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SENATE BILL DRS35384-MNz-13

Short Title: GSC Conforming Amends./2019 Land-Use Changes.

(Public)

Sponsors: Senators Edwards, Wells, and D. Davis (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 6-21.7 reads as rewritten:

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

In any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action. In any action in which a city or county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of, ~~G.S. 160A-360.1, 153A-320.1, or 143-755~~, G.S. 160D-108(b) or G.S. 143-755, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the local government's failure to comply with any of those provisions. In all other matters, the court may award reasonable attorneys' fees and costs to the prevailing private litigant. For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

SECTION 2. G.S. 143-755 reads as rewritten:

"§ 143-755. Permit choice.

(a) If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.



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1 (b) This section applies to all development permits issued by the State and by local
2 governments.

3 (b1) If a permit application is placed on hold at the request of the applicant for a period of
4 six consecutive months or more, or the applicant fails to respond to comments or provide
5 additional information reasonably requested by the local or State government for a period of six
6 consecutive months or more, the application review ~~shall be~~ is discontinued and the development
7 regulations in effect at the time permit processing is resumed ~~shall be applied~~ apply to the
8 application.

9 (c) Repealed by Session Laws 2015-246, s. 5(a), effective September 23, 2015.

10 (d) Any person aggrieved by the failure of a State agency or local government to comply
11 with this section or ~~G.S. 160A-360.1 or G.S. 153A-320.1~~ G.S. 160D-108(b) may apply to the
12 appropriate division of the General Court of Justice for an order compelling compliance by the
13 offending agency or local government, and the court ~~shall have jurisdiction to~~ may issue that
14 order. Actions brought pursuant to any of these sections shall be set down for immediate hearing,
15 and subsequent proceedings in those actions shall be accorded priority by the trial and appellate
16 courts.

17 (e) For purposes of this section, the following definitions ~~shall apply:~~ apply:

18 (1) Development. – Without altering the scope of any regulatory authority granted
19 by statute or local act, any of the following:

20 a. The construction, erection, alteration, enlargement, renovation,
21 substantial repair, movement to another site, or demolition of any
22 structure.

23 b. Excavation, grading, filling, clearing, or alteration of land.

24 c. The subdivision of land as defined in ~~G.S. 153A-335~~ or
25 ~~G.S. 160A-376~~ G.S. 160D-802.

26 d. The initiation of substantial change in the use of land or the intensity
27 of the use of land.

28 (2) Development permit. – An administrative or quasi-judicial approval that is
29 written and that is required prior to commencing development or undertaking
30 a specific activity, project, or development proposal, including any of the
31 following:

32 a. Zoning permits.

33 b. Site plan approvals.

34 c. Special use permits.

35 d. Variances.

36 e. Certificates of appropriateness.

37 f. Plat approvals.

38 g. Development agreements.

39 h. Building permits.

40 i. Subdivision of land.

41 j. State agency permits for development.

42 k. Driveway permits.

43 l. Erosion and sedimentation control permits.

44 m. Sign permit.

45 (3) Land development regulation. – Any State statute, rule, or regulation, or local
46 ordinance affecting the development or use of real property, including any of
47 the following:

48 a. Unified development ordinance.

49 b. Zoning regulation, including zoning maps.

50 c. Subdivision regulation.

51 d. Erosion and sedimentation control regulation.

- e. Floodplain or flood damage prevention regulation.
- f. Mountain ridge protection regulation.
- g. Stormwater control regulation.
- h. Wireless telecommunication facility regulation.
- i. Historic preservation or landmark regulation.
- j. Housing code."

SECTION 3. G.S. 160D-102 reads as rewritten:

"§ 160D-102. Definitions.

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

...

- (6) Comprehensive plan. – ~~The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have~~ A comprehensive plan that has been officially adopted by the governing ~~board,~~ board pursuant to G.S. 160D-501.

...

- (12) Development. – ~~Unless the context clearly indicates otherwise, the term means any~~ Any of the following:
 - a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by this Chapter.

...

- (17) Governing board. – The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and ~~shall mean~~ means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

...

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

...

- ~~(33) Vested right. – The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.~~

...."

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

"§ 160D-107. Moratoria.

...

- (c) Exempt Projects. – Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section ~~shall~~ does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding, to any project for which a special use permit application has been accepted as complete, to development set forth in a site-specific ~~or phased~~ vesting plan approved pursuant to ~~G.S. 160D-108,~~ G.S. 160D-108.1, to development for which substantial expenditures have already been made in

1 good-faith reliance on a prior valid development approval, or to preliminary or final subdivision
2 plats that have been accepted for review by the local government prior to the call for a hearing
3 to adopt the moratorium. Any preliminary subdivision plat accepted for review by the local
4 government prior to the call for a hearing, if subsequently approved, shall be allowed to proceed
5 to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if
6 a complete application for a development approval has been submitted prior to the effective date
7 of a moratorium, G.S. 160D-108(b) ~~shall be applicable~~ applies when permit processing resumes.

8 ...

9 (e) Limit on Renewal or Extension. – No moratorium may be subsequently renewed or
10 extended for any additional period unless the local government ~~shall have~~ has taken all reasonable
11 and feasible steps proposed to be taken in its ordinance establishing the moratorium to address
12 the problems or conditions leading to imposition of the moratorium and unless new facts and
13 conditions warrant an extension. Any ordinance renewing or extending a development
14 moratorium must include, at the time of adoption, the findings set forth in subdivisions (1)
15 through (4) of subsection (d) of this section, including what new facts or conditions warrant the
16 extension.

17 (f) Expedited Judicial Review. – Any person aggrieved by the imposition of a
18 moratorium on development approvals required by law may apply to the General Court of Justice
19 for an order enjoining the enforcement of the moratorium. Actions brought pursuant to this
20 section shall be scheduled for expedited hearing, and subsequent proceedings in those actions
21 shall be accorded priority by the trial and appellate courts. In such actions, the local government
22 ~~shall have~~ has the burden of showing compliance with the procedural requirements of this
23 subsection."

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

25 **"§ 160D-108. ~~Vested rights and permit choice.~~Permit choice and vested rights.**

26 (a) Findings. – The General Assembly recognizes that local government approval of
27 development typically follows significant investment in site evaluation, planning, development
28 costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and
29 desirable to provide for the establishment of certain vested rights in order to ensure reasonable
30 certainty, stability, and fairness in the development regulation process, to secure the reasonable
31 expectations of landowners, and to foster cooperation between the public and private sectors in
32 land-use planning and development regulation. The provisions of this section and
33 G.S. 160D-108.1 strike an appropriate balance between private expectations and the public
34 interest.

35 (b) Permit Choice. – ~~If an application made in accordance with local regulation is~~
36 ~~submitted for a development approval required pursuant to this Chapter and a development~~
37 ~~regulation changes between the time the application was submitted and a decision is made, the~~
38 ~~applicant may choose which version of the development regulation will apply to the application.~~
39 ~~If the development permit applicant chooses the version of the rule or ordinance applicable at the~~
40 ~~time of the permit application, the development permit applicant shall not be required to await~~
41 ~~the outcome of the amendment to the rule, map, or ordinance prior to acting on the development~~
42 ~~permit. This section applies to all development approvals issued by the State and by local~~
43 ~~governments. The duration of vested rights created by development approvals is as set forth in~~
44 ~~subsection (d) of this section.~~If a land development regulation is amended between the time a
45 development permit application was submitted and a development permit decision is made or if
46 a land development regulation is amended after a development permit decision has been
47 challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

48 (c) Vested Rights. – Amendments in land development regulations are not applicable or
49 enforceable without the written consent of the owner with regard to any of the following:

- 1 (1) Buildings or uses of buildings or land for which a development permit
2 application has been submitted and subsequently issued in accordance with
3 G.S. 143-755.
- 4 (2) Subdivisions of land for which a development permit application authorizing
5 the subdivision has been submitted and subsequently issued in accordance
6 with G.S. 143-755.
- 7 (3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
- 8 (4) A multi-phased development pursuant to subsection (f) of this section.
- 9 (5) A vested right established by the terms of a development agreement
10 authorized by Article 10 of this Chapter.

11 The establishment of a vested right under any subdivision of this subsection does not preclude
12 vesting under one or more other subdivisions of this subsection or vesting by application of
13 common law principles. A vested right, once established as provided for in this section or by
14 common law, precludes any action by a local government that would change, alter, impair,
15 prevent, diminish, or otherwise delay the development or use of the property allowed by the
16 applicable land development regulation or regulations, except where a change in State or federal
17 law mandating local government enforcement occurs after the development application is
18 submitted that has a fundamental and retroactive effect on the development or use.

19 ~~(e) Process to Claim Vested Right.—A person claiming a statutory or common law vested~~
20 ~~right may submit information to substantiate that claim to the zoning administrator or other~~
21 ~~officer designated by a development regulation, who shall make an initial determination as to the~~
22 ~~existence of the vested right. The decision of the zoning administrator or officer may be appealed~~
23 ~~under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In~~
24 ~~lieu of seeking such a determination, a person claiming a vested right may bring an original civil~~
25 ~~action as provided by G.S. 160D-405(e).~~

26 ~~(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting~~
27 ~~granted by subsection (c) of this section for a development project is effective upon filing of the~~
28 ~~application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to~~
29 ~~law. Unless otherwise specified by this section or other statute, local development permits expire~~
30 ~~one year after issuance unless work authorized by the permit has substantially commenced. A~~
31 ~~local land development regulation may provide for a longer permit expiration period. For the~~
32 ~~purposes of this section, a permit is issued either in the ordinary course of business of the~~
33 ~~applicable governmental agency or by the applicable governmental agency as a court directive.~~

34 ~~Except where a longer vesting period is provided by statute or land development regulation,~~
35 ~~the statutory vesting granted by this section, once established, expires for an uncompleted~~
36 ~~development project if development work is intentionally and voluntarily discontinued for a~~
37 ~~period of not less than 24 consecutive months, and the statutory vesting period granted by this~~
38 ~~section for a nonconforming use of property expires if the use is intentionally and voluntarily~~
39 ~~discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance~~
40 ~~period is automatically tolled during the pendency of any board of adjustment proceeding or civil~~
41 ~~action in a State or federal trial or appellate court regarding the validity of a development permit,~~
42 ~~the use of the property, or the existence of the statutory vesting period granted by this section.~~
43 ~~The 24-month discontinuance period is also tolled during the pendency of any litigation involving~~
44 ~~the development project or property that is the subject of the vesting.~~

45 ~~(d) Types and Duration of Statutory Vested Rights.— Except as provided by this section~~
46 ~~and subject to subsection (b) of this section, amendments in local development regulations shall~~
47 ~~not be applicable or enforceable with regard to development that has been permitted or approved~~
48 ~~pursuant to this Chapter so long as one of the types of approvals listed in this subsection remains~~
49 ~~valid and unexpired. Each type of vested right listed in this subsection is defined by and is subject~~
50 ~~to the limitations provided in this section. Vested rights established under this section are not~~
51 ~~mutually exclusive. The establishment of a vested right under this section does not preclude the~~

1 establishment of one or more other vested rights or vesting by common law principles. Vested
2 rights established by local government approvals are as follows:

3 (1) ~~Six months—Building permits.—Pursuant to G.S. 160D-1109, a building~~
4 ~~permit expires six months after issuance unless work under the permit has~~
5 ~~commenced. Building permits also expire if work is discontinued for a period~~
6 ~~of 12 months after work has commenced.~~

7 (2) ~~One year—Other local development approvals.—Pursuant to~~
8 ~~G.S. 160D-403(c), unless otherwise specified by statute or local ordinance, all~~
9 ~~other local development approvals expire one year after issuance unless work~~
10 ~~has substantially commenced. Expiration of a local development approval~~
11 ~~shall not affect the duration of a vested right established under this section or~~
12 ~~vested rights established under common law.~~

13 (3) ~~Two to five years—Site specific vesting plans.~~

14 a. ~~Duration.—A vested right for a site specific vesting plan shall remain~~
15 ~~vested for a period of two years. This vesting shall not be extended by~~
16 ~~any amendments or modifications to a site specific vesting plan unless~~
17 ~~expressly provided by the local government. A local government may~~
18 ~~provide that rights regarding a site specific vesting plan shall be vested~~
19 ~~for a period exceeding two years, but not exceeding five years, if~~
20 ~~warranted by the size and phasing of development, the level of~~
21 ~~investment, the need for the development, economic cycles, and~~
22 ~~market conditions, or other considerations. This determination shall be~~
23 ~~in the discretion of the local government and shall be made following~~
24 ~~the process specified for the particular form of a site specific vesting~~
25 ~~plan involved in accordance with sub subdivision c. of this~~
26 ~~subdivision.~~

27 b. ~~Relation to building permits.—A right vested as provided in this~~
28 ~~subsection shall terminate at the end of the applicable vesting period~~
29 ~~with respect to buildings and uses for which no valid building permit~~
30 ~~applications have been filed. Upon issuance of a building permit, the~~
31 ~~provisions of G.S. 160D-1109 and G.S. 160D-1113 shall apply, except~~
32 ~~that the permit shall not expire or be revoked because of the running~~
33 ~~of time while a vested right under this subsection exists.~~

34 e. ~~Requirements for site specific vesting plans.—For the purposes of this~~
35 ~~section, a "site specific vesting plan" means a plan submitted to a local~~
36 ~~government pursuant to this section describing with reasonable~~
37 ~~certainty the type and intensity of use for a specific parcel or parcels~~
38 ~~of property. The plan may be in the form of, but not be limited to, any~~
39 ~~of the following plans or approvals: a planned unit development plan,~~
40 ~~a subdivision plat, a site plan, a preliminary or general development~~
41 ~~plan, a special use permit, a conditional zoning, or any other~~
42 ~~development approval as may be used by a local government. Unless~~
43 ~~otherwise expressly provided by the local government, the plan shall~~
44 ~~include the approximate boundaries of the site; significant~~
45 ~~topographical and other natural features affecting development of the~~
46 ~~site; the approximate location on the site of the proposed buildings,~~
47 ~~structures, and other improvements; the approximate dimensions,~~
48 ~~including height, of the proposed buildings and other structures; and~~
49 ~~the approximate location of all existing and proposed infrastructure on~~
50 ~~the site, including water, sewer, roads, and pedestrian walkways. What~~
51 ~~constitutes a site specific vesting plan shall be defined by the relevant~~

1 development regulation, and the development approval that triggers
2 vesting shall be so identified at the time of its approval. At a minimum,
3 the regulation shall designate a vesting point earlier than the issuance
4 of a building permit. In the event a local government fails to adopt a
5 regulation setting forth what constitutes a site specific vesting plan,
6 any development approval shall be considered to be a site specific
7 vesting plan. A variance shall not constitute a site specific vesting plan
8 and approval of a site specific vesting plan with the condition that a
9 variance be obtained shall not confer a vested right unless and until the
10 necessary variance is obtained. If a sketch plan or other document fails
11 to describe with reasonable certainty the type and intensity of use for
12 a specified parcel or parcels of property, it may not constitute a
13 site specific vesting plan.

14 d. ~~Process for approval and amendment of site specific vesting plans.—~~
15 ~~If a site specific vesting plan is based on an approval required by a~~
16 ~~local development regulation, the local government shall provide~~
17 ~~whatever notice and hearing is required for that underlying approval.~~
18 ~~If the duration of the underlying approval is less than two years, that~~
19 ~~shall not affect the duration of the site specific vesting plan established~~
20 ~~under this subdivision. If the site specific vesting plan is not based on~~
21 ~~such an approval, a legislative hearing with notice as required by~~
22 ~~G.S. 160D-602 shall be held. A local government may approve a~~
23 ~~site specific vesting plan upon such terms and conditions as may~~
24 ~~reasonably be necessary to protect the public health, safety, and~~
25 ~~welfare. Such conditional approval shall result in a vested right,~~
26 ~~although failure to abide by its terms and conditions will result in a~~
27 ~~forfeiture of vested rights. A local government shall not require a~~
28 ~~landowner to waive vested rights as a condition of developmental~~
29 ~~approval. A site specific vesting plan shall be deemed approved upon~~
30 ~~the effective date of the local government's decision approving the~~
31 ~~plan or such other date as determined by the governing board upon~~
32 ~~approval. An approved site specific vesting plan and its conditions~~
33 ~~may be amended with the approval of the owner and the local~~
34 ~~government as follows: any substantial modification must be reviewed~~
35 ~~and approved in the same manner as the original approval; minor~~
36 ~~modifications may be approved by staff, if such are defined and~~
37 ~~authorized by local regulation.~~

38 (4) ~~Seven years — Multiphase developments.— A multiphase development shall~~
39 ~~be vested for the entire development with the zoning regulations, subdivision~~
40 ~~regulations, and unified development ordinances in place at the time a site~~
41 ~~plan approval is granted for the initial phase of the multiphase development.~~
42 ~~This right shall remain vested for a period of seven years from the time a site~~
43 ~~plan approval is granted for the initial phase of the multiphase development.~~
44 ~~For purposes of this subsection, "multiphase development" means a~~
45 ~~development containing 100 acres or more that (i) is submitted for site plan~~
46 ~~approval for construction to occur in more than one phase and (ii) is subject~~
47 ~~to a master development plan with committed elements, including a~~
48 ~~requirement to offer land for public use as a condition of its master~~
49 ~~development plan approval.~~

1 ~~(5) Indefinite—Development agreements.— A vested right of reasonable duration~~
2 ~~may be specified in a development agreement approved under Article 10 of~~
3 ~~this Chapter.~~

4 (e) Multiple Permits for Development Project. – Subject to subsection (d) of this section,
5 where multiple local development permits are required to complete a development project, the
6 development permit applicant may choose the version of each of the local land development
7 regulations applicable to the project upon submittal of the application for the initial development
8 permit. This provision is applicable only for those subsequent development permit applications
9 filed within 18 months of the date following the approval of an initial permit. For purposes of the
10 vesting protections of this subsection, an erosion and sedimentation control permit or a sign
11 permit is not an initial development permit.

12 (f) Multi-Phased Development. – A multi-phased development is vested for the entire
13 development with the land development regulations then in place at the time a site plan approval
14 is granted for the initial phase of the multi-phased development. A right which has been vested
15 as provided for in this subsection remains vested for a period of seven years from the time a site
16 plan approval is granted for the initial phase of the multi-phased development.

17 ~~(f) Exceptions.— The provisions of this section are subject to the following:~~

18 ~~(1) A vested right, once established as provided for by subdivision (3) or (4) of~~
19 ~~subsection (d) of this section, precludes any zoning action by a local~~
20 ~~government that would change, alter, impair, prevent, diminish, or otherwise~~
21 ~~delay the development or use of the property as set forth in an approved vested~~
22 ~~right, except when any of the following conditions are present:~~

23 ~~a. The written consent of the affected landowner.~~

24 ~~b. Findings made, after notice and an evidentiary hearing, that natural or~~
25 ~~man-made hazards on or in the immediate vicinity of the property, if~~
26 ~~uncorrected, would pose a serious threat to the public health, safety,~~
27 ~~and welfare if the project were to proceed as contemplated in the~~
28 ~~approved vested right.~~

29 ~~c. The extent to which the affected landowner receives compensation for~~
30 ~~all costs, expenses, and other losses incurred by the landowner,~~
31 ~~including, but not limited to, all fees paid in consideration of financing,~~
32 ~~and all architectural, planning, marketing, legal, and other consulting~~
33 ~~fees incurred after approval by the local government, together with~~
34 ~~interest as is provided in G.S. 160D-106. Compensation shall not~~
35 ~~include any diminution in the value of the property that is caused by~~
36 ~~such action.~~

37 ~~d. Findings made, after notice and an evidentiary hearing, that the~~
38 ~~landowner or the landowner's representative intentionally supplied~~
39 ~~inaccurate information or made material misrepresentations that made~~
40 ~~a difference in the approval by the local government of the vested~~
41 ~~right.~~

42 ~~e. The enactment or promulgation of a State or federal law or regulation~~
43 ~~that precludes development as contemplated in the approved vested~~
44 ~~right, in which case the local government may modify the affected~~
45 ~~provisions, upon a finding that the change in State or federal law has~~
46 ~~a fundamental effect on the plan, after notice and an evidentiary~~
47 ~~hearing.~~

48 ~~(2) The establishment of a vested right under subdivision (3) or (4) of subsection~~
49 ~~(d) of this section shall not preclude the application of overlay zoning or other~~
50 ~~development regulation that imposes additional requirements but does not~~
51 ~~affect the allowable type or intensity of use, or ordinances or regulations that~~

are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

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

(e)(g) Continuing Review. – Following approval or conditional approval of a statutory vested right, issuance of a development permit, a local government may make subsequent inspections and reviews and require subsequent approvals by the local government to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The local government may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations applicable land development regulations in effect at the time of the original application.

(e)(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(e)-G.S. 160D-1403.1.

(g)(i) Miscellaneous Provisions. – A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights. The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section shall preclude precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

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

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

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

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

(a) Site-Specific Vesting Plan. – A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing

1 with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels
2 of property. The plan may be in the form of, but not be limited to, any of the following plans or
3 approvals: a planned unit development plan, a subdivision plat, a preliminary or general
4 development plan, a special use permit, a conditional district zoning plan, or any other land-use
5 approval designation as may be utilized by a local government. Unless otherwise expressly
6 provided by the local government, the plan shall include the approximate boundaries of the site;
7 significant topographical and other natural features affecting development of the site; the
8 approximate location on the site of the proposed buildings, structures, and other improvements;
9 the approximate dimensions, including height, of the proposed buildings and other structures;
10 and the approximate location of all existing and proposed infrastructure on the site, including
11 water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under
12 this section that would trigger a vested right shall be finally determined by the local government
13 pursuant to a development regulation, and the document that triggers the vesting shall be so
14 identified at the time of its approval. A variance does not constitute a site-specific vesting plan,
15 and approval of a site-specific vesting plan with the condition that a variance be obtained does
16 not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or
17 other document fails to describe with reasonable certainty the type and intensity of use for a
18 specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

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

24 (c) Approval and Amendment of Plans. – If a site-specific vesting plan is based on an
25 approval required by a local development regulation, the local government shall provide
26 whatever notice and hearing is required for that underlying approval. A duration of the underlying
27 approval that is less than two years does not affect the duration of the site-specific vesting plan
28 established under this section. If the site-specific vesting plan is not based on such an approval,
29 a legislative hearing with notice as required by G.S. 160D-602 shall be held.

30 A local government may approve a site-specific vesting plan upon any terms and conditions
31 that may reasonably be necessary to protect the public health, safety, and welfare. Conditional
32 approval results in a vested right, although failure to abide by the terms and conditions of the
33 approval will result in a forfeiture of vested rights. A local government shall not require a
34 landowner to waive the landowner's vested rights as a condition of developmental approval. A
35 site-specific vesting plan is deemed approved upon the effective date of the local government's
36 decision approving the plan or another date determined by the governing board upon approval.
37 An approved site-specific vesting plan and its conditions may be amended with the approval of
38 the owner and the local government as follows: any substantial modification must be reviewed
39 and approved in the same manner as the original approval; minor modifications may be approved
40 by staff, if such are defined and authorized by local regulation.

41 (d) Continuing Review. – Following approval or conditional approval of a site-specific
42 vesting plan, a local government may make subsequent reviews and require subsequent approvals
43 by the local government to ensure compliance with the terms and conditions of the original
44 approval, provided that these reviews and approvals are not inconsistent with the original
45 approval. The local government may, pursuant to G.S. 160D-403(f), revoke the original approval
46 for failure to comply with applicable terms and conditions of the original approval or the
47 applicable local development regulations.

48 (e) Duration and Termination of Vested Right. –

49 (1) A vested right for a site-specific vesting plan remains vested for a period of
50 two years. This vesting shall not be extended by any amendments or

- 1 modifications to a site-specific vesting plan unless expressly provided by the
2 local government.
- 3 (2) Notwithstanding the provisions of subdivision (1) of this subsection, a local
4 government may provide for rights to be vested for a period exceeding two
5 years but not exceeding five years where warranted in light of all relevant
6 circumstances, including, but not limited to, the size and phasing of
7 development, the level of investment, the need for the development, economic
8 cycles, and market conditions or other considerations. These determinations
9 are in the sound discretion of the local government and shall be made
10 following the process specified for the particular form of a site-specific
11 vesting plan involved in accordance with subsection (a) of this section.
- 12 (3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and
13 G.S. 160D-1115 apply, except that a permit does not expire and shall not be
14 revoked because of the running of time while a vested right under this section
15 is outstanding.
- 16 (4) A right vested as provided in this section terminates at the end of the
17 applicable vesting period with respect to buildings and uses for which no valid
18 building permit applications have been filed.
- 19 (f) Subsequent Changes Prohibited; Exceptions. –
- 20 (1) A vested right, once established as provided for in this section, precludes any
21 zoning action by a local government which would change, alter, impair,
22 prevent, diminish, or otherwise delay the development or use of the property
23 as set forth in an approved site-specific vesting plan, except under one or more
24 of the following conditions:
- 25 a. With the written consent of the affected landowner.
- 26 b. Upon findings, by ordinance after notice and an evidentiary hearing,
27 that natural or man-made hazards on or in the immediate vicinity of
28 the property, if uncorrected, would pose a serious threat to the public
29 health, safety, and welfare if the project were to proceed as
30 contemplated in the site-specific vesting plan.
- 31 c. To the extent that the affected landowner receives compensation for
32 all costs, expenses, and other losses incurred by the landowner,
33 including, but not limited to, all fees paid in consideration of financing,
34 and all architectural, planning, marketing, legal, and other consulting
35 fees incurred after approval by the local government, together with
36 interest as provided under G.S. 160D-106. Compensation shall not
37 include any diminution in the value of the property which is caused by
38 the action.
- 39 d. Upon findings, by ordinance after notice and an evidentiary hearing,
40 that the landowner or the landowner's representative intentionally
41 supplied inaccurate information or made material misrepresentations
42 that made a difference in the approval by the local government of the
43 site-specific vesting plan or the phased development plan.
- 44 e. Upon the enactment or promulgation of a State or federal law or
45 regulation that precludes development as contemplated in the
46 site-specific vesting plan or the phased development plan, in which
47 case the local government may modify the affected provisions, upon a
48 finding that the change in State or federal law has a fundamental effect
49 on the plan, by ordinance after notice and an evidentiary hearing.
- 50 (2) The establishment of a vested right under this section does not preclude the
51 application of overlay zoning or other development regulations which impose

1 additional requirements but do not affect the allowable type or intensity of
 2 use, or ordinances or regulations which are general in nature and are
 3 applicable to all property subject to development regulation by a local
 4 government, including, but not limited to, building, fire, plumbing, electrical,
 5 and mechanical codes. Otherwise applicable new regulations become
 6 effective with respect to property which is subject to a site-specific vesting
 7 plan upon the expiration or termination of the vesting rights period provided
 8 for in this section.

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

13 (g) Miscellaneous Provisions. –

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

18 (2) Nothing in this section precludes judicial determination, based on common
 19 law principles or other statutory provisions, that a vested right exists in a
 20 particular case or that a compensable taking has occurred. Except as expressly
 21 provided in this section, nothing in this section shall be construed to alter the
 22 existing common law.

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

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

29 **"§ 160D-111. Effect on prior laws.**

30 (a) The enactment of this Chapter ~~shall~~ does not require the readoption of any local
 31 government ordinance enacted pursuant to laws that were in effect before January 1, 2021 and
 32 are restated or revised herein. The provisions of this Chapter ~~shall do~~ not affect any act heretofore
 33 done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause
 34 of action accrued as of January 1, 2021. The enactment of this Chapter ~~shall not be deemed to~~
 35 does not amend the geographic area within which local government development regulations
 36 adopted prior to January 1, ~~2019, 2021,~~ are effective.

37 (b) G.S. 153A-3 and G.S. 160A-3 are applicable to this Chapter. Nothing in this Chapter
 38 repeals or amends a charter or local act in effect as of January 1, 2021 unless this Chapter or a
 39 subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or
 40 supersede that charter or local act.

41 (c) Whenever a reference is made in another section of the General Statutes or any local
 42 act, or any local government ordinance, resolution, or order, to a portion of Article 19 of Chapter
 43 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes that is
 44 repealed or superseded by this Chapter, the reference ~~shall be~~ is deemed amended to refer to that
 45 portion of this Chapter that most nearly corresponds to the repealed or superseded portion of
 46 Article 19 of Chapter 160A or Article 18 of Chapter 153A of the General Statutes."

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

48 **"§ 160D-201. Planning and development regulation jurisdiction.**

49 (a) ~~Municipalities. — Cities. —~~ All of the powers granted by this Chapter may be exercised
 50 by any city within its corporate limits and within any extraterritorial area established pursuant to
 51 ~~this Article. G.S. 160D-202.~~

1 (b) Counties. – All of the powers granted by this Chapter may be exercised by any county
2 throughout the county except in areas subject to municipal planning and development regulation
3 jurisdiction.

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

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

11 "(b) Appointment. – Membership of joint municipal-county planning agencies or boards
12 of adjustment may be appointed as agreed by counties and ~~municipalities.~~ cities. The
13 extraterritorial representatives on a city advisory board authorized by this Article shall be
14 appointed by the board of county commissioners with jurisdiction over the area. The county shall
15 make the appointments within 90 days following the ~~hearing.~~ receipt of a request from the city
16 that the appointments be made. Once a city provides proportional representation, no power
17 available to a city under this Chapter ~~shall be~~ is ineffective in its extraterritorial area solely
18 because county appointments have not yet been made. If there is an insufficient number of
19 qualified residents of the extraterritorial area to meet membership requirements, the board of
20 county commissioners may appoint as many other residents of the county as necessary to make
21 up the requisite number. When the extraterritorial area extends into two or more counties, each
22 board of county commissioners concerned shall appoint representatives from its portion of the
23 area, as specified in the ordinance. If a board of county commissioners fails to make these
24 appointments within 90 days after receiving a resolution from the city council requesting that
25 they be made, the city council may make them."

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

27 **"§ 160D-403. Administrative development approvals and determinations.**

28 (a) Development Approvals. – To the extent consistent with the scope of regulatory
29 authority granted by this Chapter, no person shall commence or proceed with development
30 without first securing any required development approval from the local government with
31 jurisdiction over the site of the development. A development approval shall be in writing and
32 may contain a provision ~~that requiring~~ the development ~~shall to~~ comply with all applicable State
33 and local laws. A local government may issue development approvals in print or electronic form.
34 Any development approval issued exclusively in electronic form shall be protected from further
35 editing once issued. Applications for development approvals may be made by the landowner, a
36 lessee or person holding an option or contract to purchase or lease land, or an authorized agent
37 of the landowner. An easement holder may also apply for development approval for such
38 development as is authorized by the easement.

39 (b) Determinations and Notice of Determinations. – A development regulation enacted
40 under the authority of this Chapter may designate the staff member or members charged with
41 making determinations under the development regulation.

42 The officer making the determination shall give written notice to the owner of the property
43 that is the subject of the determination and to the party who sought the determination, if different
44 from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by
45 first-class mail. The notice shall be delivered to the last address listed for the owner of the affected
46 property on the county tax abstract and to the address provided in the application or request for
47 a determination if the party seeking the determination is different from the owner.

48 It ~~shall be~~ is conclusively presumed that all persons with standing to appeal have constructive
49 notice of the determination from the date a sign providing notice that a determination has been
50 made is prominently posted on the property that is the subject of the determination, provided the
51 sign remains on the property for at least 10 days. The sign shall contain the words "Zoning

1 Decision" or "Subdivision Decision" or similar language for other determinations in letters at
 2 least 6 inches high and shall identify the means to contact a local government staff member for
 3 information about the determination. Posting of signs is not the only form of constructive notice.
 4 Any such posting ~~shall be~~ is the responsibility of the landowner, applicant, or person who sought
 5 the determination. Verification of the posting shall be provided to the staff member responsible
 6 for the determination. Absent an ordinance provision to the contrary, posting of signs shall not
 7 be required.

8 (c) Duration of Development Approval. – Unless a different period is specified by this
 9 Chapter or other specific applicable law, ~~or a different period is provided by a quasi-judicial~~
 10 ~~development approval, including for a development agreement, or a local ordinance,~~ a
 11 development approval issued pursuant to this Chapter ~~shall expire~~ expires one year after the date
 12 of issuance if the work authorized by the development approval has not been substantially
 13 commenced. Local development regulations may provide for development approvals of shorter
 14 duration for temporary land uses, special events, temporary signs, and similar development.
 15 ~~Unless provided otherwise by this Chapter or other specific applicable law or a longer period is~~
 16 ~~provided by local ordinance, if after commencement the work or activity is discontinued for a~~
 17 ~~period of 12 months after commencement, the development approval shall immediately expire.~~
 18 ~~The time periods set out in this subsection shall be tolled during the pendency of any appeal. No~~
 19 ~~work or activity authorized by any development approval that has expired shall thereafter be~~
 20 ~~performed until a new development approval has been secured.~~ Local development regulations
 21 may also provide for development approvals of longer duration for specified types of
 22 development approvals. Nothing in this subsection shall be deemed to limit limits any vested
 23 rights secured under ~~G.S. 160D-108~~ G.S. 160D-108 or G.S. 160D-108.1.

24 ...

25 (f) Revocation of Development Approvals. – In addition to initiation of enforcement
 26 actions under G.S. 160D-404, development approvals may be revoked by the local government
 27 issuing the development approval by notifying the holder in writing stating the reason for the
 28 revocation. The local government shall follow the same development review and approval
 29 process required for issuance of the development approval, including any required notice or
 30 hearing, in the review and approval of any revocation of that approval. Development approvals
 31 shall be revoked for any substantial departure from the approved application, plans, or
 32 specifications; for refusal or failure to comply with the requirements of any applicable local
 33 development regulation or any State law delegated to the local government for enforcement
 34 purposes in lieu of the State; or for false statements or misrepresentations made in securing the
 35 approval. Any development approval mistakenly issued in violation of an applicable State or
 36 local law may also be revoked. The revocation of a development approval by a staff member may
 37 be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation
 38 adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e)
 39 regarding stays ~~shall be applicable~~ apply.

40"

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

42 "**§ 160D-405. Appeals of administrative decisions.**

43 (a) Appeals. – Except as provided in ~~subsection (c) of this section, G.S. 160D-1403.1,~~
 44 appeals of administrative decisions made by the staff under this Chapter shall be made to the
 45 board of adjustment unless a different board is provided or authorized otherwise by statute or an
 46 ordinance adopted pursuant to this Chapter. If this function of the board of adjustment is assigned
 47 to any other board pursuant to G.S. 160D-302(b), that board shall comply with all of the
 48 procedures and processes applicable to a board of adjustment hearing appeals. Appeal of a
 49 decision made pursuant to an erosion and sedimentation control regulation, a stormwater control
 50 regulation, or a provision of the housing code shall not be made to the board of adjustment unless
 51 required by a local government ordinance or code provision.

1 (b) Standing. – Any person who has standing under G.S. 160D-1402(c) or the local
2 government may appeal an administrative decision to the board. An appeal is taken by filing a
3 notice of appeal with the local government clerk or such other local government official as
4 designated by ordinance. The notice of appeal shall state the grounds for the appeal.

5 ~~(c) Judicial Challenge. – A person with standing may bring a separate and original civil~~
6 ~~action to challenge the constitutionality of an ordinance or development regulation, or whether~~
7 ~~the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of~~
8 ~~statutory authority, without filing an appeal under subsection (a) of this section.~~

9 (d) Time to Appeal. – The owner or other party ~~shall have~~ has 30 days from receipt of
10 the written notice of the determination within which to file an appeal. Any other person with
11 standing to appeal ~~shall have~~ has 30 days from receipt from any source of actual or constructive
12 notice of the determination within which to file an appeal. In the absence of evidence to the
13 contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail ~~shall be~~ is deemed
14 received on the third business day following deposit of the notice for mailing with the United
15 States Postal Service.

16 (e) Record of Decision. – The official who made the decision shall transmit to the board
17 all documents and exhibits constituting the record upon which the decision appealed from is
18 taken. The official shall also provide a copy of the record to the appellant and to the owner of the
19 property that is the subject of the appeal if the appellant is not the owner.

20 (f) Stays. – An appeal of a notice of violation or other enforcement order stays
21 enforcement of the action appealed from and accrual of any fines assessed during the pendency
22 of the appeal to the board of adjustment and any subsequent appeal in accordance with
23 G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals
24 therefrom, unless the official who made the decision certifies to the board after notice of appeal
25 has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril
26 to life or property or, because the violation is transitory in nature, a stay would seriously interfere
27 with enforcement of the development regulation. In that case, enforcement proceedings shall be
28 not stayed except by a restraining order, which may be granted by a court. If enforcement
29 proceedings are not stayed, the appellant may file with the official a request for an expedited
30 hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a
31 request is filed. Notwithstanding the foregoing,

32 Notwithstanding any other provision of this section, appeals of decisions granting a
33 development approval or otherwise affirming that a proposed use of property is consistent with
34 the development regulation shall does not stay the further review of an application for
35 development approvals to use such the property; in these situations, the appellant or local
36 government may request and the board may grant a stay of a final decision of development
37 approval applications, including building permits affected by the issue being appealed.

38 (g) Alternative Dispute Resolution. – The parties to an appeal that has been made under
39 this section may agree to mediation or other forms of alternative dispute resolution. The
40 development regulation may set standards and procedures to facilitate and manage such
41 voluntary alternative dispute resolution.

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

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

45 **"§ 160D-501. Plans.**

46 (a) ~~Preparation of Plans and Studies. – Requirements for Zoning. – As a condition of~~
47 ~~adopting and applying zoning regulations under this Chapter, a local government shall adopt and~~
48 ~~reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended~~
49 ~~to guide the present and future physical, social, and economic development of the jurisdiction or~~
50 land-use plan.

1 (a1) Plans. – A comprehensive plan sets forth goals, policies, and programs intended to
2 guide the present and future physical, social, and economic development of the jurisdiction. A
3 land-use plan uses text and maps to designate the future use or reuse of land. A comprehensive
4 or land-use plan is intended to guide coordinated, efficient, and orderly development within the
5 planning and development regulation jurisdiction based on an analysis of present and future
6 needs.

7 Planning analysis may address inventories of existing conditions and assess future trends
8 regarding demographics and economic, environmental, and cultural factors. The planning
9 process shall include opportunities for citizen engagement in plan preparation and adoption.

10 ~~In addition to a comprehensive plan, a~~ A local government may prepare and adopt such other
11 plans as deemed appropriate. This may include, but is not limited to, ~~land-use plans,~~ small area
12 plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and
13 recreation and open space plans. ~~If adopted pursuant to the process set forth in this section, such~~
14 ~~plans shall be considered in review of proposed zoning amendments.~~

15 (b) Comprehensive Plan Contents. – A comprehensive plan may, among other topics,
16 address any of the following as determined by the local government:

17 ...

18 (c) Adoption and Effect of Plans. – Plans shall be adopted by the governing board with
19 the advice and consultation of the planning board. Adoption and amendment of a comprehensive
20 or land-use plan is a legislative decision and shall follow the process mandated for zoning text
21 amendments set by G.S. 160D-601. Plans adopted under this Chapter may be undertaken and
22 adopted as part of or in conjunction with plans required under other statutes, including, but not
23 limited to, the plans required by G.S. 113A-110. Plans adopted under this Chapter shall be
24 advisory in nature without independent regulatory effect. Plans adopted under this Chapter do
25 not expand, diminish, or alter the scope of authority for development regulations adopted under
26 this Chapter. Plans adopted under this Chapter shall be considered by the planning board and
27 governing board when considering proposed amendments to zoning regulations as required by
28 G.S. 160D-604 and G.S. 160D-605.

29 If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning amendment
30 that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan
31 is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not
32 be effective until that review and approval is completed."

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

34 **"§ 160D-601. Procedure for adopting, amending, or repealing development regulations.**

35 (a) Hearing with Published Notice. – Before adopting, amending, or repealing any
36 ordinance or development regulation authorized by this Chapter, the governing board shall hold
37 a legislative hearing. A notice of the hearing shall be given once a week for two successive
38 calendar weeks in a newspaper having general circulation in the area. The notice shall be
39 published the first time not less than 10 days nor more than 25 days before the date scheduled for
40 the hearing. In computing such period, the day of publication is not to be included but the day of
41 the hearing shall be included.

42 ...

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

45 (d) Down-Zoning. – No amendment to zoning regulations or a zoning map that
46 down-zones property shall be initiated nor is it enforceable without the written consent of all
47 property owners whose property is the subject of the down-zoning amendment, unless the
48 down-zoning amendment is initiated by the local government. For purposes of this section,
49 "down-zoning" means a zoning ordinance that affects an area of land in one of the following
50 ways:

- 1 (1) By decreasing the development density of the land to be less dense than was
2 allowed under its previous usage.
3 (2) By reducing the permitted uses of the land that are specified in a zoning
4 ordinance or land development regulation to fewer uses than were allowed
5 under its previous usage."

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

7 "**§ 160D-602. Notice of hearing on proposed zoning map amendments.**

8 (a) Mailed Notice. – ~~An~~ Subject to the limitations of this Chapter, an ordinance shall
9 provide for the manner in which zoning regulations and the boundaries of zoning districts ~~shall~~
10 ~~be~~ are to be determined, established, and enforced, and from time to time amended,
11 supplemented, or changed, in accordance with the provisions of this Chapter. The owners of
12 affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be
13 mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the
14 last addresses listed for such owners on the county tax abstracts. For the purpose of this section,
15 properties are "abutting" even if separated by a street, railroad, or other transportation corridor.
16 This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date
17 of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion
18 of municipal extraterritorial planning and development regulation jurisdiction under
19 G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment
20 may be held. In this instance, the initial notice of the zoning map amendment hearing may be
21 combined with the boundary hearing notice and the combined hearing notice mailed at least 30
22 days prior to the hearing.

23 (b) Optional Notice for Large-Scale Zoning Map Amendments. – The first-class mail
24 notice required under subsection (a) of this section ~~shall~~ is not be required if the zoning map
25 amendment proposes to change the zoning designation of more than 50 properties, owned by at
26 least 50 different property owners, and the local government elects to use the expanded published
27 notice provided for in this subsection. In this instance, a local government may elect to make the
28 mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish
29 notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not
30 be less than one-half of a newspaper page in size. The advertisement ~~shall only be~~ is effective
31 only for property owners who reside in the area of general circulation of the newspaper that
32 publishes the notice. Property owners who reside outside of the newspaper circulation area,
33 according to the address listed on the most recent property tax listing for the affected property,
34 shall be notified according to the provisions of subsection (a) of this section.

35 (c) Posted Notice. – When a zoning map amendment is proposed, the local government
36 shall prominently post a notice of the hearing on the site proposed for the amendment or on an
37 adjacent public street or highway right-of-way. The notice shall be posted within the same time
38 period specified for mailed notices of the hearing. When multiple parcels are included within a
39 proposed zoning map amendment, a posting on each individual parcel is not required but the
40 local government shall post sufficient notices to provide reasonable notice to interested persons.

41 (d) Actual Notice. ~~Except for a government initiated zoning map amendment, when an~~
42 ~~application is filed to request a zoning map amendment and that application is not made by the~~
43 ~~landowner or authorized agent, the applicant shall certify to the local government that the owner~~
44 ~~of the parcel of land as shown on the county tax listing has received actual notice of the proposed~~
45 ~~amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner~~
46 ~~permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal~~
47 ~~delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. §~~
48 ~~7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person~~
49 ~~or persons required to provide notice shall certify to the local government that actual notice has~~
50 ~~been provided, and such certificate shall be deemed conclusive in the absence of fraud.~~

1 (e) Optional Communication Requirements. – When a zoning map amendment is
2 proposed, a zoning regulation may require communication by the person proposing the map
3 amendment to neighboring property owners and residents and may require the person proposing
4 the zoning map amendment to report on any communication with neighboring property owners
5 and residents."

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

7 "**§ 160D-603. Citizen comments.**

8 Subject to the limitations of this Chapter, zoning regulations may from time to time be
9 amended, supplemented, changed, modified, or repealed. If any resident or property owner in the
10 local government submits a written statement regarding a proposed amendment, modification, or
11 repeal to a zoning regulation, including a text or map ~~amendment~~, amendment that has been
12 properly initiated as provided in G.S. 160D-601, to the clerk to the board at least two business
13 days prior to the proposed vote on such change, the clerk to the board shall deliver such written
14 statement to the governing board. If the proposed change is the subject of a quasi-judicial
15 proceeding under G.S. 160D-705 or any other statute, the clerk shall provide only the names and
16 addresses of the individuals providing written comment, and the provision of such names and
17 addresses to all members of the board shall not disqualify any member of the board from voting."

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

19 "**§ 160D-702. Grant of power.**

20 (a) ~~A Local Government May Adopt Zoning Regulations.~~ A local government may
21 adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning
22 regulation may regulate and restrict the height, number of stories, and size of buildings and other
23 structures; the percentage of lots that may be occupied; the size of yards, courts, and other open
24 spaces; the density of population; the location and use of buildings, structures, and land. A local
25 government may regulate development, including floating homes, over estuarine waters and over
26 lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning
27 regulation shall provide density credits or severable development rights for dedicated
28 rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning
29 regulation may include requirements that street and utility rights-of-way be dedicated to the
30 public, that provision be made of recreational space and facilities, and that performance
31 guarantees be provided, all to the same extent and with the same limitations as provided for in
32 G.S. 160D-804. G.S. 160D-804 and G.S. 160D-804.1.

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

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

48 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
49 zoning district or conditional district unless voluntarily consented to by the owners of all the
50 property to which those regulations may be applied as part of and in the course of the process of
51 seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval,

1 nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604
2 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted
3 comprehensive plan or other applicable officially adopted plan.

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

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

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

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

20 "**§ 160D-703. Zoning districts.**

21 (a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction
22 into zoning districts of any number, shape, and area deemed best suited to carry out the purposes
23 of this Article. Within those districts, it may regulate and restrict the erection, construction,
24 reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may
25 include, but ~~shall are~~ not be limited to, the following:

26 ...

27 (b) Conditional Districts. – Property may be placed in a conditional district only in
28 response to a petition by all owners of the property to be included. Specific conditions may be
29 proposed by the petitioner or the local government or its agencies, but only those conditions
30 ~~mutually~~ approved by the local government and consented to by the petitioner in writing may be
31 incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the
32 exercise of the authority granted by this section, a local government may not require, enforce, or
33 incorporate into the zoning regulations any condition or requirement not authorized by otherwise
34 applicable law, including, without limitation, taxes, impact fees, building design elements within
35 the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in
36 G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or
37 use of land. Conditions and site-specific standards imposed in a conditional district shall be
38 limited to those that address the conformance of the development and use of the site to local
39 government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably
40 expected to be generated by the development or use of the site. The zoning regulation may
41 provide that defined minor modifications in conditional district standards that do not involve a
42 change in uses permitted or the density of overall development permitted may be reviewed and
43 approved administratively. Any other modification of the conditions and standards in a
44 conditional district shall follow the same process for approval as are applicable to zoning map
45 amendments. If multiple parcels of land are subject to a conditional zoning, the owners of
46 individual parcels may apply for modification of the conditions so long as the modification would
47 not result in other properties failing to meet the terms of the conditions. Any modifications
48 approved ~~shall apply only be applicable~~ to those properties whose owners petition for the
49 modification.

50"

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

1 **"§ 160D-705. Quasi-judicial zoning decisions.**

2 (a) Provisions of Ordinance. – The zoning or unified development ordinance may provide
3 that the board of adjustment, planning board, or governing board hear and decide quasi-judicial
4 zoning decisions. The board shall follow quasi-judicial procedures as specified in G.S. 160D-406
5 when making any quasi-judicial decision.

6 (b) Appeals. – Except as otherwise provided by this Chapter, the board of adjustment
7 shall hear and decide appeals from administrative decisions regarding administration and
8 enforcement of the zoning regulation or unified development ordinance and may hear appeals
9 arising out of any other ordinance that regulates land use or development. The provisions of
10 G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.

11 (c) Special Use Permits. – The regulations may provide that the board of adjustment,
12 planning board, or governing board hear and decide special use permits in accordance with
13 principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and
14 appropriate conditions and safeguards may be imposed upon these permits. Where appropriate,
15 such conditions may include requirements that street and utility rights-of-way be dedicated to the
16 public and that provision be made for recreational space and facilities. Conditions and safeguards
17 imposed under this subsection shall not include requirements for which the local government
18 does not have authority under statute to regulate nor requirements for which the courts have held
19 to be unenforceable if imposed directly by the local ~~government~~government, including, without
20 limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b),
21 driveway-related improvements in excess of those allowed in G.S.136-18(29) and
22 G.S. 160A-307, or other unauthorized limitations on the development or use of land.

23 The regulations may provide that defined minor modifications to special use permits that do
24 not involve a change in uses permitted or the density of overall development permitted may be
25 reviewed and approved administratively. Any other modification or revocation of a special use
26 permit shall follow the same process for approval as is applicable to the approval of a special use
27 permit. If multiple parcels of land are subject to a special use permit, the owners of individual
28 parcels may apply for permit modification so long as the modification would not result in other
29 properties failing to meet the terms of the special use permit or regulations. Any modifications
30 approved ~~shall only be applicable~~apply only to those properties whose owners apply for the
31 modification. The regulation may require that special use permits be recorded with the register
32 of deeds.

33 (d) Variances. – When unnecessary hardships would result from carrying out the strict
34 letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the
35 zoning regulation upon a showing of all of the following:

- 36 (1) Unnecessary hardship would result from the strict application of the
37 regulation. It ~~shall not be~~is not necessary to demonstrate that, in the absence
38 of the variance, no reasonable use can be made of the property.
- 39 (2) The hardship results from conditions that are peculiar to the property, such as
40 location, size, or topography. Hardships resulting from personal
41 circumstances, as well as hardships resulting from conditions that are common
42 to the neighborhood or the general public, may not be the basis for granting a
43 variance. A variance may be granted when necessary and appropriate to make
44 a reasonable accommodation under the Federal Fair Housing Act for a person
45 with a disability.
- 46 (3) The hardship did not result from actions taken by the applicant or the property
47 owner. The act of purchasing property with knowledge that circumstances
48 exist that may justify the granting of a variance ~~shall not be regarded as~~is not
49 a self-created hardship.

- 1 (4) The requested variance is consistent with the spirit, purpose, and intent of the
2 regulation, such that public safety is secured and substantial justice is
3 achieved.

4 No change in permitted uses may be authorized by variance. Appropriate conditions may be
5 imposed on any variance, provided that the conditions are reasonably related to the variance. Any
6 other development regulation that regulates land use or development may provide for variances
7 from the provisions of those ordinances consistent with the provisions of this subsection."

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

9 **"§ 160D-706. Zoning conflicts with other development standards.**

10 (a) When regulations made under authority of this Article require a greater width or size
11 of yards or courts, or require a lower height of a building or fewer number of stories, or require
12 a greater percentage of a lot to be left unoccupied, or impose other higher standards than are
13 required in any other statute or local ordinance or regulation, the regulations made under
14 authority of this Article ~~shall~~ govern. When the provisions of any other statute or local ordinance
15 or regulation require a greater width or size of yards or courts, or require a lower height of a
16 building or a fewer number of stories, or require a greater percentage of a lot to be left
17 unoccupied, or impose other higher standards than are required by the regulations made under
18 authority of this Article, the provisions of that statute or local ordinance or regulation ~~shall~~
19 govern.

20 (b) When adopting regulations under this Article, a local government may not use a
21 definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is ~~more expansive~~
22 ~~than inconsistent with~~ any definition of ~~the same those terms~~ in another statute or in a rule adopted
23 by a State ~~agency~~ agency, including the State Building Code Council."

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

25 "(c) Special Use Permits. – The regulations may provide that the board of adjustment,
26 planning board, or governing board hear and decide special use permits in accordance with
27 principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and
28 appropriate conditions and safeguards may be imposed upon these permits. Where appropriate,
29 such conditions may include requirements that street and utility rights-of-way be dedicated to the
30 public and that provision be made for recreational space and facilities. Conditions and safeguards
31 imposed under this subsection shall not include requirements for which the local government
32 does not have authority under statute to regulate nor requirements for which the courts have held
33 to be unenforceable if imposed directly by the local government.

34 The ~~regulation[s]~~ regulations may provide that defined minor modifications to special use
35 permits that do not involve a change in uses permitted or the density of overall development
36 permitted may be reviewed and approved administratively. Any other modification or revocation
37 of a special use permit shall follow the same process for approval as is applicable to the approval
38 of a special use permit. If multiple parcels of land are subject to a special use permit, the owners
39 of individual parcels may apply for permit modification so long as the modification would not
40 result in other properties failing to meet the terms of the special use permit or regulations. Any
41 modifications approved ~~shall only be applicable~~ apply only to those properties whose owners
42 apply for the modification. The regulation may require that special use permits be recorded with
43 the register of deeds."

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

45 **"§ 160D-804. Contents and requirements of regulation.**

46 ...

47 (c) Transportation and Utilities. –

- 48 (1) The regulation may provide for the dedication of rights-of-way or easements
49 for street and utility purposes, including the dedication of rights-of-way
50 pursuant to G.S. 136-66.10 or G.S. 136-66.11.

1 (2) ~~The A regulation adopted by a city~~ may provide that in lieu of required street
2 construction, a developer be required to provide funds for city use for the
3 construction of roads to serve the occupants, residents, or invitees of the
4 subdivision or development, and these funds may be used for roads which
5 serve more than one subdivision or development within the area. All funds
6 received by the city pursuant to this ~~subsection-subdivision~~ shall be used only
7 for development of roads, including design, land acquisition, and
8 construction. However, a city may undertake these activities in conjunction
9 with the Department of Transportation under an agreement between the city
10 and the Department of Transportation.

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

20 (4) Any formula adopted by a local government to determine the amount of funds
21 the developer is to pay in lieu of required street construction shall be based on
22 the trips generated from the subdivision or development. The regulation may
23 require a combination of partial payment of funds and partial dedication of
24 constructed streets when the governing board ~~of the city~~ determines that a
25 combination is in the best interests of the citizens of the area to be served.

26 (d) Recreation Areas and Open Space. – The regulation may provide for the dedication
27 or reservation of recreation areas serving residents of the immediate neighborhood within the
28 subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation
29 areas serving residents of the development or subdivision or more than one subdivision or
30 development within the immediate area. All funds received by ~~municipalities-cities~~ pursuant to
31 this subsection shall be used only for the acquisition or development of recreation, park, or open
32 space sites. All funds received by counties pursuant to this subsection shall be used only for the
33 acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount
34 of funds that are to be provided under this subsection shall be based on the value of the
35 development or subdivision for property tax purposes. The regulation may allow a combination
36 or partial payment of funds and partial dedication of land when the governing board determines
37 that this combination is in the best interests of the citizens of the area to be served.

38 "

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

41 **"§ 160D-804.1. Performance guarantees.**

42 (g) ~~Performance Guarantees.~~—To assure compliance with ~~these~~ G.S. 160D-804 and other
43 development regulation requirements, ~~the a subdivision~~ regulation may provide for performance
44 guarantees to assure successful completion of required ~~improvements at the time the plat is~~
45 ~~recorded as provided in subsection (b) of this section. For any specific development, the type of~~
46 ~~performance guarantee shall be at the election of the person required to give the performance~~
47 ~~guarantee.improvements.~~

48 For purposes of this section, all of the following ~~shall apply~~ apply with respect to performance
49 guarantees:

- 1 (1) Type. – The type of performance guarantee shall be at the election of the
2 developer. The term "performance guarantee" shall ~~mean~~ means any of the
3 following forms of guarantee:
4 a. Surety bond issued by any company authorized to do business in this
5 State.
6 b. Letter of credit issued by any financial institution licensed to do
7 business in this State.
8 c. Other form of guarantee that provides equivalent security to a surety
9 bond or letter of credit.
- 10 (1a) Duration. – The duration of the performance guarantee shall initially be one
11 year, unless the developer determines that the scope of work for the required
12 improvements necessitates a longer duration. In the case of a bonded
13 obligation, the completion date shall be set one year from the date the bond is
14 issued, unless the developer determines that the scope of work for the required
15 improvements necessitates a longer duration.
- 16 (1b) Extension. – A developer shall demonstrate reasonable, good-faith progress
17 toward completion of the required improvements that are secured by the
18 performance guarantee or any extension. If the improvements are not
19 completed to the specifications of the local government, and the current
20 performance guarantee is likely to expire prior to completion of the required
21 improvements, the performance guarantee shall be extended, or a new
22 performance guarantee issued, for an additional period. An extension under
23 this subdivision shall only be for a duration necessary to complete the required
24 improvements. If a new performance guarantee is issued, the amount shall be
25 determined by the procedure provided in subdivision (3) of this subsection
26 and shall include the total cost of all incomplete improvements.
- 27 (2) Release. – The performance guarantee shall be returned or released, as
28 appropriate, in a timely manner upon the acknowledgement by the local
29 government that the improvements for which the performance guarantee is
30 being required are complete. ~~If the improvements are not complete and the~~
31 ~~current performance guarantee is expiring, the performance guarantee shall be~~
32 ~~extended, or a new performance guarantee issued, for an additional period~~
33 ~~until such required improvements are complete. A developer shall~~
34 ~~demonstrate reasonable, good-faith progress toward completion of the~~
35 ~~required improvements that are the subject of the performance guarantee or~~
36 ~~any extension. The form of any extension shall remain at the election of the~~
37 ~~developer. The local government shall return letters of credit or escrowed~~
38 ~~funds upon completion of the required improvements to its specifications or~~
39 ~~upon acceptance of the required improvements, if the required improvements~~
40 ~~are subject to local government acceptance. When required improvements that~~
41 ~~are secured by a bond are completed to the specifications of the local~~
42 ~~government, or are accepted by the local government, if subject to its~~
43 ~~acceptance, upon request by the developer, the local government shall timely~~
44 ~~provide written acknowledgement that the required improvements have been~~
45 ~~completed.~~
- 46 (3) Amount. – The amount of the performance guarantee shall not exceed one
47 hundred twenty-five percent (125%) of the reasonably estimated cost of
48 completion at the time the performance guarantee is issued. ~~Any extension of~~
49 ~~the performance guarantee necessary to complete required improvements~~
50 ~~shall not exceed one hundred twenty five percent (125%) of the reasonably~~
51 ~~estimated cost of completion of the remaining incomplete improvements still~~

1 ~~outstanding at the time the extension is obtained.~~The local government may
2 ~~determine~~ the amount of the performance guarantee or use a cost estimate
3 ~~determined by the developer.~~ The reasonably estimated cost of completion
4 shall include one hundred percent (100%) of the costs for labor and materials
5 necessary for completion of the required improvements. Where applicable, the
6 costs shall be based on unit pricing. The additional twenty-five percent (25%)
7 allowed under this subdivision includes inflation and all costs of
8 administration regardless of how such fees or charges are denominated. The
9 amount of any extension of any performance guarantee shall be determined
10 according to the procedures for determining the initial guarantee and shall not
11 exceed one hundred twenty-five percent (125%) of the reasonably estimated
12 cost of completion of the remaining incomplete improvements still
13 ~~outstanding at the time the extension is obtained.~~

14 (3a) Timing. – A local government, at its discretion, may require the performance
15 guarantee to be posted either at the time the plat is recorded or at a time
16 subsequent to plat recordation.

17 (4) Coverage. – The performance guarantee shall only be used for completion of
18 the required improvements and not for repairs or maintenance after
19 completion.

20 (5) Legal responsibilities. – No person shall have or may claim any rights under
21 or to any performance guarantee provided pursuant to this subsection or in the
22 proceeds of any such performance guarantee other than the following:

23 a. The local government to whom ~~such~~ the performance guarantee is
24 provided.

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

27 c. The person or entity issuing or providing ~~such~~ the performance
28 guarantee at the request of or for the benefit of the developer.

29 (6) Multiple guarantees. – The developer shall have the option to post one type of
30 a performance guarantee as provided for in subdivision (1) of this section, in
31 lieu of multiple bonds, letters of credit, or other equivalent security, for all
32 development matters related to the same project requiring performance
33 guarantees.

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

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

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

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

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

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

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

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

51 "**§ 160D-807. Penalties for transferring lots in unapproved subdivisions.**

1 (a) If a local government adopts a subdivision regulation, any person who, being the
2 owner or agent of the owner of any land located within the planning and development regulation
3 jurisdiction of that local government, thereafter subdivides ~~his~~the land in violation of the
4 regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat
5 showing a subdivision of the land before the plat has been properly approved under ~~such~~the
6 subdivision regulation and recorded in the office of the appropriate register of deeds, ~~shall be~~is
7 guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of
8 transfer or other document used in the process of selling or transferring land ~~shall~~does not exempt
9 the transaction from this penalty. The local government may bring an action for injunction of any
10 illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate
11 findings, issue an injunction and order requiring the offending party to comply with the
12 subdivision regulation. Building permits required pursuant to ~~G.S. 160D-1108~~G.S. 160D-1110
13 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local
14 government may institute any appropriate action or proceedings to prevent the unlawful
15 subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or
16 conduct.

17 (b) The provisions of this section ~~shall~~do not prohibit any owner or its agent from
18 entering into contracts to sell or lease by reference to an approved preliminary plat for which a
19 final plat has not yet been properly approved under the subdivision regulation or recorded with
20 the register of deeds, provided the contract does all of the following:

21 ...

22 (c) The provisions of this section ~~shall~~do not prohibit any owner or its agent from
23 entering into contracts to sell or lease land by reference to an approved preliminary plat for which
24 a final plat has not been properly approved under the subdivision regulation or recorded with the
25 register of deeds where the buyer or lessee is any person who has contracted to acquire or lease
26 the land for the purpose of engaging in the business of construction of residential, commercial,
27 or industrial buildings on the land, or for the purpose of resale or lease of the land to persons
28 engaged in that kind of business, provided that no conveyance of that land may occur and no
29 contract to lease it may become effective until after the final plat has been properly approved
30 under the subdivision regulation and recorded with the register of deeds."

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

32 **"§ 160D-903. Agricultural uses.**

33 (a) Bona Fide Farming Exempt From County Zoning. – County zoning regulations may
34 not affect property used for bona fide farm purposes; provided, however, that this section does
35 not limit zoning regulation with respect to the use of farm property for nonfarm purposes. Except
36 as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under
37 G.S. 106-743.2, bona fide farm purposes include the production and activities relating or
38 incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants,
39 dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.
40 Activities incident to the farm include existing or new residences constructed to the applicable
41 residential building code situated on the farm occupied by the owner, lessee, or operator of the
42 farm and other buildings or structures sheltering or supporting the farm use and operation. For
43 purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) ~~shall include~~
44 includes the farm within the jurisdiction of the county and any other farm owned or leased to or
45 from others by the bona fide farm operator, no matter where located. For purposes of this section,
46 the production of a nonfarm product that the Department of Agriculture and Consumer Services
47 recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject
48 to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of
49 determining whether a property is being used for bona fide farm purposes, any of the following
50 ~~shall constitute~~is sufficient evidence that the property is being used for bona fide farm purposes:

51 (1) A farm sales tax exemption certificate issued by the Department of Revenue.

- 1 (2) A copy of the property tax listing showing that the property is eligible for
- 2 participation in the present-use value program pursuant to G.S. 105-277.3.
- 3 (3) A copy of the farm owner's or operator's Schedule F from the owner's or
- 4 operator's most recent federal income tax return.
- 5 (4) A forest management plan.

6 A building or structure that is used for agritourism is a bona fide farm purpose if the building
7 or structure is located on a property that (i) is owned by a person who holds a qualifying farm
8 sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a)
9 or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to
10 maintain the requirements of this subsection for a period of three years after the date the building
11 or structure was originally classified as a bona fide farm purpose pursuant to this subsection ~~shall~~
12 ~~subject~~ subjects the building or structure to applicable zoning and development regulation
13 ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the
14 property no longer meets the requirements of this subsection. For purposes of this section,
15 "agritourism" means any activity carried out on a farm or ranch that allows members of the
16 general public, for recreational, entertainment, or educational purposes, to view or enjoy rural
17 activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural
18 activities and attractions. A building or structure used for agritourism includes any building or
19 structure used for public or private events, including, but not limited to, weddings, receptions,
20 meetings, demonstrations of farm activities, meals, and other events that are taking place on the
21 farm because of its farm or rural setting.

22 (b) County Zoning of Residential Uses on Large Lots in Agricultural Districts. – A
23 county zoning regulation shall not prohibit single-family detached residential uses constructed in
24 accordance with the North Carolina State Building Code on lots greater than 10 acres in size and
25 in zoning districts where more than fifty percent (50%) of the land is in use for agricultural or
26 silvicultural purposes, except that this restriction ~~shall~~ does not apply to commercial or industrial
27 districts where a broad variety of commercial or industrial uses are permissible. A zoning
28 regulation shall not require that a lot greater than 10 acres in size have frontage on a public road
29 or county-approved private road or be served by public water or sewer lines in order to be
30 developed for single-family residential purposes.

31 (c) Agricultural Areas in Municipal Extraterritorial Jurisdiction. – Property that is located
32 in a ~~municipality's~~ city's extraterritorial planning and development regulation jurisdiction and
33 that is used for bona fide farm purposes is exempt from the ~~municipality's~~ city's zoning regulation
34 to the same extent bona fide farming activities are exempt from county zoning pursuant to this
35 section. As used in this subsection, "property" means a single tract of property or an identifiable
36 portion of a single tract. Property that ceases to be used for bona fide farm purposes ~~shall become~~
37 becomes subject to exercise of the ~~municipality's~~ city's extraterritorial planning and development
38 regulation jurisdiction under this Chapter. For purposes of complying with State or federal law,
39 property that is exempt from ~~the exercise of municipal extraterritorial planning and development~~
40 ~~regulation jurisdiction~~ municipal zoning pursuant to this subsection ~~shall be~~ is subject to the
41 county's floodplain regulation or all floodplain regulation provisions of the county's unified
42 development ordinance.

43 (d) Accessory Farm Buildings. – A ~~municipality~~ city may provide in its zoning regulation
44 that an accessory building of a "bona fide farm" has the same exemption from the building code
45 as it would have under county zoning.

46 (e) City Regulations in Voluntary Agricultural Districts. – A city may amend the
47 development regulations applicable within its planning and development regulation jurisdiction
48 to provide flexibility to farming operations that are located within a city or county, voluntary
49 agricultural district, or enhanced voluntary agricultural district adopted under Article 61 of
50 Chapter 106 of the General Statutes. Amendments to applicable development regulations may

1 include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism,
2 and other activities incident to farming."

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

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

5 **"§ 160D-947. Certificate of appropriateness required.**

6 (a) Certificate Required. – ~~From and after~~ After the designation of a landmark or a
7 historic district, no exterior portion of any building or other structure, including masonry walls,
8 fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility
9 structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or
10 demolished on ~~such the~~ landmark or within ~~such the~~ district until after an application for a
11 certificate of appropriateness as to exterior features has been submitted to and approved by the
12 preservation commission. The local government shall require such a certificate to be issued by
13 the commission prior to the issuance of a building permit granted for the purposes of constructing,
14 altering, moving, or demolishing structures, which certificate may be issued subject to reasonable
15 conditions necessary to carry out the purposes of this Part. A certificate of appropriateness ~~shall~~
16 ~~be is~~ required whether or not a building or other permit is required.

17 For purposes of this Part, "exterior features" ~~shall include~~ include the architectural style,
18 general design, and general arrangement of the exterior of a building or other structure, including
19 the kind and texture of the building material, the size and scale of the building, and the type and
20 style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of
21 outdoor advertising signs, "exterior features" ~~shall be construed to mean~~ mean the style, material,
22 size, and location of all such signs. Such "exterior features" may, in the discretion of the local
23 governing board, include historic signs, color, and significant landscape, archaeological, and
24 natural features of the area.

25 Except as provided in subsection (b) of this section, the commission ~~shall have~~ has no
26 jurisdiction over interior arrangement. The commission shall take no action under this section
27 except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition
28 of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant
29 features in the district that would be incongruous with the special character of the landmark or
30 district. In making decisions on certificates of appropriateness, the commission shall apply the
31 rules and standards adopted pursuant to subsection (c) of this section.

32 (b) Interior Spaces. – Notwithstanding subsection (a) of this section, jurisdiction of the
33 commission over interior spaces ~~shall be is~~ limited to specific interior features of architectural,
34 artistic, or historical significance in publicly owned landmarks and of privately owned historic
35 landmarks for which consent for interior review has been given by the owner. ~~Said~~ The consent
36 of an owner for interior review ~~shall bind~~ binds future owners and/or successors in title, ~~provided~~
37 ~~such if the~~ consent has been filed in the office of the register of deeds of the county in which the
38 property is located and indexed according to the name of the owner of the property in the grantee
39 and grantor indexes. The landmark designation shall specify the interior features to be reviewed
40 and the specific nature of the commission's jurisdiction over the interior.

41 ...

42 (e) Appeals. –

43 (1) Appeals of administrative decisions allowed by regulation may be made to the
44 commission.

45 (2) All decisions of the commission in granting or denying a certificate of
46 appropriateness may, if so provided in the regulation, be appealed to the
47 board of adjustment in the nature of certiorari within times prescribed for
48 appeals of administrative decisions in ~~G.S. 160D-405(e)~~ G.S. 160D-405(d).
49 To the extent applicable, the provisions of G.S. 160D-1402 ~~shall~~ apply to
50 appeals in the nature of certiorari to the board of adjustment.

- 1 (3) Appeals from the board of adjustment may be made pursuant to
2 G.S. 160D-1402.
- 3 (4) If the regulation does not provide for an appeal to the board of adjustment,
4 appeals of decisions on certificates of appropriateness may be made to the
5 superior court as provided in G.S. 160D-1402.
- 6 (5) Petitions for judicial review shall be taken within times prescribed for appeal
7 of quasi-judicial decisions in ~~G.S. 160D-1404.~~ G.S. 160D-1405. Appeals in
8 any such case shall be heard by the superior court of the county in which the
9 local government is located.

10 (f) Public Buildings. – All of the provisions of this Part are hereby made applicable to
11 construction, alteration, moving, and demolition by the State of North Carolina, its political
12 subdivisions, agencies, and instrumentalities, provided, however, they ~~shall do~~ not apply to
13 interiors of buildings or structures owned by the State of North Carolina. The State and its
14 agencies ~~shall have a right of~~ may appeal to the North Carolina Historical Commission or any
15 successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local
16 preservation commission. The North Carolina Historical Commission shall render its decision
17 within 30 days from the date that the notice of appeal by the State is received by it. The current
18 edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for
19 Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing
20 applications of the State for certificates of appropriateness. The decision of the North Carolina
21 Historical Commission ~~shall be~~ is final and binding upon both the State and the preservation
22 commission."

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

24 "**§ 160D-1005. Public hearing.**~~Hearing.~~

25 Before entering into a development agreement, a local government shall conduct a legislative
26 hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning
27 map amendments shall be followed for this hearing. The notice for the ~~public~~ hearing must
28 specify the location of the property subject to the development agreement, the development uses
29 proposed on the property, and must specify a place where a copy of the proposed development
30 agreement can be obtained."

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

32 "**§ 160D-1006. Content and modification.**

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

34 ...

35 (b) A development agreement may also provide that the entire development or any phase
36 of it be commenced or completed within a specified period of time. If required by ordinance or
37 in the agreement, the development agreement shall provide a development schedule, including
38 commencement dates and interim completion dates at no greater than five-year intervals;
39 provided, however, the failure to meet a commencement or completion date ~~shall does~~ not, in
40 and of itself, constitute a material breach of the development agreement pursuant to
41 G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer
42 may request a modification in the dates as set forth in the agreement.

43 ...

44 (d) The development agreement also may cover any other matter, including defined
45 performance standards, not inconsistent with this Chapter. The development agreement may
46 include mutually acceptable terms regarding provision of public facilities and other amenities
47 and the allocation of financial responsibility for their provision, provided any impact mitigation
48 measures offered by the developer beyond those that could be required by the local government
49 ~~pursuant to G.S. 160D-804~~ shall be expressly enumerated within the agreement, and provided
50 the agreement may not include a tax or impact fee not otherwise authorized by law.

51 ...

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

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

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

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

8 "**§ 160D-1104. Duties and responsibilities.**

9 (a) The duties and responsibilities of an inspection department and of the inspectors in it
10 ~~shall be~~ are to enforce within their planning and development regulation jurisdiction State and
11 local laws relating to the following:

12 (1) The construction of buildings and other structures.

13 (2) The installation of such facilities as plumbing systems, electrical systems,
14 heating systems, refrigeration systems, and air-conditioning systems.

15 (3) The maintenance of buildings and other structures in a safe, sanitary, and
16 healthful condition.

17 (4) Other matters that may be specified by the governing board.

18 (b) The duties and responsibilities set forth in subsection (a) of this section ~~shall~~ include
19 the receipt of applications for permits and the issuance or denial of permits, the making of any
20 necessary inspections in a timely manner, the issuance or denial of certificates of compliance,
21 the issuance of orders to correct violations, the bringing of judicial actions against actual or
22 threatened violations, the keeping of adequate records, and any other actions that may be required
23 in order adequately to enforce those laws. The ~~city council shall have~~ governing board has the
24 authority to enact reasonable and appropriate provisions governing the enforcement of those
25 laws.

26 (c) In performing the specific inspections required by the North Carolina Building Code,
27 the inspector shall conduct all inspections requested by the permit holder for each scheduled
28 inspection visit. For each requested inspection, the inspector shall inform the permit holder of
29 instances in which the work inspected fails to meet the requirements of the North Carolina
30 Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

31 (d) Except as provided in ~~G.S. 160D-1115~~ G.S. 160D-1117 and G.S. 160D-1207, a local
32 government may not adopt or enforce a local ordinance or resolution or any other policy that
33 requires regular, routine inspections of buildings or structures constructed in compliance with the
34 North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific
35 inspections required by the North Carolina Building Code without first obtaining approval from
36 the North Carolina Building Code Council. The North Carolina Building Code Council shall
37 review all applications for additional inspections requested by a local government and shall, in a
38 reasonable manner, approve or disapprove the additional inspections. This subsection does not
39 limit the authority of the local government to require inspections upon unforeseen or unique
40 circumstances that require immediate action. In performing the specific inspections required by
41 the North Carolina Residential Building Code, the inspector shall conduct all inspections
42 requested by the permit holder for each scheduled inspection visit. For each requested inspection,
43 the inspector shall inform the permit holder of instances in which the work inspected is
44 incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code
45 for One- and Two-Family Dwellings or the North Carolina Building Code.

46 (e) Each inspection department shall implement a process for an informal internal review
47 of inspection decisions made by the department's inspectors. This process shall include, at a
48 minimum, the following:

49 (1) Initial review by the supervisor of the inspector.

- 1 (2) The provision in or with each permit issued by the department of (i) the name,
2 phone number, and e-mail address of the supervisor of each inspector and (ii)
3 a notice of availability of the informal internal review process.
4 (3) Procedures the department must follow when a permit holder or applicant
5 requests an internal review of an inspector's decision.

6 Nothing in this subsection ~~shall be deemed to limit or abrogate limits or abrogates~~ any rights
7 available under Chapter 150B of the General Statutes to a permit holder or applicant.

8 (f) If a specific building framing inspection as required by the North Carolina Residential
9 Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code,
10 the inspector shall forward a copy of the inspection report to the Department of Insurance."

11 **SECTION 28.(b)** Notwithstanding Section 6(c) of S.L. 2018-29, as amended by
12 Section 9 of S.L. 2019-174, G.S. 153A-352(g) and G.S. 160A-412(g) expire on the effective date
13 of this act and not on October 1, 2021. G.S. 160D-1104(f) expires October 1, 2021.

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

15 "**§ 160D-1106. Alternate inspection method for component or element.**

16 (a) Notwithstanding the requirements of this Article, a city-local government shall accept
17 and approve, without further responsibility to inspect, a design or other proposal for a component
18 or element in the construction of buildings from an architect licensed under Chapter 83A of the
19 General Statutes or professional engineer licensed under Chapter 89C of the General Statutes
20 provided all of the following apply:

- 21 (1) The submission design or other proposal is completed under valid seal of the
22 licensed architect or licensed professional engineer.
23 (2) Field inspection of the installation or completion of a component or element
24 of the building is performed by a licensed architect or licensed professional
25 engineer or a person under the direct supervisory control of the licensed
26 architect or licensed professional engineer.
27 (3) The licensed architect or licensed professional engineer under subdivision (2)
28 of this subsection provides the city-local government with a signed written
29 document ~~stating-certifying that~~ the component or element of the building
30 inspected under subdivision (2) of this subsection is in compliance with the
31 North Carolina State Building Code or the North Carolina Residential Code
32 for One- and Two-Family Dwellings. The ~~inspection-certification~~ required
33 under this subdivision shall be provided by electronic or physical ~~delivery and~~
34 delivery, and its receipt shall be promptly acknowledged by the city-local
35 government through reciprocal means. The certification shall be made on a
36 form created by the North Carolina Building Code Council which shall
37 include at least the following:
38 a. Permit number.
39 b. Date of inspection.
40 c. Type of inspection.
41 d. Contractor's name and license number.
42 e. Street address of the job location.
43 f. Name, address, and telephone number of the person responsible for
44 the inspection.

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

47 (b) Upon the acceptance and approval receipt of a signed written document by the city
48 local government as required under subsection (a) of this section, notwithstanding the issuance
49 of a certificate of occupancy, the city-local government, its inspection department, and the
50 inspectors ~~shall be~~ are discharged and released from any liabilities, duties, and responsibilities
51 imposed by this Article with respect to or in common law from any claim arising out of or

1 attributed to the component or element in the construction of the building for which the signed
2 written document was submitted.

3 (c) With the exception of the requirements contained in subsection (a) of this section, no
4 further certification by a licensed architect or licensed professional engineer ~~shall be~~ is required
5 for any component or element designed and sealed by a licensed architect or licensed professional
6 engineer for the manufacturer of the component or element under the North Carolina State
7 Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

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

- 9 (1) Component. – Any assembly, subassembly, or combination of elements
10 designed to be combined with other components to form part of a building or
11 structure. Examples of a component include an excavated footing trench
12 containing no ~~concrete~~ concrete, a foundation, and a prepared underslab with
13 slab-related materials without concrete. The term does not include a system.
14 (2) Element. – A combination of products designed to be combined with other
15 elements to form all or part of a building component. The term does not
16 include a system."

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

18 **"§ 160D-1110. Building permits.**

19 (a) Except as provided in subsection (c) of this section, no person shall commence or
20 proceed with any of the following without first securing all permits required by the State Building
21 Code and any other State or local laws applicable to any of the following activities:

- 22 (1) The construction, reconstruction, alteration, repair, movement to another site,
23 removal, or demolition of any building or structure.
24 (2) The installation, extension, or general repair of any plumbing system except
25 that in any one- or two-family dwelling unit a permit ~~shall not be~~ is not
26 required for the connection of a water heater that is being ~~replaced, provided~~
27 ~~that replaced if (i)~~ the work is performed by a person licensed under
28 G.S. 87-21 who personally examines the work at completion and ensures that
29 a leak test has been performed on the gas piping, and ~~provided (ii)~~ the energy
30 use rate or thermal input is not greater than that of the water heater that is
31 being replaced, there is no change in fuel, energy source, location, capacity,
32 or routing or sizing of venting and piping, and the replacement is installed in
33 accordance with the current edition of the State Building Code.
34 (3) The installation, extension, alteration, or general repair of any heating or
35 cooling equipment system.
36 (4) The installation, extension, alteration, or general repair of any electrical
37 wiring, devices, appliances, or equipment, except that in any one-
38 two-family dwelling unit a permit ~~shall not be~~ is not required for repair or
39 replacement of electrical lighting fixtures or devices, such as receptacles and
40 lighting switches, or for the connection of an existing branch circuit to an
41 electric water heater that is being ~~replaced, provided that replaced if~~ all of the
42 following requirements are met:
43 a. With respect to electric water heaters, the replacement water heater is
44 placed in the same location and is of the same or less capacity and
45 electrical rating as the original.
46 b. With respect to electrical lighting fixtures and devices, the
47 replacement is with a fixture or device having the same voltage and
48 the same or less amperage.
49 c. The work is performed by a person licensed under G.S. 87-43.
50 d. The repair or replacement installation meets the current edition of the
51 State Building Code, including the State Electrical Code.

1 However, a building permit is not required for the installation, maintenance, or replacement
 2 of any load control device or equipment by an electric power supplier, as defined in
 3 G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the
 4 work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87
 5 of the General Statutes. The electric power supplier shall provide such installation, maintenance,
 6 or replacement in accordance with (i) an activity or program ordered, authorized, or approved by
 7 the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a
 8 similar program undertaken by a municipal electric service provider, whether the installation,
 9 modification, or replacement is made before or after the point of delivery of electric service to
 10 the customer. The exemption under this subsection applies to all existing installations.

11 (b) A building permit shall be in writing and shall contain a provision that the work done
 12 shall comply with the North Carolina State Building Code and all other applicable State and local
 13 laws. Nothing in this section ~~shall require~~ requires a local government to review and approve
 14 residential building plans submitted to the local government pursuant to the North Carolina
 15 Residential Code, provided that the local government may review and approve ~~such~~ the
 16 residential building plans as it deems necessary. If a local government chooses to review
 17 residential building plans for any structures subject to regulation under the North Carolina
 18 Residential Code for One- and Two-Family Dwellings, all initial reviews for the building permit
 19 must be performed within 15 business days of submission of the plans. A local government shall
 20 not require residential building plans for one- and two-family dwellings to be sealed by a licensed
 21 engineer or licensed architect unless required by the North Carolina State Building Code. No
 22 building permits shall be issued unless the plans and specifications are identified by the name
 23 and address of the author thereof, and, if the General Statutes of North Carolina require that plans
 24 for certain types of work be prepared only by a licensed architect or licensed engineer, no
 25 building permit shall be issued unless the plans and specifications bear the North Carolina seal
 26 of a licensed architect or of a licensed engineer. When any provision of the General Statutes of
 27 North Carolina or of any ordinance or development or zoning regulation requires that work be
 28 done by a licensed specialty contractor of any kind, no building permit for the work shall be
 29 issued unless the work is to be performed by such a duly licensed contractor.

30 (c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes ~~shall~~
 31 ~~be is~~ required for any construction, installation, repair, replacement, or alteration performed in
 32 accordance with the current edition of the North Carolina State Building Code costing fifteen
 33 thousand dollars (\$15,000) or less in any single-family residence or farm building unless the
 34 work involves any of the following:

- 35 (1) The addition, repair, or replacement of load-bearing structures. However, no
 36 permit is required for replacement of windows, doors, exterior siding, or the
 37 pickets, railings, stair treads, and decking of porches and exterior decks.
- 38 (2) The addition or change in the design of plumbing. However, no permit is
 39 required for replacements otherwise meeting the requirements of this
 40 subsection that do not change size or capacity.
- 41 (3) The addition, replacement, or change in the design of heating,
 42 air-conditioning, or electrical wiring, devices, appliances, or equipment, other
 43 than like-kind replacement of electrical devices and lighting fixtures.
- 44 (4) The use of materials not permitted by the North Carolina Residential Code for
 45 One- and Two-Family Dwellings.
- 46 (5) The addition (excluding replacement) of roofing.

47"

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

49 "**§ 160D-1113. Inspections of work in progress.**

50 Subject to the limitation imposed by ~~G.S. 160D-1104(b),~~ G.S. 160D-1104(d), as the work
 51 pursuant to a building permit progresses, local inspectors shall make as many inspections thereof

1 as may be necessary to satisfy them that the work is being done according to the provisions of
2 any applicable State and local laws and of the terms of the permit. In exercising this power,
3 members of the inspection department ~~shall~~ have a right to enter on any premises within the
4 jurisdiction of the department at all reasonable hours for the purposes of inspection or other
5 enforcement action, upon presentation of proper credentials. If a building permit has been
6 obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be
7 conducted without the owner being present, unless the plans for the building were drawn and
8 sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

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

10 "**§ 160D-1116. Certificates of ~~compliance~~; compliance; temporary certificates of occupancy.**

11 (a) At the conclusion of all work done under a building permit, the appropriate inspector
12 shall make a final inspection, and, if ~~the inspector finds that~~ the completed work complies with
13 all applicable State and local laws and with the terms of the permit, the inspector shall issue a
14 certificate of compliance. ~~No~~ Except as provided by subsection (b) of this section, no new
15 building or part thereof may be occupied, no addition or enlargement of an existing building may
16 be occupied, and no existing building that has been altered or moved may be occupied, until the
17 inspection department has issued a certificate of compliance.

18 (b) A temporary certificate of occupancy ~~or compliance~~ may be issued permitting
19 occupancy for a stated period of time of either the entire building ~~or property~~ or of specified
20 portions of the building if the inspector finds that ~~such the~~ building ~~or property~~ may safely be
21 occupied prior to its final completion. A permit holder may request and be issued a temporary
22 certificate of occupancy if the conditions and requirements of the North Carolina State Building
23 Code are met.

24 (c) ~~Violation of this section shall constitute a Class 1 misdemeanor. A local government~~
25 ~~may require the applicant for a temporary certificate of occupancy to post suitable security to~~
26 ~~ensure code compliance. Any person who owns, leases, or controls a building and occupies or~~
27 ~~allows the occupancy of the building or a part of the building before a certificate of compliance~~
28 ~~or temporary certificate of occupancy has been issued pursuant to subsection (a) or (b) of this~~
29 ~~section is guilty of a Class 1 misdemeanor."~~

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

31 "**§ 160D-1121. Action in event of failure to take corrective action.**

32 If the owner of a building or structure that has been condemned as unsafe pursuant to
33 ~~G.S. 160D-1117 shall fail~~ G.S. 160D-1119 fails to take prompt corrective action, the local
34 inspector shall give written notice, by certified mail to the owner's last known address or by
35 personal service, of all of the following:

- 36 (1) That the building or structure is in a condition that appears to meet one or
37 more of the following conditions:
38 a. Constitutes a fire or safety hazard.
39 b. Is dangerous to life, health, or other property.
40 c. Is likely to cause or contribute to blight, disease, vagrancy, or danger
41 to children.
42 d. Has a tendency to attract persons intent on criminal activities or other
43 activities that would constitute a public nuisance.
44 (2) That an administrative hearing will be held before the inspector at a designated
45 place and time, not later than 10 days after the date of the notice, at which time
46 the owner ~~shall~~ will be entitled to be heard in person or by counsel and to
47 present arguments and evidence pertaining to the matter.
48 (3) That following the hearing, the inspector may issue such order to repair, close,
49 vacate, or demolish the building or structure as appears appropriate.

50 If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice
51 shall be considered properly and adequately served if a copy is posted on the outside of the

1 building or structure in question at least 10 days prior to the hearing and a notice of the hearing
2 is published in a newspaper having general circulation in the local government's area of
3 jurisdiction at least once not later than one week prior to the hearing."

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

5 **"§ 160D-1123. Appeal; finality of order if not appealed.**

6 Any owner who has received an order under ~~G.S. 160D-1120~~ G.S. 160D-1122 may appeal
7 from the order to the governing board by giving notice of appeal in writing to the inspector and
8 to the local government clerk within 10 days following issuance of the order. In the absence of
9 an appeal, the order of the inspector ~~shall be is~~ final. The governing board shall hear an appeal
10 in accordance with G.S. 160D-406 and render a decision ~~in an appeal~~ within a reasonable time.
11 The governing board may affirm, modify and affirm, or revoke the order."

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

13 **"§ 160D-1124. Failure to comply with order.**

14 If the owner of a building or structure fails to comply with an order issued pursuant to
15 ~~G.S. 160D-1120~~ G.S. 160D-1122 from which no appeal has been taken or fails to comply with
16 an order of the governing board following an appeal, the owner ~~shall be is~~ guilty of a Class 1
17 misdemeanor."

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

19 **"§ 160D-1125. Enforcement.**

20 (a) Action Authorized. – Whenever any violation is denominated a misdemeanor under
21 the provisions of this Article, the local government, either in addition to or in lieu of other
22 remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate
23 the violation or to prevent the occupancy of the building or structure involved.

24 (b) Removal of Building. – In the case of a building or structure declared unsafe under
25 ~~G.S. 160D-1117~~ G.S. 160D-1119 or an ordinance adopted pursuant to ~~G.S. 160D-1117~~,
26 G.S. 160D-1119, a local government may, in lieu of taking action under subsection (a) of this
27 section, cause the building or structure to be removed or demolished. The amounts incurred by
28 the local government in connection with the removal or demolition ~~shall be are~~ a lien against the
29 real property upon which the cost was incurred. The lien shall be filed, have the same priority,
30 and be collected in the same manner as liens for special assessments provided in Article 10 of
31 Chapter 160A of the General Statutes. If the building or structure is removed or demolished by
32 the local government, the local government shall sell the usable materials of the building and any
33 personal property, fixtures, or appurtenances found in or attached to the building. The local
34 government shall credit the proceeds of the sale against the cost of the removal or demolition.
35 Any balance remaining from the sale shall be deposited with the clerk of superior court of the
36 county where the property is located and shall be disbursed by the court to the person found to
37 be entitled thereto by final order or decree of the court.

38 (c) Additional Lien. – The amounts incurred by a local government in connection with
39 the removal or demolition ~~shall also be are also~~ a lien against any other real property owned by
40 the owner of the building or structure and located within the local government's planning and
41 development regulation jurisdiction, and for ~~municipalities~~ cities without extraterritorial
42 planning and development jurisdiction, within one mile of the city limits, except for the owner's
43 primary residence. The provisions of subsection (b) of this section apply to this additional lien,
44 except that this additional lien is inferior to all prior liens and shall be collected as a money
45 judgment.

46 (d) Nonexclusive Remedy. – Nothing in this section shall be construed to impair or limit
47 the power of the local government to define and declare nuisances and to cause their removal or
48 abatement by summary proceedings or otherwise."

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

50 **"§ 160D-1129. Regulation authorized as to repair, closing, and demolition of nonresidential**
51 **buildings or structures; order of public officer.**

1 (a) Authority. – The governing board of the local government may adopt and enforce
2 regulations relating to nonresidential buildings or structures that fail to meet minimum standards
3 of maintenance, sanitation, and safety established by the governing board. The minimum
4 standards shall address only conditions that are dangerous and injurious to public health, safety,
5 and welfare and identify circumstances under which a public necessity exists for the repair,
6 closing, or demolition of such buildings or structures. The ~~regulation~~regulations shall provide
7 for designation or appointment of a public officer to exercise the powers prescribed by the
8 regulation, in accordance with the procedures specified in this section. ~~Such regulation~~
9 Regulations adopted under this section shall be applicable within the local government's entire
10 planning and development regulation jurisdiction or limited to one or more designated zoning
11 ~~districts or districts, municipal service districts, districts, or defined geographical areas designated~~
12 for improvement and investment in an adopted comprehensive plan.

13 ...

14 (c) Complaint and Hearing. – If the preliminary investigation discloses evidence of a
15 violation of the minimum standards, the public officer shall issue and cause to be served upon
16 the owner of and parties in interest in the nonresidential building or structure a complaint. The
17 complaint shall state the charges and contain a notice that an administrative hearing will be held
18 before the public officer, or his or her designated agent, at a place within the county scheduled
19 not less than 10 days nor more than 30 days after the serving of the complaint; that the owner
20 and parties in interest shall be given the right to answer the complaint and to appear in person, or
21 otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of
22 evidence prevailing in courts of law or equity ~~shall not be~~are not controlling in hearings before
23 the public officer.

24 (d) Order. – If, after notice and hearing, the public officer determines that the
25 nonresidential building or structure has not been properly maintained so that the safety or health
26 of its occupants or members of the general public is jeopardized for failure of the property to
27 meet the minimum standards established by the governing board, the public officer shall state in
28 writing findings of fact in support of that determination and shall issue and cause to be served
29 upon the owner thereof an order. The order may require the owner to take remedial action, within
30 a reasonable time specified, subject to the procedures and limitations herein.

31 (e) Limitations on Orders. –

- 32 (1) An order may require the owner to repair, alter, or improve the nonresidential
33 building or structure in order to bring it into compliance with the minimum
34 standards established by the governing board or to vacate and close the
35 nonresidential building or structure for any use.
- 36 (2) An order may require the owner to remove or demolish the nonresidential
37 building or structure if the cost of repair, alteration, or improvement of the
38 building or structure would exceed fifty percent (50%) of its then current
39 value. Notwithstanding any other provision of law, if the nonresidential
40 building or structure is designated as a local historic landmark, listed in the
41 National Register of Historic Places, or located in a locally designated historic
42 district or in a historic district listed in the National Register of Historic Places
43 and the governing board determines, after ~~a public~~an administrative hearing
44 as provided by ordinance, that the nonresidential building or structure is of
45 individual significance or contributes to maintaining the character of the
46 district, and the nonresidential building or structure has not been condemned
47 as unsafe, the order may require that the nonresidential building or structure
48 be vacated and closed until it is brought into compliance with the minimum
49 standards established by the governing board.
- 50 (3) An order may not require repairs, alterations, or improvements to be made to
51 vacant manufacturing facilities or vacant industrial warehouse facilities to

1 preserve the original use. The order may require such building or structure to
2 be vacated and closed, but repairs may be required only when necessary to
3 maintain structural integrity or to abate a health or safety hazard that cannot
4 be remedied by ordering the building or structure closed for any use.

5 (f) Action by Governing Board Upon Failure to Comply With Order. –

6 (1) If the owner fails to comply with an order to repair, alter, or improve or to
7 vacate and close the nonresidential building or structure, the governing board
8 may adopt an ordinance ordering the public officer to proceed to effectuate
9 the purpose of this section with respect to the particular property or properties
10 that the public officer found to be jeopardizing the health or safety of its
11 occupants or members of the general public. The property or properties shall
12 be described in the ordinance. The ordinance shall be recorded in the office of
13 the register of deeds and shall be indexed in the name of the property owner
14 or owners in the grantor index. Following adoption of an ordinance, the public
15 officer may cause the building or structure to be repaired, altered, or improved
16 or to be vacated and closed. The public officer may cause to be posted on the
17 main entrance of any nonresidential building or structure so closed a placard
18 with the following words: "This building is unfit for any use; the use or
19 occupation of this building for any purpose is prohibited and unlawful." Any
20 person who occupies or knowingly allows the occupancy of a building or
21 structure so posted ~~shall be is~~ guilty of a Class 3 misdemeanor.

22 ...

23 (i) Liens. –

24 (1) The amount of the cost of repairs, alterations, or improvements, or vacating
25 and closing, or removal or demolition by the public officer ~~shall be are~~ a lien
26 against the real property upon which the cost was incurred, which lien shall
27 be filed, have the same priority, and be collected as the lien for special
28 assessment provided in Article 10 of Chapter 160A of the General Statutes.

29 ...

30 (j) Ejectment. – If any occupant fails to comply with an order to vacate a nonresidential
31 building or structure, the public officer may file a civil action in the name of the local government
32 to remove the occupant. The action to vacate ~~shall be is~~ in the nature of summary ejectment and
33 shall be commenced by filing a complaint naming as parties-defendant any person occupying the
34 nonresidential building or structure. The clerk of superior court shall issue a summons requiring
35 the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10
36 days from the issuance of the summons to answer the complaint. The summons and complaint
37 shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor,
38 and if on its return it appears to have been duly served and if at the hearing the public officer
39 produces a certified copy of an ordinance adopted by the governing board pursuant to subsection
40 (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall
41 enter judgment ordering that the premises be vacated and all persons be removed. The judgment
42 ordering that the nonresidential building or structure be vacated shall be enforced in the same
43 manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any
44 judgment entered under this subsection by the magistrate may be taken as provided in
45 G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An
46 action to remove an occupant of a nonresidential building or structure who is a tenant of the
47 owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection
48 unless the occupant was served with notice, at least 30 days before the filing of the summary
49 ejectment proceeding, that the governing board has ordered the public officer to proceed to
50 exercise his or her duties under subsection (f) of this section to vacate and close or remove and
51 demolish the nonresidential building or structure.

1 (k) Civil Penalty. – The governing board may impose civil penalties against any person
2 or entity that fails to comply with an order entered pursuant to this section. However, the
3 imposition of civil penalties ~~shall~~ does not limit the use of any other lawful remedies available
4 to the governing board for the enforcement of any ordinances adopted pursuant to this section.

5 ...
6 (m) Appeals. – The governing board may provide that appeals may be taken from any
7 decision or order of the public officer to the local government's housing appeals board or board
8 of adjustment. Any person aggrieved by a decision or order of the public officer ~~shall have~~ has
9 the remedies provided in G.S. 160D-1208.

10"

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

13 **"§ 160D-1130. Vacant building receivership.**

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

- 18 (1) The owner fails to comply with an order issued pursuant to G.S. 160D-1122,
19 related to building or structural conditions that constitute a fire or safety
20 hazard or render the building or structure dangerous to life, health, or other
21 property, from which no appeal has been taken.
- 22 (2) The owner fails to comply with an order of the local government following an
23 appeal of an inspector's order issued pursuant to G.S. 160D-1122.
- 24 (3) The governing board of the local government adopts any ordinance pursuant
25 to subdivision (f)(1) of G.S. 160D-1129, related to nonresidential buildings or
26 structures that fail to meet minimum standards of maintenance, sanitation, and
27 safety, and orders a public officer to continue enforcement actions prescribed
28 by the ordinance with respect to the named nonresidential building or
29 structure. The public officer may submit a petition on behalf of the governing
30 board to the superior court for the appointment of a receiver, and if granted by
31 the superior court, the petition shall be considered an appropriate means of
32 complying with the ordinance. In the event the superior court does not grant
33 the petition, the public officer and the governing board may take action
34 pursuant to the ordinance in any manner authorized in G.S. 160D-1129.
- 35 (4) The owner fails to comply with an order to repair, alter, or improve, remove,
36 or demolish a dwelling issued under G.S. 160D-1203, related to dwellings that
37 are unfit for human habitation.
- 38 (5) Any owner or partial owner of a vacant building, structure, or dwelling, with
39 or without the consent of other owners of the property, submits a request to
40 the governing board in the form of a sworn affidavit requesting the governing
41 board to petition the superior court for appointment of a receiver for the
42 property pursuant to this section.

43 (b) Petition for Appointment of Receiver. – The petition for the appointment of a receiver
44 shall include all of the following: (i) a copy of the original violation notice or order issued by the
45 local government or, in the case of an owner request to the governing board for a petition for
46 appointment of a receiver, a verified pleading that avers that at least one owner consents to the
47 petition; (ii) a verified pleading that avers that the required rehabilitation or demolition has not
48 been completed; and (iii) the names of the respondents, which shall include the owner of the
49 property, as recorded with the register of deeds, any mortgagee with a recorded interest in the
50 property, and all other parties in interest, as defined in G.S. 160D-1202(2). If the petition fails to
51 name a respondent as required by this subsection, the proceeding may continue, but the receiver's

1 lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure,
2 or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien
3 of that respondent.

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

19 (d) Appointment of Receiver. – The court shall appoint a qualified receiver if the
20 provisions of subsections (b) and (c) of this section have been satisfied. If the court does not
21 appoint a person to rehabilitate or demolish the property pursuant to subsection (e) of this section,
22 or if the court dismisses such an appointee, the court shall appoint a qualified receiver for the
23 purpose of rehabilitating and managing the property, demolishing the property, or selling the
24 property to a buyer. To be considered qualified, a receiver must demonstrate to the court (i) the
25 financial ability to complete the purchase or rehabilitation of the property, (ii) the knowledge of,
26 or experience in, the rehabilitation of vacant real property, (iii) the ability to obtain any necessary
27 insurance, and (iv) the absence of any building code violations issued by the local government
28 on other real property owned by the person or any member, principal, officer, major stockholder,
29 parent, subsidiary, predecessor, or others affiliated with the person or the person's business. No
30 member of the petitioning local government's governing board or a public officer of the
31 petitioning local government is qualified to be appointed as a receiver in that action. If, at any
32 time, the court determines that the receiver is no longer qualified, the court may appoint another
33 qualified receiver.

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

50 (f) Receiver Authority Exclusive. – Upon the appointment of a receiver under subsection
51 (d) of this section and after the receiver records a notice of receivership in the county in which

1 the property is located that identifies the property, all other parties are divested of any authority
2 to collect rents or other income from or to rehabilitate, demolish, or sell the building, structure,
3 or dwelling subject to the receivership. Any party other than the appointed receiver who actively
4 attempts to collect rents or other income from or to rehabilitate, demolish, or sell the property
5 may be held in contempt of court and is subject to the penalties authorized by law for that offense.
6 Any costs or fees incurred by a receiver appointed under this section and set by the court
7 constitute a lien against the property, and the receiver's lien has priority over all other liens and
8 encumbrances, except taxes or other government assessments.

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

- 12 (1) Contract for necessary labor and supplies for rehabilitation or demolition.
- 13 (2) Borrow money for rehabilitation or demolition from an approved lending
14 institution or through a governmental agency or program, using the receiver's
15 lien against the property as security.
- 16 (3) Manage the property prior to rehabilitation or demolition and pay operational
17 expenses of the property, including taxes, insurance, utilities, general
18 maintenance, and debt secured by an interest in the property.
- 19 (4) Collect all rents and income from the property, which shall be used to pay for
20 current operating expenses and repayment of outstanding rehabilitation or
21 demolition expenses.
- 22 (5) Manage the property after rehabilitation, with all the powers of a landlord, for
23 a period of up to two years and apply the rent received to current operating
24 expenses and repayment of outstanding rehabilitation or demolition expenses.
- 25 (6) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

26 (h) Receiver's Authority to Sell. – In addition to all necessary and customary powers, a
27 receiver appointed to sell a vacant building, structure, or dwelling may do all of the following:

28 (i) sell the property to the highest bidder at public sale, following the same presale notice
29 provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of the General
30 Statutes, and (ii) sell the property privately for fair market value if no party to the receivership
31 objects to the amount and procedure. In the notice of public sale authorized under this subsection,
32 it is sufficient to describe the property by a street address and reference to the book and page or
33 other location where the property deed is registered. Prior to any sale under this subsection, the
34 applicants to bid in the public sale or the proposed buyer in the private sale shall demonstrate the
35 ability and experience needed to rehabilitate the property within a reasonable time. After
36 deducting the expenses of the sale, the amount of outstanding taxes and other government
37 assessments, and the amount of the receiver's lien, the receiver shall apply any remaining
38 proceeds of the sale first to the local government's costs and expenses, including reasonable
39 attorneys' fees, and then to the liens against the property in order of priority. Any remaining
40 proceeds shall be remitted to the property owner.

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

1 (j) Deed After Sale. – Following the court's ratification of the sale of the property under
2 this section, the receiver shall sign a deed conveying title to the property to the buyer, free and
3 clear of all encumbrances, other than restrictions that run with the land. Upon the sale of the
4 property, the receiver shall at the same time file with the court a final accounting and a motion
5 to dismiss the action.

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

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

17 **SECTION 38.(b)** This section applies to any nuisance per se described in
18 G.S. 160A-439.1 or G.S. 160D-1130, as enacted by this section, that occurs on or after October
19 1, 2018, or any action listed in G.S. 160D-1130(a)(1) through (4) that was not complied with as
20 of that date.

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

22 "(a) ~~Occupied~~-Dwellings. – The existence and occupation of dwellings that are unfit for
23 human habitation are inimical to the welfare and dangerous and injurious to the health and safety
24 of the people of this State. A public necessity exists for the repair, closing, or demolition of such
25 dwellings. Whenever any local government finds that there exists in the planning and
26 development regulation jurisdiction dwellings that are unfit for human habitation due to
27 dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of
28 ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or
29 unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the
30 welfare of the residents of the local government, power is conferred upon the local government
31 to exercise its police powers to repair, close, or demolish the dwellings consistent with the
32 provisions of this Article."

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

34 "(3) Orders. – If, after notice and an administrative hearing, the public officer
35 determines that the dwelling under consideration is unfit for human habitation,
36 the officer shall state in writing findings of fact in support of that
37 determination and shall issue and cause to be served upon the owner one of
38 the following orders, as appropriate:

- 39 a. If the repair, alteration, or improvement of the dwelling can be made
40 at a reasonable cost in relation to the value of the dwelling, requiring
41 the owner, within the time specified, to repair, alter, or improve the
42 dwelling in order to render it fit for human habitation. The ordinance
43 may fix a certain percentage of this value as being reasonable. The
44 order may require that the property be vacated and closed only if
45 continued occupancy during the time allowed for repair will present a
46 significant threat of bodily harm, taking into account the nature of the
47 necessary repairs, alterations, or improvements; the current state of the
48 property; and any additional risks due to the presence and capacity of
49 minors under the age of 18 or occupants with physical or mental
50 disabilities. The order shall state that the failure to make timely repairs

1 as directed in the order shall make the dwelling subject to the issuance
2 of an unfit order under subdivision (4) of this section.

- 3 b. If the repair, alteration, or improvement of the dwelling cannot be
4 made at a reasonable cost in relation to the value of the dwelling,
5 requiring the owner, within the time specified in the order, to remove
6 or demolish ~~such the~~ dwelling. The ordinance may fix a certain
7 percentage of this value as being reasonable. However,
8 notwithstanding any other provision of law, if the dwelling is located
9 in a historic district and the Historic District Commission determines,
10 after ~~a public~~ an administrative hearing as provided by ordinance, that
11 the dwelling is of particular significance or value toward maintaining
12 the character of the district, and the dwelling has not been condemned
13 as unsafe, the order may require that the dwelling be vacated and
14 closed consistent with G.S. 160D-949."

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

16 "(b) A local government may require periodic inspections as part of a targeted effort to
17 respond to blighted or potentially blighted conditions within a geographic area that has been
18 designated by the governing board. However, the total aggregate of targeted areas in the local
19 government jurisdiction at any one time shall not be greater than 1 square mile or five percent
20 (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area
21 designated by the local government shall reflect the local government's stated neighborhood
22 revitalization strategy and shall consist of property that meets the definition of a "blighted area"
23 or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),
24 respectively, except that for purposes of this subsection, the planning board is not required to
25 make a determination as to the property. The local government shall not discriminate in its
26 selection of areas or housing types to be targeted and shall (i) provide notice to all owners and
27 residents of properties in the affected area about the periodic inspections plan and information
28 regarding a ~~public legislative~~ hearing regarding the plan, (ii) hold a ~~public legislative~~ hearing
29 regarding the plan, and (iii) establish a plan to address the ability of low-income residential
30 property owners to comply with minimum housing code standards."

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

32 **"§ 160D-1208. Remedies.**

33 (a) An ordinance adopted pursuant to this Article may provide for a housing appeals
34 board as provided by ~~G.S. 160D-306.~~ G.S. 160D-305. An appeal from any decision or order of
35 the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or
36 by any officer, board, or commission of the local government. Any appeal from the public officer
37 shall be taken within 10 days from the rendering of the decision or service of the order by filing
38 with the public officer and with the housing appeals board a notice of appeal that shall specify
39 the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public
40 officer shall forthwith transmit to the board all the papers constituting the record upon which the
41 decision appealed from was made. When an appeal is from a decision of the public officer
42 refusing to allow the person aggrieved thereby to do any act, the decision ~~shall remain~~ remains
43 in force until modified or reversed. When any appeal is from a decision of the public officer
44 requiring the person aggrieved to do any act, the appeal ~~shall have~~ has the effect of suspending
45 the requirement until the hearing by the board, unless the public officer certifies to the board,
46 after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a
47 copy of which shall be furnished to the appellant, a suspension of the requirement would cause
48 imminent peril to life or property. In that case the requirement ~~shall is not be~~ suspended except
49 by a restraining order, which may be granted for due cause shown upon not less than one day's
50 written notice to the public officer, by the board, or by a court of record upon petition made
51 pursuant to subsection (f) of this section.

1 (b) The housing appeals board shall fix a reasonable time for hearing appeals, shall give
 2 due notice to the parties, and shall render its decision within a reasonable time. Any party may
 3 appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or
 4 may modify the decision or order appealed from, and may make any decision and order that in
 5 its opinion ought to be made in the matter, and, to that end, it ~~shall have~~ has all the powers of the
 6 public officer, but the concurring vote of four members of the board ~~shall be~~ is necessary to
 7 reverse or modify any decision or order of the public officer. The board ~~shall have~~ also has power
 8 ~~also~~ in passing upon appeals, when unnecessary hardships would result from carrying out the
 9 strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the
 10 case to the end that the spirit of the ordinance ~~shall be~~ is observed, public safety and welfare
 11 secured, and substantial justice done.

12 (c) Every decision of the housing appeals board ~~shall be~~ is subject to review by
 13 proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but
 14 not otherwise.

15 (d) Any person aggrieved by an order issued by the public officer or a decision rendered
 16 by the housing appeals board may petition the superior court for an injunction restraining the
 17 public officer from carrying out the order or decision and the court may, upon such petition, issue
 18 a temporary injunction restraining the public officer pending a final disposition of the cause. The
 19 petition shall be filed within 30 days after issuance of the order or rendering of the decision.
 20 Hearings shall be had by the court on a petition within 20 days and shall be given preference over
 21 other matters on the court's calendar. The court shall hear and determine the issues raised and
 22 shall enter such final order or decree as law and justice may require. It ~~shall not be~~ is not necessary
 23 to file bond in any amount before obtaining a temporary injunction under this subsection.

24 (e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or
 25 used in violation of this Article or of any ordinance or code adopted under authority of this Article
 26 or any valid order or decision of the public officer or board made pursuant to any ordinance or
 27 code adopted under authority of this Article, the public officer or board may institute any
 28 appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction,
 29 alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the
 30 dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling."

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

32 **"§ 160D-1312. Acquisition and disposition of property for redevelopment.**

33 Any local government is authorized, either as a part of a community development program
 34 or independently thereof, and without the necessity of compliance with the Urban
 35 Redevelopment Law, to exercise the following powers:

36 ...

37 (4) To sell, exchange, or otherwise transfer real property or any interest therein in
 38 a community development project area to any redeveloper at private sale for
 39 residential, recreational, commercial, industrial, or other uses or for public use
 40 in accordance with the community development plan, subject to such
 41 covenants, conditions, and restrictions as may be deemed to be in the public
 42 interest or to carry out the purposes of this Article, provided that ~~such the~~ sale,
 43 exchange, or other transfer, and any agreement relating thereto, may be made
 44 only after approval of the governing board and after a ~~public hearing;~~ a
 45 legislative hearing. A notice of the ~~public~~ hearing shall be given once a week
 46 for two successive weeks in a newspaper having general circulation in the
 47 local government's planning and development jurisdiction area, the notice
 48 shall be published the first time not less than 10 days nor more than 25 days
 49 preceding the ~~public~~ hearing, and the notice shall disclose the terms of the
 50 sale, exchange, or transfer. At the ~~public~~ hearing, the appraised value of the

1 property to be sold, exchanged, or transferred shall be disclosed, and the
2 consideration for the conveyance shall not be less than the appraised value."

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

4 **"§ 160D-1401. Declaratory judgments.**

5 Challenges of legislative decisions of governing boards, including the validity or
6 constitutionality of development regulations adopted pursuant to this Chapter, and actions
7 authorized by ~~G.S. 160D-108(e) or (g)~~ G.S. 160D-108(h) or (i) and ~~G.S. 160D-405(e),~~
8 G.S. 160D-1403.1 may be brought pursuant to Article 26 of Chapter 1 of the General Statutes.
9 The governmental unit making the challenged decision shall be named a party to the action."

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

11 **"§ 160D-1402. Appeals in the nature of certiorari.**

12 (a) Applicability. – This section applies to appeals of quasi-judicial decisions of
13 decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

14 (b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a
15 petition for writ of certiorari with the superior court. The petition shall do all of the following:

16 ...

17 (c) Standing. – A petition may be filed under this section only by a petitioner who has
18 standing to challenge the decision being appealed. The following persons ~~shall have~~ have
19 standing to file a petition under this section:

20 ...

21 (e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition
22 and a proposed writ of certiorari to the clerk of superior court of the county in which the matter
23 arose. The writ shall direct the respondent local government or the respondent decision-making
24 board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4)
25 of subsection (c) of this section, to prepare and certify to the court the record of proceedings
26 below within a specified date. The writ shall also direct ~~that the petitioner shall to~~ serve the
27 petition and the writ upon each respondent named therein in the manner provided for service of
28 a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a
29 decision-making board, the petition and the writ shall be served upon the chair of that
30 decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure ~~shall apply~~ applies in the
31 event the chair of a decision-making board cannot be found. No summons shall be issued. The
32 clerk shall issue the writ without notice to the respondent or respondents if the petition has been
33 properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the
34 court.

35 Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution
36 or enforcement of the decision of the quasi-judicial board pending superior court review. The
37 court may grant a stay in its discretion and on ~~such~~ conditions that properly provide for the
38 security of the adverse party. A stay granted in favor of a city or county shall not require a bond
39 or other security.

40 ...

41 (g) Intervention. – Rule 24 of the Rules of Civil Procedure ~~shall govern~~ governs motions
42 to intervene as a petitioner or respondent in an action initiated under this section with the
43 following exceptions:

44 (1) Any person described in subdivision (1) of subsection (c) of this section ~~shall~~
45 have has standing to intervene and shall be allowed to intervene as a matter of
46 right.

47 ...

48 (i) Hearing on the Record. – The court shall hear and decide all issues raised by the
49 petition by reviewing the record submitted in accordance with subsection (h) of this section. The
50 court ~~may, in its discretion, shall~~ allow the record to be supplemented with affidavits, testimony
51 of witnesses, or documentary or other evidence if, and to the extent that, the ~~record is not adequate~~

1 ~~to allow an appropriate determination~~ petition raises any of the following ~~issues~~:issues, in which
 2 case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the
 3 supplementation of the record of these issues:

- 4 (1) Whether a petitioner or intervenor has standing.
 5 (2) Whether, as a result of impermissible conflict as described in G.S. 160D-109
 6 or locally adopted conflict rules, the decision-making body was not
 7 sufficiently impartial to comply with due process principles.
 8 (3) Whether the decision-making body erred for the reasons set forth in
 9 sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

10 (j) Scope of Review. –

- 11 (1) When reviewing the decision under the provisions of this section, the court
 12 shall ensure that the rights of petitioners have not been prejudiced because the
 13 decision-making body's findings, inferences, conclusions, or decisions were:

14 ...

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

18 ...

- 19 (2) When the issue before the court is one set forth in sub-subdivisions a. through
 20 d. of subdivision (1) of this subsection, including whether the decision-making
 21 board erred in interpreting an ordinance, the court shall review that issue de
 22 novo. The court shall consider the interpretation of the decision-making board,
 23 but is not bound by that interpretation, and may freely substitute its judgment
 24 as appropriate. Whether the record contains competent, material, and
 25 substantial evidence is a conclusion of law, reviewable de novo.

- 26 (3) The term "competent evidence," as used in this subsection, ~~shall does not~~
 27 preclude reliance by the decision-making board on evidence that would not be
 28 admissible under the rules of evidence as applied in the trial division of the
 29 General Court of Justice if (i) except for the items noted in sub-subdivisions
 30 a., b., and c. of this subdivision that are conclusively incompetent, the
 31 evidence was admitted without objection or (ii) the evidence appears to be
 32 sufficiently trustworthy and was admitted under such circumstances that it
 33 was reasonable for the decision-making board to rely upon it. The term
 34 "competent evidence," as used in this subsection, shall-shall, regardless of the
 35 lack of a timely objection, not be deemed to include the opinion testimony of
 36 lay witnesses as to any of the following:

- 37 a. The use of property in a particular way affects the value of other
 38 property.
 39 b. The increase in vehicular traffic resulting from a proposed
 40 development poses a danger to the public safety.
 41 c. Matters about which only expert testimony would generally be
 42 admissible under the rules of evidence.

43 (j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the
 44 State and federal constitutions and State and federal case law, an action filed under this section
 45 is not rendered moot, if during the pendency of the action, the aggrieved person loses the
 46 applicable property interest as a result of the local government action being challenged and
 47 exhaustion of an appeal described herein is required for purposes of preserving a claim for
 48 damages under G.S. 160D-1403.1.

49 (k) Decision of the Court. – Following its review of the decision-making board in
 50 accordance with subsection (j) of this section, the court may affirm the decision, reverse the
 51 decision and remand the case with appropriate instructions, or remand the case for further

1 proceedings. If the court does not affirm the decision below in its entirety, then the court shall
 2 determine what relief should be granted to the petitioners:

- 3 ...
- 4 (3) If the court concludes that the decision by the decision-making board is not
 5 supported by competent, material, and substantial evidence in the record or is
 6 based upon an error of law, then the court may remand the case with an order
 7 that directs the decision-making board to take whatever action should have
 8 been taken had the error not been committed or to take such other action as is
 9 necessary to correct the error. Specifically:
- 10 a. If the court concludes that a permit was wrongfully denied because the
 11 denial was not based on competent, material, and substantial evidence
 12 or was otherwise based on an error of law, the court ~~may~~ shall remand
 13 with instructions that the permit be issued, subject to ~~reasonable and~~
 14 ~~appropriate conditions.~~ any conditions expressly consented to by the
 15 permit applicant as part of the application or during the board of
 16 adjustment appeal or writ of certiorari appeal.
- 17 b. If the court concludes that a permit was wrongfully issued because the
 18 issuance was not based on competent, material, and substantial
 19 evidence or was otherwise based on an error of law, the court may
 20 remand with instructions that the permit be revoked.
- 21 c. If the court concludes that a zoning board decision upholding a zoning
 22 enforcement action was not supported by substantial competent
 23 evidence or was otherwise based on an error of law, the court shall
 24 reverse the decision.

25 ...

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

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

29 **"§ 160D-1403.1. Civil action for declaratory relief, injunctive relief, other remedies; joinder**
 30 **of complaint and petition for writ of certiorari in certain cases.**

31 (a) Civil Action. – Except as otherwise provided in this section for claims involving
 32 questions of interpretation, in lieu of any remedies available under G.S. 160D-405 or
 33 G.S. 160D-108(h), a person with standing, as defined in subsection (b) of this section, may bring
 34 an original civil action seeking declaratory relief, injunctive relief, damages, or any other
 35 remedies provided by law or equity, in superior court or federal court to challenge the
 36 enforceability, validity, or effect of a local land development regulation for any of the following
 37 claims:

- 38 (1) The ordinance, either on its face or as applied, is unconstitutional.
 39 (2) The ordinance, either on its face or as applied, is ultra vires, preempted, or
 40 otherwise in excess of statutory authority.
 41 (3) The ordinance, either on its face or as applied, constitutes a taking of property.

42 If the decision being challenged is from an administrative official charged with enforcement
 43 of a local land development regulation, the party with standing must first bring any claim that the
 44 ordinance was erroneously interpreted to the applicable board of adjustment pursuant to
 45 G.S. 160D-405. An adverse ruling from the board of adjustment may then be challenged in an
 46 action brought pursuant to this subsection with the court hearing the matter de novo together with
 47 any of the claims listed in this subsection.

48 (b) Standing. – Any of the following criteria provide standing to bring an action under
 49 this section:

- 50 (1) The person has an ownership, leasehold, or easement interest in, or possesses
 51 an option or contract to purchase the property that is the subject matter of a

1 final and binding decision made by an administrative official charged with
2 applying or enforcing a land development regulation.

3 (2) The person was a development permit applicant before the decision-making
4 board whose decision is being challenged.

5 (3) The person was a development permit applicant who is aggrieved by a final
6 and binding decision of an administrative official charged with applying or
7 enforcing a land development regulation.

8 (c) Time for Commencement of Action. – Any action brought pursuant to this section
9 shall be commenced within one year after the date on which written notice of the final decision
10 is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

11 (d) Joinder. – An original civil action authorized by this section may, for convenience
12 and economy, be joined with a petition for writ of certiorari and decided in the same proceedings.
13 The Rules of Civil Procedure govern the parties for the claims raised in the original civil action.
14 The record of proceedings in the appeal pursuant to G.S. 160D-1402 shall not be supplemented
15 by discovery from the civil action unless supplementation is otherwise allowed under
16 G.S. 160D-1402(i). The standard of review in the original civil action for the cause or causes of
17 action pled as authorized by subsection (a) of this section is de novo. The standard of review of
18 the petition for writ of certiorari is the standard established in G.S. 160D-1402(j).

19 (e) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the
20 State and federal constitutions and State and federal case law, an action filed under this section
21 is not rendered moot, if during the pendency of the action, the aggrieved person loses the
22 applicable property interest as a result of the local government action being challenged and
23 exhaustion of an appeal described herein is required for purposes of preserving a claim for
24 damages under this section.

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

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

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

29 **"§ 160D-1403.2. No estoppel effect when challenging development conditions.**

30 A local government may not assert before a board of adjustment or in any civil action the
31 defense of estoppel as a result of actions by the landowner or permit applicant to proceed with
32 development authorized by a development permit as defined in G.S. 143-755 if the landowner or
33 permit applicant is challenging conditions that were imposed and not consented to in writing by
34 a landowner or permit applicant."

35 **SECTION 48.** G.S. 160D-1405 reads as rewritten:

36 **"§ 160D-1405. Statutes of limitation.**

37 (a) Zoning Map Adoption or Amendments. – A cause of action as to the validity of any
38 regulation adopting or amending a zoning map adopted under this Chapter or other applicable
39 law or a development agreement adopted under Article 10 of this Chapter ~~shall accrue~~ accrues
40 upon adoption of ~~such~~ the ordinance and shall be brought within 60 days as provided in
41 G.S. 1-54.1.

42 (b) Text Adoption or Amendment. – Except as otherwise provided in subsection (a) of
43 this section, an action challenging the validity of a development regulation adopted under this
44 Chapter or other applicable law shall be brought within one year of the accrual of such action.
45 Such an action accrues when the party bringing such action first has standing to challenge the
46 ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process
47 shall be brought within three years after the adoption of the ordinance.

48 (c) Enforcement Defense. – Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1
49 ~~shall bar~~ bars a party in an action involving the enforcement of a development regulation or in
50 an action under G.S. 160D-1403.1 from raising as a claim or defense in ~~such~~ the proceedings the
51 enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or

1 G.S. 1-54.1 ~~shall bar~~ bars a party who files a timely appeal from an order, requirement, decision,
2 or determination made by an administrative official contending that ~~such the~~ party is in violation
3 of a development regulation from raising in the judicial appeal the invalidity of ~~such the~~
4 ordinance as a defense to ~~such the~~ order, requirement, decision, or determination. A party in an
5 enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an
6 alleged defect in the adoption process unless the defense is formally raised within three years of
7 the adoption of the challenged ordinance.

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

14 (d) Quasi-Judicial Decisions. – Unless specifically provided otherwise, a petition for
15 review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of
16 30 days after the decision is effective or after a written copy thereof is given in accordance with
17 G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the
18 time to file the petition.

19 (e) Others. – Except as provided by this section, the statutes of limitations ~~shall be~~ are as
20 provided in Subchapter II of Chapter 1 of the General Statutes."

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

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

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

24 **"§ 168-23. Certain private agreements void.**

25 Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed,
26 or other instrument of or pertaining to the transfer, sale, lease, or use of property which would
27 permit residential use of property but prohibit the use of ~~such the~~ property as a family care home
28 ~~shall, to the extent of such prohibition, be void as defined in G.S. 160D-907 is void~~ as against
29 public policy to the extent of the prohibition and shall be given no legal or equitable force or
30 effect."

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

35 **SECTION 50.(b)** Sections 5, 10, 14, 16, 17, 18, 45, 46, 47, 48, and the amendments
36 to G.S. 160D-1405(c) in Section 46 incorporate in Chapter 160D of the General Statutes the
37 provisions of Sections 1.2, 1.3, 1.6, 1.7, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, and 1.17 of S.L.
38 2019-111, clarify and restate the intent of existing law, and apply to ordinances adopted before,
39 on, and after the effective date of this act.

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

41 **SECTION 51.(b)** Part II of S.L. 2019-111 is effective when this act becomes law.
42 Part II of S.L. 2019-111 clarifies and restates the intent of law existing on the effective date of
43 this act and applies to ordinances adopted before, on, and after that date. Valid local government
44 development regulations that are in effect at the time of the effective date of Part II of S.L.
45 2019-111 remain in effect but local governments shall amend those regulations to conform to the
46 provisions of Part II of S.L. 2019-111 on or before July 1, 2021. Part II of S.L. 2019-111 applies
47 to local government development regulation decisions made on or after the earlier of:

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

50 (2) July 1, 2021.

- 1 **SECTION 51.(c)** The Revisor of Statutes is authorized to substitute the effective
2 date of this act for "January 1, 2021" throughout Chapter 160D of the General Statutes.
3 **SECTION 51.(d)** Section 4.33 of S.L. 2020-3 is repealed.
4 **SECTION 52.** Except as otherwise provided in this act, this act is effective when it
5 becomes law.