GENERAL STATUTES COMMISSION

REPORT TO THE
2020 REGULAR SESSION
of the
2019 GENERAL ASSEMBLY
OF NORTH CAROLINA
ON
INCORPORATING LAND-USE LAWS ADOPTED IN 2019 INTO CHAPTER 160D OF THE GENERAL STATUTES AS REQUIRED BY S.L. 2019-111

MAY 7, 2020

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TRANSMITTAL LETTER

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TO THE MEMBERS OF THE 2020 REGULAR SESSION
OF THE 2019 GENERAL ASSEMBLY

The GENERAL STATUTES COMMISSION respectfully submits the following report to the 2020 Regular Session of the 2019 General Assembly.

Floyd M. Lewis
Ex Officio Secretary,
General Statutes Commission

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INTRODUCTION

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Section 2.10 of S.L. 2019-111 (Senate Bill 355, Land-Use Regulatory Changes) provides:

> 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act or in other acts enacted in the 2019 Regular Session of the 2019 General Assembly, or [sic] that affects statutes repealed and replaced by similar provisions in Chapter 160D of the General Statutes, as enacted by Part II of this act, also be incorporated into Chapter 160D of the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. It is the further intent of the General Assembly that legislation contained in the telecommunications provisions of Part II of this act makes no substantive policy changes from the statutes repealed.

Section 2.10 goes on to direct the General Statutes Commission to "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."

S.L. 2019-111, including Part II of that act, became law on July 11, 2019.

The General Statutes Commission was created by the General Assembly in 1945. The statutory provisions relating to the Commission are found in Article 2 of Chapter 164 of the General Statutes (N.C. Gen. Stat. § 164-12, et seq.).

PROCEEDINGS

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The General Statutes Commission (Commission) opened a docket (DN 19-3) on this study at its October 4, 2019, meeting. The Commission discussed the docket at five of its meetings, on January 10, 2020, February 7, 2020, March 6, 2020, April 3, 2020, and May 1, 2020.

The following is a summary of the Commission's proceedings on this docket. The Commission's minutes of these meetings, consisting of recordings of the meetings, and the documents related to this docket are available through the Revisor of Statutes, Bill Drafting Division, North Carolina General Assembly, 300 N. Salisbury Street, Suite 401, Raleigh, North Carolina 27603-5925; telephone (919) 733-6660; fax (919) 715-5459.

At its January 10, 2020, meeting, the Commission was scheduled to begin consideration of this docket with a review of an initial draft, but it was unable to do so because of work on other agenda items. The Commission authorized staff to include in any draft it reviewed any needed corrections of technical and other drafting errors, some of which had already been reported to the staff.

At its February 7, 2020, meeting, the Commission welcomed Mr. Mike Carpenter, Executive Vice President and General Counsel, North Carolina Home Builders Association, who attended the Commission's meeting to provide comments and answer questions on this docket.

The Assistant Revisor reported that, in addition to Part I of S.L. 2019-111 (Part I), three other acts had amended the statutes repealed or replaced in Part II of S.L. 2019-111 (Part II). These were S.L. 2019-35, 2019-79, and 2019-174. The "First Draft; DN 19-3 – Planning and Development Reg. Study; February 5, 2020," contained provisions incorporating the relevant portions of these three other acts into Chapter 160D of the General Statutes (Chapter 160D). The draft also restructured for clarity the provisions of G.S. 160D-1116. Provisions incorporating Part I were planned for the next draft. The Commission reviewed the "First Draft" and made or requested improvements in the draft.

At its March 6, 2020, meeting, the Commission welcomed Professor David W. Owens, Gladys Hall Coates Professor of Public Law and Government, UNC School of Government, Mr. Craig Justus, with the Van Winkle Law Firm, Asheville, N.C., on behalf of the North Carolina Home Builders Association, and Mr. Tim Minton, North Carolina Home Builders Association, who attended to provide comments and answer questions on this docket.

The Commission reviewed the "Second Draft; DN 19-3 – Planning and Development Reg. Study; March 4, 2020." The Assistant Revisor explained that this draft included

changes to the "First Draft" made or requested by the Commission at its February 7, 2020, meeting, internal reference and other technical corrections identified by staff at the General Assembly, and other amendments recommended by a drafting committee of the North Carolina Bar Association's Zoning, Planning, and Land Use Section (Bar Association's drafting committee). The draft also included sections incorporating some, but not all, of the amendments to Chapters 160A and 153A of the General Statutes made by Part I. The Assistant Revisor also distributed a handout with a new revision of G.S. 160D-1116(c), designed to clarify that statute.

The Commission reviewed the draft and the handout, accepted those changes from the Bar Association's drafting committee that appeared to be noncontroversial, and made or requested changes to improve the draft and incorporate the handout. It agreed to bring current G.S. 160A-439.1 forward as a new G.S. 160D-1130 upon hearing from Professor Owens that that section, which was enacted in 2018, had been inadvertently not included in Chapter 160D. The Commission also decided that the section, which allows cities to petition a court to appoint a receiver to repair, sell, or demolish vacant buildings under certain conditions, should be extended to allow counties to have this authority as well as cities, because the Commission saw no reason not to afford counties this option.

After a long discussion, the Commission decided to retain the new civil action provision enacted by Section 1.7 of S.L. 2019-111 in place of the more general civil action provision of G.S. 160D-405(c) and to make other changes necessary to conform to that approach.

At its April 3, 2020, meeting, the Commission again welcomed Professor Owens and Messrs. Carpenter and Justus, who attended to provide comments and answer questions on this docket.

The Commission reviewed the "Third Draft; DN 19-3 – Planning and Development Reg. Study; March 31, 2020."

The Assistant Revisor explained that this draft contained sections incorporating into Chapter 160D the amendments to G.S. 160A-385/153A-344 and G.S. 160A-385.1/153A-344.1 from Section 1.3(b) through (f) of S.L. 2019-111 to the extent necessary. This task had been the most difficult part of the work for the study because these amendments and the comparable portion of Chapter 160D (G.S. 160D-108) were structurally and philosophically incompatible. After much discussion among the various interested parties, it had been decided to propose that G.S. 160D-108 be almost entirely replaced with a reversion to the substance of G.S. 160A-385/153A-344 and G.S. 160A-385.1/153A-344.1, as amended by Section 1.3(b) through (f) of S.L. 2019-111, updated to conform to Chapter 160D to the extent possible. The proposal included the repeal of the definition of "vested right" in G.S. 160D-102. This decision complied with the corollary to the General Assembly's stated intent in directing that this legislation be incorporated into Chapter 160D, that in the event of a conflict between the provisions of Part I and the new Chapter 160D, the provisions of Part I would prevail. The Commission agreed with this proposal, with some changes to improve the draft.

The Commission revisited its decision at its March 6, 2020, meeting to expand the proposed new G.S. 160D-1130 (bringing forward the inadvertently omitted G.S. 160A-439.1) to counties on learning that, reportedly, the counties had asked not to be given the authority in this section when the section was enacted in 2018. Some Commission members expressed surprise because the section is permissive and does not impose any obligation on a local government to use it. It was also noted that one of the purposes of Chapter 160D was to have greater uniformity in land-use provisions. As a result, the Commission asked staff to ascertain the current position on this question and, if the counties still did not want this authority, to ask why this was so.

There being no apparent opposition after inquiry among members of the Bar Association's drafting committee, the Commission agreed to delete the optional authority to request the posting of a bond for a temporary certificate of occupancy at the request of the North Carolina Home Builders Association. The requirement appears for the first time in Chapter 160D (i.e., it is not currently effective law), and Professor Owens reported that none of his colleagues remembered its addition or any justification for it.

This draft also contained (i) an amendment to the applicability provision requested by the North Carolina Home Builders Association to expressly continue the applicability provisions of Section 3.1 of S.L. 2019-111 and (ii) a redrafted provision to allow local governments that are currently ready to operate under Chapter 160D to do so rather than needing to wait until January 1, 2021. The redrafted provision would repeal the effective date provision of Part II of S.L. 2019-111 and would provide for that Part to become effective when this bill becomes law, but it also includes a grace period until July 1, 2021, to allow extra time for local governments to update their ordinances in light of the current difficulties caused by COVID-19. The Commission agreed to the new applicability provision. It requested that the provision changing the effective date of Part II be clarified but agreed to it in principle.

In its review of the "Third Draft," the Commission noted generally that the word "shall" is used in Chapter 160D in a manner contrary to the instructions in the General Assembly's drafting manual to draft statutes in the present indicative tense and to reserve "shall" for mandates and conditions precedent. It asked the Assistant Revisor to review the instances of "shall" in the draft and conform them to the manual.

At its May 1, 2020, meeting, the Commission again welcomed Professor Owens and Messrs. Carpenter and Justus, as well as Mr. Adam Pridemore, Legislative Counsel, N.C. Association of County Commissioners.

The Commission reviewed the "Fourth Draft; DN 19-3 – Planning and Development Reg. Study; April 26, 2020." The Assistant Revisor explained that this draft included the changes made or requested by the Commission at its last meeting plus four new sections updating the term "public hearing" to the more precise terminology in Chapter 160D and an additional amendment bringing forward the substance of current G.S. 153A-331(d). She also presented two additional amendments, one to repeal the stop-gap extension of

the effective date of Part II currently located in HB 1043, 2019 Regular Session, if enacted, since it would no longer be necessary, and one to correct the unintended repeal of G.S. 168-23 by Section 2.6(j) of S.L. 2019-111.

After some discussion, the Commission decided not to alter its existing version of new G.S. 160D-1130 (bringing forward the inadvertently omitted G.S. 160A-439.1 and extending it to counties) on hearing that in the preparation of Chapter 160D, differences between cities and counties were maintained only when there was a strong policy reason to do so. The Commission concluded that it had not heard a strong reason.

The Assistant Revisor reported that the telecommunications provisions in Chapters 160A and 153A of the General Statutes appear in Part 3E of Article 19 of Chapter 160A (G.S. 160A-400.50 through 160A-400.57) and Part 3B of Article 18 of Chapter 153A (G.S. 153A-349.50 through 153A-349.53). The telecommunications provisions of Chapter 160D are in Part 3 of Article 9 of that chapter (G.S. 160D-930 through 160D-937). A comparison between Part 3E and Part 3 showed only changes required by the removal of Part 3E to the new chapter (e.g., section numbers and updated terms and cross-references) and a few stylistic changes that did not appear to alter the meaning.

The Commission reviewed the "Fourth Draft" and approved its introduction with the changes approved at this meeting, including the two proposed amendments.

A chart showing the disposition into Chapter 160D of legislation contained in Part I and S.L. 2019-35, 2019-79, and 2019-174 is included in this report as Appendix B.

FINDINGS AND RECOMMENDATIONS

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As a result of the study performed by the General Statutes Commission, the Commission finds:

(1) The telecommunications provisions of Chapter 160D of the General Statutes (Chapter 160D) as enacted by Part II of S.L. 2019-111, found in Part 3 of Article 9 of that chapter, make no substantive policy changes from the statutes repealed (those found in Part 3E of Article 19 of Chapter 160A of the General Statutes and Part 3B of Article 18 of Chapter 153A of the General Statutes).

(2) In addition to the legislation of Part I of S.L. 2019-111 (Part I), S.L. 2019-35, 2019-79, and 2019-174 amended sections in Article 18 of Chapter 153A of the General Statutes and Article 19 of Chapter 160A of the General Statutes. These articles were repealed in Part II of S.L. 2019-111.

(3) There is a need for legislation incorporating Part I and the relevant portions of S.L. 2019-35, 2019-79, and 2019-174 if the legislation contained therein is not to be repealed when Part II of S.L. 2019-111 becomes effective.

(4) There is a desire on the part of some local governments to accelerate the effective date of Chapter 160D, while there is also a need to provide local governments with additional time to revise their ordinances to comply with Chapter 160D.

(5) The attached legislative proposal will accomplish these goals.

The Commission specifically recommends the enactment of the legislative proposal attached as Appendix A and entitled, "AN ACT TO COMPLETE THE CONSOLIDATION OF LAND USE PROVISIONS INTO ONE CHAPTER OF THE GENERAL STATUTES AS DIRECTED BY S.L. 2019-111, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION."

Respectfully submitted, this the 7th day of May, 2020.

John J. Korzen, Chairman
Sabra J. Faires, Vice Chairman

Ted Davis, Jr.
Marc D. Bishop
Peter G. Pappas
Jane R. Wettach
Richard T. Bowser
Starkey Sharp
Chuck Edwards
Susan E. Hauser
Andrew J. Haile
Carlton M. Mansfield

Lewis Moore Everett

LEGISLATIVE PROPOSAL

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A BILL TO BE ENTITLED

AN ACT TO COMPLETE THE CONSOLIDATION OF LAND-USE PROVISIONS INTO ONE CHAPTER OF THE GENERAL STATUTES AS DIRECTED BY S.L. 2019-111, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. 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 violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's 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,~~ G.S. 160D-108(b) or G.S. 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 2. 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 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 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~~ is discontinued and the development regulations in effect at the time permit processing is resumed ~~shall be applied~~ apply 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~~ G.S. 160D-108(b) 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~~ may 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:~~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.~~G.S. 160D-802.
   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 3. G.S. 160D-102 reads as rewritten:

"**§ 160D-102. Definitions.**

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

…

(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~~ A comprehensive plan that has been officially adopted by the governing ~~board.~~board pursuant to G.S. 160D-501.

…

(12) Development. – ~~Unless the context clearly indicates otherwise, the term means any~~ 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-802.
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.

…

(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~~ means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

…

(21) Local act. – As defined in ~~G.S. 160A-1(2).~~G.S. 160A-1(5).

…

~~(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-108 or under common law.~~

…."

SECTION 4. G.S. 160D-107 reads as rewritten:

"**§ 160D-107. Moratoria.**

…

(c) Exempt Projects. – Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section ~~shall~~ does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 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-108,~~ G.S. 160D-108.1, 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-108(b) ~~shall be applicable~~ applies when permit processing resumes.

…

(e) Limit on Renewal or Extension. – No moratorium may be subsequently renewed or extended for any additional period unless the local government ~~shall have~~ has 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~~ has the burden of showing compliance with the procedural requirements of this subsection."

SECTION 5.(a) G.S. 160D-108 reads as rewritten:

"**§ 160D-108. ~~Vested rights and permit choice.~~Permit choice and vested rights.**

(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 and G.S. 160D-108.1 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.~~If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to 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 site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government 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 the development or use.

~~(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-405. 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-405(c).~~

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is 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 this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. 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.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires 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 expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is 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 is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

~~(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-1109, 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-403(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-1109 and G.S. 160D-1113 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-602 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) Multiple Permits for Development Project. – Subject to subsection (d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may 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 is not an initial development permit.

(f) Multi-Phased Development. – A multi-phased development is vested for the entire development with the 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 remains 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.

~~(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-106. 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.

(e)(g) Continuing Review. – Following approval or conditional approval of a statutory vested right, issuance of a development permit, a local government may make subsequent inspections and 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.applicable land development regulations in effect at the time of the original application.

(c)(h) 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 land 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-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).G.S. 160D-1403.1.

~~(g)~~(i) 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.~~ The vested rights granted by this section 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 run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section ~~shall preclude~~ precludes 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.

(j) As used in this section, the following definitions apply:

(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 5.(b) Article 1 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§160D-108.1. Vested rights – site-specific vesting plans.**

(a) Site-Specific Vesting Plan. – A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan 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 preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized 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 under this section that would trigger a vested right shall be finally determined by the local government pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does 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.

(b) Establishment of Vested Right. – A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

(c) Approval and Amendment of 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. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.

A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. A local government shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the local government's decision approving the plan or another date 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.

(d) Continuing Review. – Following approval or conditional approval of a site-specific vesting plan, 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 these reviews and approvals are not inconsistent with the original approval. The local government may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(e) Duration and Termination of Vested Right. –

(1) A vested right for a site-specific vesting plan remains 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.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a local government may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound 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 subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions. –

(1) A vested right, once established as provided for in this section, precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

a. With the written consent of the affected landowner.

b. Upon findings, by ordinance 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 site-specific vesting.

c. To the extent that 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 provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

d. Upon findings, by ordinance 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 site-specific vesting plan or the phased development plan.

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, 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, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which 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 become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

(g) Miscellaneous Provisions. –

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes 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.

(3) In the event a local government fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice."

SECTION 6. G.S. 160D-111 reads as rewritten:

"**§ 160D-111. Effect on prior laws.**

(a) The enactment of this Chapter ~~shall~~ does not require the readoption of any local government ordinance enacted pursuant to laws that were in effect before January 1, 2021 and are restated or revised herein. The provisions of this Chapter ~~shall~~ do 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 January 1, 2021. The enactment of this Chapter ~~shall not be deemed to~~ does not amend the geographic area within which local government development regulations adopted prior to January 1, ~~2019,~~ 2021, 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 January 1, 2021 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~~ is 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."

SECTION 7. G.S. 160D-201 reads as rewritten:

"**§ 160D-201. Planning and development regulation jurisdiction.**

(a) ~~Municipalities.~~ Cities. – 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 ~~this Article.~~G.S. 160D-202.

(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.

(c) Partial Jurisdiction Regulation in Cities and Counties. – If a city elects to adopt zoning or subdivision regulations, each must be applied to the city's entire planning and development regulation jurisdiction. If a county elects to adopt zoning or subdivision regulations, each may be applied to all or part of the county's planning and development regulation jurisdiction. A local government's planning and development regulation jurisdiction does not include an area in which it has ceded jurisdiction pursuant to an agreement under G.S. 160D-203."

SECTION 8. G.S. 160D-307(b) reads as rewritten:

"(b) Appointment. – Membership of joint municipal-county planning agencies or boards of adjustment may be appointed as agreed by counties and ~~municipalities.~~ cities. 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.~~ receipt of a request from the city that the appointments be made. Once a city provides proportional representation, no power available to a city under this Chapter ~~shall be~~ is 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."

SECTION 9. G.S. 160D-403 reads as rewritten:

"**§ 160D-403. 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~~ requiring the development ~~shall~~ to

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~~ is 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~~ is 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,~~ including for a development agreement, ~~or a local ordinance,~~ a development approval issued pursuant to this Chapter ~~shall expire~~ expires 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.~~ Local development regulations may also provide for development approvals of longer duration for specified types of development approvals. Nothing in this subsection ~~shall be deemed to limit~~

limits any vested rights secured under ~~G.S. 160D-108.~~G.S. 160D-108 or G.S. 160D-108.1.

…

(f) Revocation of Development Approvals. – In addition to initiation of enforcement actions under G.S. 160D-404, 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-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays ~~shall be applicable.~~apply.

…."

SECTION 10. G.S. 160D-405 reads as rewritten:

"**§ 160D-405. Appeals of administrative decisions.**

(a) Appeals. – Except as provided in ~~subsection (c) of this section,~~ G.S. 160D-1403.1, appeals of administrative 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-302(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-1402(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~~ has 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~~ has 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-403(b) by first-class mail ~~shall be~~ is 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 during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, 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~~ are 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~~ the request is filed. ~~Notwithstanding the foregoing,~~

Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation ~~shall~~ does not stay the further review of an application for development approvals to use ~~such~~ the 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.

(h) No Estoppel. – G.S. 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section."

SECTION 11. G.S. 160D-501 reads as rewritten:

"**§ 160D-501. Plans.**

(a) ~~Preparation of Plans and Studies.~~ Requirements for Zoning. – 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.~~or land-use plan.

(a1) Plans. – A comprehensive plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A land-use plan uses text and maps to designate the future use or reuse of land. A comprehensive or land-use 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~~ 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) Comprehensive Plan Contents. – A comprehensive plan may, among other topics, address any of the following as determined by the local government:

…

(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 or land-use plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601. 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-604 and G.S. 160D-605.

If a plan is deemed amended by G.S. 160D-605 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."

SECTION 12. G.S. 160D-601 reads as rewritten:

"**§ 160D-601. 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.

…

(c) Ordinance Required. – A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it 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 local government. 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."

SECTION 13. G.S. 160D-602 reads as rewritten:

"**§ 160D-602. Notice of hearing on proposed zoning map amendments.**

(a) Mailed Notice. – ~~An~~ Subject to the limitations of this Chapter, an ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts ~~shall be~~ are to 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-202, 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~~ is 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-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement ~~shall only be~~ is effective only 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."

SECTION 14. G.S. 160D-603 reads as rewritten:

"**§ 160D-603. 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,~~ amendment that has been properly initiated as provided in G.S. 160D-601, 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-705 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."

SECTION 15. G.S. 160D-702 reads as rewritten:

"**§ 160D-702. Grant of power.**

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

provided, all to the same extent and with the same limitations as provided for in ~~G.S. 160D-804.~~G.S. 160D-804 and G.S. 160D-804.1.

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

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

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

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

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

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 16. G.S. 160D-703 reads as rewritten:

"**§ 160D-703. 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~~ are not be limited to, the following:

…

(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 consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations 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. 160D-702(b), 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 local government ordinances, plans adopted pursuant to G.S. 160D-501, 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~~ apply only ~~be applicable~~ to those properties whose owners petition for the modification.

…."

SECTION 17. G.S. 160D-705 reads as rewritten:

"**§ 160D-705. 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-406 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-405 and G.S. 160D-406 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.~~government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), 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.

The regulations 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~~ apply only 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~~ is not 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~~ is not 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."

SECTION 18. G.S. 160D-706 reads as rewritten:

"**§ 160D-706. 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 building, dwelling, dwelling unit, bedroom, or sleeping unit that is ~~more expansive than~~ inconsistent with any definition of ~~the same~~ those terms in another statute or in a rule adopted by a State ~~agency.~~agency, including the State Building Code Council."

SECTION 19. G.S. 160D-705(c) reads as rewritten:

"(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[s]~~ regulations 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~~ apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds."

SECTION 20.(a) G.S. 160D-804 reads as rewritten:

"**§ 160D-804. Contents and requirements of regulation.**

…

(c) Transportation and Utilities. –

(1) 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.

(2) ~~The~~ A regulation adopted by a city 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~~ subdivision 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.

(3) A regulation adopted by a county may provide that in lieu of required street construction, a developer may provide funds to a county to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this subdivision shall be transferred to a city to be used solely for the development of roads, including design, land acquisition, and construction. Any city receiving funds from a county under this subdivision is authorized to expend the funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county.

(4) Any formula adopted by a local government 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~~ cities 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.

…."

SECTION 20.(b) G.S. 160D-804(g) is recodified as G.S. 160D-804.1. As recodified by this section, G.S. 160D-804.1 reads as rewritten:

"**§ 160D-804.1. Performance guarantees.**

~~(g) Performance Guarantees.~~ To assure compliance with ~~these~~ G.S. 160D-804 and other development regulation requirements, ~~the~~ a subdivision 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.~~improvements.

For purposes of this section, all of the following ~~shall apply~~ 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~~ means 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 local government, 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. An extension under this subdivision 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 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.~~The local government shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government 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 local government 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 local government, 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~~ the performance guarantee is provided.

b. The developer at whose request or for whose benefit ~~such~~ the performance guarantee is given.

c. The person or entity issuing or providing ~~such~~ the 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 section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(7) Exclusion. – Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section."

SECTION 20.(c) Subsection (b) of this section applies to performance guarantees issued on or after the effective date of this act.

SECTION 20.(d) G.S. 160D-804 is amended by adding two new subsections to read:

"(h) Power Lines Exemption. – The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

(1) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.

(2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(i) Minimum Square Footage Exemption. – The regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 21. G.S. 160D-807 reads as rewritten:

"**§ 160D-807. 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~~ the 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~~ the subdivision regulation and recorded in the office of the appropriate register of deeds, ~~shall be~~ is 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~~ does 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-1108~~ G.S. 160D-1110 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~~ do 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:

…

(c) The provisions of this section ~~shall~~ do 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."

SECTION 22. G.S. 160D-903 reads as rewritten:

"**§ 160D-903. 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~~ includes 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~~ is 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~~ subjects 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~~ does 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~~ city's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the ~~municipality's~~ city'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~~ becomes subject to exercise of the ~~municipality's~~ city'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~~ municipal zoning pursuant to this subsection ~~shall be~~ is 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~~ city 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."

SECTION 23. G.S. 160D-916(b) is repealed.

SECTION 24. G.S. 160D-947 reads as rewritten:

"**§ 160D-947. Certificate of appropriateness required.**

(a) Certificate Required. – ~~From and after~~ 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~~ the landmark or within ~~such~~ the 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~~ is required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" ~~shall include~~ 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~~ 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~~ has 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~~ is 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~~ The consent of an owner for interior review ~~shall bind~~ binds future

owners and/or successors in ~~title, provided such~~ if the 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.

…

(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-405(c).~~ G.S. 160D-405(d). To the extent applicable, the provisions of G.S. 160D-1402 ~~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-1402.

(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-1402.

(5) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in ~~G.S. 160D-1404.~~ G.S. 160D-1405. 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~~ do 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~~ may 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~~ is final and binding upon both the State and the preservation commission."

SECTION 25. G.S. 160D-1005 reads as rewritten:

"**§ 160D-1005. ~~Public hearing.~~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-602 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."

SECTION 26. G.S. 160D-1006 reads as rewritten:

"**§ 160D-1006. Content and modification.**

(a) A development agreement shall, at a minimum, include all of the following:

…

(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~~ does not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 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.

…

(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-804~~ shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

…

(f) Any performance guarantees under the development agreement shall comply with ~~G.S. 160D-804(d).~~G.S. 160D-804.1."

SECTION 27. G.S. 160D-1007(b) reads as rewritten:

"(b) Except for grounds specified in ~~G.S. 160D-108(e),~~ G.S. 160D-108(c) or G.S. 160D-108.1(f), a local government may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement."

SECTION 28.(a) G.S. 160D-1104 reads as rewritten:

"**§ 160D-1104. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it ~~shall be~~ are 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~~ governing board has 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-1115~~ G.S. 160D-1117 and G.S. 160D-1207, 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~~ limits or abrogates 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."

SECTION 28.(b) Notwithstanding Section 6(c) of S.L. 2018-29, as amended by Section 9 of S.L. 2019-174, G.S. 153A-352(g) and G.S. 160A-412(g) expire on the

effective date of this act and not on October 1, 2021. G.S. 160D-1104(f) expires October 1, 2021.

SECTION 29. G.S. 160D-1106 reads as rewritten:

"**§ 160D-1106. Alternate inspection method for component or element.**

(a) Notwithstanding the requirements of this Article, a ~~city~~ local government 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~~ local government with a signed written document ~~stating~~ certifying that 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~~ delivery, and its receipt shall be promptly acknowledged by the ~~city~~ local government through reciprocal means. The certification shall be made on a form created by the North Carolina Building Code Council which shall include at least the following:

a. Permit number.
b. Date of inspection.
c. Type of inspection.
d. Contractor's name and license number.
e. Street address of the job location.
f. Name, address, and telephone number of the person responsible for the inspection.

(a1) In accepting certifications of inspections under subsection (a) of this section, a local government shall not require information other than that specified in this section.

(b) Upon the acceptance and approval receipt of a signed written document by the ~~city~~ local government as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the ~~city,~~ local government, its inspection department, and the inspectors ~~shall be~~ are 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~~ is 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.~~ concrete, a foundation, and a prepared underslab with slab-related materials without 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."

SECTION 30. G.S. 160D-1110 reads as rewritten:

"**§ 160D-1110. 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~~ is not required for the connection of a water heater that is being ~~replaced, provided that~~ replaced if (i) 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~~ (ii) 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~~ is not 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~~ replaced if 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 North Carolina State Building Code and all other applicable State and local laws. Nothing in this section ~~shall require~~ requires 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~~ the residential building plans as it deems necessary. If a local government chooses to review residential building plans for any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, all initial reviews for the building permit must be performed within 15 business days of submission of the plans. A local government shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code. 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 or development or zoning regulation 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~~ is 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.

…."

SECTION 31. G.S. 160D-1113 reads as rewritten:

"**§ 160D-1113. Inspections of work in progress.**

Subject to the limitation imposed by ~~G.S. 160D-1104(b),~~ G.S. 160D-1104(d), 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."

SECTION 32. G.S. 160D-1116 reads as rewritten:

"**§ 160D-1116. Certificates of ~~compliance.~~compliance; temporary certificates of occupancy.**

(a) 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~~ Except as provided by subsection (b) of this section, 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.

(b) 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~~ the building ~~or property~~ may safely be occupied prior to its final completion. A permit holder may request and be issued a temporary certificate of occupancy if the conditions and requirements of the North Carolina State Building Code are met.

(c) ~~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.~~Any person who owns, leases, or controls a

building and occupies or allows the occupancy of the building or a part of the building before a certificate of compliance or temporary certificate of occupancy has been issued pursuant to subsection (a) or (b) of this section is guilty of a Class 1 misdemeanor."

SECTION 33. G.S. 160D-1121 reads as rewritten:

"**§ 160D-1121. 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-1117 shall fail~~ G.S. 160D-1119 fails 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~~ will 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."

SECTION 34. G.S. 160D-1123 reads as rewritten:

"**§ 160D-1123. Appeal; finality of order if not appealed.**

Any owner who has received an order under ~~G.S. 160D-1120~~ G.S. 160D-1122 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~~ is final. The governing board shall hear an appeal in accordance with G.S. 160D-406 and render a decision ~~in an appeal~~ within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order."

SECTION 35. G.S. 160D-1124 reads as rewritten:

"**§ 160D-1124. 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-1120~~ G.S. 160D-1122 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~~ is guilty of a Class 1 misdemeanor."

SECTION 36. G.S. 160D-1125 reads as rewritten:

"**§ 160D-1125. 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-1117~~ G.S. 160D-1119 or an ordinance adopted pursuant to ~~G.S. 160D-1117,~~ G.S. 160D-1119, 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~~ are 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~~ are also 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~~ cities 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."

SECTION 37. G.S. 160D-1129 reads as rewritten:

"**§ 160D-1129. 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~~ regulations 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~~ Regulations adopted under this section shall be applicable within the local government's entire planning and development

regulation jurisdiction or limited to one or more designated zoning ~~districts or~~ districts, municipal service ~~districts.~~districts, or defined geographical areas designated for improvement and investment in an adopted comprehensive plan.

…

(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~~ are not 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~~ an administrative 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~~ is guilty of a Class 3 misdemeanor.

…

(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~~ are 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.

…

(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~~ is 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~~ does 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.

…

(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~~ has the remedies provided in G.S. 160D-1208.

…."

SECTION 38.(a) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1130. Vacant building receivership.**

(a) Petition to Appoint a Receiver. – The governing board of a local government or its delegated commission may petition the superior court for the appointment of a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling upon the occurrence of any of the following, each of which is deemed a nuisance per se:

(1) The owner fails to comply with an order issued pursuant to G.S. 160D-1122, related to building or structural conditions that constitute a fire or safety hazard or render the building or structure dangerous to life, health, or other property, from which no appeal has been taken.

(2) The owner fails to comply with an order of the local government following an appeal of an inspector's order issued pursuant to G.S. 160D-1122.

(3) The governing board of the local government adopts any ordinance pursuant to subdivision (f)(1) of G.S. 160D-1129, related to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety, and orders a public officer to continue enforcement actions prescribed by the ordinance with respect to the named nonresidential building or structure. The public officer may submit a petition on behalf of the governing board to the superior court for the appointment of a receiver, and if granted by the superior court, the petition shall be considered an appropriate

means of complying with the ordinance. In the event the superior court does not grant the petition, the public officer and the governing board may take action pursuant to the ordinance in any manner authorized in G.S. 160D-1129.

(4) The owner fails to comply with an order to repair, alter, or improve, remove, or demolish a dwelling issued under G.S. 160D-1203, related to dwellings that are unfit for human habitation.

(5) Any owner or partial owner of a vacant building, structure, or dwelling, with or without the consent of other owners of the property, submits a request to the governing board in the form of a sworn affidavit requesting the governing board to petition the superior court for appointment of a receiver for the property pursuant to this section.

(b) Petition for Appointment of Receiver. – The petition for the appointment of a receiver shall include all of the following: (i) a copy of the original violation notice or order issued by the local government or, in the case of an owner request to the governing board for a petition for appointment of a receiver, a verified pleading that avers that at least one owner consents to the petition; (ii) a verified pleading that avers that the required rehabilitation or demolition has not been completed; and (iii) the names of the respondents, which shall include the owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). If the petition fails to name a respondent as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that respondent.

(c) Notice of Proceeding. – Within 10 days after filing the petition, the local government shall give notice of the pendency and nature of the proceeding by regular and certified mail to the last known address of all owners of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). Within 30 days of the date on which the notice was mailed, an owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), may apply to intervene in the proceeding and to be appointed as receiver. If the local government fails to give notice to any owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that owner, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2).

(d) Appointment of Receiver. – The court shall appoint a qualified receiver if the provisions of subsections (b) and (c) of this section have been satisfied. If the court does not appoint a person to rehabilitate or demolish the property pursuant to subsection (e) of this section, or if the court dismisses such an appointee, the court shall appoint a qualified receiver for the purpose of rehabilitating and managing the property, demolishing the

property, or selling the property to a buyer. To be considered qualified, a receiver must demonstrate to the court (i) the financial ability to complete the purchase or rehabilitation of the property, (ii) the knowledge of, or experience in, the rehabilitation of vacant real property, (iii) the ability to obtain any necessary insurance, and (iv) the absence of any building code violations issued by the local government on other real property owned by the person or any member, principal, officer, major stockholder, parent, subsidiary, predecessor, or others affiliated with the person or the person's business. No member of the petitioning local government's governing board or a public officer of the petitioning local government is qualified to be appointed as a receiver in that action. If, at any time, the court determines that the receiver is no longer qualified, the court may appoint another qualified receiver.

(e) Rehabilitation Not by Receiver. – The court may, instead of appointing a qualified receiver to rehabilitate or sell a vacant building, structure, or dwelling, appoint an owner or other party in interest in the property, as defined in G.S. 160D-1202, to rehabilitate or demolish the property if that person (i) demonstrates the ability to complete the rehabilitation or demolition within a reasonable time, (ii) agrees to comply with a specified schedule for rehabilitation or demolition, and (iii) posts a bond in an amount determined by the court as security for the performance of the required work in compliance with the specified schedule. After the appointment, the court shall require the person to report to the court on the progress of the rehabilitation or demolition, according to a schedule determined by the court. If, at any time, it appears to the local government or its delegated commission that the owner, mortgagee, or other person appointed under this subsection is not proceeding with due diligence or in compliance with the court-ordered schedule, the local government or its delegated commission may apply to the court for immediate revocation of that person's appointment and for the appointment of a qualified receiver. If the court revokes the appointment and appoints a qualified receiver, the bond posted by the owner, mortgagee, or other person shall be applied to the receiver's expenses in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling.

(f) Receiver Authority Exclusive. – Upon the appointment of a receiver under subsection (d) of this section and after the receiver records a notice of receivership in the county in which the property is located that identifies the property, all other parties are divested of any authority to collect rents or other income from or to rehabilitate, demolish, or sell the building, structure, or dwelling subject to the receivership. Any party other than the appointed receiver who actively attempts to collect rents or other income from or to rehabilitate, demolish, or sell the property may be held in contempt of court and is subject to the penalties authorized by law for that offense. Any costs or fees incurred by a receiver appointed under this section and set by the court constitute a lien against the property, and the receiver's lien has priority over all other liens and encumbrances, except taxes or other government assessments.

(g) Receiver's Authority to Rehabilitate or Demolish. – In addition to all necessary and customary powers, a receiver appointed to rehabilitate or demolish a vacant building, structure, or dwelling has the right of possession with authority to do all of the following:

(1) Contract for necessary labor and supplies for rehabilitation or demolition.

(2) Borrow money for rehabilitation or demolition from an approved lending institution or through a governmental agency or program, using the receiver's lien against the property as security.

(3) Manage the property prior to rehabilitation or demolition and pay operational expenses of the property, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the property.

(4) Collect all rents and income from the property, which shall be used to pay for current operating expenses and repayment of outstanding rehabilitation or demolition expenses.

(5) Manage the property after rehabilitation, with all the powers of a landlord, for a period of up to two years and apply the rent received to current operating expenses and repayment of outstanding rehabilitation or demolition expenses.

(6) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

(h) Receiver's Authority to Sell. – In addition to all necessary and customary powers, a receiver appointed to sell a vacant building, structure, or dwelling may do all of the following: (i) sell the property to the highest bidder at public sale, following the same presale notice provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes, and (ii) sell the property privately for fair market value if no party to the receivership objects to the amount and procedure. In the notice of public sale authorized under this subsection, it is sufficient to describe the property by a street address and reference to the book and page or other location where the property deed is registered. Prior to any sale under this subsection, the applicants to bid in the public sale or the proposed buyer in the private sale shall demonstrate the ability and experience needed to rehabilitate the property within a reasonable time. After deducting the expenses of the sale, the amount of outstanding taxes and other government assessments, and the amount of the receiver's lien, the receiver shall apply any remaining proceeds of the sale first to the local government's costs and expenses, including reasonable attorneys' fees, and then to the liens against the property in order of priority. Any remaining proceeds shall be remitted to the property owner.

(i) Receiver Forecloses on Lien. – A receiver may foreclose on the lien authorized by subsection (f) of this section by selling the property subject to the lien at a public sale, following public notice and notice to interested parties in the manner as a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes. After deducting the expenses of the sale and the amount of any outstanding taxes and other government assessments, the receiver shall apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure, and only if the receiver has rehabilitated the property, an owner may pay the receiver's costs, fees, including reasonable attorneys' fees, and expenses or may transfer ownership in the property to either the receiver or an agreed upon third party for an amount agreed to by all parties to the receivership as being the property's fair market value.

(j) Deed After Sale. – Following the court's ratification of the sale of the property under this section, the receiver shall sign a deed conveying title to the property to the buyer, free and clear of all encumbrances, other than restrictions that run with the land.

Upon the sale of the property, the receiver shall at the same time file with the court a final accounting and a motion to dismiss the action.

(k) Receiver's Tenure. – The tenure of a receiver appointed to rehabilitate, demolish, or sell a vacant building, structure, or dwelling shall extend no longer than two years after the rehabilitation, demolition, or sale of the property. Any time after the rehabilitation, demolition, or sale of the property, any party to the receivership may file a motion to dismiss the receiver upon the payment of the receiver's outstanding costs, fees, and expenses. Upon the expiration of the receiver's tenure, the receiver shall file a final accounting with the court that appointed the receiver.

(*l*) Administrative Fee Charged. – The local government may charge the owner of the building, structure, or dwelling subject to the receivership an administrative fee that is equal to five percent (5%) of the profits from the sale of the building, structure, or dwelling or one hundred dollars ($100.00), whichever is less."

SECTION 38.(b) This section applies to any nuisance per se described in G.S. 160A-439.1 or G.S. 160D-1130, as enacted by this section, that occurs on or after October 1, 2018, or any action listed in G.S. 160D-1130(a)(1) through (4) that was not complied with as of that date.

SECTION 39. G.S. 160D-1201(a) reads as rewritten:

"(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."

SECTION 40. G.S. 160D-1203(3) reads as rewritten:

"(3) Orders. – If, after notice and an administrative 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~~ the 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~~ an administrative 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-949."

SECTION 41. G.S. 160D-1207(b) reads as rewritten:

"(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~~ legislative hearing regarding the plan, (ii) hold a ~~public~~ legislative 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."

SECTION 42. G.S. 160D-1208 reads as rewritten:

"**§ 160D-1208. Remedies.**

(a) An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by ~~G.S. 160D-306.~~ G.S. 160D-305. 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~~ remains 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~~ has 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 to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement ~~shall~~ is 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~~ has all the powers of the public officer, but the concurring vote of four members of the board ~~shall be~~ is necessary to reverse or modify any decision or order of the public officer. The board ~~shall have~~ also has 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~~ is observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the housing appeals board ~~shall be~~ is 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~~ is not 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."

SECTION 43. G.S. 160D-1312 reads as rewritten:

"**§ 160D-1312. 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:

…

(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~~ the 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~~ legislative 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."

SECTION 44. G.S. 160D-1401 reads as rewritten:

"**§ 160D-1401. 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-108(c) or (g)~~ G.S. 160D-108(h) or (i) and ~~G.S. 160D-405(c),~~ G.S. 160D-1403.1 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."

SECTION 45. G.S. 160D-1402 reads as rewritten:

"**§ 160D-1402. 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:

…

(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~~ have standing to file a petition under this section:

…

(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~~ to 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~~ applies 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.

…

(g) Intervention. – Rule 24 of the Rules of Civil Procedure ~~shall govern~~ governs 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~~ has standing to intervene and shall be allowed to intervene as a matter of right.

…

(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,~~ 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 apply to the supplementation of the record of these issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 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:

…

b. In excess of the statutory authority conferred upon the local ~~government~~ government, including preemption, or the authority conferred upon the decision-making board by ordinance.

…

(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~~ does 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 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.

(j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not 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. 160D-1403.1.

(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:

…

(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~~ 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 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.

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.

…

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405."

SECTION 46. Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1403.1. Civil action for declaratory relief, injunctive relief, other remedies; joinder of complaint and petition for writ of certiorari in certain cases.**

(a) Civil Action. – Except as otherwise provided in this section for claims involving questions of interpretation, in lieu of any remedies available under G.S. 160D-405 or G.S. 160D-108(h), a person with standing, as defined in subsection (b) 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. 160D-405. 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.

(b) Standing. – Any of the following criteria 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.

(c) 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.

(d) 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. The Rules of Civil Procedure govern the parties for the claims raised in the original civil action. The record of proceedings in the appeal pursuant to G.S. 160D-1402 shall not be supplemented by discovery from the civil action unless supplementation is otherwise allowed under G.S. 160D-1402(i). The standard of review in the original civil action for the cause or causes of action pled as authorized by subsection (a) of this section is de novo. The standard of review of the petition for writ of certiorari is the standard established in G.S. 160D-1402(j).

(e) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not 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 this section.

(f) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

(g) Definitions. – The definitions in G.S. 143-755 apply in this section."

SECTION 47. Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1403.2. No estoppel effect when challenging development conditions.**

A local government 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 48. G.S. 160D-1405 reads as rewritten:

"**§ 160D-1405. 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~~ accrues upon adoption of ~~such~~ the 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~~ bars a party in an action involving the enforcement of a development regulation or in an action under G.S. 160D-1403.1 from raising as a claim or defense in ~~such~~ the 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~~ bars a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that ~~such~~ the party is in violation of a development regulation from raising in the judicial appeal the invalidity of ~~such~~ the ordinance as a defense to ~~such~~ the 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.

(c1) Termination of Grandfathered Status. – When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a local government shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

(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-406(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~~ are as provided in Subchapter II of Chapter 1 of the General Statutes."

SECTION 49.(a) Section 2.6(j) of S.L. 2019-111 is repealed.

SECTION 49.(b) G.S. 168-20, 168-21, and 168-22 are repealed.

SECTION 49.(c) G.S. 168-23 reads as rewritten:

"**§ 168-23. Certain private agreements void.**

Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property which would permit residential use of property but prohibit the use of ~~such~~ the property as a family care home ~~shall, to the extent of such prohibition, be void~~ as defined

in G.S. 160D-907 is void as against public policy to the extent of the prohibition and shall be given no legal or equitable force or effect."

SECTION 50.(a) Sections 12 and 13 incorporate in Chapter 160D of the General Statutes the provisions of Sections 1.4 and 1.5 of S.L. 2019-111 and apply to applications for down-zoning amendments and for driveway improvements submitted on or after July 11, 2019, and to appeals from decisions related to such applications filed on or after that date.

SECTION 50.(b) Sections 5, 10, 14, 16, 17, 18, 45, 46, 47, 48, and the amendments to G.S. 160D-1405(c) in Section 46 incorporate in Chapter 160D of the General Statutes the provisions of Sections 1.2, 1.3, 1.6, 1.7, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, and 1.17 of S.L. 2019-111, clarify and restate the intent of existing law, and apply to ordinances adopted before, on, and after the effective date of this act.

SECTION 51.(a) Section 3.2 of S.L. 2019-111 is repealed.

SECTION 51.(b) Part II of S.L. 2019-111 is effective when this act becomes law. Part II of S.L. 2019-111 clarifies and restates the intent of law existing on the effective date of this act and applies to ordinances adopted before, on, and after that date. Valid local government development regulations that are in effect at the time of the effective date of Part II of S.L. 2019-111 remain in effect but local governments shall amend those regulations to conform to the provisions of Part II of S.L. 2019-111 on or before July 1, 2021. Part II of S.L. 2019-111 applies to local government development regulation decisions made on or after the earlier of:

(1) The effective date of the amendments to local development regulations made to conform to the provisions of Part II of S.L. 2019-111 or

(2) July 1, 2021.

SECTION 51.(c) The Revisor of Statutes is authorized to substitute the effective date of this act for "January 1, 2021" throughout Chapter 160D of the General Statutes.

SECTION 51.(d) Section 4.33 of S.L. 2020-3 is repealed.

SECTION 52. Except as otherwise provided in this act, this act is effective when it becomes law.

CHART OF DISPOSITION OF OTHER 2019 LEGISLATION INTO CHAPTER 160D

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2019 Legislation Affecting Repealed Land Use Articles	G.S. Sections Amended	Disposition in Chapter 160D	2020 Bill Draft Section
2019-35, s. 3	160A-458.4	160D-916(b)	s. 23
2019-79, s. 1	160A-372	160D-804.1	s. 20(b)
2019-79, s. 2	153A-331	160D-804.1	s. 20(b)
2019-174, s. 1	160A-413.5	160D-1106	s. 29
2019-174, s. 3(a), (c)[1]	160A-372(f1), (f2) 153A-331(f1), (f2)	160D-804(h), (i)	s. 20(d)
2019-174, s. 3(b), (d)	160A-381 153A-340	160D-702	s. 15
2019-174, s. 5(a), (b)	160A-423 153A-363	160D-1116	s. 32
2019-174, s. 7(a), (b)	160A-417(a1) 153A-357(a1)	160D-1110(b)	s. 30
2019-174, s. 9	2018-29, s. 6(c) (expiration date for 153A-352(g)/160A-412(g)	160D-1104(f)	s. 28(b)
2019-111, s. 1.2(a), (b)[2]	160A-360.1 153A-320.1	160D-108(b)	s. 5(a)
2019-111, s. 1.3(a), (d)	160A-385(c) 153A-344(b1)	160D-108(c), (f)	s. 5(a)
2019-111, s. 1.3(b)	160A-385(a)	160D-603	s. 14
2019-111, s. 1.3(b), (e)	160A-385(b) 153A-344(b)	160D-108(c), (f)	s. 5(a)
2019-111, s. 1.3(b), (e)	160A-385(d) 153A-344(c)	160D-108(d)	s. 5(a)
2019-111, s. 1.3(b), (e)	160A-385(e) 153A-344(d)	160D-108(e)	s. 5(a)

[1] S.L. 2019-174, ss. 2, 4, 6, 8, 10, and 11 did not affect Article 19 of Chapter 160A or Article 18 of Chapter 153A, and the remaining provisions in that act are effective date/applicability provisions that are not codified.

[2] S.L. 2019-111, ss. 1.1, 1.11, and 1.16 did not amend sections in Article 19 of Chapter 160A or Article 18 of Chapter 153A. Section 1.3(c) and (f) repealed a definition that was not brought forward into Chapter 160D, so incorporation into Chapter 160D is needed.

2019 Legislation Affecting Repealed Land Use Articles	G.S. Sections Amended	Disposition in Chapter 160D	2020 Bill Draft Section
2019-111, s. 1.3(b), (e)	160A-385(f) 153A-344(e)	160D-108(c), (d), (i)	s. 5(a)
2019-111, s. 1.3(b), (e)	160A-385(g) 153A-344(f)	160D-108(j)	s. 5(a)
2019-111, s. 1.4	160A-384(a)	160D-601(d)	s. 12
2019-111, s. 1.4	160A-384(a), (b1)	160D-602(a), (d)	s. 13
2019-111, s. 1.5	153A-343(a)	160D-601(d)	s. 12
2019-111, s. 1.5	153A-343(b1)	160D-602(d)	s. 13
2019-111, s. 1.6	160A-388(b1)(6)	160D-405(f)	s. 10
2019-111, s. 1.7	160A-393.1	160D-1403.1	s. 46
2019-111, s. 1.8	160A-364.1(c)	160D-1405(c)	s. 48
2019-111, s. 1.9	160A-393(d), (j), (k), (*l*)	160D-1402(j1), (i), (j), (k)	s. 45
2019-111, s. 1.10	160A-393.2	160D-1403.2	s. 47
2019-111, s. 1.12	160A-381(c)	160D-705(c)	s. 17
2019-111, s. 1.13	153A-340(c1)	160D-705(c)	s. 17
2019-111, s. 1.14	160A-382(b)	160D-703(b)	s. 16
2019-111, s. 1.15	153A-342(b)	160D-703(b)	s. 16
2019-111, s. 1.17(a), (b)	153A-346(b) 160A-390(b)	160D-706(b)	s. 18