GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

HOUSE BILL 765
Committee Substitute Favorable 4/17/25

Short Title: Local Gov. Development Regulations Omnibus. (Public)

Sponsors:

Referred to:

April 7, 2025

A BILL TO BE ENTITLED

AN ACT TO REFORM LOCAL GOVERNMENT DEVELOPMENT REGULATIONS IN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160D-601, as amended by Section 3K.1 of S.L. 2024-57, reads as rewritten:

"**§ 160D-601. Procedure for adopting, amending, or repealing development regulations.**

…

(d) Down-Zoning. – No amendment to ~~zoning regulations or a zoning map~~ a zoning regulation that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning ~~amendment.~~amendment, unless the down-zoning amendment is initiated by the local government.

(e) For purposes of this section, "down-zoning" or "down-zone" means a zoning ~~ordinance~~ regulation 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 substantive 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.

~~(3) By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.~~"

SECTION 1.(b) This section is effective when it becomes law and applies retroactively to December 11, 2024. Any development ordinance affected by Section 3K.1 of S.L. 2024-57 shall be treated as if it remained in effect from June 14, 2024, to December 11, 2024.

SECTION 2.(a) G.S. 160D-101 reads as rewritten:

"**§ 160D-101. Application.**

(a) The provisions of this Article shall apply to all development regulations and programs adopted pursuant to this Chapter or applicable or related local acts. To the extent there are contrary provisions in local charters or acts, G.S. 160D-111 is applicable unless this Chapter expressly provides otherwise. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there are conflicts between the provisions of this

Article and the provisions of other Articles of this Chapter, the more specific provisions shall control.

(c) Local governments may also apply any of the definitions and procedures authorized by this Chapter to any ordinance that does not substantially affect land use and development adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Chapter to any or all aspects of those ordinances.

~~(d) This Chapter does not expand, diminish, or alter the scope of authority for planning and development regulation authorized by other Chapters of the General Statutes.~~

(e) Except as provided by local act, notwithstanding any other provision of law, a local government may not exercise development regulation authority except as expressly authorized by this Chapter. If State law governs a particular subject matter related to a local development regulation authority, a local government shall not enact or enforce development regulations more restrictive than those established by State law, unless the development regulation pertains to floodplain management regulations as described in G.S. 143-138(e)."

SECTION 2.(b) G.S. 160D-110(a) reads as rewritten:

"(a) G.S. 153A-4 and G.S. 160A-4 are not applicable to this Chapter."

SECTION 2.(c) G.S. 153A-121 is amended by adding a new subsection to read:

"(d) This section does not apply to the adoption or enforcement of development regulations under Chapter 160D of the General Statutes."

SECTION 2.(d) G.S. 160A-174 is amended by adding a new subsection to read:

"(c) This section does not apply to the adoption or enforcement of development regulations under Chapter 160D of the General Statutes."

SECTION 3. G.S. 160D-102 is amended by adding the following new subdivisions to read:

"(1a) Acre. – The actual gross acreage of a parcel or parcels. For purposes of determining allowable residential density, the actual gross acreage shall not be reduced by subtracting buffers, setbacks, public or private streets, open space or recreation areas, or other nondevelopable areas.

…

(3m) Buffer yard. – A designated landscape area to separate uses or densities; to reduce impacts of traffic, noise, odor; or to enhance visual appearance.

…

(15c) Dwelling unit. – A single unit, subject to the North Carolina Residential Code, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

…

(23m) Nonconformity. – Any of the following that was lawfully operated, established, or commenced in accordance with applicable development regulations in effect at the time the nonconformity became nonconforming so long as the nonconformity is not extended, expanded, enlarged, increased, or intensified:

a. A lot, parcel, or tract of land that fails to meet all current development regulation requirements.

b. A structure that no longer complies with all current development regulation requirements applicable to that structure.

c. The use of a property for a purpose or activity, or in a manner, made unlawful by a current development regulation.

d. Any dwelling, accessory building, accessory structure, outdoor lighting, fence, wall, sign, off-street parking, vehicular surface area, or private access point."

SECTION 4. G.S. 160D-108 reads as rewritten:

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

…

(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~~ any of the following:

(1) 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.

(2) 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.

(3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.

…

(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 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-1403.1. This subsection shall apply to the claiming of vested rights in a nonconformity under G.S. 160D-108.2.

…."

SECTION 5. G.S. 160D-108.1 reads as rewritten:

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

…

(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~~ five 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,~~ an approval required by a development regulation, 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~~ the modifications are defined and authorized by local regulation.

…

(e) Duration and Termination of Vested Right. –

(1) A vested right for a site-specific vesting plan remains vested for a period of ~~two~~ five 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~~ five years but not exceeding ~~five~~ eight 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~~ development regulation 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 plan.

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~~ precludes 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 development 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.~~nonconformities.

…."

SECTION 6. Article 1 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-108.2. Nonconformities.**

(a) Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to a nonconformity. All of the following shall apply to vested rights in a nonconformity established under this section:

(1) The establishment of a vested right under this section does not preclude vesting under one or more other provisions of law or vesting by application of common law principles.

(2) 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 applicable development regulations, except where a change in State or federal law mandating local government enforcement occurs after the nonconformity was established that has a fundamental and retroactive effect on the development or use.

(3) G.S. 160D-108(h) shall apply to the claiming of nonconformities.

(4) Unless otherwise specified by this section or another statute, a nonconformity may continue until intentionally and voluntarily discontinued.

(b) The statutory vesting period granted by this section for a nonconformity expires if the nonconformity is intentionally and voluntarily discontinued for a period of not less than 24

consecutive months. The 24-month discontinuance period shall be automatically tolled during any of the following events:

(1) The pendency of any board of adjustment proceeding or civil action in a State or federal court regarding the validity of the use of the property or the existence of the statutory vesting period granted by this section.

(2) The pendency of any litigation involving use of the property that is the subject of the vesting.

(3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.

(c) Reconstruction, re-establishment, repair, and maintenance of a nonconformity shall be allowed by right provided the nonconformity is not extended, expanded, enlarged, increased, or intensified by the reconstruction, re-establishment, repair, or maintenance.

(d) This section shall not apply to G.S. 160D-912 and G.S. 160D-912.1."

SECTION 7. G.S. 160D-109 reads as rewritten:

"**§ 160D-109. Conflicts of interest.**

(a) Governing Board. – A governing board member shall not participate in or vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where ~~the~~ one or more of the following apply:

(1) The outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. ~~A governing board member shall not vote on any zoning amendment if the~~

(2) The landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(3) The member has expressed or holds a fixed opinion prior to the hearing on the matter that appears not susceptible to change.

(4) The member has undisclosed ex parte communication about the matter.

(b) Appointed Boards. – Members of appointed boards shall not participate in or vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where ~~the~~ one or more of the following apply:

(1) The outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. ~~An appointed board member shall not vote on any zoning amendment if the~~

(2) The landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(3) The member has expressed or holds a fixed opinion prior to the hearing on the matter that appears not susceptible to change.

(4) The member has undisclosed ex parte communication about the matter.

(c) Administrative Staff. – ~~No~~ If a staff member has a conflict of interest under this subsection, the administrative decision shall be assigned to the supervisor of the staff member or such other staff member as may be designated by the development regulation. A staff member shall not make a final decision on an administrative decision required by this Chapter ~~if the~~ where one or more of the following apply:

(1) The outcome of that administrative decision would have a direct, substantial, and readily identifiable financial impact on the staff ~~member or if the~~ member.

(2) The applicant or other person subject to that administrative decision is a person with whom the staff member has a close familial, business, or other associational relationship. ~~If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person~~

~~or such other staff person as may be designated by the development regulation or other ordinance. No~~

(3) The staff member ~~shall be~~ is financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. ~~No~~

(4) The staff ~~member~~ member, or other individual or an employee of a company contracting with a local government to provide staff ~~support shall engage~~ support, is engaging in ~~any~~ work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

…."

SECTION 8. G.S. 160D-203 reads as rewritten:

"**§ 160D-203. Split jurisdiction.**

(a) If a parcel of land lies within the planning and development regulation jurisdiction of more than one local ~~government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement~~ government, the following shall apply:

(1) If only one local government has the ability to provide water and sewer services to the parcel at the time a site plan for the parcel is submitted, the local government that has the ability to provide public water and sewer services shall have planning and development regulation jurisdiction over the entire parcel.

(2) If all of the local governments have the ability to either provide public water services or public sewer services to the parcel, but not both, at the time a site plan for the parcel is submitted, the landowner may designate which local government's planning and development regulations shall apply to the land.

(3) If all or none of the local governments have the ability to provide public water and sewer services to the parcel at the time a site plan for the parcel is submitted, the local government where the majority of the parcel is located shall have jurisdiction over the land.

(b) The jurisdiction established by this section shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. ~~The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution.~~"

SECTION 9. G.S. 160D-402, as amended by S.L. 2024-49, reads as rewritten:

"**§ 160D-402. Administrative staff.**

(a) Authorization. – Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter. Local governments shall designate at least one staff member charged with making determinations under that local government's development regulations for purposes of G.S. 160D-703.

(b) Duties. – Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable

standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Local Government Staff Arrangements. – A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this ~~section,~~ subsection, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

The contract or designation of staff under this subsection shall specify at least one individual designated as charged with making determinations under each local government's development regulations for purposes of G.S. 160D-703.

(c1) Alternative Contract Staff Arrangements. – A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government. The contract shall require at least one individual designated as charged with making determinations under that local government's development regulations for purposes of G.S. 160D-703.

(d) Financial Support. – The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this ~~Chapter.~~ Chapter, and those fees shall not exceed the actual direct and reasonable costs required to support, administer, and implement programs authorized by this Chapter. All fees collected by a building inspection department for the administration and enforcement of provisions set forth in Article 11 of this Chapter shall be used to support the administration and operations of the building inspection department and for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the State Fire Marshal under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems,

general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings."

SECTION 10. G.S. 160D-403, as amended by S.L. 2024-49, reads as rewritten:

"**§ 160D-403. Administrative development approvals and determinations.**

(a) Development Approvals. – To the extent consistent with the scope of ~~regulatory~~ development regulation 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 requiring the development 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~~ the development as is authorized by the easement.

(a1) Time Period for Approval. – Within 14 calendar days of the filing of an application for a development approval, a local government or its designated administrative staff, as described under G.S. 160D-402, shall (i) determine whether the application is complete and notify the applicant of the application's completeness and, (ii) if the local government or its designated administrative staff determines the application is incomplete, specify all of the deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the local government or its designated administrative staff for a completeness review, which shall be completed within 14 calendar days after receiving an amended application or supplemental application from the applicant. Upon the date the application is deemed complete, the local government or its designated administrative staff shall issue a receipt letter or electronic response stating that the application is complete and that a 90-calendar day review period has started as of that date. The local government shall approve or deny the application within 90 calendar days of the date the application was deemed complete by the local government or its designated administrative staff, except that if the applicant requests a continuance of the application, the review period shall be tolled for the duration of any continuance. The time period for review may be extended only by agreement with the applicant if the application cannot be reviewed within the specified time limitation due to circumstances beyond the control of the local government. The extension shall not exceed six months. Failure of the local government or its designated administrative staff to act before the expiration of the time period allowed for review shall constitute an approval of the application, and the local government shall issue a written approval upon demand by the applicant.

…

(c) Duration of Development Approval. – Unless a different period is specified by this Chapter or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter 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. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals. Nothing in this subsection limits any vested rights secured under ~~G.S. 160D-108 or G.S. 160D-108.1.~~G.S. 160D-108, 160D-108.1, or 160D-108.2.

…."

SECTION 11. G.S. 160D-605(a) reads as rewritten:

"(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or

inconsistent with an adopted comprehensive or land-use plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive or land-use plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is ~~not~~ subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken."

SECTION 12. G.S. 160D-702 reads as rewritten:

"**§ 160D-702. Grant of power.**

(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 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 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,~~ district, 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.

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

(c) A zoning or other development regulation shall not do any of the following:

(1) Set a minimum width, length, or square footage of any structures subject to regulation under the North Carolina Residential Code.

(2) Require ~~a~~ or otherwise specify the size of parking ~~space~~ spaces, placement of parking spaces, configuration of parking spaces, or allocation of parking spaces to be ~~larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.~~greater than those required by the Americans with Disabilities Act.

(3) Require additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the North Carolina Fire ~~Code of the North Carolina Residential Code for One- and Two-Family Dwellings.~~Code.

(4) Except as provided under G.S. 160A-307, set a minimum width, length, or square footage for driveways within a development unless the driveway abuts a public road. This subdivision shall not be construed to expand, diminish, or alter the Department of Transportation's authority to regulate driveways adjacent to public roads owned by the State.

(5) Except as provided in this subdivision, set design standards for public roads within a development in excess of those required by the Department of Transportation. A city may set design standards for public roads within a development in excess of those required by the Department of Transportation if the city is financially responsible for the cost of the excess and accepts ownership and maintenance responsibility for the public road prior to, or in conjunction with, site plan approval. Confirmation of conformity of the improvements consistent with the city's design standards under this subsection shall be conducted consistent with G.S. 160D-804.1(1c). Upon confirmation that the improvements have been made consistent with G.S. 160D-804.1(1c), the city shall record with the register of deeds a plat evidencing the city's ownership of the public road.

(6) Require installation of sidewalks or improvement of existing sidewalks for any residential, commercial, or school property unless the sidewalk is either of the following:

a. Connected to an existing sidewalk.

b. Will be connected to a planned adjacent sidewalk that the local government believes, based on a development approval, will be constructed within two years of the residential, commercial, or school property site plan approval.

(7) For cities with a population of 125,000 or more, according to the most recent decennial federal census, establish setback or buffer yard requirements for a multifamily development that exceeds 15 units per acre.

(d) In exercising its authority under this section, a local government shall support its determinations by demonstrating there is a rational and substantial relationship between the

zoning map, zoning regulations, or zoning amendment and the health, safety, and welfare of the public through finding of facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion.

(e) For purposes of this section, the term "public road" shall mean any road, street, highway, thoroughfare, or other way of passage that is owned and maintained by a city or the Department of Transportation."

SECTION 13. G.S. 160D-703 reads as rewritten:

"**§ 160D-703. Zoning districts.**

(a) Types of Zoning Districts. – ~~A~~ Except as provided in subsection (a1) of this section, 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~~ By illustration, zoning districts may ~~include, but are not be limited to,~~ include any of the following:

(1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

(2) Conditional districts, in which site plans or individualized development conditions are imposed.

(3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.

(4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

(5) Districts allowed by charter.

(a1) Residential Zoning Districts Classified Based on Density. – A local government shall classify residential zoning districts based on the number of dwelling units allowed per acre. A local government shall not classify residential zoning districts based on the minimum lot size allowed in the district.

(a2) Permitted Uses in Counties. – In areas zoned for residential use, a county zoning regulation shall allow the following uses by right in an area with public sewer connections:

(1) In a county with a population of 49,999 or less, according to the most recent decennial federal census, the siting of no fewer than four dwelling units per acre.

(2) In a county with a population between 50,000 and 274,999, according to the most recent decennial federal census, the siting of no fewer than five dwelling units per acre.

(3) In a county with a population of 275,000 or more, according to the most recent decennial federal census, the siting of no fewer than six dwelling units per acre.

(a3) Permitted Uses in Cities. – A city zoning regulation shall allow the following uses by right in an area with public sewer connections:

(1) In areas zoned for residential use in a city with a population of 19,999 or less, according to the most recent decennial federal census, the siting of no fewer than four dwelling units per acre.

(2) In areas zoned for residential use in a city with a population between 20,000 and 124,999, according to the most recent decennial federal census, the siting of no fewer than five dwelling units per acre.

(3) In areas zoned for residential use in a city with a population of 125,000 or more, according to the most recent decennial federal census, the siting of no

fewer than six dwelling units per acre. The minimum dwelling unit requirement may be met by duplexes, triplexes, and quadruplexes.

(4) In areas zoned for non-agricultural commercial, business, or industrial use in a city with a population of 125,000 or more, according to the most recent decennial federal census, the siting of buildings and structures subject to the North Carolina Residential Code and multifamily housing structures with more than four residential dwelling units, with a maximum height restriction of not less than 60 feet.

(a4) Exemption from Local Design Standards and Buffer Yards. – In a city with a population of 125,000 or more, according to the most recent decennial federal census, buildings and structures subject to the North Carolina Residential Code and uses allowable under subdivision (3) or (4) of subsection (a3) of this section shall not be subject to either of the following:

(1) Local design standards, except those adopted as a condition of participation in the National Flood Insurance Program.

(2) Buffer yards or other landscape buffering regulations.

(a5) Applicability of Permitted Uses. – Subsections (a2) and (a3) of this section do not apply to land used for a bona fide farm purpose as described in G.S. 160D-903 or an open space land purpose as described in G.S. 160D-1307.

(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 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,~~ Notwithstanding any other provision of law, in the exercise of the authority granted by this section, a local government may not (i) require, enforce, or incorporate into the zoning ~~regulations any condition or requirement not authorized by otherwise applicable law,~~ regulations any condition, requirement, or deed restriction not specifically authorized by law, (ii) require, enforce, or incorporate into the zoning regulations any condition or requirement that the courts have held to be unenforceable if imposed directly by the local government, or (iii) accept any offer by the petitioner to consent to any condition not specifically authorized by 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. This subsection shall also apply to the approval of any site plan, development agreement, conditional zoning permit, or any other instrument under this Chapter. 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 apply only to those properties whose owners petition for the modification.

(b1) Limitations. – For parcels where multifamily structures are an allowable use, a local government may not impose a harmony requirement for permit approval if the development

contains affordable housing units for families or individuals with incomes below eighty percent (80%) of the area median income.

(c) Uniformity Within Districts. – Except as authorized by the foregoing, all zoning regulations shall be uniform for each class or kind of building throughout each district but the zoning regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) Staff Approvals. – Development approvals for a development that is a permitted use in the zoning district where the development is located shall be made only by the designated staff member as described in G.S. 160D-402.

(f) Basis for Conditional District. – In exercising its authority under subsection (b) of this section, a local government shall support its determinations with facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion there is a rational and substantial relationship between the conditional district and the health, safety, and welfare of the public."

SECTION 14. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-707. Review period for rezoning decisions.**

Within 14 calendar days of the filing of an application for amendment of a zoning map or zoning regulations, a local government or its designated administrative staff, as described under G.S. 160D-402, shall (i) determine whether the application is complete and notify the applicant of the application's completeness and, (ii) if the local government or its designated administrative staff determines the application is incomplete, specify all the deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the local government or its designated administrative staff for a completeness review, which shall be completed within 14 calendar days after receiving an amended application or supplemental application from the applicant. Upon the date the application is deemed complete, the local government or its designated administrative staff shall issue a receipt letter or electronic response stating that the application is complete and that a 90-calendar day review period has started as of that date. The local government shall approve or deny the application within 90 calendar days of the date the application was deemed complete by the local government or its designated administrative staff, except that if the applicant requests a continuance of the application, the review period shall be tolled for the duration of any continuance. The time period for review may be extended only by agreement with the applicant if the application cannot be reviewed within the specified time limitation due to circumstances beyond the control of the local government. The extension shall not exceed six months. Failure of the local government or its designated administrative staff to act before the expiration of the time period allowed for review shall constitute an approval of the application, and the local government shall issue a written approval upon demand by the applicant."

SECTION 15. G.S. 160D-803 reads as rewritten:

"**§ 160D-803. Review process, filing, and recording of subdivision plats.**

(a) Any subdivision regulation adopted pursuant to this Article shall contain provisions setting forth the procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration.

(b) A subdivision regulation shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

(1) The district highway engineer as to proposed State streets, State highways, and related drainage systems.

(2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.

(3) Any other agency or official designated by the governing board.

(c) The subdivision regulation ~~may~~ shall provide that final decisions on preliminary plats and final plats are administrative and to be made by ~~any of the following:~~

~~(1) The governing board.~~

~~(2) The governing board on recommendation of a designated body.~~

~~(3) A designated planning board, technical review committee of local government staff members, or other designated body or staff person.~~

~~If the final decision on a subdivision plat is administrative, the decision may be assigned to~~ a staff person or committee comprised entirely of staff persons, and notice of the decision shall be as provided by G.S. 160D-403(b). ~~If the final decision on a subdivision plat is quasi-judicial, the decision shall be assigned to the governing board, the planning board, the board of adjustment, or other board appointed pursuant to this Chapter, and the procedures set forth in G.S. 160D-406 shall apply.~~

(d) After the effective date that a subdivision regulation is adopted, no subdivision within a local government's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by ~~the governing board or appropriate body,~~ a staff person or committee comprised entirely of staff persons, as specified in the subdivision regulation, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. Within 10 days after approving a preliminary or final plat, an authorized representative of the local government shall enter the approval on the face of the preliminary or final plat. The review officer, pursuant to G.S. 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

(e) Notwithstanding G.S. 160D-403(c), once approval has been entered on the face of the plat in accordance with this section, the approval shall be valid and not expire unless the landowner applies for, and receives, a subsequent development approval."

SECTION 16. G.S. 160D-912 reads as rewritten:

"**§ 160D-912. Outdoor advertising.**

(a) As used in this section, the term "off-premises outdoor advertising" includes off-premises outdoor advertising signs visible from the main-traveled way of any road.

(b) A local government may require the removal of an off-premises outdoor advertising ~~sign~~ that is ~~nonconforming under a local ordinance~~ not in compliance with a development regulation and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this Chapter and subject to G.S. 136-131.1 and G.S. 136-131.2.

(c) A local government shall give written notice of its intent to require removal of off-premises outdoor advertising not in compliance with a development regulation by sending a letter by certified mail to the last known address of the owner of the off-premises outdoor advertising and the owner of the property on which the off-premises outdoor advertising is located.

(d) No local government may enact or amend an ordinance of general applicability to require the removal of any ~~nonconforming,~~ lawfully erected off-premises outdoor advertising ~~sign~~ that is not in compliance with a development regulation without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

(1) The local government and the owner of the ~~nonconforming~~ off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.

(2) The local government and the owner of the ~~nonconforming~~ off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.

(3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.

(4) The removal is required for opening, widening, extending, or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the local government allows the off-premises outdoor advertising to be relocated to a comparable location.

(5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

(d1) ~~This subsection~~ Subsection (d) of this section shall be construed subject to and without any reduction in the rights afforded to owners of off-premises outdoor advertising ~~signs~~ along interstate and federal-aid primary highways in this State as provided in ~~Article 13 of~~ Chapter 136 of the General Statutes. Nothing in this section shall be construed to diminish the rights given to owners or operators of nonconformities as set forth in G.S. 160D-108 and G.S. 160D-108.2 or the rights of owners or operators of outdoor advertising signs in Article 11 of Chapter 136 of the General Statutes.

(e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on the following:

(1) The factors listed in G.S. 105-317.1(a).

(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

(f) If the parties are unable to reach an agreement under subsection (e) of this section on monetary compensation to be paid by the local government to the owner of the ~~nonconforming~~ off-premises outdoor advertising ~~sign~~ for its removal and the local government elects to proceed with the removal of the ~~sign,~~ off-premises outdoor advertising, the local government may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the ~~sign,~~ off-premises outdoor advertising, the local government shall own the ~~sign.~~off-premises outdoor advertising.

(g) In lieu of paying monetary compensation, a local government may enter into an agreement with the owner of ~~a nonconforming~~ off-premises outdoor advertising ~~sign~~ to relocate and reconstruct the ~~sign.~~ off-premises outdoor advertising. The agreement shall include the following:

(1) Provision for relocation of the ~~sign~~ off-premises outdoor advertising to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

a. The size and format of the ~~sign.~~off-premises outdoor advertising.

b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the ~~sign owner's~~ cost to the owner of the off-premises outdoor advertising to lease the replacement site.

c. The timing of the relocation.

(2) Provision for payment by the local government of the reasonable costs of relocating and reconstructing the ~~sign,~~ off-premises outdoor advertising including the following:

a. The actual cost of removing the ~~sign.~~off-premises outdoor advertising.

b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the ~~sign.~~off-premises outdoor advertising.

c. The actual cost of installing the ~~sign~~ off-premises outdoor advertising at the new location.

d. An amount of money equivalent to the income received from the lease of the ~~sign~~ off-premises outdoor advertising for a period of up to 30 days if income is lost during the relocation of the ~~sign.~~off-premises outdoor advertising.

(h) For the purposes of relocating and reconstructing ~~a nonconforming~~ off-premises outdoor advertising ~~sign~~ pursuant to subsection (g) of this section, a local government, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a local government has offered to enter into an agreement to relocate ~~a nonconforming~~ off-premises outdoor advertising ~~sign~~ pursuant to subsection (g) of this section and within 120 days after the initial notice by the local government the parties have not been able to agree that the site or sites offered by the local government for relocation of the ~~sign~~ off-premises outdoor advertising are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator, and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the local government for relocation of the ~~nonconforming sign~~ off-premises outdoor advertising are not comparable to or better than the existing site, and the local government elects to proceed with the removal of the ~~sign,~~ off-premises outdoor advertising, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the ~~sign.~~ off-premises outdoor advertising. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination and the local government elects to proceed with the removal of the ~~sign,~~ off-premises outdoor advertising then the local government may bring an action in superior court for a determination of the monetary compensation to be paid by the local government to the owner for the removal of the ~~sign.~~ off-premises outdoor advertising. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the ~~sign,~~ off-premises outdoor advertising, the local government shall own the ~~sign.~~off-premises outdoor advertising.

(k) Notwithstanding the provisions of this section, a local government and an off-premises outdoor advertising ~~sign~~ owner may enter into a voluntary agreement allowing for the removal of the ~~sign~~ off-premises outdoor advertising after a set period of time in lieu of monetary compensation. A local government may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(*l*) A local government has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises

outdoor advertising provided the affected ~~property~~ off-premises outdoor advertising remains in place until the compensation is paid.

(m) This section does not apply to any ordinance in effect on July 1, 2004. A local government may amend an ordinance in effect on July 1, 2004, to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A local government may repeal or amend an ordinance in effect on July 1, 2004, so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on June 19, 2020.

(n) The provisions of this section shall not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

(o) Nothing in this section shall limit a local government's authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising."

SECTION 17. G.S. 160D-912.1 reads as rewritten:

"**§ 160D-912.1. On-premises advertising.**

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

(1) Monetary compensation. – An amount equal to the sum of (i) the greater of the fair market value of the ~~nonconforming~~ on-premises advertising sign that is not in compliance with a development regulation in place immediately prior to the removal or the diminution in value of the real estate resulting from the removal of the on-premises advertising sign and (ii) the cost of a new on-premises advertising sign that conforms to the local government's development regulations.

(2) On-premises advertising sign. – A sign visible from any local or State road or highway that advertises activities conducted on the property upon which it is located or advertises the sale or lease of the property upon which it is located.

(3) Reconstruction. – Erecting or constructing anew, including any new or modern instrumentalities, parts, or equipment that were allowed under the local development rules in place at the time the on-premises advertising sign was erected.

(b) Notwithstanding any local development regulation to the contrary, a lawfully erected on-premises advertising sign may be relocated or reconstructed within the same parcel so long as the square footage of the total advertising surface area is not increased, and the on-premises advertising sign complies with the local development ~~rules~~ regulations in place at the time the on-premises advertising sign was erected. The construction work related to the relocation of the lawfully erected on-premises advertising sign shall commence within two years after the date of removal. The local government shall have the burden to prove that the on-premises advertising sign was not lawfully erected.

(c) A local government may require the removal of a lawfully erected on-premises advertising sign under a local development regulation only if the local government pays the owner of the on-premises advertising sign monetary compensation for the removal. Upon payment of monetary compensation, the local government shall own the on-premises advertising sign and remove it in a timely manner.

(d) Nothing in this section shall be construed to diminish the rights given to owners or operators of ~~nonconforming uses, including nonconforming structures,~~ nonconformities as set forth in ~~G.S. 160D-108~~ G.S. 160D-108 and G.S. 160D-108.2 or the rights of owners or operators of outdoor advertising signs in Article 11 of ~~Chapter 136.~~Chapter 136 of the General Statutes."

SECTION 18. G.S. 160D-944 reads as rewritten:

"**§ 160D-944. Designation of historic districts.**

(a) Any local government may, as part of a zoning regulation adopted pursuant to Article 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this

Chapter, designate and from time to time amend one or more historic districts within the area subject to the development regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

A development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the ~~zoning~~ development regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in the proposed district and a description of the boundaries of the district have been prepared.

(2) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, has made an analysis of and recommendations concerning the report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for the analysis has been received by the Department relieves the governing board of any responsibility for awaiting the analysis, and the governing board may at any subsequent time take any necessary action to adopt or amend its zoning regulation.

(3) Seventy-five percent (75%) of the property owners in the proposed district sign a petition requesting designation of the district.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the ~~zoning~~ development regulation. With respect to any changes in the boundaries of a district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the ~~zoning~~ development regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Natural and Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate ~~zoning regulation.~~development regulation, except that the governing board shall unanimously approve the adoption of the district.

(d) G.S. 160D-914 applies to ~~zoning or other~~ development regulations pertaining to historic districts, and the authority under that statute for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district."

SECTION 19. Article 9 of Chapter 160D of the General Statutes is amended by adding the following two new sections to read:

"**§ 160D-974. Tiny houses in residential districts in certain cities.**

(a) Tiny Housing in Residential Zones. – A city shall allow tiny housing in areas zoned for residential or mixed-use residential, including those that allow for the development of detached single-family dwellings.

(b) Regulation and Scope. – Nothing in this section affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions. Any development regulation adopted pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant to Part 4 of this Article or (ii) on the National Register of Historic Places, unless approved by the local historic preservation authority. For septic systems, a city may require a new system or an upgrade to an existing system if it is determined that the existing system is incapable of handling increased capacity.

(c) Definitions. – As used in this section, the term "tiny housing" means a detached single-family dwelling unit that is no greater than 600 square feet, built to standards applicable to the North Carolina Residential Code, and is either constructed or mounted on a foundation and is connected to utilities. The term does not include a recreational vehicle or manufactured home that has not been affixed to real property.

(d) Applicability. – This section applies only to cities with a population of 125,000 or more, according to the most recent decennial federal census.

"**§ 160D-975. Accessory dwelling units in certain cities.**

(a) A city shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code, including applicable provisions from the North Carolina Fire Code, for each detached single-family dwelling that is greater than 600 square feet, in areas zoned for residential use that allow for development of detached single-family dwellings. An accessory dwelling unit may be built or sited concurrently with the primary dwelling or after the primary dwelling has been constructed or sited. Nothing in this section shall prohibit a local government from permitting accessory dwelling units in any area not otherwise required under this section.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions, including the imposition of additional parking requirements where an existing structure is converted for use as an accessory dwelling unit.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a city shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee, other than a building permit fee, that exceeds the amount charged for any single-family dwelling unit similar in nature.

(d) Except as otherwise provided in this section, a city may regulate accessory dwelling units pursuant to this Chapter, provided that the development regulations do not act to discourage development or siting of accessory dwelling units through unreasonable costs or delay. Nothing in this section shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions.

(e) A city may impose a setback minimum for accessory dwelling units of 5 feet or the setback minimum imposed generally upon lots in the same zoning classification, whichever is less.

(f) For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a primary single-family dwelling and that has less total square footage than the primary single-family dwelling.

(g) This section applies only to cities with a population of 125,000 or more, according to the most recent decennial federal census."

SECTION 20. G.S. 160D-1102(c) reads as rewritten:

"(c) No later than October 1 of ~~2023, 2024, and 2025,~~ each year, every local government shall publish an annual financial report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as required by G.S. 160D-402(d). This report is in addition to any other financial report required by law."

SECTION 21. G.S. 160D-1110(d) is amended by adding a new subdivision to read:

"(3) Require more than a shell permit for the construction of a multifamily development. Upon the request of the permittee, the local government shall issue certificates of occupancy for individual units in a multifamily development permitted under a shell permit as the units meet the criteria for issuance of a certificate of occupancy. For purposes of this subdivision, "shell permit" means a permit that allows for the structural construction of a building but does not result in the issuance of a certificate of occupancy."

SECTION 22. G.S. 160D-1403 reads as rewritten:

"**§ 160D-1403. Appeals of decisions on subdivision plats.**

~~(a) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board is subject to review by the superior court by a proceeding in the nature of certiorari. G.S. 160D-406 and this section apply to those appeals.~~

(b) ~~When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, or for~~ For any ~~other~~ administrative decision implementing a subdivision regulation, the ~~following applies:~~

~~(1) If made by the governing board or planning board, the decision is subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).~~

~~(2) If made by the staff or a staff committee, the~~ decision is subject to appeal as provided in G.S. 160D-405.

~~(c) For purposes of this section, a subdivision regulation is deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made.~~"

SECTION 23. G.S. 160D-1403.1 reads as rewritten:

"**§ 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 or development approval for any of the following claims:

(1) The ~~ordinance,~~ development regulation, either on its face or as applied, is unconstitutional.

(2) The ~~ordinance,~~ development regulation, either on its face or as applied, is ultra vires, preempted, arbitrary or capricious, or is otherwise in excess of statutory authority.

(3) The ~~ordinance,~~ development regulation, either on its face or as applied, constitutes a taking of property.

(4) The development approval is ultra vires, preempted, in excess of its statutory authority, made upon unlawful procedure, made in error of law, arbitrary and capricious, or an abuse of discretion.

(a1) Appeals of Administrative Decisions. – If the ~~decision~~ development approval being challenged under subsection (a) of this section 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~~ development regulation 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.

(4) An association, organization, society, or entity whose membership is comprised of an individual or entity identified in subdivision (2) or (3) of this subsection.

…

(g) Definitions. – The ~~definitions~~ definition of "development permit" in G.S. 143-755 shall apply in this section."

SECTION 24. Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1403.3. Private remedies.**

In addition to any other remedy otherwise provided by law, any person with standing under G.S. 160D-1403.1(b) may bring a civil action to enforce the provisions of this Chapter and recover damages, costs, and disbursements, including costs of investigation and reasonable attorneys' fees, and receive other equitable relief as determined by the court."

SECTION 25.(a) Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1406. Civil liability in certain instances.**

(a) In addition to any other remedy available, actual damages resulting from any development decision, or lack thereof, may be recovered by civil action naming a member or members of the decision-making board individually. A civil action under this section may be instituted by any person with standing as described in G.S. 160D-1402(c) to recover civil damages from any member or members of the decision-making board who did any of the following with respect to the development decision:

(1) Engaged in impermissible violations of due process.

(2) Considered evidence or other material gained outside of an evidentiary hearing when making a quasi-judicial decision.

(3) Acted maliciously, arbitrarily and capriciously, or unlawfully.
(4) Acted grossly negligent or wrongfully.

(b) If a court determines that a member of a decision-making board is liable under subsection (a) of this section, the court may also award punitive damages.

(c) Notwithstanding the common law of legislative privilege and legislative immunity, a court may compel disclosure of information if, in the presiding judge's opinion, the disclosure is necessary to a proper administration of justice.

(d) Attorneys' fees and costs shall be awarded in accordance with G.S. 6-21.7."

SECTION 25.(b) G.S. 6-21.7 reads as rewritten:

"**§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of ~~their~~ authority.**

(a) 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 member of a decision-making board under Chapter 160D of the General Statutes is found to be liable under G.S. 160D-1406, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the acts of the member of a decision-making board under Chapter 160D of the General Statutes.

(b) 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. 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.

(c) In all other ~~matters,~~ matters not covered by subsection (a) or (b) of this section, the court may award reasonable attorneys' fees and costs to the prevailing private litigant.

(d) For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

SECTION 26. G.S. 63-31(e) reads as rewritten:

"(e) All airport zoning regulations adopted under this Article shall be reasonable, and none shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any ~~nonconforming use,~~ nonconformity as defined in G.S. 160D-102 except as provided in G.S. 63-32, subsection (a)."

SECTION 27. G.S. 63-36 reads as rewritten:

"**§ 63-36. Acquisition of air rights.**

(a) In any case in which:
(1) It is desired to remove, lower, or otherwise terminate a ~~nonconforming use;~~ nonconformity; or
(2) The approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Article; or
(3) It appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations,

the political subdivision within which the property or ~~nonconforming use~~ nonconformity is located or the political subdivision owning the airport or served by it may acquire, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such an air right, easement, or other estate or interest in the property or ~~nonconforming use~~ nonconformity in question as may be necessary to effectuate the purposes of this Article.

(b) If any political subdivision, or if any board or administrative agency appointed or selected by a political subdivision, shall adopt, administer or enforce any airport zoning regulations which results in the taking of, or in any other injury or damage to any existing structure, such political subdivision shall be liable therefor in damages to the owner or owners of any such property and the liability of the political subdivision shall include any expense which the owners of such property are required to incur in complying with any such zoning regulations.

(c) For purposes of this section, "nonconformity" shall have the same meaning as in G.S. 160D-102."

SECTION 28.(a) G.S. 120-36.7 is amended by adding a new subsection to read:

"(e) Proposed Increases Affecting Home Affordability. – Every bill and resolution introduced in the General Assembly proposing any change in the law that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, shall have attached to it at the time of its consideration by the General Assembly a fiscal note prepared by the Fiscal Research Division. The fiscal note shall identify and estimate, for the first five fiscal years the proposed change would be in effect, all anticipated effects on costs of the proposed change. The fiscal note shall be prepared on the basis of a median priced single-family residence and may include an estimate for a larger development as an analysis of the long-range effect of a measure. If, after careful investigation, the Fiscal Research Division determines that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

The sponsor of each bill or resolution to which this subsection applies shall present a copy of the bill or resolution with the request for a fiscal note to the Fiscal Research Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal Research Division shall prepare the fiscal note as promptly as possible. The Fiscal Research Division shall prepare the fiscal note and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

This fiscal note shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly but shall be separate from the bill or resolution and shall be clearly designated as a fiscal note. A fiscal note attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment that proposes a change in the law that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, the chair of the committee shall obtain from the Fiscal Research Division and attach to the amended bill or resolution a fiscal note as provided in this section."

SECTION 28.(b) Article 3 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"**§ 159-42.2. Fiscal note required for ordinances affecting housing affordability.**

(a) Prior to adopting, amending, or repealing an ordinance that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, the governing body of a county or city shall have a fiscal note prepared by its planning department or another department designated by the governing body. The fiscal note shall be submitted to the governing body at least five days prior to the meeting at which the ordinance is to be introduced and shall be made available to the public at that meeting. For purposes of this section, the term "introduced" has the same meaning as in G.S. 160A-75(c). In preparing the fiscal note, the planning department or other department may consult with relevant trade organizations representing the real estate or home building industries. The fiscal note shall identify and estimate, for the first five fiscal years the ordinance, or the amendment or repeal thereof, would be in effect, all anticipated effects on costs of the proposed change. The fiscal note shall be prepared on the basis of a median priced single-family residence and may include an estimate for a larger development as an analysis of the long-range effect of a measure. If, after careful investigation, the planning or other department determines

that no dollar estimate is possible, the fiscal note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

(b) Any resident of the county or city may bring a civil action in the superior court of the county for failure of the governing body to have a fiscal note prepared as required by this section or for failure to prepare an accurate or sufficient fiscal note. If the court determines the governing body failed to have a fiscal note prepared as required by this section or failed to prepare an accurate or sufficient fiscal note, the court shall order that a fiscal note be prepared. The court shall have authority to determine the sufficiency of a fiscal note."

SECTION 29. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-343.5. Wastewater systems for property within service area of a public or community wastewater system.**

(a) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner may install a wastewater system in accordance with this Article to serve any undeveloped or unimproved property located so as to be served by a public or community wastewater system.

(b) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner of developed or improved property located so as to be served by a public or community wastewater system may install a wastewater system in accordance with this Article if the public or community wastewater system has not yet installed sewer lines directly available to the property or otherwise cannot provide wastewater service to the property at the time the property owner desires wastewater service.

(c) Upon compliance with this Article, the property owner installing a wastewater system pursuant to subsection (a) or (b) of this section shall not be required to connect to the public or community wastewater system for so long as the wastewater system installed in accordance with this Article remains compliant and in use. A property owner may opt to connect to the public or community wastewater system if the property owner so desires.

(d) Nothing in this section shall require a property owner to install a wastewater system in accordance with this Article if the property is located so as to be served by a public or community wastewater system and the public or community wastewater system is willing to provide wastewater service to the property.

(e) This section shall not apply, and a public or community wastewater system may mandate connection to that public or community wastewater system, in any of the following situations:

(1) The wastewater system in accordance with this Article serving the property has failed and cannot be repaired.

(2) The public authority or unit of government operating the public water system is being assisted by the Local Government Commission.

(3) The public authority or unit of government operating the public or community wastewater system is in the process of expanding or repairing the public or community wastewater system and is actively making progress to having wastewater lines installed and directly available to provide wastewater service to that property within the 24 months of the time the property owner applies for a permit under this Article."

SECTION 30. G.S. 136-102.6 is amended by adding a new subsection to read:

"(c1) Notwithstanding anything to the contrary in this section, the Division of Highways shall accept a performance guarantee as provided under G.S. 160D-804.1 to ensure completion of streets that are required by a development regulation under Chapter 160D of the General

Statutes. On receipt of the performance guarantee, the Division of Highways shall issue a certificate of approval to the municipality or county as to those streets."

SECTION 31. G.S. 136-131.5(c) reads as rewritten:

"(c) A nonconforming sign ~~not conforming to State standards~~ shall not be relocated pursuant to this section unless the ~~nonconformity is removed~~ nonconforming sign is brought into conformity with State law, rules, and regulations as part of the relocation."

SECTION 32. The catch line of G.S. 136-131 reads as rewritten:

"**§ 136-131. Removal of certain existing nonconforming ~~advertising.~~signs.**"

SECTION 33. G.S. 136-133.1(d) reads as rewritten:

"(d) Except as provided in subsection (e) of this section, trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the outdoor advertising sign may be removed if the applicant agrees to remove two nonconforming ~~outdoor advertising~~ signs for each outdoor advertising sign at which removal of existing trees is requested. The surrendered nonconforming signs must be fully disassembled before any removal of existing trees is permitted and shall not be eligible for future outdoor advertising permits in perpetuity."

SECTION 34. G.S. 160A-31(h) reads as rewritten:

"(h) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under ~~G.S. 160D-108 or G.S. 160D-108.1.~~ G.S. 160D-108, 160D-108.1, or 160D-108.2. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, 160D-108.1, or 160D-108.2 shall be binding on the landowner and any such vested right shall be terminated."

SECTION 35. G.S. 160A-58.1(d) reads as rewritten:

"(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under ~~G.S. 160D-108 or G.S. 160D-108.1.~~ G.S. 160D-108, 160D-108.1, or 160D-108.2. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under ~~G.S. 160D-108 or G.S. 160D-108.1~~ G.S. 160D-108, 160D-108.1, or 160D-108.2 shall be binding on the landowner and any such vested rights shall be terminated."

SECTION 36. G.S. 160A-307 reads as rewritten:

"**§ 160A-307. Curb cut regulations.**

(a) ~~A~~ Except as expressly permitted by Chapter 160D of the General Statutes, a city may not regulate by ordinance ~~regulate~~ the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. ~~The~~ To the extent allowed by Chapter 160D of the General Statutes, the ordinance may require the construction or reimbursement of the cost of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley if all of the following apply:

(1) The city has shown through substantial evidence the need for ~~such~~ the improvements is reasonably attributable to the traffic using the driveway.

(2) The city has shown through substantial evidence the improvements serve the traffic of the driveway.

(b) No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. A city shall not require the

applicant to acquire right-of-way from property not owned by the applicant. However, an applicant may voluntarily agree to acquire such right-of-way.

(c) For purposes of this section, "substantial evidence" means facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion."

SECTION 37.(a) Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 12.

"Water and Sewer Allocation.

"**§ 162A-1000. Short title and purpose.**

(a) This Article shall be known and may be cited as the "Water and Sewer Capacity Allocation and Planning Act."

(b) The purpose of this Article is to require all public water and sewer service providers to plan for future growth and allocate water and wastewater system capacity in a fair, transparent, and accountable manner. This act will ensure that sufficient water supply and wastewater treatment capacity is available for anticipated development and that capacity is allocated without discrimination or abuse.

"**§ 162A-1001. Definitions.**

For the purposes of this Article, the following definitions apply:

(1) Allocation or capacity allocation. – A reservation of a specific quantity of water or sewer capacity for a particular project.

(2) Applicant. – Any person, business, developer, property owner, or entity that has received preliminary or final site plan approval, as defined under G.S. 160D-102(29), for a project and submits an application for allocation for a new development or expansion of an existing development to a public water or sewer provider.

(3) Approved applicant. – An applicant whose application for allocation has been approved.

(4) Available capacity. – The portion of a facility's capacity that is not currently being used by existing customers and is not already reserved by prior allocations. Available capacity is determined by establishing a facility's capacity minus the sum of current actual usage and any outstanding allocations for projects in their reservation period.

(5) Capacity or system capacity. – The actual capacity of a facility. For wastewater systems, actual capacity refers to hydraulic capacity, meaning the maximum volume of wastewater that can be collected, conveyed, and treated under the facility's permit limits without violation. For water systems, actual capacity refers to the actual available water supply, meaning the reliable quantity of water that can be treated and delivered, accounting for permitted withdrawal limits and treatment plant output, wells, or other sources, including any contractual or bulk supply capacity available to the local governmental unit.

(6) Department. – The Department of Environmental Quality.

(7) Facility. – As defined in G.S. 162A-201(4).

(8) Local governmental unit. – As defined in G.S. 162A-201(5) and any third-party persons who own or operate a facility on behalf of a local governmental unit.

(9) Project. – A development, as defined by G.S. 160D-102(12), for which water or sewer service is requested. This includes new developments, and expansion or additions to existing developments, that require new or additional water or sewer service.

(10) Substantial expenditure. – A significant or considerable outlay of money, resources, or financial investment, viewed in light of the stage in which the project exists, that is not merely nominal or trivial.

"**§ 162A-1002. Allocation process.**

(a) Allocation Request. – A local governmental unit shall approve capacity allocation requests in accordance with this Article. Once approved, a capacity allocation guarantees the local governmental unit shall provide water service or sewer service for that project up to the approved allocation amount.

(b) Form of Application. – A local governmental unit may request only the following information from an applicant, and may not require any other information that is not necessary for the local governmental unit to determine whether it has available capacity to serve the project:

(1) The name, address, and other relevant contact information of the applicant.

(2) Documentation evidencing that the applicant has received preliminary or final approval for a site plan, as defined under G.S. 160D-102(29), for the project.

(3) The amount of capacity allocation requested in gallons per day or other similarly objective measurement.

(4) The anticipated date the project will begin utilizing the capacity allocation.

(c) Approval of Allocation Request. – Not later than 10 days after receiving an application for allocation, a local governmental unit shall approve the allocation if available capacity exists and the application is complete. Upon approving the allocation, the local governmental unit shall provide the applicant with written documentation specifying (i) the allocation reserved, (ii) the amount of allocation reserved, (iii) the project for which the allocation has been reserved, (iv) the date of the allocation approval, and (v) the date the reservation period expires. The local governmental unit shall approve or deny applications for allocation according to the following process:

(1) The local governmental unit shall approve the total allocation requested by the applicant unless the request for allocation exceeds the local governmental unit's available capacity, in which case the local governmental unit shall, within 10 days after receiving the application for allocation, offer to provide the applicant with allocation equivalent to the available capacity, if any. The local governmental unit shall reserve the reduced allocation for a project under this subsection provided the applicant agrees, in writing, to the reduced allocation.

(2) Except as expressly provided in this section, a local governmental unit may not deny, reduce, or otherwise modify the amount of an allocation requested through an application if available capacity exists sufficient to accommodate an application's allocation request.

(3) A local governmental unit shall not require an applicant to agree to any condition not otherwise authorized by this section, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions include, without limitation, any of the following:

a. Payment of taxes, impact fees, or other fees or contributions to any fund.

b. Adherence to any restrictions related to development regulations under Chapter 160D of the General Statutes, including those within the scope of G.S. 160D-702(c).

c. Adherence to any restriction related to building design elements within the scope of G.S. 160D-702(b).

(4) A local governmental unit shall not implement a scoring or preference system to allocate water service or sewer service among applicants, except as specifically authorized by this section.

(d) Reservation Period. – The initial reservation period shall be for 24 months after the date the allocation is approved. A local governmental unit shall extend the initial reservation period or extension reservation period for an additional 12 months provided (i) the applicant notifies the local governmental unit that it requires an extension of the initial reservation period or extension reservation period not later than 90 days prior to the expiration of the initial reservation period or extension reservation period and, (ii) concurrent with its notification, the applicant provides the local governmental unit with documentation demonstrating that the applicant has made substantial expenditure towards the completion of the project or the applicant provides documentation of a valid building permit.

(e) Allocations Approved in Chronological Order. – Except for requests to reserve capacity in accordance with G.S. 115C-521 and under subsection (k) of this section, allocations shall be granted in the chronological order that completed applications are received by the local governmental unit.

(f) Denial of Allocation Request. – A local governmental unit shall deny an application for allocation, within 10 days after receiving an application for allocation, only if one of the following applies:

(1) The applicant cannot demonstrate approval of a preliminary or final site plan, as defined in G.S. 160D-102(29).

(2) The local governmental unit does not have any available capacity.

(3) The applicant has rejected, in writing, the local governmental unit's offer to provide allocation equivalent to its available capacity as provided in subdivision (1) of subsection (c) of this section, if any.

(g) Modification of Allocation. – In the event an approved applicant determines that the allocation necessary to serve the project increases or decreases by more than ten percent (10%) of the approved allocation, the approved applicant shall immediately notify the local governmental unit, and the following shall apply:

(1) If the allocation approved by the local governmental unit decreases by more than ten percent (10%), the local governmental unit shall adjust its available capacity accordingly and the local governmental unit shall honor the approved allocation, less the decrease in necessary allocation.

(2) If the allocation approved by the provider increases by more than ten percent (10%), the local governmental unit shall increase the allocation provided available capacity exists. In the event available capacity does not exist, the local governmental unit shall notify the approved applicant that the local governmental unit does not have available capacity and extend an offer to the approved applicant to increase the allocation in an amount equivalent to the available capacity. If the approved applicant determines that the existing allocation or the offer by the local governmental unit to increase the allocation in an amount equivalent to the local governmental unit's available capacity does not meet the needs of the project, the approved applicant shall immediately notify the local governmental unit that it intends to terminate the allocation.

(3) In the event the allocation is terminated by the applicant, the provider shall adjust its available capacity accordingly.

(h) Expiration or Termination of Allocation. – Upon expiration or termination of allocation, including allocations that are not used in full, the local governmental unit shall return the expired, terminated, or unused capacity to its available capacity balance. Upon a return of the expired, terminated, or unused capacity to the local governmental unit's available capacity balance, the local governmental unit shall recalculate its available capacity and shall make it available to future applicants for allocation.

(i) Vested Right. – Allocation approved under this section shall be deemed a vested element of the project for the duration of the reservation period. The vested right to allocation during the reservation period shall be in addition to any other vested rights the project may have by law and shall run with the land for the benefit of the project. During the vesting period, the local governmental unit may not revoke or reduce the allocation except by request of the applicant or as described in this section.

(j) Transferability of Allocation. – Allocation shall be provided to the project described in the application. An approved applicant may not transfer an unused allocation to a different project. If the project for which an allocation has been reserved is sold or the development rights are assigned to a successor in interest, the allocation shall transfer to the successor in interest and the allocation and reservation period shall be honored and may not be terminated or revoked by the local governmental unit. In the event the project for which the allocation was reserved is sold or transferred to a successor in interest, the approved applicant shall immediately notify the local governmental unit of the sale or transfer.

(k) Emergency Allocations. – Notwithstanding any other provision of this section, a local governmental unit shall provide priority in allocation to applications demonstrating a substantial threat to public health, safety, or welfare that can be mitigated only by the immediate provision of water service or sewer service. An applicant seeking an emergency allocation must present competent evidence to the local governmental unit of the risk to the public health, safety, or welfare. Upon verifying that the application constitutes an emergency, the local governmental unit shall approve allocation in the minimum amount necessary to abate the emergency on a priority basis.

(*l*) Use of Allocation. – A local governmental unit shall not unreasonably delay an approved applicant's ability to connect the approved applicant's project to the local governmental unit's infrastructure. A local governmental unit shall begin providing water service or sewer service to an approved applicant within 90 days after receiving a request from the approved applicant to begin providing water service or sewer service, provided (i) the project is connected to the local governmental unit's infrastructure and (ii) the request is made within the reservation period described in subsection (d) of this section.

"**§ 162A-1003. Planning and reporting.**

(a) Each local governmental unit shall prepare an annual report not later than October 1 of each year documenting facility capacity and available capacity. The report shall include, at a minimum, all of the following information for each facility of the local governmental unit:

(1) The current system capacity.

(2) The current available capacity.

(3) The amount of capacity allocated to approved developments or projects not yet connected to the local governmental unit's infrastructure.

(4) The remaining available capacity for new allocations.

(5) Any changes in capacity since the last report.

(6) Any planned improvements or expansions and the expected impact on capacity.

(7) The current actual usage of the facility, including average daily demand and peak daily demand over the year immediately preceding the preparation of the report.

(8) If the local governmental unit receives State or federal funding for water or sewer infrastructure, a description of efforts to expand capacity to meet growth, including progress on any State-funded projects.

(b) The Department shall make the annual reports available to the public. Each local governmental unit shall also post the annual report on the website of that local governmental unit, if any.

"**§ 162A-1004. Enforcement and remedies.**

(a) State Enforcement Authority. – If the Department finds that a local governmental unit has violated any requirement of this Article, the Department may take appropriate preventive or remedial enforcement action authorized by Part 1 of Article 21 of Chapter 143 of the General Statutes.

(b) Civil Penalties. – A local governmental unit that fails to comply with the provisions of this Article or willfully fails to administer or enforce the provisions of this Article shall be subject to a civil penalty pursuant to G.S. 143-215.6A(e).

(c) Judicial Review. – Any applicant whose application was denied by a local governmental unit, or who is otherwise aggrieved or injured by the action of a local governmental unit, may file an action in the superior court of the county where the local governmental unit is located or where the project is located. In any civil action brought under this section, the court may award reasonable attorneys' fees to a prevailing plaintiff who brought the action."

SECTION 37.(b) G.S. 162A-900, as enacted by S.L. 2024-45 and S.L. 2024-49, is repealed.

SECTION 37.(c) For applicants that, on or after July 1, 2020, received a service commitment from a public water system, public sewer system, or public water and sewer system confirming availability of capacity for the applicant's development project, but whose capacity needs have not been provided, the system shall reserve, allocate, and provide those applicants with the capacity assured in the system's service commitment in the chronological order that the service commitment was issued before the system reserves, allocates, or provides capacity to another applicant.

SECTION 37.(d) The annual report required by G.S. 162A-1003, as enacted by this act, shall be due October 1, 2026.

SECTION 38. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application and, to this end, the provisions of this act are declared to be severable.

SECTION 39. Except as otherwise provided, this act becomes effective October 1, 2025, and applies to applications, approvals, and actions filed on or after that date. Any local government ordinance in effect on, or adopted subsequent to, October 1, 2025, that is inconsistent with this section is void and unenforceable.