and Environmental Design (LEED) certification or higher rating under certification standards adopted by the U.S. Green Building Council.

(2) A One Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative.

(3) A certification or rating by another nationally recognized certification or rating system that is equivalent or greater than those listed in subdivisions (1) and (2) of this subsection.

"**§ 160D-7-5. Quasi-judicial zoning decisions.**

(a) Provisions of Ordinance. – The zoning or unified development ordinance may provide that the board of adjustment, planning board, or governing board hear and decide quasi-judicial

zoning decisions. The board shall follow quasi-judicial procedures as specified in G.S. 160D-4-6 when making any quasi-judicial decision.

(b) Appeals. – Except as otherwise provided by this Chapter, the board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-4-5 and G.S. 160D-4-6 are applicable to these appeals.

(c) Special Use Permits. – The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government.

The regulation may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved shall only be applicable to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

(d) Variances. – When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

"**§ 160D-7-6. Zoning conflicts with other development standards.**

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Article, a local government may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency.

"Article 8.

"Subdivision Regulation.

"**§ 160D-8-1. Authority.**

A local government may by ordinance regulate the subdivision of land within its planning and development regulation jurisdiction. In addition to final plat approval, the regulation may include provisions for review and approval of sketch plans and preliminary plats. The regulation may provide for different review procedures for different classes of subdivisions. Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance.

"**§ 160D-8-2. Applicability.**

(a) For the purpose of this Article, subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.

(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(b) A local government may provide for expedited review of specified classes of subdivisions.

(c) A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
(3) The entire area of the tract or parcel to be divided is greater than 5 acres.
(4) After division, no more than three lots result from the division.
(5) After division, all resultant lots comply with all of the following:
a. All lot dimension size requirements of the applicable land-use regulations, if any.
b. The use of the lots is in conformity with the applicable zoning requirements, if any.
c. A permanent means of ingress and egress is recorded for each lot.

"**§ 160D-8-3. Review process, filing, and recording of subdivision plats.**

(a) Any subdivision regulation adopted pursuant to this Article shall contain provisions setting forth the procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration.

(b) A subdivision regulation shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:
(1) The district highway engineer as to proposed State streets, State highways, and related drainage systems.
(2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.
(3) Any other agency or official designated by the governing board.

(c) The subdivision regulation may provide that final decisions on preliminary plats and final plats are to be made by any of the following:
(1) The governing board.
(2) The governing board on recommendation of a designated body.
(3) A designated planning board, technical review committee of local government staff members, or other designated body or staff person.

If the final decision on a subdivision plat is administrative, the decision may be assigned to a staff person or committee comprised entirely of staff persons, and notice of the decision shall be as provided by G.S. 160D-4-3(b). If the final decision on a subdivision plat is quasi-judicial, the decision shall be assigned to the governing board, the planning board, the board of adjustment, or other board appointed pursuant to this Chapter, and the procedures set forth in G.S. 160D-4-6 shall apply.

(d) After the effective date that a subdivision regulation is adopted, no subdivision within a local government's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing board or appropriate body, as specified in the subdivision regulation, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. The review officer, pursuant to G.S. 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

"**§ 160D-8-4. Contents and requirements of regulation.**

(a) Purposes. – A subdivision regulation may provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

(b) Plats. – The regulation may require a plat be prepared, approved, and recorded pursuant to the provisions of the regulation whenever any subdivision of land takes place. The

regulation may include requirements that plats show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

(c) Transportation and Utilities. – The regulation may provide for the dedication of rights-of-way or easements for street and utility purposes, including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

The regulation may provide that in lieu of required street construction, a developer be required to provide funds for city use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this subsection shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The regulation may require a combination of partial payment of funds and partial dedication of constructed streets when the governing board of the city determines that a combination is in the best interests of the citizens of the area to be served.

(d) Recreation Areas and Open Space. – The regulation may provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by municipalities pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. All funds received by counties pursuant to this subsection shall be used only for the acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

(e) Community Service Facilities. – The regulation may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with local government plans, policies, and standards.

(f) School Sites. – The regulation may provide for the reservation of school sites in accordance with plans approved by the governing board. In order for this authorization to become effective, before approving such plans, the governing board and the board of education with jurisdiction over the area shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the governing board shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the governing board and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision or site plan shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision or site plan within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation.

(g) Performance Guarantees. – To assure compliance with these and other development regulation requirements, the regulation may provide for performance guarantees to assure

successful completion of required improvements at the time the plat is recorded as provided in subsection (b) of this section. For any specific development, the type of performance guarantee shall be at the election of the person required to give the performance guarantee.

For purposes of this section, all of the following shall apply with respect to performance guarantees:

(1) The term "performance guarantee" shall mean any of the following forms of guarantee:
  a. Surety bond issued by any company authorized to do business in this State.
  b. Letter of credit issued by any financial institution licensed to do business in this State.
  c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(2) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.

(3) The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(4) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
  a. The local government to whom such performance guarantee is provided.
  b. The developer at whose request or for whose benefit such performance guarantee is given.
  c. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

"**§ 160D-8-5. Notice of new subdivision fees and fee increases; public comment period.**

(a) A local government shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this Article at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The local government shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the local government.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development regulation jurisdiction of the local government.

(3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the local government for the purpose of notification as required by this section.

If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of this subsection by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing board of the local government shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12.

"**§ 160D-8-6. Effect of plat approval on dedications.**

The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any governing board may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

"**§ 160D-8-7. Penalties for transferring lots in unapproved subdivisions.**

(a) If a local government adopts a subdivision regulation, any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of that local government, thereafter subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-11-8 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

(b) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat

has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:

(1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(c) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds.

"**§ 160D-8-8. Appeals of decisions on subdivision plats.**

Appeals of subdivision decisions may be made pursuant to G.S. 160D-14-3.

"Article 9.

"Regulation of Particular Uses and Areas.

"Part 1. Particular Land Uses.

"**§ 160D-9-1. Regulation of particular uses and areas.**

A local government may regulate the uses and areas set forth in this Article in zoning regulations pursuant to Article 7 of this Chapter, a unified development ordinance, or in separate development regulations adopted under this Article. This shall not be deemed to expand, diminish, or alter the scope of authority granted pursuant to those Articles. In all instances, the substance of the local government regulation shall be consistent with the provisions in this Article. The provisions of this Chapter apply to any regulation adopted pursuant to this Article that substantially affects land use and development.

"**§ 160D-9-2. Adult businesses.**

(a) The General Assembly finds and determines that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. Numerous studies relevant to North Carolina have found increases in crime rates and decreases in neighboring property values as a result of the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner. Reasonable local government

regulation of sexually oriented businesses in order to prevent or ameliorate adverse secondary impacts is consistent with the federal constitutional protection afforded to nonobscene but sexually explicit speech.

(b) In addition to State laws on obscenity, indecent exposure, and adult establishments, local government regulation of the location and operation of sexually oriented businesses is necessary to prevent undue adverse secondary impacts that would otherwise result from these businesses.

(c) A local government may regulate sexually oriented businesses through zoning regulations, licensing requirements, or other appropriate local ordinances. The local government may require a fee for the initial license and any annual renewal. Such local regulations may include, but are not limited to, the following:

(1) Restrictions on location of sexually oriented businesses, such as limitation to specified zoning districts and minimum separation from sensitive land uses and other sexually oriented businesses.

(2) Regulations on operation of sexually oriented businesses, such as limits on hours of operation, open booth requirements, limitations on exterior advertising and noise, age of patrons and employees, required separation of patrons and performers, clothing restrictions for masseuses, and clothing restrictions for servers of alcoholic beverages.

(3) Clothing restrictions for entertainers.

(4) Registration and disclosure requirements for owners and employees with a criminal record other than minor traffic offenses and restrictions on ownership by or employment of a person with a criminal record that includes offenses reasonably related to the legal operation of sexually oriented businesses.

(d) In order to preserve the status quo while appropriate studies are conducted and the scope of potential regulations is deliberated, local governments may enact moratoria of reasonable duration on either the opening of any new businesses authorized to be regulated under this section or the expansion of any such existing business. Businesses existing at the time of the effective date of regulations adopted under this section may be required to come into compliance with newly adopted regulations within an appropriate and reasonable period of time.

(e) Local governments may enter into cooperative agreements regarding coordinated regulation of sexually oriented businesses, including provision of adequate alternative sites for the location of constitutionally protected speech within an interrelated geographic area.

(f) For the purpose of this section, "sexually oriented business" means any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. Local governments may adopt detailed definitions of these and similar businesses in order to precisely define the scope of any local regulations.

"**§ 160D-9-3. Agricultural uses.**

(a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) shall include the

farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

(1) A farm sales tax exemption certificate issued by the Department of Revenue.

(2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.

(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(4) A forest management plan.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

(b) County Zoning of Residential Uses on Large Lots in Agricultural Districts. – A county zoning regulation shall not prohibit single-family detached residential uses constructed in accordance with the North Carolina State Building Code on lots greater than 10 acres in size and in zoning districts where more than fifty percent (50%) of the land is in use for agricultural or silvicultural purposes, except that this restriction shall not apply to commercial or industrial districts where a broad variety of commercial or industrial uses are permissible. A zoning regulation shall not require that a lot greater than 10 acres in size have frontage on a public road or county-approved private road or be served by public water or sewer lines in order to be developed for single-family residential purposes.

(c) Agricultural Areas in Municipal Extraterritorial Jurisdiction. – Property that is located in a municipality's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the municipality's zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to this section. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes shall become subject to exercise of the municipality's extraterritorial planning and development regulation jurisdiction under this Chapter. For purposes of complying with State or federal law, property that is exempt from the exercise of municipal extraterritorial planning and development regulation jurisdiction pursuant to this subsection shall be subject to the county's floodplain regulation or all floodplain regulation provisions of the county's unified development ordinance.

(d) Accessory Farm Buildings. – A municipality may provide in its zoning regulation that an accessory building of a "bona fide farm" has the same exemption from the building code as it would have under county zoning.

(e) City Regulations in Voluntary Agricultural Districts. – A city may amend the development regulations applicable within its planning and development regulation jurisdiction to provide flexibility to farming operations that are located within a city or county, voluntary agricultural district, or enhanced voluntary agricultural district adopted under Article 61 of Chapter 106 of the General Statutes. Amendments to applicable development regulations may include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming.

"**§ 160D-9-4. Airport zoning.**

Any local government may enact and enforce airport zoning regulations pursuant to this Chapter or as authorized by Article 4 of Chapter 63 of the General Statutes. Airport zoning regulations for real property within 6 miles of any cargo airport complex site subject to regulation by the North Carolina Global TransPark Authority are governed by G.S. 63A-18.

"**§ 160D-9-5. Amateur radio antennas.**

A local government ordinance based on health, safety, or aesthetic considerations that regulates the placement, screening, or height of the antennas or support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the local government. A local government may not restrict antennas or antenna support structures of amateur radio operators to heights of 90 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety, or aesthetic objective of the local government.

"**§ 160D-9-6. Family care homes.**

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

(1) Family care home. – A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

(2) Person with disabilities. – A person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

(c) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. No local government may require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; provided, however, that a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements.

"**§ 160D-9-7. Fence wraps.**

Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the

end of 24 months from the time the fence wrap was installed, the local government may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

"**§ 160D-9-8. Fraternities and sororities.**

A zoning regulation or unified development ordinance may not differentiate in terms of the regulations applicable to fraternities or sororities between those fraternities or sororities that are approved or recognized by a college or university and those that are not.

"**§ 160D-9-9. Manufactured homes.**

(a) The General Assembly finds that manufactured housing offers affordable housing opportunities for low- and moderate-income residents of this State who could not otherwise afford to own their own home. The General Assembly further finds that some local governments have adopted zoning regulations that severely restrict the placement of manufactured homes. It is the intent of the General Assembly in enacting this section that local governments reexamine their land-use practices to assure compliance with applicable statutes and case law and consider allocating more residential land area for manufactured homes based upon local housing needs.

(b) For purposes of this section, the term "manufactured home" is defined as provided in G.S. 143-145(7).

(c) A local government may not adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.

(d) A local government may adopt and enforce appearance and dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhoods within the community, and to promote the health, safety, and welfare of area residents. The criteria shall be adopted by ordinance.

(e) In accordance with the local government's comprehensive plan and based on local housing needs, a local government may designate a manufactured home overlay district within a residential district. Such overlay district may not consist of an individual lot or scattered lots but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes.

(f) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land. The terms "mobile home" and "trailer" in any valid restrictive covenants running with the land shall include the term "manufactured home" as defined in this section.

"**§ 160D-9-10. Modular homes.**

Modular homes, as defined in G.S. 105-164.3(21b), shall comply with the design and construction standards set forth in G.S. 143-139.1.

"**§ 160D-9-11. Outdoor advertising.**

(a) As used in this section, the term "off-premises outdoor advertising" includes off-premises outdoor advertising visible from the main-traveled way of any road.

(b) A local government may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this Chapter and subject to G.S. 136-131.1 and G.S. 136-131.2.

(c) A local government shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

(d) No local government may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

(1) The local government and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.

(2) The local government and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.

(3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.

(4) The removal is required for opening, widening, extending, or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the local government allows the off-premises outdoor advertising to be relocated to a comparable location.

(5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

This subsection shall be construed subject to and without any reduction in the rights afforded to owners of outdoor advertising signs along interstate and federal-aid primary highways in this State as provided in Article 13 of Chapter 136 of the General Statutes.

(e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on the following:

(1) The factors listed in G.S. 105-317.1(a).

(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

(f) If the parties are unable to reach an agreement under subsection (e) of this section on monetary compensation to be paid by the local government to the owner of the nonconforming off-premises outdoor advertising sign for its removal and the local government elects to proceed with the removal of the sign, the local government may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the local government shall own the sign.

(g) In lieu of paying monetary compensation, a local government may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The agreement shall include the following:

(1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

a. The size and format of the sign.

b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.

c. The timing of the relocation.

(2) Provision for payment by the local government of the reasonable costs of relocating and reconstructing the sign, including the following:

a. The actual cost of removing the sign.
b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.
c. The actual cost of installing the sign at the new location.
d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

(h) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, a local government, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a local government has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section and within 120 days after the initial notice by the local government the parties have not been able to agree that the site or sites offered by the local government for relocation of the sign are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator, and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the local government for relocation of the nonconforming sign are not comparable to or better than the existing site, and the local government elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination and the local government elects to proceed with the removal of the sign, then the local government may bring an action in superior court for a determination of the monetary compensation to be paid by the local government to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the local government shall own the sign.

(k) Notwithstanding the provisions of this section, a local government and an off-premises outdoor advertising sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time in lieu of monetary compensation. A local government may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(l) A local government has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises outdoor advertising provided the affected property remains in place until the compensation is paid.

(m) This section does not apply to any ordinance in effect on July 1, 2004. A local government may amend an ordinance in effect on July 1, 2004, to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A local government may repeal or amend an ordinance in effect on July 1, 2004, so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.

(n) The provisions of this section shall not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

(o) Nothing in this section shall limit a local government's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising.

"**§ 160D-9-12. Public buildings.**

All local government zoning regulations are applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, except as provided in Part 4 of Article 9 of this Chapter, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegate.

"**§ 160D-9-13. Solar collectors.**

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

(1) On the facade of a structure that faces areas open to common or public access.

(2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.

(3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party.

"**§ 160D-9-14. Temporary health care structures.**

(a) The following definitions apply in this section:

(1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

(2) Caregiver. – An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

(3) First- or second-degree relative. – A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

(4) Mentally or physically impaired person. – A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

(5) Temporary family health care structure. – A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A local government shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

(c) A local government shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the local government. The local government may charge a fee of up to one hundred dollars ($100.00) for the initial permit and an annual renewal fee of up to fifty dollars ($50.00). The local government may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The local government may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the local government of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.

(f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of this Chapter, as if the temporary family health care structure were permanent real property.

(g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(h) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.

(i) The local government may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local

government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

"**§ 160D-9-15. Streets and transportation.**

(a) Street Setbacks and Curb Cut Regulations. – Local governments may establish street setback and driveway connection regulations pursuant to G.S. 160A-306 and G.S. 160A-307 or as a part of development regulations adopted pursuant to this Chapter. If adopted pursuant to this Chapter, the regulations are also subject to the provisions of G.S. 160A-306 and G.S. 160A-307.

(b) Transportation Corridor Official Maps. – Any local government may establish official transportation corridor maps and may enact and enforce ordinances pursuant to Article 2E of Chapter 136 of the General Statutes.

"**§ 160D-9-16. Bee hives.**

Restrictions on bee hives in local development regulations shall be consistent with the limitations of G.S. 106-645.

"**§§ 160D-9-17 through 160D-9-19:** Reserved for future codification purposes.

"Part 2. Environmental Regulation.

"**§ 160D-9-20. Local environmental regulations.**

(a) Local governments are authorized to exercise the powers conferred by Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes to adopt and enforce local ordinances pursuant to this Part to the extent necessary to comply with State and federal law, rules, and regulations or permits consistent with the interpretations and directions of the State or federal agency issuing the permit.

(b) Local environmental regulations adopted pursuant to this Part are not subject to the variance provisions of G.S. 160D-7-5 unless that is specifically authorized by the local ordinance.

"**§ 160D-9-21. Forestry activities.**

(a) The following definitions apply to this section:

(1) Development. – Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.

(2) Forest management plan. – A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.

(3) Forestland. – Land that is devoted to growing trees for the production of timber, wood, and other forest products.

(4) Forestry. – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

(5) Forestry activity. – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

(b) A local government shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either of the following:

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

(c) This section shall not be construed to limit, expand, or otherwise alter the authority of a local government to:

(1) Regulate activity associated with development. A local government may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:

a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought.

b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the local government regulations.

(2) Regulate trees pursuant to any local act of the General Assembly.

(3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.

(4) Exercise its planning or zoning authority under this Chapter.

(5) Regulate and protect streets.

"**§ 160D-9-22. Erosion and sedimentation control.**

Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter.

"**§ 160D-9-23. Floodplain regulations.**

Any local government may enact and enforce floodplain regulation or flood damage prevention regulations as authorized by Part 6 of Article 21 of Chapter 143 of the General Statutes and shall comply with all applicable provisions of that Part and, to the extent not inconsistent with that Article, with this Chapter.

"**§ 160D-9-24. Mountain ridge protection.**

Any local government may enact and enforce a mountain ridge protection regulation pursuant to Article 14 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter, unless the local government has removed itself from the coverage of Article 14 of Chapter 113A of the General Statutes through the procedure provided by law.

"**§ 160D-9-25. Stormwater control.**

(a) A local government may adopt and enforce a stormwater control regulation to protect water quality and control water quantity. A local government may adopt a stormwater management regulation pursuant to this Chapter, its charter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a local government stormwater control regulation unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A local government may take enforcement action to compel a State or local government agency to comply with a stormwater control regulation that implements the NPDES stormwater permit issued to the local government. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a local government may take

enforcement action to compel a federal government agency to comply with a stormwater control regulation.

(c) A local government may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(e) Unless the local government requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of an NPDES stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3)(1 July 2003 Edition) in its extraterritorial jurisdiction.

"**§ 160D-9-26. Water supply watershed management.**

A local government may enact and enforce a water supply watershed management and protection regulation pursuant to G.S. 143-214.5 and shall comply with all applicable provisions of that statute and, to the extent not inconsistent with that statute, with this Chapter.

"**§§ 160D-9-27 through 160D-9-29:** Reserved for future codification purposes.

"Part 3. Wireless Telecommunication Facilities.

"**§ 160D-9-30. Purpose and compliance with federal law.**

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(b) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(c) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(d) Nothing in this Part shall be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

"**§ 160D-9-31. Definitions.**

The following definitions apply in this Part:

(1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Applicable codes. – The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(3) Application. – A formal request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or to construct or modify a wireless support structure or a wireless facility.

(4) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

(5) Building permit. – An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-11-8.

(6) City right-of-way. – A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.

(7) City utility pole. – A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.

(8) Collocation. – The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.

(9) Communications facility. – The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

(10) Communications service. – Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

(11) Communications service provider. – A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

(12) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

(13) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

(14) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(15) Land development regulation. – Any ordinance enacted pursuant to this Chapter.

(16) Micro wireless facility. – A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

(17) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(18) Small wireless facility. – A wireless facility that meets the following qualifications:

a. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.

b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

(19) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.

c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(20) Utility pole. – A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

(21) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(22) Wireless facility. – Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of

technological configuration. The term includes small wireless facilities. The term does not include any of the following:

a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

b. Wireline backhaul facilities.

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(23) Wireless infrastructure provider. – Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

(24) Wireless provider. – A wireless infrastructure provider or a wireless services provider.

(25) Wireless services. – Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

(26) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure.

"**§ 160D-9-32. Local authority.**

A local government may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a local government from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160D-9-30. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"**§ 160D-9-33. Construction of new wireless support structures or substantial modifications of wireless support structures.**

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and development regulation jurisdiction of a local government must do both of the following:

(1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.

(2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(b) A local government's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the local government may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A local government may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A local

government may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the local government may review the following:

(1) Applicable public safety, land-use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service.

(3) A local government may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Local governments may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(c) The local government shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other development approvals in the case of other applications, each as measured from the time the application is deemed complete.

(d) A local government may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a local government on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the local government in connection with the regulatory review authorized under this section. The foregoing does not prohibit a local government from imposing additional reasonable and cost-based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a local government for review of the application may not be used for either of the following:

(1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(e) The local government may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A local government shall not deny an initial development approval based on such documentation. A local

government may condition a development approval on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(f) The local government may not require the placement of wireless support structures or wireless facilities on local government owned or leased property but may develop a process to encourage the placement of wireless support structures or facilities on local government owned or leased property, including an expedited approval process.

(g) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to this Article.

"**§ 160D-9-34. Collocation and eligible facilities requests of wireless support structures.**

(a) Pursuant to section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a local government may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A local government may require an application for collocation or an eligible facilities request.

(b) A collocation or eligible facilities request application is deemed complete unless the local government provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A local government may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A local government may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(c) The local government shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the local government shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(d) A local government may impose a fee not to exceed one thousand dollars ($1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A local government may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a local government for the review of the application may not be used for either of the following:

(1) Travel expenses incurred in a third-party review of a collocation application.

(2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

"**§ 160D-9-35. Collocation of small wireless facilities.**

(a) Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) A city may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

(c) Small wireless facilities that meet the height requirements of G.S. 160A-400.55(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section

if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.

(d) A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:

(1) A city may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.

(2) The wireless provider shall complete an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

(3) A permit application shall be deemed complete unless the city provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed-upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.

(5) A city may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment, (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or (iv) the historic preservation requirements in 160A-400.55(h). The city must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(6) An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting

the requirements of this section. A city may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The city may issue a separate permit for each collocation that is approved.

(8) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(e) A city may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities, (ii) the amount charged by the city for permitting of any similar activity, or (iii) one hundred dollars ($100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars ($50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(f) A city may impose a technical consulting fee for each application, not to exceed five hundred dollars ($500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city for the review of the application shall not be used for either of the following:

(1) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

(2) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(g) A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the city reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) A city shall not require an application or permit or charge fees for (i) routine maintenance, (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

(i) Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way.

"**§ 160D-9-36. Use of public right-of-way.**

(a) A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of G.S. 160A-400.54, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under G.S. 160A-400.54(d) if the wireless provider meets all of the following requirements:

(1) Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

(2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.

(d) Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.

(e) Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed 40 feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

(f) Except as provided in this Part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:

(1) The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.

(2) The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.

(3) The right-of-way charge shall be reasonable and nondiscriminatory.

Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(g) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(h) A city may require a wireless provider to repair all damage to a city right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, city utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless

provider fails to make the repairs required by the city within a reasonable time after written notice, the city may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The city may maintain an action to recover the costs of the repairs.

(i) This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 3C of Article 19 of this Chapter, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.

(j) A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-way, to support the collocation of small wireless facilities. A city shall accept and process the application in accordance with the provisions of G.S. 160A-400.54(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

"**§ 160D-9-37. Access to city utility poles to install small wireless facilities.**

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars ($50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) If a city that operates a public enterprise as permitted by Article 16 of this Chapter has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a

small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(h) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, "excluded entity" means (i) a city that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended.

"**§ 160D-9-38. Applicability.**

(a) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.

(d) Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

"**§ 160D-9-39:** Reserved for future codification purposes.

"Part 4. Historic Preservation.

"**§ 160D-9-40. Legislative findings.**

The heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values and strengthen the overall economy of the State. This Part authorizes local governments within their

respective planning and development regulation jurisdictions and by means of listing, regulation, and acquisition to do the following:

(1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory.

(2) To promote the use and conservation of such district or landmark for the education, pleasure, and enrichment of the residents of the city or county and the State as a whole.

"**§ 160D-9-41. Historic preservation commission.**

Before it may designate one or more landmarks or historic districts, a local government shall establish or designate a historic preservation commission in accordance with G.S. 160D-3-3.

"**§ 160D-9-42. Powers of the historic preservation commission.**

A preservation commission established pursuant to this Chapter may, within the planning and development regulation jurisdiction of the local government, do any of the following:

(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.

(2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."

(3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

(4) Restore, preserve, and operate historic properties.

(5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

(6) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.

(8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(9) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.

(10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.

(11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

"**§ 160D-9-43. Appropriations.**

A governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Chapter in any amount determined necessary for the expenses of the operation of the commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks, or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed.

"**§ 160D-9-44. Designation of historic districts.**

(a) Any local government may, as part of a zoning regulation adopted pursuant to Article 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this Chapter, designate and from time to time amend one or more historic districts within the area subject to the regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

Such development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the zoning regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district and a description of the boundaries of such district has been prepared.

(2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the governing board of any responsibility for awaiting such analysis, and the governing board may at any time thereafter take any necessary action to adopt or amend its zoning regulation.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning regulation. With respect to any changes in the boundaries of such district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the zoning regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning regulation.

(d) The provisions of G.S. 160D-9-10 apply to zoning or other development regulations pertaining to historic districts, and the authority under G.S. 160D-9-10(b) for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of

plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district.

"**§ 160D-9-45. Designation of landmarks.**

Upon complying with G.S. 160D-9-46, the governing board may adopt and amend or repeal a regulation designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

The regulation shall describe each property designated in the regulation, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the regulation shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the regulation may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

"**§ 160D-9-46. Required landmark designation procedures.**

As a guide for the identification and evaluation of landmarks, the preservation commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No regulation designating a historic building, structure, site, area, or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board, until all of the following procedural steps have been taken:

(1) The preservation commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.

(2) The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, upon request of the department or at the initiative of the preservation commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the preservation commission, the commission and any governing board shall be relieved of any responsibility to consider such comments.

(4) The preservation commission and the governing board shall hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-6-1.

(5) Following the hearings, the governing board may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation.

(6) Upon adoption of the regulation, the owners and occupants of each designated landmark shall be given written notice of such designation within a reasonable time. One copy of the regulation and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the planning and development regulation jurisdiction of a city, a second copy of the regulation and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the regulation and any amendments shall be given to the local government building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the local government for such period as the designation remains in effect.

(7) Upon the adoption of the landmark regulation or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

"**§ 160D-9-47. Certificate of appropriateness required.**

(a) Certificate Required. – From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Except as provided in subsection (b) of this section, the commission shall have no jurisdiction over interior arrangement. The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the landmark or district. In making decisions on certificates of appropriateness, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.

(b) Interior Spaces. – Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural,

artistic, or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(c) Rules and Standards. – Prior to any action to enforce a landmark or historic district regulation, the commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition. The landmark or historic district regulation may provide, subject to prior adoption by the preservation commission of detailed standards, for staff review and approval as an administrative decision of applications for a certificate of appropriateness for minor work or activity as defined by the regulation; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-4-6.

(d) Time for Review. – All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the regulation or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(e) Appeals. –

(1) Appeals of administrative decisions allowed by regulation may be made to the commission.

(2) All decisions of the commission in granting or denying a certificate of appropriateness may, if so provided in the regulation, be appealed to the board of adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in G.S. 160D-4-5(c). To the extent applicable, the provisions of G.S. 160D-14-2 shall apply to appeals in the nature of certiorari to the board of adjustment.

(3) Appeals from the board of adjustment may be made pursuant to G.S. 160D-14-2.

(4) If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on certificates of appropriateness may be made to the superior court as provided in G.S. 160D-14-2.

(5) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in G.S. 160D-14-4. Appeals in any such case shall be heard by the superior court of the county in which the local government is located.

(f) Public Buildings. – All of the provisions of this Part are hereby made applicable to construction, alteration, moving, and demolition by the State of North Carolina, its political subdivisions, agencies, and instrumentalities, provided, however, they shall not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the

Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission shall be final and binding upon both the State and the preservation commission.

"**§ 160D-9-48. Certain changes not prohibited.**

Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark that does not involve a change in design, material, or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this Part shall be construed to prevent a property owner from making any use of his or her property that is not prohibited by other law. Nothing in this Part shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the preservation commission.

"**§ 160D-9-49. Delay in demolition of landmarks and buildings within historic district.**

(a) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within the district may not be denied, except as provided in subsection (c) of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the preservation commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the preservation commission or planning board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the preservation commission or planning board for a period of up to 180 days or until the governing board takes final action on the designation, whichever occurs first.

(b) The governing board may enact a regulation to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such regulation shall provide appropriate safeguards to protect property owners from undue economic hardship.

(c) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the preservation commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

"**§ 160D-9-50. Demolition by neglect to contributing structures outside local historic districts.**

Notwithstanding G.S. 160D-9-49 or any other provision of law, the governing board may apply its demolition-by-neglect regulations to contributing structures located outside the local historic district within an adjacent central business district. The governing board may modify and revise its demolition-by-neglect regulations as necessary to implement this section and to further its intent. This section is applicable to any local government provided such local government (i) has designated portions of the central business district and its adjacent historic district as an

Urban Progress Zone as defined in G.S. 143B-437.09 and (ii) is recognized by the State Historic Preservation Office and the U.S. Department of the Interior as a Certified Local Government in accordance with the National Historic Preservation Act of 1966, as amended by 16 U.S.C. § 470, et seq., and the applicable federal regulations 36 C.F.R. Part 61, but is located in a county that has not received the same certification.

"**§ 160D-9-51. Conflict with other laws.**

Whenever any regulation adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions of any other statute, charter provision, ordinance, or regulation require a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance, or regulation shall govern.

"**§§ 160D-9-52 through 160D-9-59:** Reserved for future codification purposes.

"Part 5. Community Appearance Commissions.

"**§ 160D-9-60. Powers and duties of commission.**

A community appearance commission shall make careful study of the visual problems and needs of the local government within its planning and development regulation jurisdiction and shall make any plans and carry out any programs that will, in accordance with the provisions of this Part, enhance and improve the visual quality and aesthetic characteristics of the local government. To this end, the governing board may confer upon the appearance commission the following powers and duties:

(1) To initiate, promote, and assist in the implementation of programs of general community beautification in the local government.

(2) To coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the local government.

(3) To provide leadership and guidance in matters of area or community design and appearance to individuals, to public and private organizations, and to agencies.

(4) To make studies of the visual characteristics and problems of the local government, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.

(5) To prepare both general and specific plans for the improved appearance of the local government. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the local government or any part thereof within its area of planning and development regulation jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.

(6) To participate, in any way deemed appropriate by the governing board of the local government and specified in the ordinance establishing the commission, in the implementation of its plans. To this end, the governing board may include in the ordinance the following powers:

a. To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the local government's planning and development regulation jurisdiction.

b. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the planning or governing board. All plans shall be reviewed by the commission in a

prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the planning or governing board and to the appropriate agency.

c. To formulate and recommend to the appropriate planning or governing board the adoption or amendment of ordinances, including zoning regulations, subdivision regulations, and other local development regulations, that will, in the opinion of the commission, serve to enhance the appearance of the city or county and surrounding areas.

d. To direct the attention of local government officials to needed enforcement of any ordinance that may in any way affect the appearance of the city or county.

e. To seek voluntary adherence to the standards and policies of its plans.

f. To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.

g. To promote public interest in and an understanding of its recommendations, studies, and plans, and, to that end, prepare, publish, and distribute to the public such studies and reports that will, in the opinion of the commission, advance the cause of improved appearance.

h. To conduct public meetings and hearings, giving reasonable notice to the public thereof.

"**§ 160D-9-61. Staff services; advisory council.**

The commission may recommend to the governing board suitable arrangements for the procurement or provision of staff or technical services for the commission, and the governing board may appropriate such amount as it deems necessary to carry out the purposes for which it was created. The commission may establish an advisory council or other committees.

"**§ 160D-9-62. Annual report.**

The commission shall, no later than April 15 of each year, submit to the governing board a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act or the County Fiscal Control Act.

"**§ 160D-9-63. Receipt and expenditure of funds.**

The commission may receive contributions from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, in addition to any sums appropriated for its use by the governing board. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the local government to further the work and purposes of the commission are deemed to be for a public purpose.

"**§§ 160D-9-64 through 160D-9-69:** Reserved for future codification purposes.

"Article 10.

"Development Agreements.

"**§ 160D-10-1. Authorization.**

(a) The General Assembly finds the following:

(1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

(2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

(3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

(4) Such projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

(6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, local governments need flexibility to negotiate such developments.

(b) Local governments may enter into development agreements with developers, subject to the procedures of this Article. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(c) This Article is supplemental to the powers conferred upon local governments and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations. When the governing board approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Article, the provisions of G.S. 160D-6-5(a) apply.

(d) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

"**§ 160D-10-2. Definitions.**

The following definitions apply in this Article:

(1) Development. – The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(2) Public facilities. – Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

"**§ 160D-10-3. Approval of governing board required.**

(a) A local government may establish procedures and requirements, as provided in this Article, to consider and enter into development agreements with developers. A development agreement must be approved by the governing board of a local government following the procedures specified in G.S. 160D-10-5.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the local government. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be

concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

"**§ 160D-10-4. Size and duration.**

A local government may enter into a development agreement with a developer for the development of property as provided in this Article for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

"**§ 160D-10-5. Public hearing.**

Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-6-2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

"**§ 160D-10-6. Content and modification.**

(a) A development agreement shall, at a minimum, include all of the following:

(1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

(6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(b) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-10-8 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(c) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development

agreement. A local or regional utility authority may also be made a party to the development agreement.

(d) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Chapter. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-8-4 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(e) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to G.S. 160D-10-3 or as provided for in the development agreement.

(f) Any performance guarantees under the development agreement shall comply with G.S. 160D-8-4(d).

"**§ 160D-10-7. Vesting.**

(a) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(b) Except for grounds specified in G.S. 160D-1-8(e), a local government may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(c) In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

(d) This section does not abrogate any vested rights otherwise preserved by law.

"**§ 160D-10-8. Breach and cure.**

(a) Procedures established pursuant to G.S. 160D-10-3 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(b) If the local government finds and determines that the developer has committed a material breach of the agreement, the local government shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160D-4-5.

(d) An ordinance adopted pursuant to G.S. 160D-10-3 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

(e) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

"**§ 160D-10-9. Amendment or termination.**

Subject to the provisions of G.S. 160D-10-6(e), a development agreement may be amended or terminated by mutual consent of the parties.

"**§ 160D-10-10. Change of jurisdiction.**

(a) Except as otherwise provided by this Article, any development agreement entered into by a local government before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(b) A local government assuming jurisdiction may modify or suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both.

"**§ 160D-10-11. Recordation.**

The developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

"**§ 160D-10-12. Applicability of procedures to approve debt.**

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt.

"Article 11.

"Building Code Enforcement.

"**§ 160D-11-1. Definitions.**

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

(1) Building or buildings. – Includes other structures.

(2) Governing board or board of commissioners. – Includes the Tribal Council of a federally recognized Indian tribe.

(3) Local government. – Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.

(4) Public officer. – Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article.

"**§ 160D-11-2. Building code administration.**

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-11-5 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160D-11-5 or Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging

for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-11-5 and G.S. 160D-2-2.

In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services.

"**§ 160D-11-3. Qualifications of inspectors.**

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

"**§ 160D-11-4. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it shall be to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

(1) The construction of buildings and other structures.

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.

(4) Other matters that may be specified by the governing board.

(b) The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(c) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(d) Except as provided in G.S. 160D-11-15 and G.S. 160D-12-7, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections

required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(e) Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:

(1) Initial review by the supervisor of the inspector.

(2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.

(3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection shall be deemed to limit or abrogate any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

(f) If a specific building framing inspection as required by the North Carolina Residential Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance.

"**§ 160D-11-5. Other arrangements for inspections.**

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-11-3 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-11-3.

"**§ 160D-11-6. Alternate inspection method for component or element.**

(a) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.

(b) Upon the acceptance and approval receipt of a signed written document by the city as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer shall be required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section, the following definitions apply:

(1) Component. – Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

(2) Element. – A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.

"**§ 160D-11-7. Mutual aid contracts.**

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so.

"**§ 160D-11-8. Conflicts of interest.**

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-1-9(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner,

developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years.

"**§ 160D-11-9. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-11-4(d).

"**§ 160D-11-10. Building permits.**

(a) Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
c. The work is performed by a person licensed under G.S. 87-43.
d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve such residential building plans as it deems necessary. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes shall be required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves any of the following:

(1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.
(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.
(3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.
(4) The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.
(5) The addition (excluding replacement) of roofing.

(d) A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one

individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.

(e) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars ($30,000) or more.

(h) No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

(i) Violation of this section constitutes a Class 1 misdemeanor.

"**§ 160D-11-11. Expiration of building permits.**

A building permit issued pursuant to this Article shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured.

"**§ 160D-11-12. Changes in work.**

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department.

"**§ 160D-11-13. Inspections of work in progress.**

Subject to the limitation imposed by G.S. 160D-11-4(b), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon

presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

"**§ 160D-11-14. Appeals of stop orders.**

(a) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

(1) Appealing to the Building Code Council.

(2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-4-5.

"**§ 160D-11-15. Revocation of building permits.**

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

"**§ 160D-11-16. Certificates of compliance.**

At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the inspector finds that the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. A temporary certificate of occupancy or compliance may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the inspector finds that such building or property may safely be occupied prior to its final completion. Violation of this section shall constitute a Class 1 misdemeanor. A local government may require the applicant for a temporary certificate of occupancy to post suitable security to ensure code compliance.

"**§ 160D-11-17. Periodic inspections.**

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-12-7. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

"**§ 160D-11-18. Defects in buildings to be corrected.**

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property.

"**§ 160D-11-19. Unsafe buildings condemned.**

(a) Designation of Unsafe Buildings. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. – If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

(d) Applicability to Residential Structures. – A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-6-1.

"**§ 160D-11-20. Removing notice from condemned building.**

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor.

"**§ 160D-11-21. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-11-17 shall fail to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.

b. Is dangerous to life, health, or other property.

c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing.

"**§ 160D-11-22. Order to take corrective action.**

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-11-19, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible.

"**§ 160D-11-23. Appeal; finality of order if not appealed.**

Any owner who has received an order under G.S. 160D-11-20 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The governing board shall hear in accordance with G.S. 160D-4-6 and render a decision in an appeal within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order.

"**§ 160D-11-24. Failure to comply with order.**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-11-20 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner shall be guilty of a Class 1 misdemeanor.

"**§ 160D-11-25. Enforcement.**

(a) Action Authorized. – Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. – In the case of a building or structure declared unsafe under G.S. 160D-11-17 or an ordinance adopted pursuant to G.S. 160D-11-17, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is

located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Additional Lien. – The amounts incurred by a local government in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for municipalities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) Nonexclusive Remedy. – Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

"**§ 160D-11-26. Records and reports.**

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

"**§ 160D-11-27. Appeals.**

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

"**§ 160D-11-28. Fire limits.**

(a) County Fire Limits. – A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

(b) Municipal Fire Limits. – The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

(c) Restrictions Within Municipal Primary Fire Limits. – Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

(d) Restrictions Within Municipal Secondary Fire Limits. – Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building

or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.

(e) Failure to Establish Municipal Primary Fire Limits. – If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest.

"**§ 160D-11-29. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.**

(a) Authority. – The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.

(b) Investigation. – Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. – If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(d) Order. – If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. –

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the

building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Governing Board Upon Failure to Comply With Order. –

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. – If the governing board has adopted an ordinance or the public officer has issued an order requiring the

building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. – Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. –

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. – If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. – The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

(l) Supplemental Powers. – The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. – The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-12-8.

(n) Funding. – The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. – Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. – As used in this section, the following definitions apply:

(1) Parties in interest. – All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(2) Vacant industrial warehouse. – Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) Vacant manufacturing facility. – Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

"Article 12.

"Minimum Housing Codes.

"**§ 160D-12-1. Authorization.**

(a) Occupied Dwellings. – The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever any local government finds that there exists in the planning and development regulation jurisdiction dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the local government to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

(b) Abandoned Structures. – Any local government may by ordinance provide for the repair, closing, or demolition of any abandoned structure that the governing board finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are

prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation.

"**§ 160D-12-2. Definitions.**

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

(1) Owner. – The holder of the title in fee simple and every mortgagee of record.

(2) Parties in interest. – All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

(3) Public authority. – Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

(4) Public officer. – The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Article.

"**§ 160D-12-3. Ordinance authorized as to repair, closing, and demolition; order of public officer.**

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160D-12-1 exist, the governing board is authorized to adopt and enforce ordinances relating to dwellings within the planning and development regulation jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

(1) Designation of enforcement officer. – One or more public officers shall be designated to exercise the powers prescribed by the ordinance.

(2) Investigation, complaint, hearing. – Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

(3) Orders. – If, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the

necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.

b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-9-49.

(4) Repair, closing, and posting. – If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(5) Demolition. – If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(6) Abandonment of Intent to Repair. – If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this

subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. –

a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare

nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(8) Civil action. – If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

(9) Additional notices to affordable housing organizations. – Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

"**§ 160D-12-4. Heat source required.**

(a) A local government shall, by ordinance, require that every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain

the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (a) of this section shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to local governments with a population of 200,000 or over within their planning and development regulation jurisdiction, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed to diminish the rights or remedies available to a tenant under a lease agreement, statute, or at common law or to prohibit a city from adopting an ordinance with more stringent heating requirements than provided for by this section.

"**§ 160D-12-5. Standards.**

An ordinance adopted under this Article shall provide that the public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. The ordinances may provide additional standards to guide the public officers in determining the fitness of a dwelling for human habitation.

"**§ 160D-12-6. Service of complaints and orders.**

(a) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

"**§ 160D-12-7. Periodic inspections.**

(a) Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the landlord or owner has a history

of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan, (ii) hold a public hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars ($500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the

violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-3-1, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter.

"**§ 160D-12-8. Remedies.**

(a) An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by G.S. 160D-3-6. An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the housing appeals board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the board, or by a court of record upon petition made pursuant to subsection (f) of this section.

(b) The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it shall have all the powers of the

public officer, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the public officer. The board shall have power also in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the housing appeals board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(d) Any person aggrieved by an order issued by the public officer or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

"**§ 160D-12-9. Compensation to owners of condemned property.**

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

"**§ 160D-12-10. Additional powers of public officer.**

An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction in order to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and other agents.

"**§ 160D-12-11. Administration of ordinance.**

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it.

"**§ 160D-12-12. Supplemental nature of Article.**

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances.

"Article 13.

"Additional Authority.

"Part 1. Open Space Acquisition.

"**§ 160D-13-1. Legislative intent.**

It is the intent of the General Assembly to provide a means whereby any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, and through the expenditure of public funds, the fee or any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment.

"**§ 160D-13-2. Finding of necessity.**

The General Assembly finds that the rapid growth and spread of urban development in the State is encroaching upon, or eliminating, many open areas and spaces of varied size and character, including many having significant scenic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic, or economic assets to existing and impending urban development. The General Assembly declares that it is necessary for sound and proper urban development and in the public interest of the people of this State for any local government to expend or advance public funds for, or to accept by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest or right in real property so as to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas within their respective jurisdictions as defined by this Article.

The General Assembly declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced.

"**§ 160D-13-3. Local governments authorized to acquire and reconvey real property.**

Any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any local government may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale.

"**§ 160D-13-4. Joint action by governing bodies.**

A local government may enter into any agreement with any other local government for the purpose of jointly exercising the authority granted by this Part.

"**§ 160D-13-5. Powers of governing bodies.**

A local government, in order to exercise the authority granted by this Part, may:

(1) Enter into and carry out contracts with the State or federal government or any agencies thereof under which grants or other assistance are made to the local government.

(2) Accept any assistance or funds that may be granted by the State or federal government with or without a contract.

(3) Agree to and comply with any reasonable conditions imposed upon grants.

(4) Make expenditures from any funds so granted.

"**§ 160D-13-6. Appropriations authorized.**

For the purposes set forth in this Part, a local government may appropriate funds not otherwise limited as to use by law.

"**§ 160D-13-7. Definitions.**

As used in this Part, the following definitions apply:

(1) Open space or open area. – Any space or area characterized by great natural scenic beauty or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. The terms also include interests or rights in real property and open space land or uses.

(2) Open space land or open space uses. – Any undeveloped or predominantly undeveloped land in an urban area that has value for or is used for one or more of the following purposes:

a. Park and recreational purposes.

b. Conservation of land and other natural resources.

c. Historic or scenic purposes.

"**§§ 160D-13-8 through 160D-13-10:** Reserved for future codification purposes.

"Part 2. Community Development and Redevelopment.

"**§ 160D-13-11. Community development programs and activities.**

(a) A local government is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a local government may engage in the following activities:

(1) Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low- and moderate-income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans.

(2) Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) A governing board may exercise directly those powers granted by law to local government redevelopment commissions and those powers granted by law to local government housing authorities and may do so whether or not a redevelopment commission or housing authority is in existence in such local government. Any governing board desiring to do so may delegate to any redevelopment commission, created under Article 22 of Chapter 160A of the General Statutes, or to any housing authority, created under Article 1 of Chapter 157 of the General Statutes, the responsibility of undertaking or carrying out any specified community development activities. Any governing board may by agreement undertake or carry out for another any specified community development activities. Any governing board may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education may by agreement undertake or carry out for any other governing board any specified community development activities.

(c) A local government undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) A governing board proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such local government. No State or local taxes shall be

appropriated or expended by a county pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided.

(e) A government may receive and dispense funds from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee program, Subpart M, 24 C.F.R. § 570.700, et seq., either through application to the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any local government that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A local government may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

A government that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes.

(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities and counties in "economically distressed counties," as defined in G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes, but is not limited to, (i) payment of principal and interest on loans made by the county using CDBG funds, (ii) proceeds from the lease or disposition of real property acquired with CDBG funds, and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration.

"**§ 160D-13-12. Acquisition and disposition of property for redevelopment.**

Any local government is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

(1) To acquire, by voluntary purchase from the owner or owners, real property that meets any of the following criteria:

a. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.

b. Appropriate for rehabilitation or conservation activities.

c. Appropriate for housing construction or the economic development of the community.

d. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development.

(2) To clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired.

(3) To retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit, provided the disposition of such property shall be undertaken in accordance with the procedures of Article 12 of Chapter 160A of the General Statutes, or the procedures of G.S. 160A-514, or any applicable local act or charter provision modifying such procedures, or subdivision (4) of this section.

(4) To sell, exchange, or otherwise transfer real property or any interest therein in a community development project area to any redeveloper at private sale for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the community development plan, subject to such covenants, conditions, and restrictions as may be deemed to be in the public interest or to carry out the purposes of this Article, provided that such sale, exchange, or other transfer, and any agreement relating thereto, may be made only after approval of the governing board and after a public hearing; a notice of the public hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area, the notice shall be published the first time not less than 10 days nor more than 25 days preceding the public hearing, and the notice shall disclose the terms of the sale, exchange, or transfer. At the public hearing, the appraised value of the property to be sold, exchanged, or transferred shall be disclosed, and the consideration for the conveyance shall not be less than the appraised value.

"**§ 160D-13-13. Urban Development Action Grants.**

Any local government is authorized, either as a part of a community development program or independently thereof, to enter into contracts or agreements with any person, association, or corporation to undertake and carry out specified activities in furtherance of the purposes of Urban Development Action Grants authorized by the Housing and Community Development Act of 1977, P.L. 95-128, or any amendment thereto, that is a continuation of such grant programs by whatever designation, including the authority to enter into and carry out contracts or agreements to extend loans, loan subsidies, or grants to persons, associations, or corporations and to dispose of real or personal property by private sale in furtherance of such contracts or agreements.

Any enabling legislation contained in local acts that refers to "Urban Development Action Grants" or the Housing and Community Development Act of 1977, P.L. 95-128, shall be construed also to refer to any continuation of such grant programs by whatever designation.

"**§ 160D-13-14. Urban homesteading programs.**

A local government may establish a program of urban homesteading, in which residential property of little or no value is conveyed to persons who agree to rehabilitate the property and use it, for a minimum number of years, as their principal place of residence. Residential property is considered of little or no value if the cost of bringing the property into compliance with the local government's housing code exceeds sixty percent (60%) of the property's appraised value on the county tax records. In undertaking such a program, a local government may:

(1) Acquire by purchase, gift, or otherwise, but not eminent domain, residential property specifically for the purpose of reconveyance in the urban homesteading program or may transfer to the program residential property acquired for other purposes, including property purchased at a tax foreclosure sale.

(2) Under procedures and standards established by the local government, convey residential property by private sale under G.S. 160A-267 and for nominal monetary consideration to persons who qualify as grantees.

(3) Convey property subject to the following conditions:

a. A requirement that the grantee shall use the property as the grantee's principal place of residence for a minimum number of years.

b. A requirement that the grantee rehabilitate the property so that it meets or exceeds minimum housing code standards.

c. A requirement that the grantee maintain insurance on the property.

d. Any other specific conditions, including, but not limited to, design standards, or actions that the local government may require.

e. A provision for the termination of the grantee's interest in the property and its reversion to the local government upon the grantee's failure to meet any condition so established.

(4) Subordinate the local government's interest in the property to any security interest granted by the grantee to a lender of funds to purchase or rehabilitate the property.

"**§ 160D-13-15. Downtown development projects.**

(a) Definition. – As used in this section, "downtown development project" or "joint development project" means a capital project, in a central business district, as that district is defined by the governing board, comprising one or more buildings and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. – If the governing board finds that it is likely to have a significant effect on the revitalization of the jurisdiction, the local government may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a joint development project or of specific facilities within such a project. The local government may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract may, among other provisions, specify the following:

(1) The property interests of both the local government and the developer or developers in the project, provided that the property interests of the local government shall be limited to facilities for a public purpose.

(2) The responsibilities of the local government and the developer or developers for construction of the project.

(3) The responsibilities of the local government and the developer or developers with respect to financing the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Eligible Property. – A joint development project may be constructed on property acquired by the developer or developers, on property directly acquired by the local government, or on property acquired by the local government while exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505 or G.S. 160D-13-11.

(d) Conveyance of Property Rights. – In connection with a joint development project, the local government may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired while the local government was exercising the powers, duties, and responsibilities of a redevelopment commission, the local government may convey property interests pursuant to the "Urban Redevelopment Law" or any local modification thereof.

(2) If the property was acquired by the local government directly, the local government may convey property interests pursuant to G.S. 160D-13-12, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(3) In lieu of conveying the fee interest in air rights, the local government may convey a leasehold interest for a period not to exceed 99 years, using the procedures of subdivision (1) or (2) of this subsection, as applicable.

(e) Construction. – The contract between the local government and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire joint development project. If so, the contract shall include such provisions as the governing board deems sufficient to assure that the public facility or facilities included in the project meet the needs of the local government and are constructed at a reasonable price. A project constructed pursuant to this subsection is not subject to Article 8 of Chapter 143 of the General Statutes, provided that local government funds constitute no more than fifty percent (50%) of the total costs of the joint development project. Federal funds available for loan to private developers in connection with a joint development project shall not be considered local government funds for purposes of this subsection.

(f) Operation. – The local government may contract for the operation of any public facility or facilities included in a joint redevelopment project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the local government.

(g) Grant Funds. – To assist in the financing of its share of a joint development project, the local government may apply for, accept, and expend grant funds from the federal or state governments.

"**§ 160D-13-16. Low- and moderate-income housing programs.**

Any local government is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any governing board may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the local government or to be used by the local government to provide affordable housing to persons of low and moderate income.

(3) To convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income under procedures and standards established by the local government, The local government shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) To convey residential property by private sale to persons of low or moderate income, in accordance with procedures and standards established by the local government, with G.S. 160A-267, and with any terms and conditions that the governing board may determine.

"**§§ 160D-13-17 through 160D-13-19:** Reserved for future codification purposes.

"Part 3. Miscellaneous.

"**§ 160D-13-20. Program to finance energy improvements.**

(a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a local government has an integral role in furthering

this purpose by promoting and encouraging renewable energy and energy efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a local government may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) Financing Assistance. – A local government may establish a revolving loan fund and a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A local government may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A local government may use State and federal grants and loans and its general revenue for this financing. The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(c) Definition. – As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8.

"Article 14.

"Judicial Review.

"**§ 160D-14-1. Declaratory judgments.**

Challenges of legislative decisions of governing boards, including the validity or constitutionality of development regulations adopted pursuant to this Chapter, and actions authorized by G.S. 160D-1-8(c) or (g) and G.S. 160D-4-5(c), may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The governmental unit making the challenged decision shall be named a party to the action.

"**§ 160D-14-2. Appeals in the nature of certiorari.**

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-1-9, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons shall have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct that the petitioner shall serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure shall apply in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on such conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure shall govern motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section shall have standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

(h) The Record. – The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court may, in its discretion, allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the record is not adequate to allow an appropriate determination of the following issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-1-9 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. –

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.

(3) The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.

b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(k) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be issued, subject to reasonable and appropriate conditions.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

(l) Effect of Appeal and Ancillary Injunctive Relief. –

(1) If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-14-1 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

"**§ 160D-14-3. Appeals of decisions on subdivision plats.**

(a) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160D-4-6 and this section shall apply to those appeals.

(b) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-4-3(b).

(c) For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-8-3(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made.

"**§ 160D-14-4. Other civil actions.**

Except as expressly stated, this Article does not limit the availability of civil actions otherwise authorized by law or alter the times in which they may be brought.

"**§ 160D-14-5. Statutes of limitation.**

(a) Zoning Map Adoption or Amendments. – A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law or a development agreement adopted under Article 10 of this Chapter shall accrue upon adoption of such ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

(b) Text Adoption or Amendment. – Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

(c) Enforcement Defense. – Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party in an action involving the enforcement of a development regulation from raising as a defense in such proceedings the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 shall bar a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that such party is in violation of a development regulation from raising in the judicial appeal the invalidity of such ordinance as a defense to such order, requirement, decision, or determination. A party in

an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

(d) Quasi-Judicial Decisions. – Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-4-6(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(e) Others. – Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes."

SECTION 2.5.(a) G.S. 1-54 reads as rewritten:

"**§ 1-54. One year.**

Within one year an action or proceeding –

...

(10) Actions contesting the validity of any zoning or unified development ordinance or any provision thereof adopted under ~~Part 3 of Article 18 of Chapter 153A or Part 3 of Article 19 of Chapter 160A~~ Chapter 160D of the General Statutes or other applicable law, other than an ordinance adopting or amending a zoning ~~map or approving a special use, conditional use, or conditional zoning district rezoning request.~~ map. Such an action accrues when the party bringing such action first has standing to challenge the ordinance; provided that, a challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

...."

SECTION 2.5.(b) G.S. 1-54.1 reads as rewritten:

"**§ 1-54.1. Two months.**

Within two months an action contesting the validity of any ordinance adopting or amending a zoning map ~~or approving a special use, conditional use,~~ conditional zoning district rezoning request under ~~Part 3 of Article 18 of Chapter 153A of the General Statutes or Part 3 of Article 19 of Chapter 160A of the General Statutes or other applicable law.~~ Article 7 of Chapter 160D of the General Statutes. Such an action accrues upon adoption of such ordinance or amendment. As used herein, the term two months shall be calculated as 60 days."

SECTION 2.5.(c) G.S. 63-31(a) reads as rewritten:

"**§ 63-31. Adoption of airport zoning regulations.**

(a) Every political subdivision may adopt, administer, and enforce, under the police power ~~and in the manner and upon the conditions hereinafter prescribed,~~ or as a land development regulation under Chapter 160D of the General Statutes, airport zoning regulations, which regulations shall divide the area surrounding any airport within the jurisdiction of said political subdivision into zones, and, within such zones, specify the land uses permitted, and regulate and restrict the height to which structures and trees may be erected or allowed to grow. In adopting or revising any such zoning regulations, the political subdivision shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, the possibility of lowering or removing existing obstructions, and the views of the agency of the federal government charged with the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport."

SECTION 2.5.(d) G.S. 63-32(b) reads as rewritten:

"**§ 63-32. Permits, new structures, etc., and variances.**

...

(b) Variances. – Any person desiring to erect any structures, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property, in violation of airport zoning regulations adopted under this Article, may apply to the board of appeals, as provided in G.S. 63-33, subsection (c), for a variance from the zoning regulations in question. Such variances ~~shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and~~ shall be considered pursuant to G.S. 160D-7-5(d) and be in accordance with the spirit of the regulations and this Article."

SECTION 2.5.(e) G.S. 63-33 reads as rewritten:

"**§ 63-33. Procedure.**

(a) Adoption of Zoning Regulations. – No airport zoning regulations shall be adopted, amended, or changed under this Article except by action of the legislative body of the political subdivision in question, or the joint board provided for in G.S. 63-31, subsection (c), ~~after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 10 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which the airport is located.~~following the procedures set for adoption of development regulations in Article 6 of Chapter 160D of the General Statutes.

...

(c) Administration of Airport Zoning Regulations – Board of Appeals. – Airport zoning regulations adopted under this Article shall provide for a board of appeals to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of this ~~Article or of any ordinance adopted pursuant thereto;~~Article.

(2) To hear and decide special ~~exceptions to the terms of the ordinance~~ use permits upon which such board may be required to pass under such ~~ordinance;~~ordinance.

(3) To hear and decide specific ~~variances under G.S. 63-32, subsection (b).~~variances.

~~Where a~~ A zoning board of ~~appeals or~~ adjustment ~~already exists, it~~ may be appointed as the board of appeals. Otherwise, the board of appeals shall consist of five members, each to be appointed for a term of three years and to be removable for cause by the appointing authority upon written charges and after public hearing. G.S. 160D-4-5 and G.S. 160D-4-6 shall be applicable to appeals, special use permits, and variance petitions made pursuant to this section.

~~The board shall adopt rules in accordance with the provisions of any ordinance adopted under this Article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.~~

~~Appeals to the board may be taken by any person aggrieved, or by any officer, department, board, or bureau of the political subdivision affected, by any decision of the administrative agency. An appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.~~

~~An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application on notice to the agency from which the appeal is taken and on due cause shown.~~

~~The board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.~~

~~The board may, in conformity with the provisions of this Article, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.~~

~~The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.~~"

SECTION 2.5.(f) G.S. 63-34 reads as rewritten:

"**§ 63-34. Judicial review.**

~~(a) Any person aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board, or bureau of the political subdivision, may present to the superior court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board. Such petition shall comply with the provisions of G.S. 160A-393.~~

~~(b) The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.~~

~~(c) The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.~~

~~(d) Repealed by Session Laws 2009-421, s. 3, effective January 1, 2010.~~

~~(e) Costs shall not be allowed against the board of appeals unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.~~

G.S. 160D-14-1 shall be applicable to judicial review of administrative and quasi-judicial decisions made pursuant to this Article."

SECTION 2.5.(g) G.S. 63-35 reads as rewritten:

"**§ 63-35. Enforcement and remedies.**

~~Each violation of this Article or of any regulations, order, or ruling promulgated or made pursuant to this Article, shall constitute a Class 3 misdemeanor, and each day a violation continues to exist shall constitute a separate offense. In addition, the political subdivision within which the property is located may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this Article, or of airport zoning regulations adopted under this Article, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Article and of the regulations adopted and orders and rulings made pursuant thereto.~~G.S. 160D-4-4 shall be applicable to ordinances adopted pursuant to this Article."

SECTION 2.5.(h) G.S. 143-215.57 reads as rewritten:

"**§ 143-215.57. Procedures in issuing permits.**

...

(b) In prescribing standards and requirements for the issuance of permits under this Part and in issuing permits, local governments shall proceed as in the case of an ordinance for the better government of the county or city as the case may be. ~~A city may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county that is outside the zoning jurisdiction of a city in the county. If a city does not exercise the powers granted in this Part in the city's extraterritorial zoning jurisdiction, the county may exercise the powers granted in this Part in the city's extraterritorial zoning jurisdiction. The county may regulate territory within the zoning jurisdiction of any city whose governing body, by resolution, agrees to the regulation. The governing body of a city may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the city's jurisdiction.~~Local government jurisdiction for these ordinances shall be as specified in Article 2 of Chapter 160D of the General Statutes. Article 4 of Chapter 160D of the General Statutes shall apply to the administration, enforcement, and appeals regarding these ordinances.

~~(c) The local governing body is hereby empowered to adopt regulations it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. These regulations may provide for the issuance of permits under this Part by the local governing body or by an agency designated by the local governing body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of an appeal, no action shall be taken that would be unlawful in the absence of a permit issued under this Part.~~"

SECTION 2.5.(i) G.S. 143-215.58 reads as rewritten:

"**§ 143-215.58. Violations and penalties.**

...

(a1) A local government may use all of the remedies available for the enforcement of ordinances under Chapters ~~153A and 160A~~ 153A, 160A, and 160D of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted (or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each day that the failure continues after written notice from the county board of commissioners or governing ~~body~~ board of a city.

(c) In addition to or in lieu of other remedies, the county board of commissioners or governing ~~body~~ board of a city may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation that has committed a violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction."

SECTION 2.5.(j) G.S. 130A-55 reads as rewritten:

"**§ 130A-55. Corporate powers.**

A sanitary district board shall be a body politic and corporate and may sue and be sued in matters relating to the sanitary district. Notwithstanding any limitation in the petition under G.S. 130A-48, but subject to the provisions of G.S. 130A-55(17)e, each sanitary district may exercise all of the powers granted to sanitary districts by this Article. In addition, the sanitary district board shall have the following powers:

...

(17) For the purpose of promoting and protecting the public health, safety and the general welfare of the State, a sanitary district board is authorized to establish as zoning units any portions of the sanitary district not under the control of the United States or this State or any agency or instrumentality of either, in accordance with the following:

...

b. When a zoning area is established within a sanitary district, the sanitary district board as to the zoning area shall have all rights, privileges, powers and duties granted to ~~municipal corporations under Part 3, Article 19, Chapter 160A~~ local governments under Article 7 of Chapter 160D of the General Statutes. However, the sanitary district board shall not be required to appoint any zoning commission or board of adjustment. If neither a zoning commission nor board of adjustment is appointed, the sanitary district board shall have all rights.

...."

SECTION 2.5.(k) G.S. 143-214.5(d) reads as rewritten:

"(d) Mandatory Local Programs. – The Department shall assist local governments to develop water supply watershed protection programs that comply with this section. Local government compliance programs shall include an implementing local ordinance and shall provide for maintenance, inspection, and enforcement procedures. As part of its assistance to local governments, the Commission shall approve and make available a model local water supply watershed management and protection ordinance. The model management and protection ordinance adopted by the Commission shall, at a minimum, include as options (i) controlling development density, (ii) providing for performance-based alternatives to development density controls that are based on sound engineering principles, and (iii) a combination of both (i) and (ii). Local governments shall administer and enforce the minimum management requirements. Every local government that has within its jurisdiction all or a portion of a water supply watershed shall submit a local water supply watershed management and protection ordinance to the Commission for approval. Local governments may adopt such ordinances pursuant to their general police power, power to regulate the subdivision of land, zoning power, or any combination of such powers. In adopting a local ordinance that imposes water supply watershed management requirements that are more stringent than those adopted by the Commission, a ~~county~~ local government must comply with ~~the notice provisions of G.S. 153A-343 and a municipality must comply with the notice provisions of G.S. 160A-384.~~ Article 6 of Chapter 160D of the General Statutes. This section shall not be construed to affect the validity of any local ordinance adopted for the protection of water supply watersheds prior to completion of the review of the ordinance by the Commission or prior to the assumption by the Commission of responsibility for a local water supply watershed protection program. Local governments may create or designate agencies to administer and enforce such programs. The Commission shall approve a local program only if it determines that the requirements of the program equal or exceed the minimum statewide water supply watershed management requirements adopted pursuant to this section."

SECTION 2.5.(*l*) G.S. 113A-208 reads as rewritten:

"**§ 113A-208. Regulation of mountain ridge construction by counties and cities.**

(a) Any county or city may adopt, effective not later than January 1, 1984, and may enforce an ordinance that regulates the construction of tall buildings or structures on protected mountain ridges by any person. The ordinance may provide for the issuance of permits to construct tall buildings on protected mountain ridges, the conditioning of such permits, and the denial of permits for such construction. Any ordinance adopted hereunder shall be based upon studies of the mountain ridges within the county, a statement of objectives to be sought by the

ordinance, and plans for achieving these objectives. Any such county ordinance shall apply countywide except as otherwise provided in ~~G.S. 160A-360,~~ Article 2 of Chapter 160D of the General Statutes and any such city ordinance shall apply citywide, to construction of tall buildings on protected mountain ridges within the city or county, as the case may be.

A city with a population of 50,000 or more may adopt, prior to January 1, 1986, an ordinance eliminating the requirement for an elevation of 3,000 feet, as permitted by G.S. 113A-206(6).

(b) Under the ordinance, permits shall be denied if a permit application (and shall be revoked if a project) fails to provide for:

...

(4) Adequate consideration to protecting the natural beauty of the mountains, as determined by the local governing ~~body.~~board.

...

(f) Any county or city that adopts an ordinance pursuant to this section ~~must hold a public hearing before adopting the ordinance upon the question of adopting the ordinance or of allowing the construction of tall buildings on protected mountain ridges to be governed by G.S. 113A-209. The public hearing required by this section shall be held upon at least 10 days' notice in a newspaper of general circulation in the unit adopting the ordinance. Testimony at the hearing shall be recorded and any and all exhibits shall be preserved within the custody of the governing body. The testimony and evidence shall be made available for inspection and scrutiny by any person.~~shall follow the procedures of Article 6 of Chapter 160D of the General Statutes.

~~(g) Any resident of a county or city that adopted an ordinance pursuant to this section, or of an adjoining county, may bring a civil action against the ordinance-adopting unit, contesting the ordinance as not meeting the requirements of this section. If the ordinance is found not to meet all of the requirements of this section, the county or city shall be enjoined from enforcing the ordinance and the provisions of G.S. 113A-209 shall apply. Nothing in this Article authorizes the State of North Carolina or any of its agencies to bring a civil action to contest an ordinance, or for a violation of this Article or of an ordinance adopted pursuant to this Article.~~"

SECTION 2.5.(m) G.S. 113A-211(a) reads as rewritten:

"(a) Violations of this Article shall be subject to the same criminal sanctions, civil penalties and equitable remedies as ~~violations of county ordinances under G.S. 153A-123.~~provided by G.S. 160D-4-4."

SECTION 2.5.(n) G.S. 160A-75 reads as rewritten:

"**§ 160A-75. Voting.**

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under ~~G.S. 14-234, 160A-381(d), or 160A-388(e)(2).~~ G.S. 14-234 or G.S. 160D-1-9. In all other cases except votes taken under ~~G.S. 160A-385,~~ G.S. 160D-6-1, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ~~ordinance~~ ordinance, except an ordinance on which a public hearing must be held pursuant to G.S. 160D-6-1 before the ordinance may be adopted, may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to

vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 2.6.(a) G.S. 153A-102.1 is repealed.

SECTION 2.6.(b) G.S. 160A-4.1 is repealed.

SECTION 2.6.(c) G.S. 160A-181.1 is repealed.

SECTION 2.6.(d) G.S. 153A-143 is repealed.

SECTION 2.6.(e) G.S. 160A-199 is repealed.

SECTION 2.6.(f) G.S. 153A-144 is repealed.

SECTION 2.6.(g) G.S. 160A-201 is repealed.

SECTION 2.6.(h) G.S. 153A-452 is repealed.

SECTION 2.6.(i) G.S. 153A-455 is repealed.

SECTION 2.6.(j) Article 3 of Chapter 168 of the General Statutes is repealed.

SECTION 2.7 Article 23 of Chapter 153A of the General Statutes is amended by adding the following new sections to read:

"**§ 153A-458. Submission of statement concerning improvements.**

A county may by ordinance require that when a property owner improves property at a cost of more than two thousand five hundred dollars ($2,500) but less than five thousand dollars ($5,000), the property owner must, within 14 days after the completion of the work, submit to the county assessor a statement setting forth the nature of the improvement and the total cost thereof.

"**§ 153A-459. Authorization to provide grants.**

A county may provide grants to unaffiliated qualified private providers of high-speed Internet access service, as that term is defined in G.S. 160A-340(4), for the purpose of expanding service in unserved areas for economic development in the county. The grants shall be awarded on a technology neutral basis, shall be open to qualified applicants, and may require matching funds by the private provider. A county shall seek and consider requests for proposal from qualified private providers within the county prior to awarding a broadband grant and shall use reasonable means to ensure that potential applicants are made aware of the grant, including, at a minimum, compliance with the notice procedures set forth in G.S. 160A-340.6(c). The county shall use only unrestricted general fund revenue for the grants. For the purposes of this section, a qualified private provider is a private provider of high-speed Internet access service in the State prior to the issuance of the grant proposal. Nothing in this section authorizes a county to provide high-speed Internet broadband service."

SECTION 2.8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 2.9.(a) Any otherwise valid permit or development approval made prior to January 1, 2021, shall not be invalid based on inconsistency with the provisions of this act. The validity of any plan adopted prior to January 1, 2021, is not affected by a failure to comply with the procedural requirements of G.S. 160D-5-1(b).

SECTION 2.9.(b) Any special use district or conditional use district zoning district that is valid and in effect as of January 1, 2021, shall be deemed a conditional zoning district consistent with the terms of this act, and the special or conditional use permits issued concurrently with establishment of those districts shall be valid as specified in Section 2.9.(a) of this act. Any valid "conditional use permit" issued prior to January 1, 2021, shall be deemed a "special use permit" consistent with the provisions of this act.

SECTION 2.9.(c) Any local government that has adopted zoning regulations but that has not adopted a comprehensive plan shall adopt such plan no later than July 1, 2022, in order to retain the authority to adopt and apply zoning regulations.

SECTION 2.10. If Part II of this act becomes law in 2019, it is the intent of the General Assembly that legislation contained in Part I of this act or in other acts enacted in the 2019 Regular Session of the 2019 General Assembly, or that affects statutes repealed and replaced by similar provisions in Chapter 160D of the General Statutes, as enacted by Part II of this act, also be incorporated into Chapter 160D of the General Statutes. The North Carolina General Statutes Commission shall study the need for legislation to accomplish this intent and shall report its findings and recommendations, including any legislative proposals, to the 2020 Regular Session of the 2019 General Assembly.

PART III. EFFECTIVE DATES

SECTION 3.1. Part I of this act is effective when it becomes law. Sections 1.4, 1.5, and 1.16 of this act apply to applications for down zoning amendments and for driveway improvements submitted on or after that date and to appeals from decisions related to such applications filed on or after that date. Sections 1.1, 1.2, 1.3, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, and 1.17 of this act clarify and restate the intent of existing law and apply to ordinances adopted before, on, and after the effective date.

SECTION 3.2. Part II of this act becomes effective January 1, 2021, and applies to local government development regulation decisions made on or after that date. Part II of this act clarifies and restates the intent of existing law and applies to ordinances adopted before, on, and after the effective date.

SECTION 3.3. The remainder of this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 6/20/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hampton Billips	RTS
David Heinen	NC Center for Nonprofits
Frank Haney	NCMSA
Aaron Harding	Cardinal Innovations Healthcare
Corey Sugerik	Sierra Club
Abe Umstead	NCCV
Samantha Long	NCFA
Claudia Snoemaker	governors office
Robyn Sanders	SA
Kara Weishaar	SA
Rick Zechini	Williams Mullen

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 6/20/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rhaegan Jackson	Focus Public Affairs
Mark Foster	Jones Moore
Paul Sherman	NCFB
Henry Gore	Gore Public
Doug Kaschka	NCSTA
Erin Wynia	NCLM
Amber Carpenter	NCCBA
Tim Morton	NCHBA
Steven Wells	NCHBA
Andrew Petesch	NCBA Zoning, Planning, Land Use Section
George Smith	NP

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 6/20/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jonathan Barbaker	Barbaker + Assoc
Grace Irvin	Walk West
Sarah McQuilla	RCA
Jaelee Bozart	NSB
Jack Bozart	NSB
Lana Hygh	Cary
Dodie Renfro	Nelson Mullins
Dan Holm	TCF
Wilder Semans	TCF
Cassidy Robertson	AHCA
April Neuman	MSC

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 6/20/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Betsy Bailey	CAGC
David Crawford	AGC NC
O.J. Simpson	Friends of ~~Duke~~ Jay House
[illegible]	NMRS
Preston Howard	NCMA
[illegible]	Duke E
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

House Committee on Regulatory Reform 6/20/2019

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Adam Pridemore	NCACC
CADY Thomas	FPA
Tracy Kimbrell	Power Pac
Jacob Rogers	TCC

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Regulatory Reform

DATE: 6/20/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Thursday, June 20, 2019
Session: 12:45 PM

Committee	Room	Time	Staff	Comments	Member
Regulatory Reform	1228/1327	11:00 AM	Keaton Jones		Rep. Brenden H. Jones
			Emma Mack		Rep. James L. Boles, Jr.
			Jack Tine		Speaker Tim Moore
			Gavin Wilkins		Rep. Charles Graham

House Committee on Regulatory Reform
Tuesday, June 25, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on June 25, 2019 in Room 1228/1327 of the Legislative Building. Representatives Brody, Riddell, Holley, Ager, Belk, Blackwell, Brewer, Carter, Clark, Conrad, Henson, Kidwell, Meyer, Presnell, Queen, and Stevens attended.

Representative Larry Yarborough, Chair, presided.

The following bills were considered:

SB 553 Regulatory Reform Act of 2019. (Senators Sanderson, Wells)
Rep. Brody brought forth Rep. Warren's amendment and explained it. Rep. Riddell made a motion to adopt the amendment. It was adopted. Rep. Brody explained section1 of the bill. Rep. Riddell explained section 2 of the bill. Rep. Queen offered an amendment and explained it. Rep. Stevens made a motion to adopt the amendment. It was adopted. The following motion was made on the bill.
Favorable House Com Sub, Unfavorable Senate Com Sub and Re-referred, Serial Referral to Rules

SB 604 Amend NC Veterinary Practice Act. (Senator Rabon)
Senator Rabon explained the bill. Rep. Brody brought forth an amendment. Rep. Stevens made a motion to adopt the amendment. It was adopted. Rep. Brody made the following motion on the bill.
Favorable House Com Sub, Unfavorable Senate Com Sub and Re-referred, Serial Referral to Rules

SB 444 Allow Use of Oyster Shells As Serving Dishes. (Senator McInnis)
Favorable and Re-referred, Serial Referral to Rules

SB 353 Amend Cartway Path/Septic Tank Laws. (Senators McInnis, Gunn, Wells)
Favorable and Re-referred, Serial Referral to Rules

SB 208 Limit Local Restrictions/Noncommercial Signs. (Senators McInnis, Daniel, Hise)
Favorable and Re-referred, Serial Referral to Rules

The meeting adjourned at 12:20 PM.

Representative Larry Yarborough, Chair

Leslie Murray, Committee Clerk

Updated #1: Add SB 604, 444, 353, 208

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, June 25, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Yarborough is Chairing**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 553	Regulatory Reform Act of 2019. PCS	Senator Sanderson Senator Wells
SB 604	Amend NC Veterinary Practice Act.	Senator Rabon
SB 444	Allow Use of Oyster Shells As Serving Dishes.	Senator McInnis
SB 353	Expand Cartway Path Law.	Senator McInnis Senator Gunn Senator Wells
SB 208	Limit Local Restrictions/Noncommercial Signs.	Senator McInnis Senator Daniel Senator Hise

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:56 PM on Monday, June 24, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, June 25, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Rep. Yarborough is Chairing**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 553	Regulatory Reform Act of 2019. PCS	Senator Sanderson Senator Wells

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:14 PM on Monday, June 24, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Leslie Murray (Committee Assistant)

House Committee on Regulatory Reform
Tuesday, June 25, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 553	Regulatory Reform Act of 2019. PCS	Senator Sanderson Senator Wells
SB 604	Amend NC Veterinary Practice Act.	Senator Rabon
SB 444	Allow Use of Oyster Shells As Serving Dishes.	Senator McInnis
SB 353	Expand Cartway Path Law.	Senator McInnis Senator Gunn Senator Wells
SB 208	Limit Local Restrictions/Noncommercial Signs.	Senator McInnis Senator Daniel Senator Hise

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB **553** **(CS#1)** Regulatory Reform Act of 2019.

Draft Number:	S553-PCS15369-BC-49
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Yarborough

TOTAL REPORTED: 1



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB **604** **(CS#1)** Amend NC Veterinary Practice Act.

Draft Number:	S604-PCS35304-BC-58
Serial Referral:	RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Bell

TOTAL REPORTED: 1



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE AND RE-REFERRED

SB **208** **(CS#1)** Limit Local Restrictions/Noncommercial Signs.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

SB **353** **(CS#1)** Expand Cartway Path Law.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

SB **444** Allow Use of Oyster Shells As Serving Dishes.

Draft Number:	None
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
Recommended Referral:	None
Long Title Amended:	No
Floor Manager:	Brody

TOTAL REPORTED: 3

SENATE BILL 553:
Regulatory Reform Act of 2019.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 21, 2019
Introduced by:	Sens. Sanderson, Wells	**Prepared by:**	Jason Moran-Bates Jeremy Ray Staff Attorney
Analysis of:	PCS to Third Edition S553-CSBC-49		

OVERVIEW: Senate Bill 553 would amend several State laws related to State and local government regulation, and agricultural, energy, environmental, and natural resources regulation.

BILL ANALYSIS:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

SECTION 1. INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITTING FROM PUBLIC CONTRACTS

Under current law, the statutes generally prohibit a public officer or employee who is involved in making or administering a contract on behalf of a public agency from deriving a direct benefit from the contract except in certain circumstances. Various public officials are exempt from the prohibition if the amount of the agreement between the government and the official does not exceed the following within a 12-month period:

- $20,000 for medically related services.
- $40,000 for other goods and services.

The public officials exempted are as follows:

- Any holder of an elective municipal office or member of a city school board in a municipality of no more than 15,000 population.
- Any holder of an elective county office or member of a county school board in a county that contains no municipality of more than 15,000.
- A physician or member of other listed medical professions appointed to a local social services board, health board, or area mental health, developmental disabilities, and substance abuse board in a county containing no municipality of more than 15,000.
- Any member of a board of directors of a public hospital, regardless of the population.

The exemption is not available unless the agreement is entered into publicly, the official entering into the contract abstains from participating or voting, the contract is disclosed in the audited financial report of the local government, and in a conspicuous public posting.

Section 1 would raise the dollar threshold for contracts exempted from the conflict-of-interest prohibition from $40,000 to $60,000 for goods and services that are not medically related. This section would be effective when it becomes law, and apply to contracts executed on or after that date.

SECTION 2. AMENDMENTS TO THE 2018 NORTH CAROLINA PLUMBING CODE

Section 2 would require the Building Code Council to amend a section of the Building Code and a section of the Plumbing Code as follows:

- Revise Sec. 2902.6 of the 2018 Building Code to provide that drinking fountains are not required for an occupant load of 30 or fewer (current law provides that drinking fountains are not required for an occupant load of 15 or fewer).
- Revise Table 403.1 of the Plumbing Code to provide that: (i) only one water closet is required for business occupancies with an occupant load of 30 or fewer (current law provides that one is required for occupant loads of 25 or fewer); and (ii) no service sink is required for business and mercantile occupancies with an occupant load of 30 or fewer (current law provides that one is not required for occupant loads of 25 or fewer).

SECTION 3. FIRE CODE WASTE ACCUMULATION PROVISIONS

Section 3 would require the Building Code Council to amend the Fire Prevention Code to allow doorstep garbage and recycling containers as follows:

- For apartments with enclosed corridors, the containers must be no more than 13 gallons in size and cannot remain in an exit corridor for no more than five hours at a time, or in a non-exit access corridor for more than 12 hours at a time. Building management must have written policies in place to ensure compliance with these requirements.
- For apartments with open-air corridors, the containers must be no more than 27 gallons in size and cannot remain in an exit corridor for more than five hours at a time or reduce the means of egress below what is permitted by the Code. Building management must have written policies in place to ensure compliance with these requirements.

SECTION 4. MODIFY REAL ESTATE LICENSING REQUIREMENT FOR TIME SHARE SALESPEOPLE

Under current law, it is unlawful for:

- Any person to engage in the business of a time share salesperson without first obtaining a real estate broker license issued by the North Carolina Real Estate Commission.
- A time share developer to sell or offer to sell a time share located in this State without first obtaining a certificate of registration for the time share project to be offered for sale issued by the North Carolina Real Estate Commission.

Section 4 would modify the requirement that a time share salesperson obtain a real estate broker license, to provide that a time share salesperson must be a licensed real estate broker unless the time share salesperson meets the requirement for an exemption under general law from licensure pertaining to business entities that, as owner or lessor, are acting with reference to property owned or leased by them in the regular course of, or as incident to, the management of that property. This exemption from licensure extends to officers and employees, general partners, and similarly situated persons, whose income is reported on IRS Form W-2 of an exempt corporation. When a person conducts a real estate transaction pursuant to this exemption, the person must disclose in writing to all parties to the transaction that the person is not licensed as a real estate broker or salesperson, information about this exemption, and the legal name and physical address of the owner of the subject property and of the applicable business entity.

SECTION 5. STUDY ONLINE CONTINUING EDUCATION REQUIREMENTS
Section 5 would require every occupational licensing board to study and report on any available options offered for online continuing education if continuing education is a requirement for licensure under the occupational licensing board's applicable laws or regulations. Each occupational licensing board required to study and report must provide its report to the Joint Legislative Administrative Procedure Oversight Committee and the Program Evaluation Division no later than December 1, 2019.

SECTION 6. STATEWIDE REQUIREMENTS FOR PIERS, DOCKS, AND BULKHEADS
Under current law, the Coastal Resources Commission may approve some land use plans that contain local restrictions that are more stringent than those required by state law.

Section 6 would prohibit the Commission from approving land-use plans containing provisions that are more restrictive than the state guidelines with respect to piers, docks, and bulkheads. It would also prohibit cities and counties from enforcing ordinances that are more restrictive than the state guidelines with respect to piers, docks, and bulkheads.

SECTION 7. EXEMPT ONSLOW COUNTY FROM VEHICLE EMISSIONS TESTING
Section 7 would remove Onslow County from the list of counties required to conduct vehicle emissions testing under G.S. 143.215.107(c).

SECTION 8. EXEMPT REFLEXOLOGY FROM THE DEFINITION OF MASSAGE THERAPY
Under current law, reflexology is not defined, nor is it specifically subject to regulation by the North Carolina Board of Massage and Bodywork Therapy.

Section 8 would create a definition of the term "reflexology" in Article 36 of Chapter 90 and specifically add individuals practicing reflexology to the list of things that do not require a license form the North Carolina Board of Massage and Bodywork Therapy.

SECTION 9. ADOPT 2017 FOOD CODE
Currently, the Commission for Public Health enforces the 2010 version of the Food and Drug Administration Food Code.

Section 9 would permit the Commission for Public Health to adopt the 2017 version of the Food and Drug Administration Food Code.

SECTION 10. TEMPORARY EVENT VENUES
Currently, there is no statutory provision allowing counties to establish a permitting process for temporary event venues.

Section 10 would add new sections to Part 3 of Article 19 of Chapter 160A, allowing counties to establish, by ordinance, a process to permit temporary event venues (TEV). The venue must be in an existing building or structure suitable for entertainment, education, marketing, meetings, sales, trade shows. The event can last no more than 72 hours. Only one TEV is allowed on one parcel of land. Counties may change an initial application fee of no more than $100 and annual renewal fees of no more than $50. The proposed TEV sites must be inspected before a permit can be issued. Applicants can be required to take

reasonable measures to address health and safety concerns identified in the pre-permit inspection, and the Building Code Council is required to create an inspection checklist for use in the pre-permit inspection process.

PART II. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES REGULATION

SECTION 11. CLARIFY LANDFILL LIFE-OF-SITE FRANCHISE REQUIREMENTS

Under current law, "life-of-site" permits are granted to sanitary landfills, and the law provides that such permits survive the expiration of a local government approval or franchise. The local government must allow the sanitary landfill to continue to operate until the term of the landfill's life of site permit expires if the owner or operator has complied with the terms of the local government approval or franchise agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life of site permit has expired. The law also provides, however, that in order to preserve any economic benefits included in the franchise, a county may extend a franchise under the same terms and conditions for the term of the life-of-site permit. These provisions are only applicable to valid and operative franchise agreements in effect on October 1, 2015.

Section 11 would amend current law that requires a local government to allow a sanitary landfill to continue to operate until the term of a landfill's life-of-site permit expires if the owner or operator has complied with the terms of the local government approval or franchise agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired. The section would delete the term "has complied" and substitute the phrase "is in substantial compliance" and delete the language that requires that the owner or operator remain in compliance with the terms of the franchise agreement.

SECTION 12. STUDY EXPRESS PERMITTING EXPANSION

Under current law the Department of Environmental Quality must offer an express review program to provide express permit and certification reviews in all of its regional offices for the following programs

- Stormwater permits.
- Stream origination certifications.
- Water quality certifications.
- Erosion and sedimentation control permits.
- Permits under the Coastal Area Management Act (CAMA).

Participation in the express review program is voluntary, and the program is supported by fees. Maximum permit application fees range from $4,000 to $5,500, depending on the number of permits needed that are subject to express permitting.

Section 12 would require DEQ to study and report on additional positions and funding needed, as well as any changes in State or federal laws and regulations necessary to expand the express permitting programs to include additional types of permits typically required for job creating and real estate development or redevelopment activities. Additional permits considered in the study shall include, at a minimum, permits

for facilities not discharging to the surface waters of the State and permits to apply petroleum contaminated soil to land. The Department must provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than March 1, 2020.

SECTION 13. EXTEND EMERGENCY GENERAL PERMIT DEADLINES
Section 13 would provide that, notwithstanding any provision of law to the contrary, Coastal Area Management Act Emergency General Permits authorized in response to Hurricanes Florence and Michael must be issued by October 12, 2019, with all work to be completed by October 12, 2020.

SECTION 14. WASTEWATER RESERVE PRIORITY
Under current law, the Division of Water Infrastructure must consider (in part) the following when determining priority for a loan or grant from the Wastewater Reserve or the Drinking Water Reserve: the effect on impaired waters and whether a project will address a conflict between local plans.

Section 14 would require priority to be given to projects that improve designated impaired waters of the State and that serve as a public water supply for a large public water system. It would also require the Division to give priority to improvements made by a local government unit in order to protect or preserve the water supply of a neighboring local government unit that has a lower poverty rate, lower utility bills, higher population growth, higher median household incomes, and lower unemployment.

PART III. MISCELLANEOUS REGULATORY REFORM PROVISIONS

SECTION 15. ARCHITECTURAL LICENSE EXCEPTION FOR SMALL PROJECTS
Under current law, an architectural license is not needed for commercial projects that have a value of $90,000 or less or an area of less than 2,500 square feet,

Section 15 would allow commercial architectural projects with a value of $250,000 or an area of 3,000 square feet to be completed without an architectural license.

SECTION 16. SALE OF SALVAGED VEHICLES
Section 16 would allow a dealer to sell, without inspection, a salvage-titled vehicle if no repairs have been made, and the dealer discloses that no inspection has been performed.

SECTION 17. REVENUE LAWS STUDY
Section 17 would require the Revenue Laws Study Committee to review the methods used to determine the fair market value of outdoor advertising signs in North Carolina. The Committee must submit its report, along with any recommended legislation, to the 2020 Regular Session of the 2019 General Assembly.

SECTION 18. BROADBAND EASEMENTS
Under current law, electric companies are permitted to use easements held for the purpose of supplying power to also supply high-speed internet.

Section 18 would clarify the easements held by electric companies to supply high-speed internet and power would be subject to the same notice, safety, and permitting requirements as easements held solely to supply power.

SECTION 19. DESIGN STUDY

Section 19 would require the Program Evaluation Division to study and report on standards applicable to interior designers in North Carolina. The report must be submitted to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020, and include:

- An examination of certification requirements in other states.
- Whether interior designers should be licensed, certified, or registered in North Carolina.
- Training requirements for interior designers in North Carolina.
- The scope of practice for interior designers in North Carolina.
- Any other issues the Program Evaluation Division deems necessary.

SECTION 20. MANUFACTURED HOMES INSTALLATION

Section 20 would prohibit cities from requiring masonry curtain walls or masonry skirting from being installed on manufactured homes located on land leased to the homeowner.

SECTION 21. ELECTRIC STANDUP SCOOTERS

Section 21 would create a statutory definition for electric standup scooters and exempt them from registration requirements.

PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 22 would provide that:

- If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.
- Except as otherwise provided, the act would be effective when it becomes law.

****Jennifer McGinnis and Jeffrey Hudson of the Legislative Analysis Division substantially contributed to this summary.****

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S D

SENATE BILL 553

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/23/19
Third Edition Engrossed 6/10/19
PROPOSED HOUSE COMMITTEE SUBSTITUTE S553-CSBC-49 [v.18]
06/24/2019 06:26:38 PM

Short Title: Regulatory Reform Act of 2019. (Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITTING FROM PUBLIC CONTRACTS

SECTION 1.(a) G.S. 14-234 reads as rewritten:

"**§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

...

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

(1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does

not exceed twenty thousand dollars ($20,000) for medically related services and ~~forty thousand dollars ($40,000)~~ sixty thousand dollars ($60,000) for other goods or services within a 12-month period.

(2) The official entering into the contract with the unit or agency does not participate in any way or vote.

(3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.

(4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

...."

SECTION 1.(b) This section is effective when it becomes law and applies to contracts executed on or after that date.

AMENDMENTS TO THE 2018 NORTH CAROLINA BUILDING CODE AND PLUMBING CODE

SECTION 2.(a) Definitions. – As used in this section, "Council" means the Building Code Council, "Building Code" means the 2018 North Carolina Building Code as adopted by the Council, and "Plumbing Code" means the 2018 North Carolina Plumbing Code as adopted by the Council.

SECTION 2.(b) Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code. – Until the effective date of the revised permanent rules that the Building Code Council is required to adopt pursuant to subsection (d) of this section, the Council shall implement the applicable requirements of Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code, as provided in subsection (c) of this section.

SECTION 2.(c) Implementation. – The Council shall (i) not require drinking fountains for an occupant load of 30 or fewer, (ii) only require one water closet for business occupancies with an occupant load of 30 or fewer, and (iii) not require a service sink for business and mercantile occupancies with an occupant load of 30 or fewer.

SECTION 2.(d) Additional Rule-Making Authority. – The Council shall adopt rules to amend Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Council, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

BUILDING CODE WASTE ACCUMULATION PROVISIONS

SECTION 3.(a) Definitions. – As used in this act, "Council" means the Building Code Council, "Code" means the 2018 North Carolina Fire Prevention Code (NCFPC) as adopted by the Council, and "exit obstruction and waste accumulation provisions" means sections 1031.2

(Reliability), 1031.3 (Obstructions), 304.1 (Waste accumulation prohibited), and 304.2 (Storage) of the Code.

SECTION 3.(b) New Code amendment. – Until the effective date of revised permanent rules the Council is required to adopt pursuant to subsection (d) of this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section with respect to exit obstruction and waste accumulation.

SECTION 3.(c) Implementation. – Notwithstanding any provision of the Code to the contrary, code enforcement authorities with jurisdiction over apartment occupancies shall permit doorstep refuse and recycling collection containers which stand upright on their own and do not leak liquids when standing upright in exit access corridors as follows:

(1) With respect to apartment occupancies with enclosed corridors, when all of the following conditions exist:
   a. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons and the number of containers does not exceed one refuse and one recycling collection container for a total of two containers per apartment occupancy.
   b. Waste in a doorstep refuse and recycling collection container is not placed in the exit access corridors for single periods exceeding five hours.
   c. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.
   d. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under sections 1005 and 1020.2 of the Code.
   e. Management staff of the apartment occupancy have written policies and procedures in place and enforce them to ensure compliance with this subdivision, and, upon request, provide a copy of such policies and procedures to the code enforcement authority having jurisdiction.

(2) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, when all of the following conditions exist:
   a. The maximum doorstep refuse and recycling collection container size does not exceed 27 gallons and the number of containers does not exceed one refuse and one recycling collection container for a total of two containers per apartment occupancy.
   b. Waste in a doorstep refuse and recycling collection container is not placed in the exit access corridors for single periods exceeding five hours.
   c. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under sections 1005 and 1020.2 of the Code.
   d. Management staff of the apartment occupancy have written policies and procedures in place and enforce them to ensure compliance with this subdivision, and, upon request, provide a copy of such policies and procedures to the code enforcement authority having jurisdiction.

(3) The code enforcement authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under subdivisions (1) and (2) of this section.

(4) To provide a transition period for compliance with the requirements of this section, code enforcement authorities having jurisdiction shall allow

apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(5) The use of doorstep refuse and recycling collection containers in apartment occupancies with exit access corridors or open-air corridors with balconies served by exterior exit stairs is revocable by the fire code enforcement official having jurisdiction for violations of sub-subdivisions (1)e. and (2)d. of Section 3 of this section.

SECTION 3.(d) Rule-making authority. – Notwithstanding G.S. 150B-19(4), the Council shall revise the exit obstruction and waste accumulation provisions of the NCFPC in a manner substantively identical to the provisions of subsection (c) of this section.

SECTION 3.(e) Sunset. – Subsection (c) of this section expires on the date that permanent rules adopted pursuant to subsection (d) of this section become effective. The Council may adopt temporary rules to implement this act.

SECTION 3.(f) Effective date. – This section becomes effective July 1, 2019.

MODIFY REAL ESTATE LICENSING REQUIREMENTS FOR TIME SHARE SALESPEOPLE

SECTION 4. G.S. 93A-40(a) reads as rewritten:

"(a) It shall be unlawful for any person in this State to engage or assume to engage in the business of a time share ~~salesperson without first obtaining a real estate broker license issued by the North Carolina Real Estate Commission under the provisions of Article 1 of this Chapter, and it shall be unlawful for a time share~~ developer or time share salesperson to sell or offer to sell a time share located in this State without the time share developer first obtaining a certificate of registration for the time share project to be offered for sale issued by the North Carolina Real Estate Commission under the provisions of this Article. A time share salesperson shall be a licensed real estate broker subject to the provisions of this Chapter unless the time share salesperson meets the requirement for exemption set forth in G.S. 93A-2(c)(1) or is an employee of the registered time share developer, and their income is reported on IRS Form W-2."

STUDY ONLINE CONTINUING EDUCATION REQUIREMENTS

SECTION 5.(a) Every occupational licensing board as defined in Chapter 93B of the General Statutes shall study and report on any available options offered for online continuing education if continuing education is a requirement for licensure under the occupational licensing board's applicable laws or regulations. The study and report shall include:

(1) A list and description of every option for continuing education made available to each licensee, including every traditional method, and every online method, if any are offered. If no online methods are offered, a detailed explanation as to why none are offered, which shall include any logistical, cost, legal, or other concerns.

(2) The approximate number of offerings made available for each method and the cost associated with each offering. The cost shall include a description of the fees charged to the licensee for the continuing education and the associated cost to the occupational licensing board for providing the continuing education offering.

(3) A description of how each method of continuing education offered is accessed by the licensee.

SECTION 5.(b) Each occupational licensing board required to study and report under subsection (a) of this section shall provide its report to the Joint Legislative Administrative Procedure Oversight Committee and the Program Evaluation Division no later than December 1, 2019.

STATEWIDE REQUIREMENTS FOR PIERS, DOCKS, AND BULKHEADS

SECTION 6.(a). G.S. 113A-110 is amended by adding a new subsection to read:

"(h) No land-use plan of a county, city, or lead regional organization shall be approved by the Commission under subsection (f) of this section if that land-use plan is more stringent than the State guidelines adopted under G.S. 113A-107 with respect to piers, docks, and bulkheads."

SECTION 6.(b). G.S. 153A-324 is amended by adding a new subsection to read:

"(c) A county shall have no authority to enforce an ordinance under this Article that is in violation of G.S. 113A-110(h)."

SECTION 6.(c). G.S. 160A-365 is amended by adding a new subsection to read:

"(c) A city shall have no authority to enforce an ordinance under this Article that is in violation of G.S. 113A-110(h)."

SECTION 6.(d). This section becomes effective October 1, 2019, and any ordinance not in compliance with G.S. 113A-110(h), as amended by this act, on that date shall be void and unenforceable.

EXEMPT ONSLOW COUNTY FROM VEHICLE EMISSIONS TESTING

SECTION 7.(a) G.S. 143-215.107A(c) reads as rewritten:

"(c) Counties Covered. – Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, New Hanover, ~~Onslow,~~ Randolph, Rockingham, Rowan, Union, and Wake."

SECTION 7.(b) No later than December 31, 2019, the Department of Environmental Quality shall prepare and submit to the United States Environmental Protection Agency for approval by that agency a proposed North Carolina State Implementation Plan amendment based on the change to the motor vehicle emissions testing program provided in this section.

SECTION 7.(c) Subsection (a) of this section becomes effective on the later of the following dates and applies to motor vehicles inspected, or due to be inspected, on or after that effective date:

(1) January 1, 2020.

(2) The first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved an amendment to the North Carolina State Implementation Plan submitted as required by Section 2 of this act. The Secretary shall provide this notice along with the effective date of this act on its Web site and by written or electronic notice to emissions inspection mechanic license holders, emissions inspection station licensees, and self-inspector licensees in the county where motor vehicle emissions inspection requirements are removed by this act.

SECTION 7.(d) Except as otherwise provided, this section is effective when it becomes law.

EXEMPT REFELXOLOGY FROM DEFINITION OF MASSAGE THERAPY

SECTION 8.(a) G.S. 90-622 reads as rewritten:

"**§ 90-622. Definitions.**

The following definitions apply in this Article:

...

(5a) Reflexology. – A protocol of manual techniques, including thumb- and finger-walking, hook and backup, and rotating-on-a-point, that are applied to specific reflex areas predominantly on the feet and hands and that stimulate

the complex neural pathways linking body systems and support the body's efforts to function optimally.

...."

SECTION 8.(b) G.S. 90-624 reads as rewritten:

"**§ 90-624. Activities not requiring a license to practice.**

Nothing in this Article shall be construed to prohibit or affect:

...

(9) An individual from engaging in the practice of reflexology as defined in G.S. 90-622(5a)."

ADOPT 2017 FOOD CODE

SECTION 9. Notwithstanding G.S. 150B-19(4), the Commission for Public Health may adopt rules to incorporate all or part of the 2017 edition of the United States Food and Drug Administration Food Code.

TEMPORARY EVENT VENUES

SECTION 10.(a) Part 3 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-341.4 Temporary Event Venues Authorized.**

A county may, by ordinance, establish a process to permit temporary event venues using the procedure prescribed in G.S. 160A-383.6."

SECTION 10.(b) Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A 383.6. Temporary Event Venues Authorized.**

(a) A city may, by ordinance, establish a process to permit temporary event venues as provided in this section. A temporary event venue shall be defined as an existing publically or privately owned building or structure suitable for use as a site for public or private events relating to entertainment, education, marketing, meetings, sales, trade shows, and any other activities or occasions that the city may, by ordinance, authorize. A temporary event shall be one lasting no longer 72 hours each.

(b) A city may consider a temporary event venue as a permitted accessory use in any of its zoning districts. Enactment of a temporary event venue ordinance and issuance of a temporary event permit under this section shall not be considered a zoning map amendment under this Article.

(c) Only one temporary event venue shall be allowed on a lot or parcel of land. The temporary event venue permitted under this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as otherwise provided in this section. Except as provided in subsection (h) of this section, for each temporary event venue issued a permit under this section, no more than 12 temporary events may be conducted in a calendar year.

(d) An ordinance authorizing temporary event venues shall set forth the following:

(1) The zoning districts within which a temporary event venue may lie.

(2) The process by which a person seeking a temporary event venue permit, or its renewal, must utilize.

(3) The specific criteria to be considered by the city when determining whether to issue a temporary event venue permit. The criteria shall include the character of the district in which the permit is sought and the site's suitability for use as a temporary event venue.

(4) The temporary events, not inconsistent with this subsection (a) of this section, authorized in the venue.

(5) The duration of the temporary event venue permit.

(6) Any capacity limitations of the temporary event venue.
(7) The fee structure for the fees authorized by this section.
(8) Any other relevant matters.

(e) Any person proposing to operate a temporary event venue shall first obtain a permit from the city. The issuance of a temporary event venue permit shall not be considered a quasi-judicial act. The city may charge a fee of up to one hundred dollars ($100.00) for the initial permit and an annual renewal fee of up to fifty dollars ($50.00). Before issuing or renewing a temporary event venue permit, a city shall do all of the following:

(1) Hold a public hearing. A notice of the public hearing shall be published once at least 10 days before the day fixed for the hearing.
(2) Conduct an inspection of the proposed temporary event venue to ensure that the health, safety, and welfare of the public will not be impaired by attendance at or participation in a temporary event. The inspection shall address the general structural stability of the temporary event venue, its fire safety, and whether it has sufficient toilet facilities taking into consideration its capacity.

(f) Subject to the provisions of this subsection, a city may require the permit applicant to take reasonable measures to address any safety or public health concerns raised by the inspection conducted under subsection (e) of this section. No permit shall be required under the North Carolina State Building Code or any local variant approved under G.S. 143-138(e) for any construction, installation, repair, replacement, or alteration of a temporary event venue either required by the city as a result of the inspection conducted under subsection (e) of this section or undertaken by the permittee to otherwise improve the temporary event venue. A city may require use of temporary toilet facilities at temporary events. Nothing in this section shall be construed to exempt a temporary event venue from compliance with federal law, rules, or regulations.

(g) The Building Code Council shall create an inspection checklist that may be used by counties and cities for inspections conducted under subsection (e) of this section. Nothing shall prohibit counties and cities from conducting inspections and issuing temporary event venue permits prior to promulgation by the Building Code Council of the checklist.

(h) Nothing shall preclude a permittee operating under a temporary event venue permit from seeking a rezoning of the parcel to a zoning district that would allow a permitted use of the venue for events of the type authorized by a temporary event permit. Any such rezoning application would be subject to the requirements of this Article. If a rezoning application is submitted in good faith, a city may authorize the temporary event venue to hold more than 12 temporary events in one calendar year while the rezoning is pending. If the temporary event venue is rezoned, the temporary event venue permit shall become void and the venue shall operate under all rules, regulations, and requirements of law including the North Carolina State Building Code, any local variant under G.S. 143-138(e), and city ordinances."

SECTION 10.(c) G.S. 143-138 reads as rewritten:

"**§ 143-138. North Carolina State Building Code.**

...

(b21) Exclusion for Temporary Event Venues. – No permit shall be required under the North Carolina State Building Code or any local variant approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration of a temporary event venue issued a temporary event venue permit under G.S. 160A-383.6.

...."

SECTION 10.(d) G.S. 160A-383.1 is amended by adding a new subsection to read:

"(b21) Exclusion for Temporary Event Venues. – No permit shall be required under the North Carolina State Building Code or any local variant approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration of a temporary event venue issued a temporary event venue permit under G.S. 160A-383.6."

SECTION 10.(e) This section is effective October 1, 2019.

PART II. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES REGULATION

CLARIFY LANDFILL LIFE-OF-SITE FRANCHISE REQUIREMENTS

SECTION 11. G.S. 130A-294(a4) reads as rewritten:

"(a4) In order to preserve long-term disposal capacity, a life-of-site permit issued for a sanitary landfill shall survive the expiration of a local government approval or franchise, and the local government shall allow the sanitary landfill to continue to operate until the term of the landfill's life-of-site permit expires provided that the owner or operator ~~has complied~~ is in substantial compliance with the terms of the local government approval or franchise ~~agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired.~~ agreement. In order to preserve any economic benefits included in the franchise, the County may extend the franchise under the same terms and conditions for the term of the life-of-site permit. The extension of the franchise hereby shall not trigger the requirements for a new permit, a major permit modification, or a substantial amendment to the permit. This subsection only applies to valid and operative franchise agreements in effect on October 1, 2015."

STUDY EXPRESS PERMITTING EXPANSION

SECTION 12. The Department of Environmental Quality shall study and report on additional positions and funding needed as well as any changes in State or federal laws and regulations necessary to expand the Department's express permitting programs to include additional types of permits typically required for job creating and real estate development or redevelopment activities. Additional permits considered in the study shall include, at a minimum, permits for facilities not discharging to the surface waters of the State under Article 21 of Chapter 143 of the General Statutes and permits to apply petroleum contaminated soil to land authorized under G.S. 143-215.1. The Department shall provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than March 1, 2020.

EXTEND EMERGENCY GENERAL PERMIT DEADLINES

SECTION 13. CAMA Emergency General Permit extension. – Notwithstanding the timelines set forth in 15A NCAC 07H.2502 or other applicable law to the contrary, Coastal Area Management Act Emergency General Permits authorized in response to Hurricanes Florence and Michael and activated by the Secretary of the Department of Environmental Quality in a September 20, 2018 statement, as amended on October 12, 2018, shall be subject to the following schedule:

(1) All emergency general permits must be issued by October 12, 2019.

(2) All work authorized by the emergency general permits must be completed by October 12, 2020.

WASTEWATER RESERVE PRIORITY

SECTION 14.(a) G.S. 159G-23 reads as rewritten:

"**§ 159G-23. Priority consideration for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The considerations for priority in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must consider the following items when evaluating applications:

...

(2) Effect on impaired waters. – A project that improves designated impaired waters of the ~~State.~~State, with greater priority given to projects that improve designated impaired waters of the State that serve as a public water supply for a large public water system. For purposes of this subdivision, a large public water system is one serving more than 175,000 service connections.

...

(11) ~~State water supply plan.~~ Improve regional coordination. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better ~~coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m).~~coordinated.

...

(14) Disproportionate burden to protect water supply of higher-wealth neighboring local government unit. – Wastewater system improvements made by a local government unit in order to protect or preserve the water supply of a neighboring local government unit that has a lower poverty rate, lower utility bills, higher population growth, higher median household incomes, and lower unemployment."

SECTION 14.(b) This section becomes effective July 1, 2019, and applies to applications for loans or grants from the Wastewater Reserve or the Drinking Water Reserve received by the Division of Water Infrastructure on or after that date.

PART III. MISCELLANEOUS REGULATORY REFORM PROVISIONS

ARCHITECTURAL LICENSE EXCEPTION FOR SMALL PROJECTS

SECTION 15. G.S. 83A-13 reads as rewritten:

"**§ 83A-13. Exemptions.**

...

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in one of the following categories:

...

(3) An institutional or commercial building if it does not have a total value exceeding ~~ninety~~ two hundred fifty thousand dollars ~~($90,000);~~($250,000);

(4) An institutional or commercial building if the total building area does not exceed ~~2,500~~3,000 square feet in gross floor area;

...

(c1) Notwithstanding subdivisions (c)(3) and (4) of this section, a commercial building project with a total value of less than ~~ninety~~ two hundred fifty thousand dollars ~~($90,000)~~($250,000) and a total project area of less than ~~2,500~~3,500 square feet shall be exempt from the requirement for a professional architectural seal.

..."

SALE OF SALVAGED VEHICLES

SECTION 16.(a) G.S. 20-183.4C(a) reads as rewritten:

"(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

...

(2) ~~A~~ Except as otherwise provided in this subdivision, a used vehicle must be inspected before it is offered for sale at retail in this State by a dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance. A dealer may sell, without inspection, a used vehicle issued a salvage certificate of title in accordance with the provisions of this Chapter if (i) no repairs have been made to the vehicle after issuance of the salvage certificate of title and (ii) the dealer discloses in writing on a form approved by the Division that no inspection has been performed.

...."

SECTION 16.(b) This section is effective when it becomes law and applies to used vehicles sold on or after that date.

REVENUE LAWS STUDY

SECTION 17. The Revenue Laws Study Committee is directed to study issues related to the property taxation of outdoor advertising signs. The study shall review the methods used to determine the fair market value of outdoor advertising signs in North Carolina. When conducting the study, the committee may consider whether the Billboard Structures Valuation Guide published by the North Carolina Department of Revenue provides an accurate representation of the base costs for outdoor advertising structures in North Carolina, including whether the Department should use data on actual costs attributed to structures constructed in North Carolina, and any other issues the Committee deems relevant.

The Committee shall report its findings and any legislative recommendations to the 2020 Regular Session of the 2019 General Assembly.

BROADBAND EASEMENTS

SECTION 18. G.S. 117-28.1 reads as rewritten:

"**§ 117-28.1. Electric membership corporations; easements.**

(a) Any easement owned, held, or otherwise used by an electric membership corporation for the purpose of electrification, as stated in G.S. 117-10 may also be used by the corporation, or its wholly owned subsidiary, for the ancillary purpose of supplying high-speed broadband service, where such use does not require additional construction and is ancillary to the electrification purposes for which broadband fiber is or was installed. Nothing in this subsection shall affect, abrogate, or eliminate in any way any obligation of the corporation or its wholly owned subsidiary to comply with any applicable requirements related to notice, safety, or permitting when constructing or maintaining lines or broadband fiber on, over, under, or across property owned or operated by a railroad company.

..."

DESIGN STUDY

SECTION 19.(a) Study. – The Joint Legislative Program Evaluation Oversight Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a study on the standards applicable to interior designers in North Carolina. In conducting the study, the following shall be considered:

(1) Existing certification, licensure and registration requirements in other states.
(2) Whether interior designers should be certified, licensed, or registered to practice in this State.
(3) Training requirements to be an interior designer in this State.
(4) The scope of practice for interior designers in this State.
(5) Any other issues the Program Evaluation Division deems relevant.

SECTION 19.(b) Report. – The Program Evaluation Division shall report its findings and recommendations from the study required under subsection (a) of this section to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020.

MANUFACTURED HOMES INSTALLATION

SECTION 20.(a) G.S. 160A-383.1 is amended by adding a new subsection to read:

"(g) A city may require by ordinance that manufactured homes be installed in accordance with the Set-Up and Installation Standards adopted by the Commissioner of Insurance; provided, however, a city shall not require a masonry curtain wall or masonry skirting for manufactured homes located on land leased to the homeowner."

SECTION 20.(b) This section is effective October 1, 2019.

ELECTRIC STANDUP SCOOTERS

SECTION 21.(a) G.S. 20-4.01 reads as rewritten:

"**§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

…

(7c) Electric Standup Scooter. – A device with no more than three 12-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the user while riding, and is powered by an electric motor that is capable of propelling the device with or without human propulsion at a speed no greater than 20 miles per hour on a paved level surface.

~~(7c)~~(7d) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382.

…

(23) Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include ~~mopeds or~~ mopeds, electric assisted ~~bicycles.~~bicycles, or electric standup scooters.

…

(27) Passenger Vehicles. –

…

j. Moped. – A vehicle, other than a motor-driven ~~bicycle or~~ bicycle, electric assisted bicycle, or electric standup scooter, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

…

(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter ~~bicycles and~~ bicycles, electric assisted ~~bicycles~~ bicycles, and electric standup scooters shall be deemed vehicles and every rider of a ~~bicycle or~~ bicycle, an electric assisted ~~bicycle~~ bicycle, or electric

standup scooter upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in subdivision (7b) of this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

...."

SECTION 21.(b) G.S. 20-51 is amended by adding a new subdivision to read:

"(18) Electric standup scooters as defined in G.S. 20-4.01(7c)."

SECTION 21.(c) Any and all ordinances in effect on the effective date of this act or hereinafter adopted by a municipality that conflict with the provisions of this act shall be null and void. Upon the effective date of this act, any municipality that has adopted an ordinance or regulation affecting electric standup scooters shall conduct a review of those ordinances and regulations to ensure compliance with this act.

SECTION 21.(d) This act is effective when it becomes law and applies to offenses committed on or after that date.

PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 22.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 22.(b) Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 3

SENATE BILL 553
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/23/19
Third Edition Engrossed 6/10/19

Short Title: Regulatory Reform Act of 2019. (Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITTING FROM PUBLIC CONTRACTS

SECTION 1.(a) G.S. 14-234 reads as rewritten:

"**§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

...

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

(1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twenty thousand dollars ($20,000) for medically related services

and ~~forty thousand dollars ($40,000)~~ sixty thousand dollars ($60,000) for other goods or services within a 12-month period.

(2) The official entering into the contract with the unit or agency does not participate in any way or vote.

(3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.

(4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

...."

SECTION 1.(b) This section is effective when it becomes law and applies to contracts executed on or after that date.

AMENDMENTS TO THE 2018 NORTH CAROLINA BUILDING CODE AND PLUMBING CODE

SECTION 2.(a) Definitions. – As used in this section, "Council" means the Building Code Council, "Building Code" means the 2018 North Carolina Building Code as adopted by the Council, and "Plumbing Code" means the 2018 North Carolina Plumbing Code as adopted by the Council.

SECTION 2.(b) Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code. – Until the effective date of the revised permanent rules that the Building Code Council is required to adopt pursuant to subsection (d) of this section, the Council shall implement the applicable requirements of Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code, as provided in subsection (c) of this section.

SECTION 2.(c) Implementation. – The Council shall (i) not require drinking fountains for an occupant load of 30 or fewer, (ii) only require one water closet for business occupancies with an occupant load of 30 or fewer, and (iii) not require a service sink for business and mercantile occupancies with an occupant load of 30 or fewer.

SECTION 2.(d) Additional Rule-Making Authority. – The Council shall adopt rules to amend Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Council, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

MODIFY REAL ESTATE LICENSING REQUIREMENTS FOR TIME SHARE SALESPEOPLE

SECTION 3. G.S. 93A-40(a) reads as rewritten:

"(a) It shall be unlawful for any person in this State to engage or assume to engage in the business of a time share ~~salesperson without first obtaining a real estate broker license issued by~~

~~the North Carolina Real Estate Commission under the provisions of Article 1 of this Chapter, and it shall be unlawful for a time share~~ developer or time share salesperson to sell or offer to sell a time share located in this State without the time share developer first obtaining a certificate of registration for the time share project to be offered for sale issued by the North Carolina Real Estate Commission under the provisions of this Article. A time share salesperson shall be a licensed real estate broker subject to the provisions of this Chapter unless the time share salesperson meets the requirement for exemption set forth in G.S. 93A-2(c)(1) or is an employee of the registered time share developer, and their income is reported on IRS Form W-2."

STUDY ONLINE CONTINUING EDUCATION REQUIREMENTS

SECTION 4.(a) Every occupational licensing board as defined in Chapter 93B of the General Statutes shall study and report on any available options offered for online continuing education if continuing education is a requirement for licensure under the occupational licensing board's applicable laws or regulations. The study and report shall include:

(1) A list and description of every option for continuing education made available to each licensee, including every traditional method, and every online method, if any are offered. If no online methods are offered, a detailed explanation as to why none are offered, which shall include any logistical, cost, legal, or other concerns.

(2) The approximate number of offerings made available for each method and the cost associated with each offering. The cost shall include a description of the fees charged to the licensee for the continuing education and the associated cost to the occupational licensing board for providing the continuing education offering.

(3) A description of how each method of continuing education offered is accessed by the licensee.

SECTION 4.(b) Each occupational licensing board required to study and report under subsection (a) of this section shall provide its report to the Joint Legislative Administrative Procedure Oversight Committee and the Program Evaluation Division no later than December 1, 2019.

PART II. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES REGULATION

REPURPOSE PRE-REGULATORY LANDFILL FUNDS

SECTION 6. Section 13.2 of S.L. 2018-5, as amended by Section 4.2 of S.L. 2018-97, reads as rewritten:

"**SECTION 13.2.** Notwithstanding G.S. 130A-310.11(b), up to two million dollars ($2,000,000) of the funds credited to the Inactive Hazardous Sites Cleanup Fund under G.S. 105-187.63 for the assessment and remediation of pre-1983 landfills shall instead be used by the Department of Environmental Quality's Division of Waste Management to provide a matching grant to Charlotte Motor Speedway, LLC, (CMS) for the purpose of remediation activities at the Charlotte Motor Speedway in Cabarrus County. The Division shall provide one dollar ($1.00) for every ~~two~~ one non-State ~~dollars ($2.00)~~ dollar ($1.00) provided in kind or otherwise, up to a maximum of two million dollars ($2,000,000) for the matching grant described in this section. CMS may allocate all or a portion of the grant provided by this section to an entity that controls CMS or an entity controlled by CMS. Entities receiving such an allocation shall be considered a subgrantee as defined in G.S. 143C-6-23."

CLARIFY LANDFILL LIFE-OF-SITE FRANCHISE REQUIREMENTS

SECTION 7. G.S. 130A-294(a4) reads as rewritten:

"(a4) In order to preserve long-term disposal capacity, a life-of-site permit issued for a sanitary landfill shall survive the expiration of a local government approval or franchise, and the local government shall allow the sanitary landfill to continue to operate until the term of the landfill's life-of-site permit expires provided that the owner or operator ~~has complied~~ is in substantial compliance with the terms of the local government approval or franchise ~~agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired.~~ agreement. In order to preserve any economic benefits included in the franchise, the County may extend the franchise under the same terms and conditions for the term of the life-of-site permit. The extension of the franchise hereby shall not trigger the requirements for a new permit, a major permit modification, or a substantial amendment to the permit. This subsection only applies to valid and operative franchise agreements in effect on October 1, 2015."

ALLOW FLOOD HAZARD AREA FILL FOR AGRICULTURAL USES WHEN IMPACT IS FLOOD STORAGE NEUTRAL

SECTION 8. G.S. 143-215.54 reads as rewritten:

"**§ 143-215.54. Regulation of flood hazard areas; prohibited uses.**

(a) A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas that are consistent with the requirements of this Part.

(b) The following uses may be made of flood hazard areas without a permit issued under this Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, aquaculture, and other similar agricultural, wildlife and related ~~uses;~~uses.

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area ~~uses;~~uses.

(3) Lawns, gardens, play areas and other similar ~~uses;~~uses.

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(5) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan.

(6) Land application of septage consistent with a permit issued under G.S. 130A-291.1.

(b1) A local government may not adopt ordinances or require permits to regulate uses allowed under subdivision (1) of subsection (b) of this section in flood hazard areas, if the loss of flood storage capacity in the flood hazard area caused by the new use is offset by the use of compensatory storage. If, however, the loss of flood storage capacity in the flood hazard area caused by the new use is not offset by the use of compensatory storage, a local government may adopt ordinances or require permits to regulate uses allowed under subdivision (1) of subsection (b) of this section in flood hazard areas. In the case of a permit required by a local government as allowed by this subsection, a local government is authorized to charge an application fee in an amount not to exceed one hundred dollars ($100.00).

(c) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities are prohibited in the 100-year floodplain except as authorized under G.S. 143-215.54A(b)."

STUDY EXPRESS PERMITTING EXPANSION

SECTION 9. The Department of Environmental Quality shall study and report on additional positions and funding needed as well as any changes in State or federal laws and regulations necessary to expand the Department's express permitting programs to include additional types of permits typically required for job creating and real estate development or redevelopment activities. Additional permits considered in the study shall include, at a minimum, permits for facilities not discharging to the surface waters of the State under Article 21 of Chapter 143 of the General Statutes and permits to apply petroleum contaminated soil to land authorized under G.S. 143-215.1. The Department shall provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than March 1, 2020.

AMEND SEPTIC TANK SITE SUITABILITY DETERMINATION PROCESS

SECTION 9.1. G.S. 130A-335 is amended by adding a new subsection to read:

"(j) Notwithstanding any other provision of law, a local health department may determine site suitability for a ground absorption sewage treatment and disposal system under rules adopted by the Commission or based on written documentation, including engineering, hydrogeologic, geologic, or soil studies, that indicates all of the following:

(1) The system can be installed so that the effluent will be nonpathogenic, noninfectious, nontoxic, and nonhazardous.

(2) The effluent will not contaminate groundwater or surface water.

(3) The effluent will not be exposed on the ground surface or be discharged to surface waters where it could come into contact with people, animals, or vectors."

PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 10.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 10.(b) Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 553

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S553-ABC-48 [v.1]

Amends Title [NO]
Third Edition

Date 25 June ,2019

Representative Warren

moves to amend the bill on page 12, lines 22-23, by inserting a line between the lines to read:

"**DEPARTMENT OF TRANSPORTATION STUDY**

SECTION 22.(a) Study. – The Department of Transportation shall study the needs of law enforcement, emergency medical and emergency management personnel, and firefighters to improve access to or within the interstate system within this State for the benefit of public safety. In conducting the study, the Department of Transportation may consult with the Division of Emergency Management of the Department of Public Safety, the Office of State Fire Marshal of the Department of Insurance, the Office of Emergency Medical Services of the Department of Health and Human Services, and any other State or local government organizations the Department of Transportation determines may be of assistance in the course of the study. In performing the study, the Department of Transportation shall, at a minimum, take the following steps:

(1) Consult with county fire marshal divisions, emergency management offices, and emergency medical service divisions to determine potential sites of interest for construction or improvement relevant to the study.

(2) Establish criteria to prioritize sites of interest for either construction or improvement.

(3) Review applicable federal and State laws, codes, standards, and studies relevant to the study.

(4) Review (i) existing Department of Transportation planning, design, and construction standards for interchanges, median crossovers, and access points and (ii) how those standards consider the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.

(5) Consider the feasibility of providing opportunities for stakeholder input during the planning of future interstate improvements that focus on the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.

(6) Examine any other matters the Department of Transportation deems relevant in the course of the study.

SECTION 22.(b) Report. – The Department of Transportation shall report the findings and recommendations, including any legislative proposals, to the Joint Legislative

Oversight Committee on Justice and Public Safety, the Joint Legislative Emergency Management Oversight Committee, and the Joint Legislative Transportation Oversight Committee no later than March 1, 2022.";

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 553

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S553-ABC-50 [v.1]

Amends Title [NO]
Third Edition

Date June 25 2019 ,2019

Representative Queen

moves to amend the bill on page 9, line 36, by rewriting the line to read:
"exceeding ~~ninety~~ one hundred seventy-five thousand dollars ~~($90,000);~~($175,000);";

And on page 9, lines 41-42, by rewriting the lines to read:
"project with a total value of less than ~~ninety~~ one hundred seventy-five thousand dollars ~~($90,000)~~($175,000) and a total project area of less than ~~2,500~~3,000 square feet shall be exempt"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S553-ABC-50-V-1

Committee Bill Action Sheet

Date: 6/25/19

Committee: Reg Reform

Chair: Yarborough

Bill #: SB 553

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: YES Brody/Warren's amendment adopted explained Queen - adopted

Serial referral to: RULES

Representative/Senator Brody Section 1, Riddell Section 2 explained the bill.

Floor Manager: Yarborough

Rep. Riddell motioned for:

____Favorable Report

____Favorable to PCS, unfavorable to original bill

✓ Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers Sarah Collins - League of Municipalities

Attached Handouts: YES/NO

Adjourn 12:20

This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 604: Amend NC Veterinary Practice Act.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 24, 2019
Introduced by:	Sen. Rabon	**Prepared by:**	Jason Moran-Bates
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: Senate Bill 604 would: (i) define "impairment" for purposes of the Veterinary Medical Board (Board) and allow the Board to take disciplinary action against registrants for impairment, (ii) amend the extent to which a person may administer to an animal owned by the person, (iii) require veterinary facility permits for any facility where veterinary medicine is practiced, and (iv) allow a business entity to own a veterinary facility upon obtaining a veterinary facility permit.

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the bill would define "impairment" for purposes of the Veterinary Medical Board. "Impairment" would mean an individual's inability to practice veterinary medicine, inability to assist in the delivery of veterinary services as a registered veterinary technician, or inability to perform acts, tasks, and functions with reasonable skill and safety, and in a manner not harmful to the public or to animals, by reason of physical or mental illness or condition, or use of alcohol, drugs, chemicals, or any other type of substance or material. This section would also allow the Board to take disciplinary action against registered veterinary technicians, registered student interns, and registered student preceptees for impairment. Under current law, the Board is only explicitly authorized to take disciplinary action against licensed veterinarians for impairment caused by alcohol, drugs, or controlled substances.

This section would be effective when it becomes law.

Under current law, the necessity for a license to practice veterinary medicine does prohibit "any person from administering to animals, the title to which is vested in the person or the person's employer...." **Section 2** would provide specific limitations on what activities a person may engage in, for animals owned by the person or their employer, without a license to practice veterinary medicine. These would include:

- Administering to food animals or to animals maintained for the production of food or fiber.
- Administering first aid, not including surgery or invasive procedures, to companion animals in emergency situations.
- Administering routine disease prevention pharmaceuticals to companion animals.

Section 3 would amend the definition of "person" for purposes of the Veterinary Medical Board to include an "entity."

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Section 4 would direct the Board to adopt rules to establish provisions and requirements for a new veterinary facility permit, the issuance of which shall be required for any facility where veterinary medicine is practiced, except for animal shelters registered with the Department of Agriculture and Consumer Services. The Board would also be directed to adopt rules requirements for a supervising veterinarian for each veterinary facility maintaining a valid veterinary facility permit.

Section 5 would make conforming changes.

Under current law, no person may engage in the practice of veterinary medicine or own a full or partial interest in a veterinary medical practice in this State without a veterinary license from the Board. **Section 6.(a)** would provide that no individual may practice veterinary medicine without a license from the board, and that no person (which includes entities, partnerships, corporations, etc.) may own a veterinary facility without having a veterinary facility permit from the Board.

Section 6.(b) would also repeal a provision that requires all partners to be licensed when the practice of veterinary medicine is carried on by a partnership, and prohibits any corporation to practice or offer to practice veterinary medicine as defined in this Article, except as a professional corporation organized as provided in Chapter 55B of the General Statutes.

Section 6.(c) would make technical changes.

EFFECTIVE DATE: Sections 1, 2, 3, 4, and 7 of this act are effective when they become law. Sections 5 and 6 of this act are effective 60 days after the date that the rules adopted pursuant to Section 4 of this act become effective.

****Chris Saunders of the Legislative Analysis Division substantially contributed to this summary.****

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 3

SENATE BILL 604

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/2/19
Third Edition Engrossed 5/7/19

Short Title: Amend NC Veterinary Practice Act. (Public)

Sponsors:

Referred to:

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO REGULATE IMPAIRMENT IN VETERINARY PRACTICE, ALLOW VETERINARY FACILITY PERMITTING, AND MAKE TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

PART I. REGULATE IMPAIRMENT IN VETERINARY PRACTICE

SECTION 1.(a) G.S. 90-181 is amended by adding a new subdivision to read:

"(12) "Impairment" means an individual's inability to practice veterinary medicine, the inability to assist in the delivery of veterinary services as a registered veterinary technician, or the inability to perform acts, tasks, and functions with reasonable skill and safety, and in a manner not harmful to the public or to animals, by reason of physical or mental illness or condition, or use of alcohol, drugs, chemicals, or any other type of substance or material."

SECTION 1.(b) G.S. 90-187.8(c) reads as rewritten:

"(c) Grounds for disciplinary action shall include but not be limited to the following:

...

(3) The impairment of ~~a person~~ an individual holding a license or registration issued by the Board, when the impairment ~~is caused by that person's use of alcohol, drugs, or controlled substances, and the impairment~~ interferes with that ~~person's~~ individual's ability to practice within the scope of the license or registration with reasonable skill and ~~safety~~ safety, and in a manner not harmful to the public or to animals under the ~~person's~~ individual's care.

...."

PART II. CLARIFY EXEMPTED PRACTICES

SECTION 2.(a) G.S. 90-187.10 reads as rewritten:

"**§ 90-187.10. Necessity for license; certain practices exempted.**

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

(1) Any person from administering to ~~animals, the title to which is vested in~~ food animals or to animals maintained for the production of food or fiber; administering first aid, not including surgical or invasive procedures, to companion animals in emergency situations; or administering routine disease prevention pharmaceuticals to companion animals; provided that the animals are owned by the person or the person's employer, except when ~~the title is so vested~~ the ownership is asserted for the purpose of circumventing the provisions of this Article;

...."

SECTION 2.(b) Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ G.S. 90-187.16. Practice of veterinary medicine allowed at registered animal shelters.**

Notwithstanding any rule adopted by the Board prescribing minimum facility and practice standards for any location where veterinary medicine is practiced, a licensed veterinarian may practice veterinary medicine, including surgery and invasive procedures, at an animal shelter registered with the Department of Agriculture and Consumer Services, consistent with any rules adopted by the Department of Agriculture and Consumer Services concerning animal shelters."

SECTION 3. G.S. 90-181(5) reads as rewritten:

"(5) "Person" means any individual, firm, entity, partnership, association, joint venture, cooperative or corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person."

PART III. FACILITY PERMITTING

SECTION 4.(a) G.S. 90-186 is amended by adding two new subdivisions to read:

"(8) Pursuant to administrative rule, the Board may establish all provisions and requirements for a veterinary facility permit, the issuance of which shall be required for any facility where veterinary medicine is practiced, except for animal shelters registered with the Department of Agriculture and Consumer Services.

(9) Pursuant to administrative rule, the Board may establish all provisions and requirements for a supervising veterinarian for each veterinary facility maintaining a valid veterinary facility permit."

SECTION 4.(b) The Veterinary Medical Board shall adopt rules to implement subsection (a) of this section.

SECTION 5.(a) G.S. 90-181.1 reads as rewritten:

"**§ 90-181.1. ~~Practice facility~~ Facility names and levels of service.**

(a) In order to accurately inform the public of the levels of service offered, a veterinary ~~practice~~ facility shall use in its name one of the descriptive terms defined in subsection (b) of this section. The name of a veterinary ~~practice~~ facility shall, at all times, accurately reflect the level of service being offered to the public. If a veterinary facility or practice offers on-call emergency service, that service must be as that term is defined in subsection (b) of this section.

(b) The following definitions are applicable to this section:

(1) "Animal health center" or "animal medical center" means a veterinary ~~practice~~ facility in which consultative, clinical, and hospital services are rendered and in which a large staff of basic and applied veterinary scientists perform significant research and conduct advanced professional educational programs.

(2) "Emergency facility" means a veterinary medical facility whose primary function is the receiving, treatment, and monitoring of emergency patients

during its specified hours of operation. At this veterinary ~~practice~~ facility a veterinarian is in attendance at all hours of operation and sufficient staff is available to provide timely and appropriate emergency care. An emergency facility may be an independent veterinary medical after-hours facility, an independent veterinary medical 24-hour facility, or part of a full-service hospital or large teaching institution.

(3) "Mobile facility" means a veterinary practice conducted from a vehicle with special medical or surgical facilities or from a vehicle suitable only for making house or farm calls; provided, the veterinary medical practice shall have a permanent base of operation with a published address and telephone facilities for making appointments or responding to emergency situations.

(4) "Office" means a veterinary ~~practice~~ facility where a limited or consultative practice is conducted and which provides no facilities for the housing of patients.

(5) "On-call emergency service" means a veterinary medical service at a ~~practice~~ facility, including a mobile facility, where veterinarians and staff are not on the premises during all hours of operation or where veterinarians leave after a patient is treated. A veterinarian shall be available to be reached by telephone for after-hours emergencies.

(6) "Veterinary clinic" or "animal clinic" means a veterinary ~~practice~~ facility in which the practice conducted is essentially an out-patient practice.

(7) "Veterinary hospital" or "animal hospital" means a veterinary ~~practice~~ facility in which the practice conducted includes the confinement as well as the treatment of patients.

(c) If a veterinary ~~practice~~ facility uses as its name the name of the veterinarian or veterinarians owning or operating the facility, the name of the veterinary ~~practice~~ facility shall also include a descriptive term from those listed in subsection (b) of this section to disclose the level of service being offered.

(d) Those facilities existing and approved by the Board as of December 31, 1993, may continue to use their approved name or designation until there is a partial or total change of ownership of the facility, at which time the name of the veterinary ~~practice~~ facility shall be changed, as necessary, to comply with this section."

SECTION 5.(b) G.S. 90-186 reads as rewritten:

"**§ 90-186. Special powers of the Board.**

In addition to the powers set forth in G.S. 90-185 above, the Board may:

...

(3) Upon complaint or information received by the Board, prohibit through summary emergency order of the Board, prior to a hearing, the operation of any veterinary ~~practice~~ facility that the Board determines is endangering, or may endanger, the public health or safety or the welfare and safety of animals, and suspend the license of the veterinarian operating the veterinary ~~practice~~ facility, provided that upon the issuance of any summary emergency order, the Board shall initiate, within 10 days, a notice of hearing under the administrative rules issued pursuant to this Article and Chapter 150B of the General Statutes for an administrative hearing on the alleged violation;

...

(6) Set and require fees pursuant to administrative rule. The Board may increase the following fees, provided (i) no fee shall be increased more than fifteen percent (15%) within a calendar year and (ii) the cumulative total increases of any fee shall not exceed one hundred percent (100%) of the fee amounts set in this subdivision:

...

d. Inspection of a veterinary ~~practice~~ facility in the amount of one hundred twenty-five dollars ($125.00).

...."

SECTION 6.(a) G.S. 90-187.10 reads as rewritten:

"**§ 90-187.10. Necessity for license; certain practices exempted.**

No ~~person~~ individual shall engage in the practice of veterinary medicine ~~or own all or part interest in a veterinary medical practice in this State or attempt to do so~~ without having ~~first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.~~a veterinary license from the Board. No person, as defined in G.S. 90-181(5), may own a veterinary facility without having a veterinary facility permit from the Board.

...."

SECTION 6.(b) G.S. 90-187.11 is repealed.

SECTION 6.(c) G.S. 90-187.12 reads as rewritten:

"**§ 90-187.12. Unauthorized practice; penalty.**

~~If any person shall~~An individual shall be guilty of a Class 1 misdemeanor if the individual engages in any of the following activities:

(1) ~~Practice~~ Practices or ~~attempt~~ attempts to practice veterinary medicine in this State without first having obtained a license or temporary permit from the ~~Board; or~~Board.

(2) ~~Practice~~ Practices veterinary medicine without ~~the renewal of his~~ renewing the individual's license, as provided in ~~G.S. 90-187.5; or~~G.S. 90-187.5.

(3) ~~Practice~~ Practices or ~~attempt~~ attempts to practice veterinary medicine while ~~his~~ the individual's license is revoked, or suspended, or when a certificate of license has been ~~refused; or~~refused.

(4) ~~Violate~~ Violates any of the provisions of this ~~Article,~~Article.

~~said person shall be guilty of a Class 1 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense.~~"

PART IV. EFFECTIVE DATE

SECTION 7. Sections 1, 2, 3, 4, and 7 of this act are effective when they become law. Sections 5 and 6 of this act are effective 60 days after the date that the rules adopted pursuant to Section 4 of this act become effective.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 604

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S604-ABC-49 [v.1]

Amends Title [NO]
Third Edition

Date 25 June ,2019

Representative Brody

moves to amend the bill on page 2 lines 35-36, by inserting a line between the lines to read:

"(10) Pursuant to administrative rule, the Board may establish all provisions and requirements for the regulation of the practice of veterinary medicine through methods or modes of veterinary telehealth and its subcategories, including telemedicine, teleconsulting, and telemonitoring. The Board may also establish all provisions and requirements as to when and where veterinary telehealth or any of its subcategories may occur, who may provide veterinary care via telehealth or any of its subcategories, and the requirements for the veterinarian-client-patient relationship as it pertains to the methods or modes of veterinary telehealth and its subcategories.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

Committee Bill Action Sheet

Date: 6/25/19

Committee: Reg Reform

Chair: Yarborough

Bill #: SB 604

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: YES - adopted

Serial referral to: Rules

Representative/Senator Rabon explained the bill.

Floor Manager: Rep Bell

Rep. Brody motioned for:

X Favorable Report

____Favorable to PCS, unfavorable to original bill

✓ Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

SENATE BILL 444:
Allow Use of Oyster Shells As Serving Dishes.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 24, 2019
Introduced by:	Sen. McInnis	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	First Edition		

OVERVIEW: Senate Bill 444 would permit oyster shells to be re-used to serve cooked oysters.

BILL ANALYSIS: The bill would permit restaurants to re-use oyster shells to serve cooked, shucked oysters, provided that all of the following apply:

- The restaurant posts a sign advising the public oyster shells are re-used to serve cooked oysters.
- The shell is protected from contamination by boiling it for 10 minutes, drying it, and refrigerating it until it is used.
- The shell is re-used within 48 hours after the oyster is removed from the shell.

EFFECTIVE DATE: This act would be effective October 1, 2019.

Karen Cochrane-Brown
Director

S444-SMBC-96 E1 -V-1

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

SENATE BILL 444

Short Title:	Allow Use of Oyster Shells As Serving Dishes.	(Public)
Sponsors:	Senator McInnis (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

April 2, 2019

A BILL TO BE ENTITLED

AN ACT ALLOWING FOOD ESTABLISHMENTS TO REPURPOSE OYSTER SHELLS AS SERVING DISHES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-248 is amended by adding a new subsection to read:

"(c3) Notwithstanding any provision of this Part, a food establishment may reuse an oyster shell to serve shucked oysters that are cooked, regardless if the shucked oysters are reused in the same shells from which they originated, provided the establishment does all of the following:

(1) Posts on the premises a conspicuous sign, clearly legible, and easily readable by the public, advising that the establishment reuses oyster shells to serve cooked oysters.

(2) Protects each reused oyster shell from contamination by, at a minimum, doing all of the following on the same day the oyster is removed from the shell:

a. Boils the shell for a minimum of ten minutes.

b. Thoroughly dries the shell.

c. Stores the shell in a covered container that is refrigerated until it is reused.

(3) Reuses the shell within 48 hours after the oyster is removed from the shell."

SECTION 2. This act becomes effective October 1, 2019.

Committee Bill Action Sheet

Date: 6/25/19

Committee: Reg Reform

Chair: Yarborough

Bill #: SB 444

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: RULES

Representative/Senator McGinnis explained the bill.

Floor Manager: Brody

Rep. Kidwell motioned for:

✓ Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

SENATE BILL 353:
Expand Cartway Path Law.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 25, 2019
Introduced by:	Sens. McInnis, Gunn, Wells	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 353 would authorize the establishment of a cartway of not less than 18 feet in width and not more than 30 feet in width.

CURRENT LAW: Under current law, certain persons may attempt to obtain a cartway across the property of another by instituting a special proceeding in the superior court of the county where the property is located. A cartway will be granted only if:

- The person seeking the cartway is engaged in or preparing for one of the following activities on their property: cultivating land; cutting timber; working quarries, mines, or minerals; operating an industrial or manufacturing plant; or operating a public or private cemetery.
- The property is landlocked, lacking a public road or other adequate means of transportation to and from the property.
- The court determines that a cartway is necessary, reasonable, and just.

If the court determines that a cartway should be granted, it will appoint a "jury of view" comprising three disinterested property owners to lay off a cartway of not less than 18 feet in width. There currently is no maximum width for the cartway that may be established through this procedure.

BILL ANALYSIS: Senate Bill 353 would authorize a jury of view to lay off a cartway of not less than 18 feet in width and not more than 30 feet in width.

EFFECTIVE DATE: This act would become effective when it becomes law and apply to special proceedings on or after that date.

**Jeff Hudson and Shawn Middlebrooks, Staff Attorneys with the Legislative Analysis Division, substantially contributed to this summary.*

Karen Cochrane-Brown
Director

S353-SMBH-81 E2 -V-1

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S 2

SENATE BILL 353
Judiciary Committee Substitute Adopted 4/17/19

Short Title: Expand Cartway Path Law. (Public)

Sponsors:

Referred to:

March 26, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR THE LAYING OFF OF A CARTWAY OF UP TO THIRTY FEET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-69 reads as rewritten:

"**§ 136-69. Cartways, tramways, etc., laid out; procedure.**

(a) If any person, firm, association, or corporation shall be engaged in the cultivation of any land or the cutting and removing of any standing timber, or the working of any quarries, mines, or minerals, or the operating of any industrial or manufacturing plants, or public or private cemetery, or taking action preparatory to the operation of any such enterprises, to which there is leading no public road or other adequate means of transportation, other than a navigable waterway, affording necessary and proper means of ingress thereto and egress therefrom, such person, firm, association, or corporation may institute a special proceeding as set out in the preceding section (G.S. 136-68), and if it shall be made to appear to the court necessary, reasonable and just that such person shall have a private way to a public road or watercourse or railroad over the lands of other persons, the court shall appoint a jury of view of three disinterested freeholders to view the premises and lay off a cartway, tramway, or railway of not less than 18 feet in ~~width,~~ width and not more than 30 feet in width, or cableways, chutes, and flumes, and assess the damages the owner or owners of the land crossed may sustain thereby, and make report of their findings in writing to the clerk of the superior court. Exceptions to said report may be filed by any interested party and such exceptions shall be heard and determined by the clerk of the superior court. The clerk of the superior court may affirm or modify said report, or set the same aside and order a new jury of view. All damages assessed by a judgment of the clerk, together with the cost of the proceeding, shall be paid into the clerk's office before the petitioners shall acquire any rights under said proceeding.

...

(c) Where a tract of land lies partly in one county and partly in an adjoining county, or where a tract of land lies wholly within one county and the public road nearest or from which the most practical roadway to said land would run, lies in an adjoining county and the practical way for a cartway to said land would lead over lands in an adjoining county, then and in that event the proceeding for the laying out and establishing of a cartway may be commenced in either the county in which the land is located or the adjoining county through which said cartway would extend to the public road, and upon the filing of such petition in either county the clerk of the court shall have jurisdiction to proceed for the appointment of a jury from the county in which the petition is filed and proceed for the laying out and establishing of a cartway as if the tract of land to be reached by the cartway and the entire length of the cartway are all located within the bounds of said county in which the petition may be filed."

SECTION 2. This act is effective when it becomes law and applies to special proceedings filed on or after that date.

Committee Bill Action Sheet

Date: 6/25/19

Committee: Reg Reform

Chair: Yarborough

Bill #: SB 353

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: Rules

Representative/Senator McGinnis explained the bill.

Floor Manager: Brody

Rep. Kidwell motioned for:

✓ Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

SENATE BILL 208:
Limit Local Restrictions/Noncommercial Signs.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	June 25, 2019
Introduced by:	Sens. McInnis, Daniel, Hise	**Prepared by:**	Jeremy Ray* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: ***Senate Bill 208 would prohibit local government regulation of the size or height of noncommercial signs not exceeding specified dimensions that are placed outside of any State highway or municipal street right-of-way on private property with the permission of the owner. This act would be effective when it becomes law.***

CURRENT LAW: Local governments are currently authorized to prohibit or regulate the placement of signs on private property under planning and general police powers granted in Articles 6 and 18 of Chapter 153A and Articles 8 and 19 of 160A of the General Statutes.

G.S. 136-32 permits only political signs meeting certain location and size requirements to be placed in the right-of-way of the State highway system during a limited period in connection with primaries and elections. These requirements also apply to a political sign that is placed within the right-of-way of a municipal street if such signs are not prohibited or regulated by a municipal ordinance. For purposes of this statute, a "political sign" is defined as a noncommercial sign that advocates for political action.

BILL ANALYSIS: **Sections 1 and 2** would prohibit county regulation of the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32, if the sign does not exceed 64 square feet in size and 6 feet in height and is placed on private property with the owner's permission outside of any right-of-way of a State Highway.

Sections 3 and 4 would prohibit municipal regulation of the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32, if the sign does not exceed 64 square feet in size and 6 feet in height and is placed on private property with the owner's permission outside of any right-of-way of a State Highway or municipal street.

EFFECTIVE DATE: This act is effective when it becomes law.

**Jessica Sammons and Bill Patterson, Staff Attorneys with the Legislative Analysis Division, substantially contributed to this summary.*

Karen Cochrane-Brown
Director

S208-SMBH-82 E2 -V-1

Legislative Analysis Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SENATE BILL 208
State and Local Government Committee Substitute Adopted 4/30/19

Short Title: Limit Local Restrictions/Noncommercial Signs. (Public)

Sponsors:

Referred to:

March 11, 2019

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT LOCAL REGULATION OF THE SIZE OR HEIGHT OF CERTAIN NONCOMMERCIAL SIGNS PLACED OUTSIDE OF THE RIGHT-OF-WAY ON PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-145.8. Limitation on regulation of political signs.**

Notwithstanding any provision of this Article or any other provision of law, no county shall adopt or continue in effect an ordinance prohibiting or regulating the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32(c), that does not exceed 64 square feet in size or 6 feet in height, and that is placed on private property with the permission of the owner of the property and outside of any right-of-way of a State highway."

SECTION 2. Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-379. Limitation on regulation of political signs.**

Notwithstanding any provision of this Article or any other provision of law, no county shall adopt or continue in effect an ordinance prohibiting or regulating the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32(c), that does not exceed 64 square feet in size or 6 feet in height, and that is placed on private property with the permission of the owner of the property and outside of any right-of-way of a State highway."

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

"**§ 160A-205.4. Limitation on regulation of political signs.**

Notwithstanding any provision of this Article or any other provision of law, no municipality shall adopt or continue in effect an ordinance prohibiting or regulating the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32(c), that does not exceed 64 square feet in size or 6 feet in height, and that is placed on private property with the permission of the owner of the property and outside of any right-of-way of a State highway or municipal street."

SECTION 4. Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-367. Limitation on regulation of political signs.**

Notwithstanding any provision of this Article or any other provision of law, no municipality shall adopt or continue in effect an ordinance prohibiting or regulating the size or height of a noncommercial sign, including a political sign as defined in G.S. 136-32(c), that does not exceed

64 square feet in size or 6 feet in height, and that is placed on private property with the permission of the owner of the property and outside of any right-of-way of a State highway or municipal street."

SECTION 5. This act is effective when it becomes law.

Committee Bill Action Sheet

Date: 6/25/19

Committee: Reg Reform

Chair: Yarborough

Bill #: SB 208

PCS: YES/NO_____ Motion made PCS before the Committee_____

Amendments: _____

Serial referral to: Rules

Representative/Senator McGinnis explained the bill.

Floor Manager: Brody

Rep. Stevens motioned for:

✓ Favorable Report

____Favorable to PCS, unfavorable to original bill

____Favorable to new PCS with Amendments rolled in, unfavorable to original bill

____Adoption (Conference Report/House Resolution)

____Unfavorable Report (recommend not be passed) (Minority report YES/NO)

_____No vote or Bill sponsor pulled bill from consideration

_____Concur or NOT Concur (SCS on a House bill)

Vote: _____ (Voice Vote/Show of hands (Division called)/Roll Call)

Speakers_____

_____

_____

Attached Handouts: YES/NO

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sarah Bales	Brubaker & Assoc
Deni Burke	NWC
David Crawford	AIA NC
Jon Carr	Jordan Price Law Firm
Fred Bone	Bone Assoc.
[illegible]	NWC
George Hearn	NC Veterinary Medical Board
[illegible] Schaffer	NC Veterinary Medical Board
Sarah Collins	NCLM
Demetrius Deloatch	NCLM
Rhaegan Jackson	FOCUS Strategies
Rob [illegible]	RLA

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tyler Newman	BBS
Ashley Nott	NCCU
Mackenzie Webb	
Canaan Hill	MVA
Daniel Blum	Thoroughbreds
Scott Castor	KCANC
Chris Wall	PG
Brooks Rainey Pecan	JFLC
Lexi Authm	CRMCA | FCNC
	Duke Energy
A. B. Swindell	Waste Ind

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tony Adams	Adams and Assoc.
Chelsea Wilson	BWST
Nicole Fountain	Young Moore
Tim Norman	NC Electrical Board
Tim Minton	NCHBA
Steven Webb	NCHBA
Rick Zechini	Williams Mullen
JERRY SCHILL	NC Fisheries Assoc
Jamie Villa-Grua	NCRLA
Marissa Turner	TSS

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Sevier	NWE
Amber Harris	NCACC
David McGowan	NCPC
Frank Bragg	NCMHA
Stephen Kousa	KMA
Andy Chase	KMA
[illegible]	NCHBA
S Cabbin	TI
[illegible]	CCA
[illegible]	Gordon Price, Ed.
[illegible]	NCAEC

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Hooten	NC Center for Nonprofits
Cassie Gavin	Sierra Club
Aftre Wimberly	NCCN
Elizabeth Robinson	NCRMA
Jessica Proctor	North State Solutions
Debra Dan	KC Chamber
Will Parry-Hill	NCHFA
Quanisha Collins	NCHFA
Amanda Donovan	KTS
Jud Last	CSM
David Collins	PENC

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grace Inn	Walk Nat
Wendy Keeg	FPA
Katy Kirksey	OP
Ha Nguyen	NCCAB
Lee Tien	TAG
Chandler Jaworski	SA
Tyler Ford	MWC
[illegible]	NCSTA
John Hatcher	NCFA
Lisa Martin	Cap-Ad
Charlie Moody	NCREC

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 6/25/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chip Baggett	NCMS
Paul Sherman	NCFB
Jay Hayes	DEQ
Shirika Nunn	DEQ
John Lucey	DEQ
Cassidy Robertson	AMGA
Lee Pan	CSS
Becki Gray	Locke Foundation
Bo Hoff	MWC
Will Morgan	NFS
April Byrd	[illegible]

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Regulatory Reform

DATE: 06/25/19 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Tuesday, June 25, 2019
Session: 4:00 PM

Committee	Room	Time	Staff	Comments	Member
Finance	544	9:30 AM	Benjamin Bryner		Rep. Chuck McGrady
			Jackson Carter		Rep. Terence Everitt
			Joseph Crane		Speaker Tim Moore
			Jake Patterson		Rep. Chuck McGrady
Education - Universities	421	11:00 AM	Benjamin Bryner		Rep. Chuck McGrady
			Peyton Miranda		Rep. John Szoka
			Jake Patterson		Rep. Chuck McGrady
			Margaret Scott		Rep. Donna McDowell White
Regulatory Reform	1228/1327	11:00 AM	Eleanor Castoral		Speaker Tim Moore
			Laura LeGlue		Rep. Allen McNeill
			Rylie Ponder		Rep. Mark Brody

House Committee on Regulatory Reform
Tuesday, August 6, 2019 at 11:00 AM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Regulatory Reform met at 11:00 AM on August 6, 2019 in Room 1228/1327 of the Legislative Building. Representatives Adcock, Ager, Belk, Blackwell, Brewer, Brody, Carter, Clark, Conrad, Holley, J. Johnson, Kidwell, McElraft, Meyer, Presnell, Queen, Riddell, and Yarborough attended.

Representative Mark Brody, Chair, presided.

Representative Brody called the meeting to order at 11:00 AM and recognized the pages, staff, and sergeant at arms. The chair also welcomed Representative Jake Johnson as a new member to the committee.

The following bills were considered:

HB 615 NC Consumer Fireworks Safety Act. (Representatives Szoka, Brody, Hardister, Wray) Representative Riddell motioned for the bill to be brought before the committee. Representative Szoka explained the bill. Representative Kidwell motioned for an amendment to be brought before the committee and explained the amendment. The amendment failed. The bill was discussed and debated. Representative Szoka requested that the bill be displaced from the committee.

HB 162 Continuing Education for General Contractors. (Representatives Potts, Brody, Howard, Clemmons) Representative Brody explained that this bill is awaiting further approval before presentation to the committee.

The meeting adjourned at 11:57 AM.

Representative Mark Brody, Chair
Presiding

Polly Riddell, Committee Clerk

Updated #2: Add HB 615

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Tuesday, August 6, 2019
TIME: **11:00 AM**
LOCATION: **1228/1327 LB**
COMMENTS: **Representative Brody will preside.**

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 615	NC Consumer Fireworks Safety Act.	Representative Szoka Representative Brody Representative Hardister Representative Wray
HB 162	Continuing Education for General Contractors.	Representative Potts Representative Brody Representative Howard Representative Clemmons

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:43 PM on Tuesday, August 20, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Tuesday, August 6, 2019, 11:00 AM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 615	NC Consumer Fireworks Safety Act.	Representative Szoka Representative Brody Representative Hardister Representative Wray
HB 162	Continuing Education for General Contractors.	Representative Potts Representative Brody Representative Howard Representative Clemmons

Adjournment

HOUSE BILL 615:
NC Consumer Fireworks Safety Act.

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	July 30, 2019
Introduced by:	Reps. Szoka, Brody, Hardister, Wray	**Prepared by:**	Jason Moran-Bates Staff Attorney
Analysis of:	First Edition		

OVERVIEW: House Bill 615 would permit cities and counties to allow the sale and use of consumer fireworks. It would also levy a 5% excise tax on the sale of those items. 25% of the revenue would go to a newly-created Firefighters' Education Fund, and the remainder would go to the General Fund.

CURRENT LAW: Currently, the use and sale of consumer fireworks are prohibited.

BILL ANALYSIS:

Sections 1 and 2 of the bill would permit the possession, advertisement, sale, use, transport, handling, or discharge of consumer fireworks in North Carolina; however, sale to individuals under the age of 18 would be a class 1 misdemeanor.

Section 3 would recodify G.S. 58-82A-1 through G.S. 58-82A-55 as Part 1 of Article 82A of Chapter 58.

Section 4 would create a new Part 2 in Article 82A of Chapter 58 dealing with consumer fireworks.

G.S. 58-82A-75 would clarify that the sale, use transport, possession handling, or discharge of consumer fireworks would only be permitted in accordance with Part 2 of Article 82A.

G.S. 58-82A-80 would create definitions for Part 2 of Article 82A.

G.S. 58-82A-85 would permit the possession and use of consumer fireworks in counties where an ordinance permitting possession had been adopted. Possession and use of consumer fireworks would be subject to the following conditions:

- The individual possessing or using the fireworks must be at least 18.
- Fireworks can be used only between 10:00 a.m. and 10:00 p.m. except on July 4th and December 31.
- Fireworks cannot be used on school grounds, a university campus, or within 1,000 feet of a hospital, animal care facility, child care center, fireworks retailer or distributor, gas station, or other location where explosive or flammable products are stored.
- Cities and counties may not restrict the transportation of fireworks across or through the city or county.

G.S. 58-82A-90 would prohibit the sale of fireworks without a permit. The Commissioner of Insurance must issue permits to applicants who meet all of the following criteria:

- Are 21 or older.

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

- Compliance with Part 2 of Article 82A.
- Have not been convicted of an offense involving fireworks or explosives in the last five years.
- Maintain $5,000,000 in liability insurance coverage.
- Submit an application at least 120 days before beginning to sell fireworks.
- Provide evidence of ownership of, or a lease for, a site to sell fireworks.

Individuals who were issued a permit must comply with NFPA standards and local zoning laws, not employ anyone under 18, have two fire extinguishers on the premises, and post signs prohibiting smoking on the premises. Retailers must also comply with setback, egress, fire safety, and training requirements.

G.S. 58-82A-95 would allow the Commissioner to charge fees for permit applications.

G.S. 58-82A-100 would allow the Commissioner to exclude certain types of fireworks from the definition of "consumer fireworks."

G.S. 58-82A-105 would allow the Commissioner to prohibit the use of all consumer fireworks during periods of declared hazardous forest fire conditions.

G.S. 58-82A-110 would allow for the enforcement of civil and criminal penalties against individuals who violate the provisions of Part 2 of Article 82A.

G.S. 58-82A-115 would allow the Commissioner to order a civil penalty of between $1,000 and $10,000 to be paid by, or suspend the permit of, anyone who does any of the following:

- Sells fireworks not authorized under law.
- Sells fireworks without a permit.
- Sells fireworks to anyone under the influence of alcohol or drugs.
- Knowingly sells fireworks to anyone under 18.
- Sells fireworks at a retail stand in violation of G.S. 58-80A-120.

G.S. 58-82A-120 and G.S. 58-82A-121 would permit fireworks to be sold from a retail stand or tent only if the retailer does not own the property where the stand or tent is located and if there is adequate parking. Any other sales from retail stands or tents would be prohibited.

G.S. 58-82A-125 would create safety labeling requirements.

G.S. 58-82A-130 would allow the Commissioner to create a safety training course.

Section 5 would clarify that cities and counties may permit and regulate the use and sale of consumer fireworks.

Section 6 would levy a 5% excise tax on the sale of consumer fireworks. 25% of the net revenue would go to the Firefighters' Education Fund established by G.S. 58-85B-1, and the remainder would go to the General Fund. Fireworks retailers would be required to post a bond between $1,000 and $50,000 to protect the state from loss in the event the retailer failed to pay the excise tax on fireworks.

Section 7 would create the Firefighters' Education Fund, which would receive 25% of the net revenue from the fireworks excise tax.

EFFECTIVE DATE: Section 6 would be effective December 1, 2019, and apply to the cost price paid for fireworks on or after that date. Section 5 would be effective when this act becomes law. The remainder of this act would be effective December 1, 2019, and apply to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H D

HOUSE BILL 615
PROPOSED COMMITTEE SUBSTITUTE H615-CSBCxf-77 [v.2]

08/05/2019 06:33:14 PM

Short Title: NC Consumer Fireworks Safety Act. (Public)

Sponsors:

Referred to:

April 8, 2019

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE SALE, POSSESSION, AND USE OF CERTAIN CONSUMER FIREWORKS AND TO LEVY AN EXCISE TAX ON THE SALES OF CONSUMER FIREWORKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-410 reads as rewritten:

"**§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; license required; sale to persons under the age of ~~16~~ 18 prohibited.**

(a) Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training and licensing required under Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to supervise any performances that include a proximate audience display subsequent to the opening performance, provided that the representative (i) is a minimum of 21 years of age and (ii) is properly trained in the safe discharge of proximate audience displays.

(3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from (i) The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange

County owned by The University of North Carolina or the University of North Carolina at Chapel Hill or (ii) the University of North Carolina School of the Arts and pyrotechnics are exhibited on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts.

(a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

(a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c).

(a4) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State as a special effect by a production company, as defined in G.S. 105-164.3(30), for a motion picture production, if the motion picture set is closed to the public or is separated from the public by a minimum distance of 500 feet.

(a5) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.

(a6) It shall be permissible for pyrotechnics that are consumer fireworks to be possessed, advertised, sold, used, transported, handled, or discharged within the State, provided the possession, advertising, sale, use, transportation, handling, or discharge comply with Part 2 of Article 82A of Chapter 58 of the General Statutes.

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell consumer fireworks as defined in this section or pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of ~~16.~~18.

(c) The following definitions apply in this Article:

(1) Concert or public exhibition. – A fair, carnival, show of any description, or public celebration.

(1a) Consumer fireworks. – Defined in G.S. 58-82A-80(1).

(2) Display operator. – An individual issued a display operator license under G.S. 58-82A-3.

(3) State Fire Marshal. – Defined in G.S. 58-80-1."

SECTION 2. G.S. 14-415 reads as rewritten:

"**§ 14-415. Violation made misdemeanor.**

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor, except that it is a Class 1 misdemeanor if the sale is in violation of G.S. 14-410(b) or if the exhibition is indoors."

SECTION 3. G.S. 58-82A-1 through G.S. 58-82A-55 are recodified as Part 1 of Article 82A of Chapter 58 of the General Statutes, to be entitled:

"Part 1. Display Pyrotechnics Training and Permitting."

SECTION 4. Article 82A of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 2. Consumer Fireworks.

"**§ 58-82A-75. Purpose.**

The sale, use, transport, possession, handling, or discharge of consumer fireworks shall be permitted only in compliance with the provisions of this Part.

"**§ 58-82A-80. Definitions.**

The following definitions apply in this Part:

(1) Consumer fireworks. – Any small fireworks device designed primarily to produce visible effects by combustion or deflagration that (i) is categorized as a 1.4G firework device under Standard 87-1 of the American Pyrotechnics Association and (ii) complies with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety

Commission, as set forth in the Code of Federal Regulations, volumes 16 and 49.

(2) Consumer fireworks distributor. – A person owning or otherwise controlling a facility where consumer fireworks are stored or otherwise maintained for distribution to fireworks retailers permitted under this Part.

(3) Consumer fireworks permanent retailer. – A person that sells only "consumer fireworks," "sparkling devices," "novelties," and related items from a consumer fireworks retail establishment.

(4) Consumer fireworks retail establishment. – A structure that is designed, planned, and constructed to remain in one location that is operated by a consumer fireworks permanent retailer as a retail facility.

(5) Consumer fireworks temporary retailer. – A person that sells only "consumer fireworks," "sparkling devices," "novelties," and related items from a fireworks retail stand or a fireworks tent.

(6) Fireworks retail stand. – A building or structure with a floor area not greater than 800 square feet, other than a fireworks tent. Stands may include buildings, manufactured buildings, trailers, shipping containers, and temporary structures constructed from plywood, sheet metal, or similar materials.

(7) Fireworks retailer. – A consumer fireworks permanent retailer, consumer fireworks temporary retailer, or an incidental sparkling device retailer permitted under this Part.

(8) Fireworks safety and education trainer. – A person who has completed training on the function, safe handling, and best practices for the safe use of all categories of consumer fireworks under G.S. 58-82A-130 and annually registers with the Department.

(9) Fireworks tent. – A tent, canopy, or membrane structure with a floor area not greater than 1,500 square feet that is not permanently installed.

(10) Sparkling devices. – Consumer fireworks and novelties that do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report. The specification of sparkling devices under this subdivision shall substantially follow the definition of "ground and hand-held sparkling devices" under Standard 87-1 of the American Pyrotechnics Association.

(11) Incidental sparkling device retailer. – A person selling only sparkling devices and novelties that is not a consumer fireworks permanent retailer or consumer fireworks temporary retailer as defined by this section.

(12) NFPA standards. – Standard 1124 of the National Fire Protection Association, 2017 edition, as it applies to the retail sale or distribution of consumer fireworks, except as otherwise specified by this Part.

(13) Novelties. – Snaps, party poppers, snakes, glow worms, toy smoke devices, and certain wire sparklers and dipped sticks containing five grams or less of polytechnic composition. The specification of novelties under this subdivision shall substantially follow the definition of these devices under Standard 87-1 of the American Pyrotechnics Association.

(14) Public space. – Any building or area open to the public, whether privately or publicly owned. Public space includes restaurants, theaters, stadiums, arenas, retail establishments, and shopping malls.

"**§ 58-82A-85. Possession and use of consumer fireworks.**

(a) Except as provided in this section, the possession of consumer fireworks is allowed in this State.

(b) The use and sale of consumer fireworks is prohibited within a county or city unless that county or city has adopted an ordinance to allow the use and sale of consumer fireworks in accordance with G.S. 153A-130.1 and G.S. 160A-190.1.

(c) The possession and use of consumer fireworks is subject to the following conditions:

(1) The person possessing or using the consumer fireworks must be at least 18 years old.

(2) The use of consumer fireworks may occur only between the hours of 10:00 A.M. and 10:00 P.M., with the following exceptions:

a. On July 4, use is permitted until 12:00 A.M.

b. On December 31 and the following January 1, use is permitted from 8:00 A.M. on December 31 until 12:30 A.M. on January 1.

(3) The use of consumer fireworks is prohibited in the following locations:

a. In or on the premises of a public or private primary or secondary school, unless the person has written authorization from the school.

b. On the campus of a college or university, unless the person has received written authorization from the college or university.

c. Within 1,500 feet of a hospital, veterinary hospital, animal care facility, licensed child care center, fireworks retailer, fireworks distributor, gas station, or bulk storage facility for petroleum products or other explosive or flammable substances.

(4) The possession or use of consumer fireworks is prohibited in or on the premises of any public park or public space, except as otherwise permitted by the person, State agency, or unit of local government owning or otherwise controlling the public park, property, or public space.

(d) No county or city may restrict or exclude the transportation of consumer fireworks across or through the county or city. Nothing in this subsection is intended to prevent reasonable transportation-related restrictions applicable to all vehicles or a class of vehicles regardless of cargo, such as vehicle weight limits or truck route restrictions in accordance with U.S. Department of Transportation regulations.

"**§ 58-82A-90. Sale of consumer fireworks; permit required.**

(a) No person shall sell consumer fireworks, sparkling devices, or novelties in this State unless the person holds a permit issued under this Part from the Commissioner. The Commissioner shall issue rules to implement this section. Permits of a fireworks retailer shall be posted in a location visible to members of the general public visiting the retailer. The Commissioner shall issue a permit to a person who meets the following conditions:

(1) Is 21 years of age or older.

(2) Complies with all of the requirements of this Part.

(3) Has not been convicted of a felony and has not received a pardon.

(4) Has not been convicted of an offense for a violation of State or federal law, or been found in violation of any municipal ordinance, involving fireworks or explosives within five years prior to the date of the application for the permit.

(5) Maintains at all times public liability and product liability insurance with minimum coverage limits of five million dollars ($5,000,000) to cover losses, damages, or injury that might occur as a result of the person selling consumer fireworks. The Commissioner, by rule, may increase the amount of liability insurance required to be maintained by a fireworks retailer. In determining whether to increase the amount of required liability insurance, the Commissioner shall consider the maximum amount of inventory the fireworks retailer will have on hand at a given time, any property located within 1,000 feet of the property wherein the fireworks will be stored or sold, and any other factors the Commissioner deems important.

(6) Submits the application for a permit no less than 120 days prior to the date the applicant proposes to begin sales of consumer fireworks under this Part.

(7) Provides a lease or evidence of ownership of the site of the proposed fireworks retailer for no less than the duration of the permit. A consumer fireworks temporary retailer or incidental sparkling device retailer operating out of a fireworks retail stand or fireworks tent may comply with this subdivision by providing the required authorization under G.S. 58-82A-121(1).

(b) A person issued a permit under this Part shall comply with the following requirements:

(1) Standards. – The permittee must comply with (i) NFPA standards and (ii) applicable local zoning and land use rules.

(2) Employees. – All employees of the permittee engaged in the sale of fireworks or sparkling devices must be at least 18 years of age.

(3) Fire suppression devices. – The permittee must maintain on the premises a minimum of two portable fire extinguishers with a 2A rating. The fire extinguishers shall be located in two different locations within the premises of the retailer, and at least one of the extinguishers shall be of the pressurized water type, subject to additional provisions in NFPA standards.

(4) Required signs. – The permittee shall post signs prohibiting smoking on the premises and discharge of fireworks and sparkling devices within 1,500 feet of the premises in a manner specified by the Commissioner.

(c) In addition to the requirements set forth in subsections (a) and (b) of this section, a permit issued for a consumer fireworks permanent retailer or consumer fireworks temporary retailer shall comply with the following requirements:

(1) Setbacks. – Areas within 20 feet of the retailer's premises shall be kept free of dry vegetation and other combustible debris. The retailer may not be located within 300 feet of the following:

a. Retail establishments dispensing flammable or combustible liquids, flammable gas, or flammable liquefied gas.

b. Above-ground storage tanks storing flammable or combustible liquids, flammable gas, or flammable liquefied gas.

c. Propane dispensing stations.

(2) Smoking prohibited. – Smoking shall not be permitted inside of the retailer's premises, subject to the retailer's building location, layout, and restrictions.

(3) Egress requirements. – Means of egress, including aisles, doors, and exit discharge, shall be clear at all times when the retailer is open to the public, and aisles must be at least 48 inches in width.

(4) Fire safety. – The retailer shall create and maintain a fire safety and evacuation plan in a form specified and approved by the Commissioner.

(5) Training. – No less than two management or supervisory employees of each permittee subject to this subsection shall be Fireworks Safety and Education Trainers. Fireworks Safety and Education Trainers shall be responsible for the annual training of all employees on the function, safe handling, and best practices regarding the safe use of all categories of consumer fireworks. Such training shall be documented on forms approved by the Commissioner and be readily available at the request of the Commissioner.

(d) A permit issued to an incidental sparkling device retailer shall allow the sale of sparkling devices and novelties only and shall require compliance with NFPA standards applicable to sales of ground and handheld sparkling devices and novelties.

(e) Nothing in this section is meant to override any fire code applicable to a structure regulated by this Part. If the fire code imposes a more stringent requirement, the fire code requirement will apply instead of the standards imposed by this section.

"**§ 58-82A-95. Permit fees.**

The Commissioner may charge an applicant for a permit under G.S. 58-82A-90 the following annual fees:

(1) One hundred dollars ($100.00) for an incidental sparkling device retailer permit.

(2) Five thousand dollars ($5,000) for a consumer fireworks permanent retailer permit, a consumer fireworks temporary retailer permit, or a consumer fireworks distributor permit.

(4) Twenty-five dollars ($25.00) for the renewal of an incidental sparkling device retailer permit.

(5) Two thousand five hundred dollars ($2,500) for the renewal of a consumer fireworks permanent retailer permit, a consumer fireworks temporary retailer permit, or a consumer fireworks distributor permit.

"**§ 58-82A-100. Power of Commissioner to exclude certain categories of pyrotechnics from definition of consumer fireworks.**

The Commissioner, through the Office of State Fire Marshal and in consultation with the State Fire and Rescue Commission, may by rule exclude certain types or categories of pyrotechnics otherwise meeting the definition of "consumer fireworks" or "sparkling devices" from the provisions of this Part upon a finding that the type or category of pyrotechnic presents a significant and widespread risk of death, serious bodily injury, or substantial damage to public or private property. Exclusion of any type or category of pyrotechnics pursuant to this section must be evidence-based.

"**§ 58-82A-105. Prohibition of consumer fireworks.**

During periods of declared hazardous forest fire conditions, as referenced in G.S. 106-946, the Commissioner, in consultation with the North Carolina Forest Service, is authorized to prohibit all use of consumer fireworks otherwise permitted by this Part in all or part of the State. The Commissioner shall issue a press release containing relevant details of the prohibition to news media serving the area affected.

"**§ 58-82A-110. Civil and criminal penalties for violations.**

(a) Except as provided in this section, G.S. 14-415 and G.S. 58-2-70 shall apply to any person violating any of the provisions of this Part.

(b) The Commissioner, a State law enforcement officer, a municipal law enforcement officer, a code enforcement officer, or a fire safety official may petition the district court to seize or remove, at the expense of the permit holder, fireworks sold, offered for sale, stored, possessed, or used in violation of this Part.

(c) The Commissioner may order the payment of a civil penalty in addition to, or instead of, suspending a permit, as set forth in G.S. 58-82A-115.

(d) Any person violating G.S. 58-82A-120 is guilty of a Class 1 misdemeanor.

"**§ 58-82A-115. Prohibited activities.**

(a) The Commissioner may suspend the permit of a person authorized to sell consumer fireworks or sparkling devices, order the payment of a civil penalty, or both, for engaging in any of the following prohibited activities:

(1) Selling fireworks or explosives not authorized under this Part.

(2) Selling consumer fireworks or sparkling devices within the State without a valid permit.

(3) Selling consumer fireworks or sparkling devices to a person who appears to be under the influence of alcohol or drugs.

(4) Knowingly aiding or assisting in procuring, furnishing, giving, selling, or delivering consumer fireworks or sparkling devices to a person under the age of 18. It is an affirmative defense to any disciplinary action taken pursuant to this subdivision that the permit holder procured, furnished, gave, sold, or delivered consumer fireworks or sparkling devices to a person under the age of 18 in reasonable reliance upon fraudulent proof of age presented to the permit holder.

(5) Selling consumer fireworks or sparkling devices at a fireworks retail stand or fireworks tent in violation of G.S. 58-82A-120.

(b) If the Commissioner orders the payment of a civil penalty pursuant to subsection (a) of this section, the penalty shall not be less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000). In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State.

(c) A person whose permit has been suspended or has been issued a civil penalty under this section shall receive a hearing before the Commissioner within 10 days of the decision. If the decision is upheld, the person may seek judicial review in superior court.

"**§ 58-82A-120. Prohibition on certain retail stand and tent sales.**

Except as provided in G.S. 58-82A-121, it shall be unlawful to sell, transfer, or distribute consumer fireworks, sparkling devices, or novelties at a fireworks retail stand or a fireworks tent.

"**§ 58-82A-121. Certain retail stand and tent sales permitted.**

In addition to the requirements provided in this Part, a person may only sell, transfer, or distribute consumer fireworks, sparkling devices, or novelties at a fireworks retail stand or a fireworks tent if the following conditions are met:

(1) If the fireworks retailer does not own the property wherein the fireworks retail stand or fireworks tent is located, the owner or custodian of said property shall provide written confirmation that the fireworks retailer is authorized to conduct business on the premises.

(2) There is adequate parking to accommodate customers of the fireworks retailer and, if applicable, any other businesses that are on the premises.

"**§ 58-82A-125. Labeling and safety requirements.**

(a) Any consumer fireworks, sparkling devices, or novelties authorized to be sold under this Part shall have a safety label affixed to the packaging of the firework in accordance with 16 C.F.R. § 1500.14(b)(7) prior to being sold in this State.

(b) When selling fireworks in this State, a fireworks retailer shall provide a safety pamphlet created by the Office of State Fire Marshal to the purchaser of the firework with each purchase. The pamphlet shall outline safe handling and best practices for the safe use of a firework.

"**§ 58-82A-130. Fireworks safety and education trainer.**

The Commissioner shall create a training course, or identify existing training courses, to train individuals on the function, safe handling, and best practices for the safe use of all categories of consumer fireworks. The Commissioner shall also create and maintain a listing of persons that have completed a training course created or identified by the Commissioner under this section. The Department may issue rules to implement this section, including reasonable requirements for verification or certification that persons have met the training requirements of this section. The Department may also charge a fee to cover the costs of implementing this section."

SECTION 5.(a) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-130.1. Use and sales of consumer fireworks.**

Notwithstanding G.S. 153A-128, a county may, by ordinance, regulate the use and sales of consumer fireworks, sparkling devices, and novelties to the public pursuant to Part 2 of Article 82A of Chapter 58 of the General Statutes. An ordinance adopted pursuant to this section shall be effective on October 1 following the adoption of the ordinance. The ordinance shall remain in effect until the ordinance is repealed. If the ordinance is repealed, the repeal shall be effective on October 1 following the repeal of the ordinance."

SECTION 5.(b) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-190.1. Use and sales of consumer fireworks.**

Notwithstanding G.S. 160A-183, a city may, by ordinance, regulate the use and sales of consumer fireworks, sparkling devices, and novelties to the public pursuant to Part 2 of Article 82A of Chapter 58 of the General Statutes. An ordinance adopted pursuant to this section shall be effective on October 1 following the adoption of the ordinance. The ordinance shall remain in effect until the ordinance is repealed. If the ordinance is repealed, the repeal shall be effective on October 1 following the repeal of the ordinance."

SECTION 5.(c) A county or city may adopt an ordinance pursuant to this section any time after this act becomes law. For ordinances adopted pursuant to this section prior to December 1, 2019, the ordinance shall be effective December 1, 2019.

SECTION 6. Subchapter I of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Tax on Consumer Fireworks.

"**§ 105-113.125. Tax on consumer fireworks.**

(a) Tax on Consumer Fireworks. – An excise tax is levied on consumer fireworks at the rate of five percent (5%) of the cost price. A person who sells consumer fireworks at retail is subject to and liable for the tax imposed by this section.

(b) Definitions. – The following definitions apply in this Article:

(1) Consumer fireworks. – Defined in G.S. 58-82A-80.

(2) Cost price. – The price a person liable for the tax on consumer fireworks imposed by this Article paid for the products, before any discount, rebate, or allowance.

(3) Fireworks retailer. – Defined in G.S. 58-82A-80.

(c) Monthly Report. – The taxes levied by this Article are payable when a report is required to be filed. A report is due on a monthly basis. A monthly report covers sales and other activities occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report shall be filed on a form provided by the Secretary and shall contain the information required by the Secretary.

(d) Discount. – A person who is liable for the excise taxes imposed by this Article, who files a timely report under this section, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Article.

(e) Refund. – A person liable for the excise taxes imposed by this Article and in possession of unsalable consumer fireworks upon which the tax has been paid may return the consumer fireworks to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by a written certificate signed under penalty of perjury or an affidavit from the manufacturer listing the consumer fireworks returned to the manufacturer by the applicant. The Secretary shall refund the tax paid, less the discount allowed, on the listed products.

(f) Records. – Every person liable for the excise taxes imposed by this Article shall keep accurate records of the purchases, inventories, and sales of consumer fireworks. These records shall be open at all times for inspection by the Secretary or an authorized representative of the Secretary.

(g) Use. – The Secretary must credit the net proceeds of the tax collected under this Article as follows:

(1) Notwithstanding G.S. 58-78-20, up to twenty-five percent (25%) to the North Carolina Fire and Rescue Commission established under G.S. 58-78-1. These funds shall be used to provide computer-based certification testing for approved professional qualification programs established under G.S. 58-78-5(a)(14b).

(2) The remainder to the General Fund.

"**§ 105-113.126. Bond or irrevocable letter of credit.**

(a) Bond. – The Secretary may require a fireworks retailer to furnish a bond in an amount that adequately protects the State from loss if the fireworks retailer fails to pay taxes due under this Article. A bond must be conditioned on compliance with this Article, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the distributor's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than one thousand dollars ($1,000) and may not be more than fifty thousand dollars ($50,000). The Secretary should periodically review the sufficiency of bonds required of the fireworks retailer and increase the required bond amount if the amount no longer covers the anticipated tax liability of the fireworks retailer and decrease the amount if the Secretary finds that a lower bond amount will protect the State adequately from loss.

(b) Letter of Credit. – For purposes of this section, a fireworks retailer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 7. Section 6 is effective December 1, 2019, and applies to the cost price paid for fireworks on or after that date. Section 5 is effective when this act becomes law. The remainder of this act becomes effective December 1, 2019, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 615*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H615-ABC-89 [v.1]

Amends Title [NO]
CSBC-77

Date 9/6 ,2019

Representative Kidwell

moves to amend the bill by deleting Section 6 and renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 8/6/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alejandro Peña	Raleigh Fire Dept.
Samuel Hubbard	Raleigh Fire Dept
Ivan L. Johnson	Raleigh Fire Dept
Doug Lassiter	NCSTA
LAURA PURYEAR	MWC
BO HEATH	MWC
A.B. Swindell	Waste Ind
Mike Hager	NSS
Flint Benson	SEANC
Jon Ames	PSG
Sue Ford	NCMS

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 8/6/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jere Royall	NC Family
AL MILAK	NC DEPT. OF REVENUE
Seth Palmer	NCR
Pamela Lolley	Schweitzer Engineering Labs
Henry Jones	Jordan Price
Joy Hicks	DEQ
Kara Weishaar	SA
Rhaegan Jackson	FPA
Tyler Ford	MWC
George Robinson	NC DOI
DAVID A GRADY	RALEIGH FIRE DEPARTMENT

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 8/6/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Wkll	PC
Stephen Kouba	KMA
Lee Tarpley	TAEA
Chris Keaton	LA House of Representative
NANCY KEATON	LA TREASURY
ISABEL KEATON	ST. ALOYSIUS

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 8/6/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carrie Neely	MVA
Mike Ber	BP
Claudia Shoemaker	governor
Rachel Davis	NCICU
Tom West	NCICU
Josh Lair	CSH
T. Nute Thompson	Jordan Price
Nathan Hunter	Connect C
Skye Dand	nl
brian davis	nl
Jason Joyner	nl

VISITOR REGISTRATION SHEET

H C on Regulatory Reform — 8/6/2019

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCRMA
Ben Thompson	[illegible]
Kaitlin Rothacker	BM Baker & Assoc.
Sarah Bales	" "
Kelly Randell	NFPA
Bob Boegner	OSFM
DAN DOART	PHANTOM FIREWORKS
Richard Bostic	NC SBA
Sarah Patterson	WM
Joel Maynard	Propane Gardner a/c
Andy Chase	KMA

VISITOR REGISTRATION SHEET

SPEAKER SHEET

Name of Committee

Date 8/6/2015

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
(5) DAN PEART	PHANTOM FIREWORKS
(1) SARAH BALES ~~SARAH OBALES~~	Brubaker : Associates – ~~NC Fireworks~~ NC for Fireworks Safety
(4) Lemuel Hubbard	Raleigh Fire Dept
(2) Kelly RANSDELL	NFPA.
(3) Andy Ellen	NC Retail Merchants
6.?	State Fire marshal (requested by Pat McElraft to state his position on bill)

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Regulatory Reform

DATE: 8/6/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Warren Hawkins
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

House Pages
Assignments
Tuesday, August 06, 2019
Session: 2:00 PM

Committee	Room	Time	Staff	Comments	Member
Regulatory Reform	1228/1327	11:00 AM	Luke Basile		Rep. Deb Butler
			Jenna Donaldson		Rep. Susan C. Fisher
			Debra Mullis		Rep. Debra Conrad
			Zeb Whitley		Rep. Larry C. Strickland

House Committee on Regulatory Reform

2019-2020 Session

Mark Brody, Co-Chair

Dennis Riddell, Co-Chair

Larry Yarborough, Co-Chair

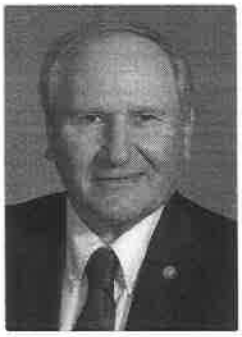
Leslie Murray, Committee Assistant

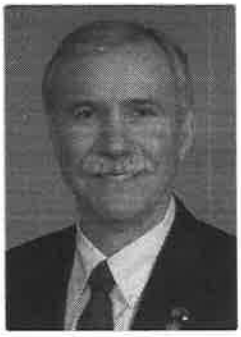
Polly Riddell, Committee Assistant

REGULATORY REFORM

House Standing Committee

Chairs


Rep. Brody


Rep. Riddell


Rep. Yarborough

Vice Chair

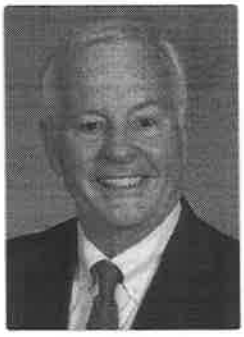

Rep. Holley

Members


Rep. Adcock


Rep. Ager


Rep. Belk


Rep. Blackwell


Rep. Brewer


Rep. Carter


Rep. Clark


Rep. Conrad


Rep. J. Johnson


Rep. Kidwell


Rep. McElraft


Rep. Meyer


Rep. Presnell


Rep. Queen


Rep. Stevens

Pursuant to House Rules 26(e) and 26(f), the Chair of the Committee on Rules, Calendar and Operations of the House, the Speaker Pro Tempore, the Majority Leader, and the Deputy Majority Leader are ex officio members of each standing committee and permanent subcommittee with the right to vote. The previous sentence does not apply to the Standing Committee on Ethics. For the purposes of determining a quorum, when serving only as ex officio members, these members shall be counted among the membership of the committee or subcommittee only when present.

HOUSE COMMITTEE ON REGULATORY REFORM

MEMBER		ASSISTANT	PHONE	OFFICE	SEAT
Brody, Mark	Chair	Neva Helms	715-3029	416B	61
Riddell, Dennis	Chair	Polly Riddell	733-5905	416A	49
Yarborough, Larry	Chair	Leslie Murray	715-0850	2219	65
Goodman, Ken	Vice Chair	Judy Veorse	733-5823	542	31
Holley, Yvonne	Vice Chair	Lee Lewis	733-5758	1219	71
Adcock, Gale		Suzanne Smith	733-5602	1213	119
Ager, John		Meredith Graf	733-5746	509	79
Belk, Mary		Ralph Belk	733-5607	1313	116
Blackwell, Hugh		Brooke Mason	733-5805	541	102
Carter, Jerry		Theresa Lopez	733-5779	418B	110
Clark, Christy		Beth Nichols	733-5828	1319	91
Conrad, Debra		Ginny Taylor	733-5787	635	41
Jake Johnson		Megan Klutz	715-4466	537	101
Kidwell, Keith		Joy Albright	733-5881	2213	113
McElraft, Pat		Nancy Fox	733-6275	634	9
Meyer, Graig		Daphne Quinn	715-3019	1017	57
Presnell, Michele		Candace Slate	733-5732	306B2	51
Queen, Joe Sam		Brady Blackburn	715-3005	1002	34
Stevens, Sarah		Lisa Brown	715-1883	419	7

ATTENDANCE

HOUSE COMMITTEE ON REGULATORY REFORM

2019-2020 SESSION

DATES	6-17-2020											
BRODY, Mark CHAIR	✓											
RIDDELL, Dennis CHAIR	✓											
YARBOROUGH, Larry CHAIR	✓											
GOODMAN, Ken VICE-CHAIR **resigned**												
HOLLEY, Yvonne VICE-CHAIR	✓											
ADCOCK, Gale	✓											
AGER, John	✓											
BELK, Mary	✓											
BLACKWELL, Hugh												
BREWER, Scott -**appointed**	✓											
CARTER, Jerry	✓											
CLARK, Christy												
CONRAD, Debra	✓											
HENSON, Cody – **resigned**												
JOHNSON, Jake - **appointed**	✓											
KIDWELL, Keith	✓											
MCELRAFT, Pat	✓											
MEYER, Greg	✓											
PRESNELL, Michelle	✓											
QUEEN, Joe Sam	✓											
STEVENS, Sarah	✓											

Chris Saunders ✓

MORAN-BATES, Jason STAFF	✓											
PATTERSON, Bill												
RAY, Jeremy	✓											
Kyle Evans	✓											
MURRAY, Leslie CLERK												
RIDDELL, Polly CLERK	✓											
BELL, John EX-OFFICIO												
JONES, Brenden EX-OFFICIO												
LEWIS, David EX-OFFICIO												

House Committee on Regulatory Reform
Wednesday, June 17, 2020 at 1:00 P.M.
Room 1228/1327

MINUTES

The House Committee on Regulatory Reform met at 1:00 P.M. on June 17, 2020 in Room 1228/1327. Representatives Adcock, Ager, Belk, Brewer, Brody, Carter, Conrad, Holley, Johnson, Kidwell, McElraft, Meyer, Presnell, Queen, Riddell, Stevens, and Yarborough attended.

Rep. Dennis Riddell presided.

Introduction of Sergeant-at-Arms.

Rep. Brody motioned to bring Senate Bill 374 before the committee. Rep. Brewer seconded the motion and the bill was brought before the committee. Rep. Riddell presented all new items included in the Proposed Committee Substitute to the members. Following the presentation of new items in the bill, Rep. Brody presented a review of items from a previous regulatory reform bill contained in this bill. There was discussion and debate. Rep. Meyer brought an amendment before the committee. (Attachment 1) The amendment failed. Rep. Stevens brought an amendment before the committee. (Attachment 2) The amendment was adopted. Rep. Holley presented an amendment (Attachment 3) which was not approved. Rep. Conrad brought a final amendment before the committee (Attachment 4) Lee Teague and Harry Kaplan both spoke before the committee in favor of the amendment which was adopted. SB374 then passed as unfavorable to the original bill, but favorable to the PCS. SB 374 then referred to The House Rules, Calendar, and Operations of the House Committee for approval.

The meeting adjourned at 1:50 P. M.

Rep. Dennis Riddell
Presiding

Polly Riddell, Committee Clerk

Updated #1: Remote Option Available

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION

You are hereby notified that the **House Committee on Regulatory Reform** will meet as follows:

DAY & DATE: Wednesday, June 17, 2020
TIME: **1:00 PM**
LOCATION: **1228/1327 LB**
COMMENTS: **Please remember there will be a PCS for SB374 coming out tomorrow.**

In accordance with the latest guidance from the Center for Disease Control and the North Carolina Department of Health and Human Services, and the building rules of the North Carolina General Assembly, the House Regulatory Reform Committee members will have the option to attend remotely to minimize the gathering of members and staff. Members of the public are requested to comply with the guidance from the North Carolina Department of Health and Human Services and the Centers for Disease Control by complying with social distancing guidelines and seating for 50 percent of room capacity or listening to a live stream audio via the NCGA committee website at https://www.ncleg.gov/Audio/1228. The video/audio stream can be accessed on the NCGA webpage here: https://www.ncleg.gov or can be found on the front page of the NCGA website in the Legislative Calendar section.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 374	Repeal Risky Retirement Payments.	Senator Wells Senator Brown

Respectfully,

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:21 PM on Monday, June 15, 2020.

___ Principal Clerk
___ Reading Clerk – House Chamber

Polly Riddell (Committee Assistant)

House Committee on Regulatory Reform
Wednesday, June 17, 2020, 1:00 P.M.
1228/1327 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills:

BILL NO.	SHORT TITLE	SPONSOR
S374	Repeal Risky Retirement Payments	Sen. Wells Sen. Brown

Presentations

Other Business

Adjournment

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

REGULATORY REFORM COMMITTEE REPORT

Representative Mark Brody, Co-Chair
Representative Dennis Riddell, Co-Chair
Representative Larry Yarborough, Co-Chair

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB **374** **(CS#1)** Repeal Risky Retirement Payments.

Draft Number:	S374-PCS15552-BR-32
Serial Referral:	**RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 374
Pensions and Retirement and Aging Committee Substitute Adopted 4/18/19
PROPOSED HOUSE COMMITTEE SUBSTITUTE S374-PCS15552-BR-32

Short Title: Regulatory Reform Act of 2020. (Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. VARIOUS REGULATORY REFORM PROVISIONS

INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITTING FROM PUBLIC CONTRACTS

SECTION 1.(a) G.S. 14-234 reads as rewritten:

"**§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

...

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

(1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twenty thousand dollars ($20,000) for medically related services

and ~~forty thousand dollars ($40,000)~~ sixty thousand dollars ($60,000) for other goods or services within a 12-month period.

(2) The official entering into the contract with the unit or agency does not participate in any way or vote.

(3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.

(4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

...."

SECTION 1.(b) This section is effective when it becomes law and applies to contracts executed on or after that date.

AMENDMENTS TO THE 2018 NORTH CAROLINA BUILDING CODE AND PLUMBING CODE

SECTION 2.(a) Definitions. – As used in this section, "Council" means the Building Code Council, "Building Code" means the 2018 North Carolina Building Code as adopted by the Council, and "Plumbing Code" means the 2018 North Carolina Plumbing Code as adopted by the Council.

SECTION 2.(b) Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code. – Until the effective date of the revised permanent rules that the Building Code Council is required to adopt pursuant to subsection (d) of this section, the Council shall implement the applicable requirements of Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code, as provided in subsection (c) of this section.

SECTION 2.(c) Implementation. – The Council shall (i) not require drinking fountains for an occupant load of 30 or fewer, (ii) only require one water closet for business occupancies with an occupant load of 30 or fewer, and (iii) not require a service sink for business and mercantile occupancies with an occupant load of 30 or fewer.

SECTION 2.(d) Additional Rule-Making Authority. – The Council shall adopt rules to amend Section 2902.6 of the Building Code and Table 403.1 of the Plumbing Code consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Council, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

STUDY ONLINE CONTINUING EDUCATION REQUIREMENTS

SECTION 3.(a) Every occupational licensing board as defined in Chapter 93B of the General Statutes shall study and report on any available options offered for online continuing education if continuing education is a requirement for licensure under the occupational licensing board's applicable laws or regulations. The study and report shall include:

(1) A list and description of every option for continuing education made available to each licensee, including every traditional method, and every online method, if any are offered. If no online methods are offered, a detailed explanation as to why none are offered, which shall include any logistical, cost, legal, or other concerns.

(2) The approximate number of offerings made available for each method and the cost associated with each offering. The cost shall include a description of the fees charged to the licensee for the continuing education and the associated cost to the occupational licensing board for providing the continuing education offering.

(3) A description of how each method of continuing education offered is accessed by the licensee.

SECTION 3.(b) Each occupational licensing board required to study and report under subsection (a) of this section shall provide its report to the Joint Legislative Administrative Procedure Oversight Committee and the Program Evaluation Division no later than December 1, 2020.

TEMPORARY EVENT VENUES

SECTION 4.(a) Part 3 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-341.4 Temporary event venues authorized.**

A county may, by ordinance, establish a process to permit temporary event venues using the procedure prescribed in G.S. 160A-383.6."

SECTION 4.(b) Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-383.6. Temporary event venues authorized.**

(a) A city may, by ordinance, establish a process to permit temporary event venues as provided in this section. A temporary event venue shall be defined as an existing publicly or privately owned building or structure suitable for use as a site for public or private events relating to entertainment, education, marketing, meetings, sales, trade shows, and any other activities or occasions that the city may, by ordinance, authorize. A temporary event shall be one lasting no longer than 72 hours.

(b) A city may consider a temporary event venue as a permitted accessory use in any of its zoning districts. Enactment of a temporary event venue ordinance and issuance of a temporary event permit under this section shall not be considered a zoning map amendment under this Article.

(c) Only one temporary event venue shall be allowed on a lot or parcel of land. The temporary event venue permitted under this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as otherwise provided in this section. Except as provided in subsection (h) of this section, for each temporary event venue issued a permit under this section, no more than 24 temporary events may be conducted in a calendar year.

(d) An ordinance authorizing temporary event venues shall set forth the following:

(1) The zoning districts within which a temporary event venue may lie.

(2) The process a person seeking a temporary event venue permit, or its renewal, must follow.

(3) The specific criteria to be considered by the city when determining whether to issue a temporary event venue permit. The criteria shall include the character of the district in which the permit is sought and the site's suitability for use as a temporary event venue.

(4) The temporary events, not inconsistent with subsection (a) of this section, authorized in the venue.
(5) The duration of the temporary event venue permit.
(6) Any capacity limitations of the temporary event venue.
(7) The fee structure for the fees authorized by this section.
(8) Any other relevant matters.

(e) Any person proposing to operate a temporary event venue shall first obtain a permit from the city. The issuance of a temporary event venue permit shall not be considered a quasi-judicial act. The city may charge a fee of up to one hundred dollars ($100.00) for the initial permit and an annual renewal fee of up to fifty dollars ($50.00). Before issuing or renewing a temporary event venue permit, a city shall conduct an inspection of the proposed temporary event venue to ensure that the health, safety, and welfare of the public will not be impaired by attendance at or participation in a temporary event. The inspection shall address the general structural stability of the temporary event venue, its fire safety, and whether it has sufficient toilet facilities taking into consideration its capacity.

(f) Subject to the provisions of this subsection, a city may require the permit applicant to take reasonable measures to address any safety or public health concerns raised by the inspection conducted under subsection (e) of this section. No permit shall be required under the North Carolina State Building Code or any local variant approved under G.S. 143-138(e) for any construction, installation, repair, replacement, or alteration of a temporary event venue either required by the city as a result of the inspection conducted under subsection (e) of this section or undertaken by the permittee to otherwise improve the temporary event venue. A city may require use of temporary toilet facilities at temporary events. Nothing in this section shall be construed to exempt a temporary event venue from compliance with federal laws, rules, or regulations.

(g) The Building Code Council shall create an inspection checklist that may be used by counties and cities for inspections conducted under subsection (e) of this section. Nothing shall prohibit counties and cities from conducting inspections and issuing temporary event venue permits prior to promulgation by the Building Code Council of the checklist.

(h) Nothing shall preclude a permittee operating under a temporary event venue permit from seeking a rezoning of the parcel to a zoning district that would allow a permitted use of the venue for events of the type authorized by a temporary event permit. Any such rezoning application would be subject to the requirements of this Article. If a rezoning application is submitted in good faith, a city may authorize the temporary event venue to hold more than 24 temporary events in one calendar year while the rezoning is pending. If the temporary event venue is rezoned, the temporary event venue permit shall become void and the venue shall operate under all rules, regulations, and requirements of law, including the North Carolina State Building Code, any local variant under G.S. 143-138(e), and city ordinances."

SECTION 4.(c) G.S. 143-138 reads as rewritten:

"**§ 143-138. North Carolina State Building Code.**

...

(b21) Exclusion for Temporary Event Venues. – No permit shall be required under the North Carolina State Building Code or any local variant approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration of a temporary event venue issued a temporary event venue permit under G.S. 160A-383.6.

...."

SECTION 4.(d) G.S. 160A-383.1 is amended by adding a new subsection to read:

"(b1) Exclusion for Temporary Event Venues. – No permit shall be required under the North Carolina State Building Code or any local variant approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration of a temporary event venue issued a temporary event venue permit under G.S. 160A-383.6."

SECTION 4.(e) This section becomes effective October 1, 2020, and applies to counties with a population larger than 250,000.

NC PRE-K SCHOOL OPTIONS

SECTION 5.(a) The Division of Childhood Development and Early Education of the Department of Health and Human Services shall post the following information on its Web site:

(1) The educational opportunities for kindergarten offered by local school administrative units.
(2) The educational opportunities for kindergarten offered by charter schools.
(3) Scholarships for enrollment in nonpublic schools provided pursuant to Part 2A of Article 39 of Chapter 115C of the General Statutes, or any successor program.

This information shall be indexed or searchable by county, and the Division shall update the information on June 1 each year.

Facilities participating in the NC Pre-K program shall provide to all families the address of the Web site where the information can be found and a brief description of the information available. Upon request, a facility participating in the NC Pre-K program must furnish to a family a list of the following educational opportunities located in the same county as the NC Pre-K facility, or, if specified, any other county:

(1) The educational opportunities for kindergarten offered by local school administrative units.
(2) The educational opportunities for kindergarten offered by charter schools.
(3) Scholarships for enrollment in nonpublic schools provided pursuant to Part 2A of Article 39 of Chapter 115C of the General Statutes, or any successor program.

SECTION 5.(b) This section becomes effective January 1, 2021.

PUBLIC APPROVAL FOR PRIVATE ACTIVITY BONDS

SECTION 5A. Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-218.37. Public approval for private activity bonds.**

(a) For purposes of this section, the following definitions shall apply:
(1) Charter school facility. – Real property, personal property, or both that is used or intended for use in connection with the operation of a charter school.
(2) Applicable elected representative. – An elected official of a governmental unit having jurisdiction over the area in which a charter school facility is located, as defined in section 147(f)(2) of the Internal Revenue Code (26 U.S.C. § 147(f)(2)).

(b) The Superintendent of Public Instruction is hereby designated as an applicable elected representative who may approve the issuance of one or more private activity bonds to finance or refinance a charter school facility, after a public hearing following reasonable public notice, in accordance with section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable State and federal laws and regulations. Procedures for the public hearing shall be determined by the Superintendent of Public Instruction, and the public hearing shall be conducted by the Superintendent, or his or her designee, in the county where the charter school facility is or will be located."

CLARIFY LANDFILL LIFE-OF-SITE FRANCHISE REQUIREMENTS

SECTION 6. G.S. 130A-294(a4) reads as rewritten:

"(a4) In order to preserve long-term disposal capacity, a life-of-site permit issued for a sanitary landfill shall survive the expiration of a local government approval or franchise, and the local government shall allow the sanitary landfill to continue to operate until the term of the landfill's life-of-site permit expires provided that the owner or operator ~~has complied~~ is in substantial compliance with the terms of the local government approval or franchise ~~agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired.~~ agreement. In order to preserve any economic benefits included in the franchise, the County may extend the franchise under the same terms and conditions for the term of the life-of-site permit. The extension of the franchise hereby shall not trigger the requirements for a new permit, a major permit modification, or a substantial amendment to the permit. This subsection only applies to valid and operative franchise agreements in effect on October 1, 2015."

REPURPOSE PRE-REGULATORY LANDFILL FUNDS

SECTION 7. Section 13.2 of S.L. 2018-5, as amended by Section 4.2 of S.L. 2018-97, reads as rewritten:

"**SECTION 13.2.** Notwithstanding G.S. 130A-310.11(b), up to two million dollars ($2,000,000) of the funds credited to the Inactive Hazardous Sites Cleanup Fund under G.S. 105-187.63 for the assessment and remediation of pre-1983 landfills shall instead be used by the Department of Environmental Quality's Division of Waste Management to provide a matching grant to Charlotte Motor Speedway, LLC, (CMS) for the purpose of remediation activities at the Charlotte Motor Speedway in Cabarrus County. The Division shall provide one dollar ($1.00) for every ~~two~~ one non-State ~~dollars ($2.00)~~ dollar ($1.00) provided in kind or otherwise, up to a maximum of two million dollars ($2,000,000) for the matching grant described in this section. CMS may allocate all or a portion of the grant provided by this section to an entity that controls CMS or an entity controlled by CMS. Entities receiving such an allocation shall be considered a subgrantee as defined in G.S. 143C-6-23."

STUDY EXPRESS PERMITTING EXPANSION

SECTION 8. The Department of Environmental Quality shall study and report on additional positions and funding needed as well as any changes in State or federal laws and regulations necessary to expand the Department's express permitting programs to include additional types of permits typically required for job creating and real estate development or redevelopment activities. Additional permits considered in the study shall include, at a minimum, permits for facilities not discharging to the surface waters of the State under Article 21 of Chapter 143 of the General Statutes and permits to apply petroleum-contaminated soil to land authorized under G.S. 143-215.1. The Department shall provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than March 1, 2021.

WASTEWATER RESERVE PRIORITY

SECTION 9.(a) G.S. 159G-23 reads as rewritten:

"**§ 159G-23. Priority consideration for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The considerations for priority in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must consider the following items when evaluating applications:

...

(2) Effect on impaired waters. – A project that improves designated impaired waters of the ~~State.~~State, with greater priority given to projects that improve

designated impaired waters of the State that serve as a public water supply for a large public water system. For purposes of this subdivision, a large public water system is one serving more than 175,000 service connections.

...

(11) ~~State water supply plan.~~ Improve regional coordination. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better ~~coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m).~~coordinated.

...

(14) Disproportionate burden to protect water supply of higher-wealth neighboring local government unit. – Wastewater system improvements made by a local government unit in order to protect or preserve the water supply of a neighboring local government unit that has a lower poverty rate, lower utility bills, higher population growth, higher median household incomes, and lower unemployment."

SECTION 9.(b) This section becomes effective July 1, 2020, and applies to applications for loans or grants from the Wastewater Reserve or the Drinking Water Reserve received by the Division of Water Infrastructure on or after that date.

ALLOW USE OF FLOOD HAZARD AREAS FOR AQUACULTURE IN CERTAIN CIRCUMSTANCES

SECTION 10. G.S. 143-215.54 reads as rewritten:

"**§ 143-215.54. Regulation of flood hazard areas; prohibited uses.**

(a) A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas that are consistent with the requirements of this Part.

(b) The following uses may be made of flood hazard areas without a permit issued under this Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, aquaculture, and other similar agricultural, wildlife and related ~~uses;~~uses.

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area ~~uses;~~uses.

(3) Lawns, gardens, play areas and other similar ~~uses;~~uses.

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(5) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan.

(6) Land application of septage consistent with a permit issued under G.S. 130A-291.1.

(c) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities are prohibited in the 100-year floodplain except as authorized under G.S. 143-215.54A(b)."

ARCHITECTURAL LICENSE EXCEPTION FOR SMALL PROJECTS

SECTION 11. G.S. 83A-13 reads as rewritten:

"**§ 83A-13. Exemptions.**

...

(c) Nothing in this Chapter shall be construed to require an architectural license for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the building, buildings, or project involved is in one of the following categories:

...

(3) An institutional or commercial building if it does not have a total value exceeding ~~ninety thousand dollars ($90,000);~~two hundred thousand dollars ($200,000);

(4) An institutional or commercial building if the total building area does not exceed ~~2,500~~ 3,000 square feet in gross floor area;

...

(c1) Notwithstanding subdivisions (c)(3) and (4) of this section, a commercial building project with a total value of less than ~~ninety thousand dollars ($90,000)~~ two hundred thousand dollars ($200,000) and a total project area of less than ~~2,500~~ 3,000 square feet shall be exempt from the requirement for a professional architectural seal.

...."

REVENUE LAWS STUDY

SECTION 12. The Department of Revenue shall provide to the Revenue Laws Study Committee information related to the property taxation of outdoor advertising signs. The information must include a review of the methods used to determine the fair market value of outdoor advertising signs in North Carolina, whether the Billboard Structures Valuation Guide published by the North Carolina Department of Revenue provides an accurate representation of the base costs for outdoor advertising structures in North Carolina, whether the Department should use data on actual costs attributed to structures constructed in North Carolina, the practices in other states, and any other issues the Department deems relevant.

The Department shall provide the requested information to the Committee no later than March 31, 2021.

BROADBAND EASEMENTS

SECTION 13. G.S. 117-28.1 reads as rewritten:

"**§ 117-28.1. Electric membership corporations; easements.**

(a) Any easement owned, held, or otherwise used by an electric membership corporation for the purpose of electrification, as stated in G.S. 117-10 may also be used by the corporation, or its wholly owned subsidiary, for the ancillary purpose of supplying high-speed broadband service, where such use does not require additional construction and is ancillary to the electrification purposes for which broadband fiber is or was installed. Nothing in this subsection shall affect, abrogate, or eliminate in any way any obligation of the corporation or its wholly owned subsidiary to comply with any applicable requirements related to notice, safety, or permitting when constructing or maintaining lines or broadband fiber on, over, under, or across property owned or operated by a railroad company.

...."

MANUFACTURED HOMES INSTALLATION

SECTION 14.(a) G.S. 160A-383.1 is amended by adding a new subsection to read:

"(g) A city may require by ordinance that manufactured homes be installed in accordance with the Set-Up and Installation Standards adopted by the Commissioner of Insurance; provided, however, a city shall not require a masonry curtain wall or masonry skirting for manufactured homes located on land leased to the homeowner."

SECTION 14.(b) This section becomes effective October 1, 2020.

LIMITED REGISTRATION PLATES/FINE COLLECTION

SECTION 15.(a) G.S. 20-54 reads as rewritten:

"**§ 20-54. Authority for refusing registration or certificate of title.**

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

...

(6) The vehicle is not in compliance with the inspection requirements of Part 2 of Article 3A of this Chapter or a civil penalty assessed as a result of the failure of the vehicle to comply with that Part has not been paid. Notwithstanding this subdivision, a dealer licensed under Article 12 of this Chapter may, on behalf of a person purchasing a vehicle, obtain a limited registration plate pursuant to G.S. 20-79.1A.

...

(10) The North Carolina Turnpike Authority has notified the Division that the owner of the vehicle has not paid the amount of tolls, fees, and civil penalties the owner owes the Authority for use of a Turnpike project. Notwithstanding this subdivision, a dealer licensed under Article 12 of this Chapter may, on behalf of a person purchasing a vehicle, obtain a limited registration plate pursuant to G.S. 20-79.1A.

(11) The Division has been notified (i) pursuant to G.S. 20-217(g2) that the owner of the vehicle has failed to pay any fine imposed pursuant to G.S. 20-217 or (ii) pursuant to G.S. 153A-246(b)(14) that the owner of the vehicle has failed to pay a civil penalty due under G.S. 153A-246. Notwithstanding this subdivision, a dealer licensed under Article 12 of this Chapter may, on behalf of a person purchasing a vehicle, obtain a limited registration plate pursuant to G.S. 20-79.1A.

(12) The owner of the vehicle has failed to pay any penalty or fee imposed pursuant to G.S. 20-311. Notwithstanding this subdivision, a dealer licensed under Article 12 of this Chapter may, on behalf of a person purchasing a vehicle, obtain a limited registration plate pursuant to G.S. 20-79.1A.

(13) The Division has been notified by the State Highway Patrol that the owner of the vehicle has failed to pay any civil penalty and fees imposed by the State Highway Patrol for a violation of Part 9 of Article 3 of this Chapter. Notwithstanding this subdivision, a dealer licensed under Article 12 of this Chapter may, on behalf of a person purchasing a vehicle, obtain a limited registration plate pursuant to G.S. 20-79.1A."

SECTION 15.(b) G.S. 20-79.1A(a)(1) reads as rewritten:

"(a) Eligibility. – A limited registration plate is issuable to any of the following:

(1) A person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate. A dealer shall notify the person purchasing a vehicle of any outstanding civil penalties, fees, tolls, and obligations owed that are of record and that are known by the dealer at the time the dealer applies for a title to a motor vehicle and a registration plate for the vehicle under this section."

SALVAGE TITLE STUDY

SECTION 16.(a) The Division of Motor Vehicles shall, in consultation with the Department of Insurance and interested parties, study whether the laws governing the title, registration, and branding of salvage vehicles need to be revised to protect consumers from vehicles that appear safe, which are actually unsafe because of flood damage or other severe damage that makes a vehicle unsafe, but is concealed from the consumer. The study will include the economic impact to the consumer of any proposed change in law recommended by the Division. As part of the study, the Division shall consider any other issues determined to be relevant to the title and registration of salvage vehicles.

SECTION 16.(b) No later than March 1, 2021, the Division of Motor Vehicles shall report its findings, including any recommendations for legislation, to the chairs of the Joint Legislative Transportation Oversight Committee, the House of Representatives Appropriations Committee on Transportation, the Senate Appropriations Committee on the Department of Transportation, and the Fiscal Research Division.

DIVISION OF EMERGENCY MANAGEMENT STUDY

SECTION 17.(a) Study. – The Division of Emergency Management of the Department of Public Safety shall study the needs of law enforcement, emergency medical and emergency management personnel, and firefighters to improve access to or within the interstate system of this State for the benefit of public safety. In conducting the study, the Division may consult with the Department of Transportation, the Office of State Fire Marshal of the Department of Insurance, the Office of Emergency Medical Services of the Department of Health and Human Services, and any other State or local government organizations the Division determines may be of assistance in the course of the study. In performing the study, the Division shall, at a minimum, take the following steps:

(1) Consult with county fire marshal divisions, emergency management offices, and emergency medical service divisions to determine potential sites of interest for construction or improvement relevant to the study.

(2) Establish criteria to prioritize sites of interest for either construction or improvement.

(3) Review applicable federal and State laws, codes, standards, and studies relevant to the study.

(4) Review (i) existing Department of Transportation planning, design, and construction standards for interchanges, median crossovers, and access points and (ii) how those standards consider the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.

(5) Consider the feasibility of providing opportunities for stakeholder input during the planning of future interstate improvements that focus on the needs of law enforcement, emergency medical and emergency management personnel, and firefighters.

(6) Examine any other matters the Division deems relevant in the course of the study.

SECTION 17.(b) Report. – The Division shall report the findings and recommendations, including any legislative proposals, to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Emergency Management Oversight Committee, and the Joint Legislative Transportation Oversight Committee no later than March 1, 2022.

NORTH CAROLINA BOARD OF ARCHITECTURE MODIFICATIONS

SECTION 18.(a) G.S. 83A-2 reads as rewritten:

"**§ 83A-2. North Carolina Board of Architecture; creation; appointment, terms and oath of members; vacancies; officers; bond of treasurer; notice of meetings; quorum.**

(a) The North Carolina Board of Architecture shall have the power and responsibility to administer the provisions of this Chapter in compliance with the Administrative Procedure Act.

(b) The Board shall consist of seven members appointed by the Governor. Five of the members of the Board shall be licensed architects appointed for five year terms; the terms shall be staggered so that the term of one architect member expires each year. No architect member shall be eligible to serve more than two consecutive terms; if a vacancy occurs during a term, the Governor shall appoint a person to fill the vacancy for the remainder of the unexpired term. Two of the members of the Board shall be persons who are not licensed architects and who represent the interest of the public at ~~large; the Governor shall appoint these members not later than July 1, 1979.~~ large. The public members shall have full voting powers and shall serve at the pleasure of the Governor. Each Board member shall file with the Secretary of State an oath faithfully to perform duties as a member of the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States.

(c) Officers of the Board shall include a president, vice-president, secretary and treasurer elected at the annual meeting for terms of one year. The treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. Notice of the annual meeting, and the time and place of the annual meeting shall be given each member by letter at least 10 days prior to such meeting and public notice of annual meetings shall be published at least ~~once each week~~ for two weeks preceding such meetings ~~in one or more newspapers of general circulation in this State.~~ on the Web site of the Board. A majority of the members of the Board shall constitute a quorum."

SECTION 18.(b) G.S. 83A-5 reads as rewritten:

"**§ 83A-5. Board records; rosters; seal.**

(a) The Board shall maintain records of board meetings, of applications for individual or corporate registration and the action taken thereon, of the results of examinations, of all disciplinary proceedings, and of such other information as deemed necessary by the Board or required by the Administrative Procedure Act or other provisions of the General Statutes.

(b) A complete roster showing the name and last known address of all resident and nonresident architects and architectural firms holding current licenses from the Board shall be maintained and published by the ~~Board at least once each year,~~ Board, and shall include each registrant's authorization or registration number. Copies of the roster shall be filed with the Secretary of State and the Attorney ~~General, and other applicable State or local agencies, and upon request, may be distributed or sold to the public.~~ General, and may be made available on the Web site of the Board.

(c) The Board shall adopt a seal containing the name of the Board for use on its official records and reports."

SECTION 18.(c) G.S. 83A-7 reads as rewritten:

"**§ 83A-7. Qualifications and examination requirements.**

(a) Licensing by Examination. – Any individual who is at least 18 years of age and of good moral character may make written application for examination by completion of a form prescribed by the Board accompanied by the required application fee. Subject to qualification requirements of this section, the applicant shall be entitled to an examination to determine ~~his~~ qualifications for licensure.

(1) The qualification requirements for ~~registration~~ licensure by examination as a duly licensed architect shall ~~be:~~ be all of the following:

a. ~~Professional education and at least three years practical~~ Practical training and experience as specified by rules of the Board.

b. The successful completion of a licensure examination in architecture as specified by the rules of the Board.

c. The successful completion of an accredited master's or bachelor's degree in architecture as specified by the rules of the Board.

(2) The Board shall adopt rules to set requirements for professional education, practical training and experience, and examination which must be met by applicants for licensure and which may be based on the published guidelines of nationally recognized councils or agencies for the accreditation, examination, and licensing for the architectural profession.

(b) Licensing by Reciprocity. – Any individual holding a current license for the practice of architecture from another state or territory, and holding a ~~certificate of qualification~~ certified record issued by the National Council of Architectural Registration Boards, NCARB, may upon application and within the discretion of the Board be licensed without written examination. The Board ~~may~~ may, in its discretion, waive the requirement for National Council of Architectural Registration Boards (NCARB) ~~registration~~ certified record if the qualifications, examination and licensing requirements of the state in which the applicant is licensed are substantially equivalent to those of this State and the applicant otherwise meets the requirements of this Chapter."

SECTION 18.(d) G.S. 83A-11 reads as rewritten:

"**§ 83A-11. Expirations and renewals.**

Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be ~~mailed~~ transmitted to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications."

INSURANCE CANCELLATION PROOF OF MAILING

SECTION 19.(a) G.S. 58-41-15 reads as rewritten:

"**§ 58-41-15. Certain policy cancellations prohibited.**

...

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been delivered or mailed to the insured, not less than 15 days before the proposed effective date of cancellation. The notice must be given or mailed to the insured, and any designated mortgagee or loss payee at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice must state the precise reason for cancellation. ~~Proof of mailing is sufficient proof of notice.~~ Failure to send this notice to any designated mortgagee or loss payee invalidates the cancellation only as to the mortgagee's or loss payee's interest.

...

(f) For purposes of this section, proof of mailing is sufficient proof of notice."

SECTION 19.(b) This section becomes effective October 1, 2020, and applies to policies issued, amended, or renewed on or after that date.

REQUIRE ADDITIONAL NOTICE BEFORE STATE OF EMERGENCY DECLARATIONS TAKE EFFECT

SECTION 20. G.S. 166A-19.31 reads as rewritten:

"**§ 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.**

...

(d) When Prohibitions and Restrictions Take Effect. – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. ~~For the purpose of requiring compliance, publication~~ Publication shall include at least (i) publication of a signed copy of the declaration conspicuously posted on the Web site of the municipality or county and (ii) submittal of notice and a signed copy of the declaration to the Department of Public Safety WebEOC critical incident management system. Publication may also consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

...."

CONFIDENTIALITY CHANGES FOR CERTAIN DOCUMENTS IN SECURITIES INVESTIGATIONS

SECTION 21.(a) G.S. 78A-45 reads as rewritten:

"**§ 78A-45. Administration of Chapter.**

(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed. The Secretary of State may designate one or more hearing officers for the purpose of conducting administrative hearings.

(b) It is unlawful for the Administrator or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the Administrator and which is not made public. No provision of this Chapter authorizes the Administrator or any of his officers or employees to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under this Chapter. No provision of this Chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the Administrator or any of his officers or employees.

(b1) It is the policy of this State that an investor's financial information should be treated as confidential and unavailable for inspection or examination by members of the public under G.S. 132-6.

(c) All fees provided for under this Chapter shall be collected by the Administrator and shall be paid over to the State Treasurer to go into the general fund."

SECTION 21.(b) G.S. 78A-50 reads as rewritten:

"**§ 78A-50. Administrative files and opinions.**

(a) A document is filed when it is received by the Administrator.

(b) The Administrator shall keep a register of all applications for registration and registration statements which are or have been effective under this Chapter and all denial, suspension, or revocation orders which have been entered under this Chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the Administrator prescribes.

(c1) The files and records of the Administrator relating to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4.

(c2) The files and records of the Administrator relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 until the investigations and proceedings are completed and cease to be active.

(c3) Any information obtained by the Administrator from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(c4) Notwithstanding subsections (c1) and (c2) of this section, any records obtained by the Administrator in connection with an examination under G.S. 78A-38(d), an investigation under G.S. 78A-46, or an action under G.S. 78A-47 or G.S. 78A-39 shall not be a public record available for public examination.

(c5) A record that is not required to be provided to the Administrator or filed under this act and is provided to and accepted by the Administrator only on the condition that the information will not be subject to public examination or disclosure is not a public record that is available for public examination.

(c6) The Administrator may disclose a record obtained in connection with an examination under G.S. 78A-38(d), an investigation under G.S. 78A-46, or an action under G.S. 78A-47 or G.S. 78A-39 if disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a securities regulator of one or more states, Canada or one or more of its provinces or territories, one or more foreign countries; the United States Securities and Exchange Commission, the United States Department of Justice, the Commodity Futures Trading Commission, the Federal Trade Commission, the Securities Investor Protection Corporation, a self-regulatory organization, a national or international organization of securities regulators, federal or state banking and insurance regulators, and any governmental law enforcement agency, in order to effectuate greater uniformity in securities matters among the federal government, self-regulatory organizations, and state and foreign governments.

(d) Upon request and at such reasonable charges as the administrator prescribes, the Administrator shall furnish to any person photostatic or other copies (certified under the seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this Chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Administrator may honor requests from interested persons for interpretative opinions. When an exemption is claimed in writing, cites the section relied upon, and is considered eligible upon the showing made, a "no action" letter will be furnished upon request and upon the payment of a fee of one hundred fifty dollars ($150.00)."

SECTION 21.(c) G.S. 78C-26 reads as rewritten:

"**§ 78C-26. Administration of Chapter.**

(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, and make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed. The Secretary of State may designate one or more hearing officers for the purpose of conducting administrative hearings.

(b) It is unlawful for the Administrator or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the Administrator and which is not made public. No provision of this Chapter authorizes the Administrator or any of his officers or employees to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under this Chapter. No provision of this Chapter either creates or derogates from any privilege which exists at common law or otherwise

when documentary or other evidence is sought under a subpoena directed to the Administrator or any of his officers or employees.

(b1) It is the policy of this State that an investor's financial information should be treated as confidential and unavailable for inspection or examination by members of the public under G.S. 132-6.

(c) All fees provided for under this Chapter shall be collected by the Administrator and shall be paid over to the State Treasurer to go into the General Fund."

SECTION 21.(d) G.S. 78C-31 reads as rewritten:

"**§ 78C-31. Administrative files and opinions.**

(a) A document is filed when it is received by the Administrator.

(b) The Administrator shall keep a register of all applications for registration which are or have been effective under this Chapter and all denial, suspension, or revocation orders or similar orders which have been entered under this Chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration, application, or report may be made available to the public under such rules as the Administrator prescribes.

(c1) The files and records of the Administrator relating to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4.

(c2) The files and records of the Administrator relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 until the investigations and proceedings are completed and cease to be active.

(c3) Any information obtained by the Administrator from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(c4) Notwithstanding subsections (c1) and (c2) of this section, any records obtained by the Administrator in connection with an examination under G.S. 78C-18(e), an investigation under G.S. 78C-27, or an action under G.S. 78C-28 or G.S. 78C-19 shall not be a public record available for public examination.

(c5) A record that is not required to be provided to the Administrator or filed under this act and is provided to the Administrator only on the condition that the information will not be subject to public examination or disclosure is not a public record that is available for public examination.

(c6) The Administrator may disclose a record obtained in connection with an examination under G.S. 78C-18(e), an investigation under G.S. 78C-27 or an action under G.S. 78C-28 or G.S. 78C-19 if disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a securities regulator of one or more states, Canada or one or more of its provinces or territories, one or more foreign countries; the United States Securities and Exchange Commission, the United States Department of Justice, the Commodity Futures Trading Commission, the Federal Trade Commission, the Securities Investor Protection Corporation, a self-regulatory organization, a national or international organization of securities regulators, federal or state banking and insurance regulators, and any governmental law enforcement agency, in order to effectuate greater uniformity in securities matters among the federal government, self-regulatory organizations, and state and foreign governments.

(d) Upon request and at such reasonable charges as the Administrator prescribes, the Administrator shall furnish to any person photostatic or other copies (certified under the seal of office if requested) of any entry in the register or any document which is a matter of public record.

In any proceeding or prosecution under this Chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Administrator may honor requests from interested persons for interpretative opinions upon the payment of a fee of one hundred fifty dollars ($150.00)."

ALLOW SELF-INSURERS TO MAKE PAYMENTS FOR AN INITIAL ASSESSMENT OVER A PERIOD

SECTION 22. G.S. 97-133(a)(3a)c. reads as rewritten:

"c. Initial assessments. – An individual self-insurer ~~that becomes~~ upon receiving its license from the Commissioner is a member ~~and does not initially participate in~~ of the Association ~~Aggregate Security System shall~~ and is required to pay an initial assessment to the Association in an amount and over a period as determined by the Board. A group self-insurer, upon receiving its ~~initial~~ license from the Commissioner, ~~shall~~ is a member of the Association and is required to pay an initial assessment to the Association in an amount and over a period as determined by the Board."

AMEND CERTAIN CHARTER SCHOOL REPORT DATE

SECTION 23. G.S. 115C-218.110 reads as rewritten:

"**§ 115C-218.110. Notice of the charter school process; review of charter schools.**

...

(b) The State Board of Education shall review and evaluate the educational effectiveness of the charter schools authorized under this Article and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than ~~February 15~~ June 15 to the Joint Legislative Education Oversight Committee on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.

(3) Best practices resulting from charter school operations.

(4) Other information the State Board considers appropriate."

CLARIFICATION REGARDING SUBMISSION OF CERTAIN COMPONENT DESIGNS OR PROPOSALS

SECTION 24. G.S. 160D-1106(a) reads as rewritten:

"**§ 160D-1106. Alternate inspection method for component or element.**

(a) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) ~~The~~ When required by the North Carolina State Building Code, the submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means."

SECTION 24.5.(a) Pursuant to G.S. 150B-21.3(b1), the following rules, as adopted by the North Carolina Department of Health and Human Services on February 11, 2019, and approved by the Rules Review Commission on April 18, 2019, are disapproved:

10A NCAC 14J .0301 (Classification System and Total Design Capacity)

10A NCAC 14J .1210 (Other Areas)

SECTION 24.5.(b) This section is effective when it becomes law.

PART II. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES REGULATORY REFORM PROVISIONS

ALLOW DIVISION OF COASTAL MANAGEMENT TO ACCEPT ELECTRONIC PAYMENTS

SECTION 25. G.S. 113A-119 reads as rewritten:

"**§ 113A-119. Permit applications generally.**

(a) Any person required to obtain a permit under this Part shall file with the Secretary and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application ~~a check~~ an electronic payment, check, or money order payable to the Department or the city or county, as the case may be, constituting a fee set by the Commission pursuant to G.S. 113A-119.1.

...."

MINE RECLAMATION REPORTING DATE CHANGE

SECTION 26. G.S. 74-55 reads as rewritten:

"**§ 74-55. Reclamation report.**

(a) By ~~July 1~~ September 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which includes all of the following:

(1) Identify the mine, the operator and the permit number.

(2) State acreage disturbed by mining in the last 12-month period.

(3) State and describe amount and type of reclamation carried out in the last 12-month period.

(4) Estimate acreage to be newly disturbed by mining in the next 12-month period.

(5) Provide such maps as may be specifically requested by the Department.

(6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

(b) When filing the annual report, the permittee shall pay the annual operating fee for the permit to the Department by September 1 of each year until the permit has been terminated by the Department. The Department may assess and collect a monthly penalty for each annual report or annual operating fee not filed by ~~July 31~~ September 30 of each year until the annual report and annual operating fee are filed with the Department. If the required annual report and operating fee, including any late payment penalties, are not filed by December 31 of each year,

the Department shall give written notice to the operator and shall then initiate permit revocation proceedings in accordance with G.S. 74-58."

DEQ REPORTS DATE CHANGE

SECTION 27.(a) Section 15.6(b) of S.L. 1999-237, as amended by Section 4.21 of S.L. 2017-10, reads as rewritten:

"Section 15.6.(b) The Department of Environmental Quality and the Office of State Budget and Management shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources the amount and the source of the funds used pursuant to subsection (a) of this section ~~within 30 days of the expenditure of these funds.~~on or before April 15 of each year and shall include this information in the status of solid waste management report required to be submitted pursuant to G.S. 130A-309.06(c)."

SECTION 27.(b) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on or before ~~January 15~~ April 15 of each year on the status of solid waste management efforts in the State. The report shall ~~include:~~include all of the following:

...

(17) ~~A report~~ Reports on the Inactive Hazardous Waste Response Act of 1987 pursuant to ~~G.S. 130A-310.10(a).~~G.S. 130A-310.10.

...

(20) A report on the use of funds for Superfund cleanups and inactive hazardous site cleanups."

SECTION 27.(c) G.S. 130A-294(i) reads as rewritten:

"(i) The Department shall include in the status of solid waste management report required to be submitted ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) a report on the implementation and cost of the hazardous waste management program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

...."

SECTION 27.(d) G.S. 130A-309.64(e) reads as rewritten:

"(e) The Department shall include in the report to be delivered to the Environmental Review Commission ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under

subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section."

SECTION 27.(e) G.S. 130A-309.85 reads as rewritten:

"**§ 130A-309.85. Reporting on the management of white goods.**

The Department shall include in the report to be delivered to the Environmental Review Commission ~~on or before 15 January of each year~~ pursuant to G.S. 130A-309.06(c) a description of the management of white goods in the State for the fiscal year ending the preceding 30 June. The description of the management of white goods shall include the following information:

...."

SECTION 27.(f) G.S. 130A-309.140(a) reads as rewritten:

"(a) The Department shall include in the status of solid waste management report required to be submitted ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) a report on the recycling of discarded computer equipment and televisions in the State under this Part. The report must include an evaluation of the recycling rates in the State for discarded computer equipment and televisions, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment, televisions, or other electronic devices."

SECTION 27.(g) G.S. 130A-310.10 reads as rewritten:

"**§ 130A-310.10. Annual reports.**

(a) The Secretary shall include in the status of solid waste management report required to be submitted ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) a report on inactive hazardous sites that includes at least the following:

(1) The Inactive Hazardous Waste Sites Priority List.

(2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund.

(3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of ~~said~~ these plans.

(4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement ~~such~~ these plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of ~~such~~ the plan.

(5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval.

(6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of ~~said~~ these plans.

(7) A list of sites that pose an imminent hazard.

(8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund.

(8a) Repealed by Session Laws 2015-286, s. 4.7(f), effective October 22, 2015.

(9) Any other information requested by the General Assembly or the Environmental Review Commission.

(a1) On or before ~~October 1~~ April 15 of each year, the Department shall report to each member of the General Assembly who has an inactive hazardous substance or waste disposal site in the member's district. This report shall include the location of each inactive hazardous

substance or waste disposal site in the member's district, the type and amount of hazardous substances or waste known or believed to be located on each of these sites, the last action taken at each of these sites, and the date of that last action. The Department shall include this information in the status of solid waste management report required to be submitted pursuant to G.S. 130A-309.06(c).

(b) Repealed by Session Laws 2001-452, s. 2.3, effective October 28, 2001."

SECTION 27.(h) G.S. 130A-310.40 reads as rewritten:

"**§ 130A-310.40. Legislative reports.**

The Department shall include in the status of solid waste management report required to be submitted ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) an evaluation of the effectiveness of this Part in facilitating the remediation and reuse of existing industrial and commercial properties. This evaluation shall include any recommendations for additional incentives or changes, if needed, to improve the effectiveness of this Part in addressing ~~such~~ these properties. This evaluation shall also include a report on receipts by and expenditures from the Brownfields Property Reuse Act Implementation Account."

SECTION 27.(i) G.S. 143-215.104U(a) reads as rewritten:

"(a) The Secretary shall include in the status of solid waste management report required to be submitted ~~on or before January 15 of each year~~ pursuant to G.S. 130A-309.06(c) a report on at least the following:

...."

SECTION 27.(j) Section 14.22(j) of S.L. 2013-360 reads as rewritten:

"**SECTION 14.22.(j)** This section authorizes a Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers which may last beyond the current fiscal biennium and which shall provide for all of the following:

(1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.

(2) Compliance with G.S. 143-215.73F. Funds in the Shallow Draft Navigation Channel Dredging Fund shall be used in accordance with that section.

(3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the Long Term Dredging Memorandum of Agreement. These reports shall be made to the ~~Joint Legislative Commission on Governmental Operations,~~ Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Office of State Budget and Management and shall include all of the following:

a. A list of all projects commenced.

b. The estimated cost of each project.

c. The date that work on each project commenced or is expected to commence.

d. The date that work on each project was completed or is expected to be completed.

e. The actual cost of each project."

TECHNICAL AND CONFORMING CHANGES TO SOLID WASTE STATUTES

SECTION 28.(a) G.S. 130A-4(c) reads as rewritten:

"(c) The Secretary of Environmental Quality shall administer and enforce the provisions of Articles 9 and 10 of this Chapter and the rules of the ~~Commission.~~Commission and the Environmental Management Commission adopted thereunder."

SECTION 28.(b) G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environmental Quality may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Environmental Management Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). For violations of Part 7 of Article 9 of this Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the penalty shall not exceed two hundred dollars ($200.00) for a second violation; and (iii) the penalty shall not exceed five hundred dollars ($500.00) for subsequent violations. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

...

(f) The Commission shall adopt rules concerning the imposition of administrative penalties ~~under~~ pursuant to this ~~section.~~section that are under authority of the Secretary, and the Environmental Management Commission shall adopt rules concerning the imposition of administrative penalties pursuant to this section that are under authority of the Secretary of Environmental Quality.

...."

SECTION 29. G.S. 130A-295.6 reads as rewritten:

"**§ 130A-295.6. Additional requirements for sanitary landfills.**

(a) The applicant for a proposed sanitary landfill shall contract with a qualified third party, approved by the Department, to conduct a study of the environmental impacts of any proposed sanitary landfill, in conjunction with its application for a new permit as defined in ~~sub-subdivisions a. through d. of subdivision (1a) of subsection (b) of G.S. 130A-295.8.~~ G.S. 130A-294(a3). The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact statement is required, the Department shall publish notice of the draft environmental impact statement and shall hold a public hearing in the county where the landfill will be located no sooner than 30 days following the public notice. The Department shall consider the study of environmental impacts and any mitigation measures proposed by the applicant in deciding whether to issue or deny a permit. An applicant for a permit for a sanitary landfill shall pay all costs incurred by the Department to comply with the public notice and public hearing requirements of this subsection.

...."

CONSOLIDATE RIVER BASIN ADVISORY COMMISSION REPORTS

SECTION 30.(a) G.S. 77-96(c) reads as rewritten:

"(c) The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the North Carolina Auditor and the Virginia Auditor of Public Accounts prescribe, provided that the accounts shall correspond

as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the North Carolina Auditor and the Virginia Auditor of Public Accounts or their legal representatives, and the costs of the audit services shall be borne by the Commission. The results of the audits shall be delivered as part of the annual report required in G.S. 77-98 by ~~March 1~~ October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic ~~Resources and~~ Resources, the Fiscal Research Division of the General Assembly of North ~~Carolina~~ Carolina, and as provided by the Commonwealth of Virginia."

SECTION 30.(b) G.S. 77-98 reads as rewritten:

"**§ 77-98. Annual report.**

The Commission shall submit an annual report, including the annual audit required by G.S. 77-96 and any recommendations, on or before 1 October of each year to ~~the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of Virginia, and the General Assembly of Virginia.~~the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division of the General Assembly of North Carolina, and as provided by the Commonwealth of Virginia."

SECTION 30.(c) G.S. 77-115(b) reads as rewritten:

"(b) The accounts and records of each commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the Auditor of North Carolina and the State Auditor of South Carolina prescribe. The accounts and records of each commission shall be subject to an annual audit by the Auditor of North Carolina and the State Auditor of South Carolina or their legal representatives. The cost of the annual audits shall be borne by each commission. The results of the audits shall be delivered as part of the annual report required by G.S. 77-117 by ~~March 1~~ October 1 of each year to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic ~~Resources and~~ Resources, the Fiscal Research Division of the General Assembly of North ~~Carolina~~ Carolina, and ~~to the General Assembly of South Carolina as the General Assembly of South Carolina shall provide.~~as provided by the State of South Carolina."

SECTION 30.(d) G.S. 77-117 reads as rewritten:

"**§ 77-117. Annual report.**

The commissions shall submit annual reports, including the annual audit required by G.S. 77-115 and any recommendations, on or before ~~1 October~~ October 1 of each year to ~~the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of South Carolina, and the General Assembly of South Carolina, as the Governor, the General Assembly of South Carolina, or the Commissioner of the South Carolina Department of Health and Environmental Control shall provide.~~Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division of the General Assembly of North Carolina, and as provided by the State of South Carolina."

ELECTRONIC PERMITTING CLARIFICATION

SECTION 31. G.S. 143-215.1(b) reads as rewritten:

"(b) Commission's Power as to Permits. –

…

(4) The Commission shall have the power:

…

f. To issue a permit, certification, authorization, or other approval by electronic delivery, registered or certified mail, or any other means authorized by G.S. 1A-1, Rule 4.

…."

NONBETTERMENT COST RECOVERY FOR CERTAIN PRIVATE WATER AND SEWER SYSTEMS

SECTION 32.(a) G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities, nonprofit water or sewer corporations or associations, ~~and~~ local boards of ~~education.~~education, and certain private water or sewer utilities.**

(a) The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State transportation project right-of-way, that are necessary to be relocated for a State transportation improvement project and that are owned by: (i) a municipality with a population of 10,000 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by a County as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 10,000 according to the latest decennial census; ~~or~~ (vii) a local board of ~~education.~~education; or (viii) a private water or sewer utility organized pursuant to Chapter 62 of the General Statutes serving 10,000 or fewer customers.

(b) A municipality with a population of greater than 10,000 shall pay a percentage of the nonbetterment cost for relocation of water and sewer lines owned by the municipality and located within the existing State transportation project right-of-way that are necessary to be relocated for a State transportation improvement project. The percentage shall be based on the municipality's population, with the Department paying the remaining costs, as follows:

(1) A municipality with a population of greater than 10,000, but less than 50,000, shall pay twenty-five percent (25%) of the cost.

(2) A municipality with a population of 50,000 or greater, but less than 100,000, shall pay fifty percent (50%) of the cost.

(3) A municipality with a population of 100,000 or greater shall pay one hundred percent (100%) of the cost."

SECTION 32.(b) This section is effective retroactively to March 1, 2020, and shall apply to nonbetterment costs for State transportation improvement projects incurred on or after that date. The Department of Transportation shall reimburse any nonbetterment costs for State transportation improvement projects collected from a private water or sewer utility organized pursuant to Chapter 62 of the General Statutes serving 10,000 or fewer customers after March 1, 2020.

UNDERGROUND STORAGE TANK SPILL BUCKET RULE CHANGE

SECTION 33.(a) Definitions. – For purposes of this section and its implementation, "UST Spill Bucket General Requirement Rule" means 15A NCAC 02N .0901 (General Requirements).

SECTION 33.(b) UST Spill Bucket General Requirement Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the UST Spill Bucket General Requirement Rule as provided in subsection (c) of this section.

SECTION 33.(c) Implementation. – Spill buckets replaced on tanks installed prior to November 1, 2007, may use mechanical liquid detecting sensors for interstitial leak detection monitoring instead of electronic liquid detecting sensors. If a mechanical liquid detecting sensor is used, then a spill bucket shall comply with all spill bucket requirements of 15A NCAC 02N .0906 except that Subparagraphs (i)(7) and (8) of 15A NCAC 02N .0901 do not apply. In addition, all of the following specific requirements shall be met:

(1) Mechanical liquid detecting sensors shall be located at the lowest point in the interstitial space.
(2) Mechanical liquid detecting sensors shall detect the presence of any liquid in the interstitial space. The presence of liquid shall register on a gauge that can be viewed from within the spill bucket.
(3) Spill buckets shall be monitored every 30 days. The interstitial leak detection monitoring results shall be documented for each month.
(4) Any liquid detected in the interstitial space shall be removed within 48 hours of discovery.
(5) Spill buckets shall be integrity tested every three years in accordance with 15A NCAC 02N .0906(e).

SECTION 33.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the UST Spill Bucket General Requirement Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 33.(e) Applicability and Sunset. – This section and rules adopted pursuant to this section apply to all spill buckets replaced on or after June 1, 2020. This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PREVENT FROM BECOMING EFFECTIVE RULES MODIFYING THE NORTH CAROLINA BUILDING CODE

SECTION 34. Notwithstanding G.S. 150B-21.3(b1), the following rules, as adopted by the North Carolina Building Code Council on March 10, 2020, and approved by the Rules Review Commission on May 21, 2020, shall not become effective:

1102.7 (2018 NC Plumbing Code/Fittings).
1102.2 (2018 NC Plumbing Code/Inside Storm Drainage Conductors).
702.4 (2018 NC Plumbing Code/Fittings).
702.1 (2018 NC Plumbing Code/Above-Ground Sanitary Drainage and Vent Pipe).

LIBRARY STATUTE CHANGES

SECTION 35.(a) G.S. 143B-68 reads as rewritten:

"**§ 143B-68. Public Librarian Certification Commission – members; selection; quorum; compensation.**

The Public Librarian Certification Commission of the Department of Natural and Cultural Resources shall consist of five members as follows: (i) the chairman of the public libraries section of the North Carolina Library Association, (ii) two individuals named by the Governor upon the nomination of the North Carolina Library Association, (iii) the ~~dean~~ dean, department chair, program director, or equivalent of a State or regionally accredited graduate school of librarianship in North Carolina appointed by the Governor, and (iv) one member at large appointed by the Governor.

The members shall serve four-year terms or while holding the appropriate chairmanship. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem, and necessary travel expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department through the regular staff of the Department."

SECTION 35.(b) G.S. 143B-91 reads as rewritten:

"**§ 143B-91. State Library Commission – members; selection; quorum; compensation.**

...

(b) There ~~shall be standing~~ may be committees established to advise the Secretary of Natural and Cultural Resources, the Commission, and the State Librarian. ~~These committees shall be: Public Library Development; Interlibrary Cooperation; State Government Information Services; State Library Development; and any other committee deemed appropriate.~~ Each committee shall be composed of a committee chairperson and at least ~~six~~ four persons appointed ~~annually~~ by the ~~Secretary of Natural and Cultural Resources~~ chair with the approval of the Commission. At least one of the members of each committee shall be a member of the Commission. Each committee shall report to the Commission at least once a year."

SECTION 35.(c) G.S. 125-11.13 is repealed.

ABANDONED AND DERELICT VESSELS

SECTION 36. Subdivision (10) of Section 2.1 of S.L. 2019-224 reads as rewritten:

"(10) $1,000,000 to the Wildlife Resource Commission (WRC) to inspect, investigate, and remove ~~derelict and abandoned water~~ abandoned and derelict vessels. Notwithstanding any provision of law in Chapter 75A of the General Statutes, the WRC is authorized to use these and other available funds to inspect, investigate, ~~and remove~~ remove, and dispose of abandoned and derelict vessels. Prior to removing and disposing of a vessel under this subdivision, the WRC shall (i) send written notice to the last known owner of the status of the vessel if an owner can be determined and (ii) post a notice on the vessel advising that the vessel is abandoned. If no response to the written notice to owner or the notice posted on the vessel is received within 30 days indicating intent to recover while taking specific acts to remove the vessel, then the WRC may proceed with removal and disposal of the vessel. The WRC may remove and dispose of abandoned and derelict vessels on private property after receiving written permission from the property owner and following the other procedures set forth in this section. The WRC shall prioritize the use of State funds for the removal of abandoned and derelict vessels located on public waters and lands. As used in this subdivision, the phrase "abandoned and derelict vessel" means ~~a water-going craft located in a canal or the Intracoastal Waterway that has been damaged or destroyed by weather-related events and that is impeding water traffic. The phrase does not apply to a vessel that is moored to a dock or otherwise not located in an area of normal water traffic. WRC may also remove and dispose of vessels identified by the Marine Patrol of the Division of Marine Fisheries.~~ a vessel, as defined in G.S. 75A-2(5), that is left or stored for more than 30 days in one of the following states:

a. In a wrecked, junked, or substantially damaged or dismantled condition upon any public waters and lands of the State.

b. At a harbor or anchorage within public waters of the State without the consent of the public agency having jurisdiction thereof.

c. Docked, grounded, or beached upon the property of another without the consent of the owner of the property."

LOCAL PLANNING AND DEVELOPMENT REGULATION CONFORMING CHANGE

SECTION 37.(a) G.S. 160D-903(a) reads as rewritten:

"(a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

(1) A farm sales tax exemption certificate issued by the Department of Revenue.

(2) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.

(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(4) A forest management plan.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to ~~subsection (a) of this section~~ G.S. 160D-702 in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting."

SECTION 37.(b) This section is effective when Chapter 160D of the General Statutes becomes effective.

SECTION 38.(a) G.S. 153A-145.8, as enacted by S.L. 2020-18, reads as rewritten:

"**§ 153A-145.8. Limitations on regulation of catering by bona fide farms.**

Notwithstanding any other provision of law, no county may require a business located on a property used for bona fide farm purposes, as provided in ~~G.S. 153A-340(b),~~ G.S. 160D-903(a), that provides on- and off-site catering services, to obtain a permit to provide catering services

within the county. This section shall not be construed to exempt the business from any health and safety rules adopted by a local health department, the Department of Health and Human Services, or the Commission for Public Health."

SECTION 38.(b) G.S. 160A-203.2, as enacted by S.L. 2020-18, reads as rewritten:

"**§ 160A-203.2. Limitations on regulation of catering by bona fide farms.**

Notwithstanding any other provision of law, no city may require a business located on a property used for bona fide farm purposes, as provided in ~~G.S. 153A-340(b),~~ G.S. 160D-903(a), that provides on- and off-site catering services, to obtain a permit to provide catering services within the city. This section shall not be construed to exempt the business from any health and safety rules adopted by a local health department, the Department of Health and Human Services, or the Commission for Public Health."

SECTION 38.(c) This section is effective when Chapter 160D of the General Statutes becomes effective.

EFFECTIVE DATE

SECTION 39. Except as otherwise provided, this act is effective when it becomes law.

ATTACHMENT # 1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 374

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S374-ABR-41 [v.1]

Amends Title [NO]
S374-CSBRa-31 [v.7]

Date June 17 ,2020

Representative Meyer

moves to amend the bill on page 5, lines 4 through 27, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

S374-ABR-41-V-1

ATTACHMENT # 2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 374

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S374-ABQ-88 [v.2]

Date June 17 ,2020

Amends Title [NO]
S374-CSBRa-31 [v.7]

Representative Stevens

moves to amend the bill on page 16, lines 44 – 45, by inserting the following between those lines:

"**SECTION 24.5.(a)** Pursuant to G.S. 150B-21.3(b1), the following rules, as adopted by the North Carolina Department of Health and Human Services on February 11, 2019, and approved by the Rules Review Commission on April 18, 2019, are disapproved:

10A NCAC 14J .0301 (Classification System and Total Design Capacity)

10A NCAC 14J .1210 (Other Areas)

SECTION 24.5.(b) This section is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S374-ABQ-88-V-2

ATTACHMENT # 3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 374

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S374-ABR-43 [v.1]

Amends Title [NO]
S374-CSBRa-31

Date June 17 ,2020

Representative Holley

moves to amend the bill on page 5, line 29, through page 6, line 6, by deleting those lines; ~~and~~

~~on page 7, lines 2 through 28, by deleting those lines.~~

SIGNED Yvonne Holley
Amendment Sponsor

SIGNED Dawn Rabon
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

S374-ABR-43-V-1

ATTACHMENT # 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 374

AMENDMENT NO. 4
(to be filled in by Principal Clerk)

S374-ABH-49 [v.1]

Amends Title [NO]
Second Edition

Date June 17 ,2020

Representative Conrad

moves to amend the bill on page 5, lines 28 - 29, by inserting between those lines:

"PUBLIC APPROVAL FOR PRIVATE ACTIVITY BONDS

SECTION 5A. Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-218.37. Public approval for private activity bonds.**

(a) For purposes of this section, the following definitions shall apply:

(1) Charter school facility. – Real property, personal property, or both that is used or intended for use in connection with the operation of a charter school.

(2) Applicable elected representative. – An elected official of a governmental unit having jurisdiction over the area in which a charter school facility is located, as defined in Section 147(f)(2) of the Internal Revenue Code (26 U.S.C. § 147(f)(2)).

(b) The Superintendent of Public Instruction is hereby designated as an applicable elected representative who may approve the issuance of one or more private activity bonds to finance or refinance a charter school facility, after a public hearing following reasonable public notice, in accordance with Section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable State and federal laws and regulations. Procedures for the public hearing shall be determined by the Superintendent of Public Instruction, and the public hearing shall be conducted by the Superintendent, or his or her designee, in the county where the charter school facility is or will be located."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S374-ABH-49-V-1

Committee Sergeants at Arms

NAME OF COMMITTEE House Comm on Regulatory Reform

DATE: 6/17/2020 Room: 1228/1327

House Sgt-At Arms:

1. Name: Mark Douglas
2. Name: Rex Foster
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

House Comm on Regulatory Reform — 6/17/2020

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Harris	NCPCM
Ken Melton	KMA
Amanda Donovan	KTS
Will Morgan	MFS
Lee Tilghman	TAG
Doug Austin	NCSTA
[illegible]	NWC
Justin Delaney	NCDOT
Aly Ellen	NCMA