GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-246
HOUSE BILL 44

AN ACT TO REFORM VARIOUS PROVISIONS OF THE LAW RELATED TO LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

NOTICE TO CHRONIC VIOLATORS

SECTION 1.(a) G.S. 160A-200 is repealed.

SECTION 1.(b) G.S. 160A-200.1 reads as rewritten:

"**§ 160A-200.1. Annual notice to chronic violators of public nuisance or overgrown vegetation ordinance.**

(a) A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.

(b) The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.~~

(c) A city may also give notice to a chronic violator of the city's overgrown vegetation ordinance in accordance with this section.

(d) For purposes of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance."

AUTHORIZE CITIES TO REGULATE CERTAIN STRUCTURES THAT UNREASONABLY RESTRICT THE PUBLIC'S RIGHT TO USE THE STATE'S OCEAN BEACHES

SECTION 1.5. G.S. 160A-205 reads as rewritten:

"**§ 160A-205. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of structures that are uninhabitable and without water and sewer services for more than 120 days, as determined by the city with notice provided to the owner of record of the determination by certified mail at the time of the determination, equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as

interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or commercial structures and appurtenances thereto from the State's ocean ~~beaches.~~beaches, except as provided in subsection (a) of this section."

PROHIBIT CITIES AND COUNTIES FROM REQUIRING COMPLIANCE WITH VOLUNTARY REGULATIONS AND RULES ADOPTED BY STATE DEPARTMENTS OR AGENCIES

SECTION 2.(a) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-145.6. Requiring compliance with voluntary State regulations and rules prohibited.**

(a) If a State department or agency declares a regulation or rule to be voluntary or the General Assembly delays the effective date of a regulation or rule proposed or adopted by the Environmental Management Commission, or any other board or commission, a county shall not require or enforce compliance with the applicable regulation or rule, including any regulation or rule previously or hereafter incorporated as a condition or contractual obligation imposed by, agreed upon, or accepted by the county in any zoning, land use, subdivision, or other developmental approval, including, without limitation, a development permit issuance, development agreement, site-specific development plan, or phased development plan.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those adopted but not yet effective.

(c) This section shall not apply to any water usage restrictions during either extreme or exceptional drought conditions as determined by the Drought Management Advisory Council pursuant to G.S. 143-355.1."

SECTION 2.(b) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-205.1. Requiring compliance with voluntary State regulations and rules prohibited.**

(a) If a State department or agency declares a regulation or rule to be voluntary or the General Assembly delays the effective date of a regulation or rule proposed or adopted by the Environmental Management Commission, or any other board or commission, a city shall not require or enforce compliance with the applicable regulation or rule, including any regulation or rule previously or hereafter incorporated as a condition or contractual obligation imposed by, agreed upon, or accepted by the city in any zoning, land use, subdivision, or other developmental approval, including, without limitation, a development permit issuance, development agreement, site-specific development plan, or phased development plan.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those adopted but not yet effective.

(c) This section shall not apply to any water usage restrictions during either extreme or exceptional drought conditions as determined by the Drought Management Advisory Council pursuant to G.S. 143-355.1."

LOCAL PUBLIC HEALTH MAINTENANCE OF EFFORT MONIES

SECTION 2.5.(a) G.S. 130A-34.4(a)(2) is repealed.

SECTION 2.5.(b) This section becomes effective July 1, 2016.

DEVELOPMENTS LOCATED IN THE CITY AND THE COUNTY

SECTION 3. G.S. 160A-365 reads as rewritten:

"**§ 160A-365. Enforcement of ordinances.**

(a) Subject to the provisions of the ordinance, any ordinance adopted pursuant to authority conferred by this Article may be enforced by any remedy provided by G.S. 160A-175.

(b) When any ordinance adopted pursuant to authority conferred by this Article is to be applied or enforced in any area outside the territorial jurisdiction of the city as described in G.S. 160A-360(a), the city and the property owner shall certify that the application or enforcement of the city ordinance is not under coercion or otherwise based upon any representation by the city that the city's approval of any land use planning would be withheld from the property owner without the application or enforcement of the city ordinance outside the territorial jurisdiction of the city. The certification may be evidenced by a signed statement of the parties on any approved plat recorded in accordance with this Article."

WELL DRILLING CHANGES

SECTION 3.5.(a) G.S. 87-97 reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own ~~forms unless the local program submits a petition for rule-making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.~~forms.

(b) Permit Required. – Except for those wells required to be permitted by the Environmental Management Commission pursuant to G.S. 87-88, no person shall:

(1) Construct or assist in the construction of a private drinking water well unless a construction permit has been obtained from the local health department.

(2) Repair or assist in the repair of a private drinking water well unless a repair permit has been obtained from the local health department, except that a permit shall not be required for the repair or replacement of a pump or tank.

(b1) Permit to Include Authorization for Electrical. – When a permit is issued under this section, that permit shall also be deemed to include authorization for the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch. The local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit.

(c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair permit shall not be required for any private drinking water well maintenance work that does not involve breaking or opening the well seal. A repair permit shall not be required for any private drinking water well repair work that involves only the repair or replacement of a pump or tank.

(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a plat or site plan, as defined in G.S. 130A-334.

If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not

require the contractor to be on site during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

(e) Issuance of Permit. – ~~Within~~ In accordance with G.S. 87-97.1 and G.S. 87-97.2, within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The local health department may impose any conditions on the issuance of a construction permit or repair permit that it determines to be necessary to ensure compliance with this Article and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy that discourages or prohibits the drilling of new wells.

(e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for a private drinking water well is located within 1,000 feet of a known source of release of contamination. Rules adopted pursuant to this subsection shall provide for notice and information of the known source of release of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site.

(f) Expiration and Revocation. – A construction permit or repair permit shall be valid for a period of five years except that the local health department may revoke a permit at any time if it determines that there has been a material change in any fact or circumstance upon which the permit is issued. The foregoing shall be prominently stated on the face of the permit. The validity of a construction permit or a repair permit shall not be affected by a change in ownership of the site on which a private drinking water well is proposed to be located or is located if the location of the well is unchanged and the well and the facility served by the well remain under common ownership.

(f1) Chlorination of the Well. – Upon completion of construction of a private drinking water well, the well shall be sterilized in accordance with the standards of drinking water wells established by the United States Public Health Service.

(g) Certificate of Completion. – Upon completion of construction of a private drinking water well or repair of a private drinking water well for which a permit is required under this section, the local health department shall inspect the well to determine whether it was constructed or repaired in compliance with the construction permit or repair permit. If the local health department determines that the private drinking water well has been constructed or repaired in accordance with the requirements of the construction permit or repair permit, the construction and repair requirements of this Article, and rules adopted pursuant to this Article, the local health department shall issue a certificate of completion. No person shall place a private drinking water well into service without first having obtained a certificate of completion. No person shall return a private drinking water well that has undergone repair to service without first having obtained a certificate of completion.

(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators.

(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known

current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.
(2) Optional testing available pursuant to this Article.
(3) The limitations of both the required and optional testing.
(4) Minimum drinking water standards.

(j) Test Results. – The local health department shall provide test results to the owner of the newly constructed private drinking water well and, to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled. The local health department shall include with any test results provided to an owner of a private drinking water well, information regarding the scope of the required and optional testing as established by rules adopted pursuant to subsection (i) of this section.

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

(l) Authority Not Limited. – This section shall not be construed to limit any authority of local boards of health, local health departments, the Department of Health and Human Services, or the Commission for Public Health to protect public health."

SECTION 3.5.(b) Article 7A of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-98.14. Reciprocity.**

To the extent that other states provide for the licensing or certification of well contractors, the Commission shall permit those individuals who present valid proof of licensure or certification in good standing in one or more of those states to sit for examination for a license of the same or equivalent classification in North Carolina without delay, upon satisfactory proof furnished to the Commission that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in North Carolina and upon payment of the required fee."

SECTION 3.5.(c) Article 7 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-97.1. Issuance of permit for irrigation water well.**

(a) A property owner may apply for, and be issued, a permit for an irrigation water well, whether the property is connected to, or served by, a public water system. The application shall be in accordance with G.S. 87-97 and shall specifically state that the irrigation water well will not be interconnected to plumbing required that is connected to any public water system and will be used for irrigation or other nonpotable purposes only.

(b) This section shall not apply if the property is connected to, or may be served by, a public water system that the public authority or unit of government operating the public water system is being assisted by the Local Government Commission.

(c) For purposes of this section, "irrigation water well" shall mean any water well that is not interconnected to any plumbing required to be connected to any public water system and that produces water that is used for irrigation or other nonpotable purposes only."

SECTION 3.5.(d) Article 7 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-97.2. Issuance of permit for property within service area of a public water system.**

(a) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner may apply for, and be issued, a permit for a private drinking water well to serve any undeveloped or unimproved property located so as to be served by a public water system.

(b) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner of developed or improved property located so as to be served by a public water system may apply for, and be issued, a permit for a private drinking water well if the public water system has not yet installed water lines directly available to the property or otherwise cannot provide water service to the property at the time the property owner desires water service.

(c) Upon compliance with this Article, the property owner receiving a permit pursuant to subsection (a) or (b) of this section shall not be required to connect to the public water system for so long as the permitted private drinking water well remains compliant and in use. A property owner may opt to connect to the public water system if the property owner so desires. If the property owner opts to connect, the property owner may continue to operate the private drinking water well if that well is not interconnected to any plumbing connected to the public water system and that produces water that is used for irrigation or other nonpotable purposes only.

(d) Nothing in this section shall require a property owner to install a private drinking water well if the property is located so as to be served by a public water system and the public water system is willing to provide service to the property.

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

(1) The private drinking water well serving the property has failed and cannot be repaired.

(2) The property is located in an area where the drinking water removed by the private drinking water well is contaminated or likely to become contaminated due to nearby contamination.

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

(4) The public authority or unit of government operating the public water system is in the process of expanding or repairing the public water system and is actively making progress to having water lines installed directly available to provide water service to that property within the 24 months of the time the property owner applies for the private drinking water well permit."

SECTION 3.5.(e) G.S. 153A-284 reads as rewritten:

"**§ 153A-284. Power to require connections.**

(a) A county may require the owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located so as to be served by a water line or sewer collection line owned, leased as lessee, or operated by the county or on behalf of the county to connect the owner's premises with the water or sewer line and may fix charges for these connections.

(b) In the case of improved property that would qualify for the issuance of a building permit for the construction of one or more residential dwelling units or commercial establishments and where the county has installed water or sewer lines or a combination thereof directly available to the property, the county may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected.

(c) In accordance with G.S. 87-97.1, when developed property is located so as to be served by a county water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the county water line and the county shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well."

SECTION 3.5.(f) G.S. 160A-317 is amended by adding a new subsection to read:

"(d) In accordance with G.S. 87-97.1, when developed property is located so as to be served by a city water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the city water line and the city shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well."

SECTION 3.5.(g) G.S. 130A-55(16)a. reads as rewritten:

"a. To require the owners of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the jurisdiction of the district and within a reasonable

distance of any waterline or sewer collection line owned, leased as lessee, or operated by the district to connect the property with the waterline, sewer connection line, or both and fix charges for the connections. The power granted by this subdivision may be exercised by a district only to the extent that the service, whether water, sewer, or a combination thereof, to be provided by the district is not then being provided to the improved property by any other political subdivision or by a public utility regulated by the North Carolina Utilities Commission pursuant to Chapter 62 of the General Statutes. In the case of improved property that would qualify for the issuance of a building permit for the construction of one or more residential dwelling units or commercial establishments and where the district has installed water or sewer lines or a combination thereof directly available to the property, the district may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. In accordance with G.S. 87-97.1, when developed property is located so as to be served by a sanitary district water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the sanitary district water line and the sanitary district shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well."

SECTION 3.5.(h) G.S. 162A-6(a)(14d) reads as rewritten:

"(14d) To require the owners of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the jurisdiction of the authority and within a reasonable distance of any waterline or sewer collection line owned, leased as lessee, or operated by the authority to connect the property with the waterline, sewer connection line, or both and fix charges for the connections. The power granted by this subdivision may be exercised by an authority only to the extent that the service, whether water, sewer, or a combination thereof, to be provided by the authority is not then being provided to the improved property by any other political subdivision or by a public utility regulated by the North Carolina Utilities Commission pursuant to Chapter 62 of the General Statutes. In the case of improved property that would qualify for the issuance of a building permit for the construction of one or more residential dwelling units or commercial establishments and where the authority has installed water or sewer lines or a combination thereof directly available to the property, the authority may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. In accordance with G.S. 87-97.1, when developed property is located so as to be served by an authority water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the sanitary district water line and the sanitary district shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well. This subdivision applies only to a water and sewer authority whose membership includes part or all of a county that has a population of at least 40,000 according to the most recent annual population estimates certified by the State Budget Officer."

SECTION 3.5.(i) G.S. 162A-14(2)d. reads as rewritten:

"d. For requiring the owners of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the corporate limits of the political subdivision and located within a reasonable distance of any waterline or sewer connection line owned, leased as lessee, or operated by the authority to connect to the line and collecting, on behalf of the authority, charges for the connections and requiring, as a condition to the issuance of any development permit or

building permit by the political subdivision, evidence that any impact fee by the authority has been paid by or on behalf of the applicant for the permit. In accordance with G.S. 87-97.1, when developed property is located so as to be served by the authority's water line and the property owner has connected to that water line, the property owner may continue to use any private water well located on the property for nonpotable purposes as long as the water well is not interconnected to the authority's water line and the authority shall not require the owner of any such water well to abandon, cap, or otherwise compromise the integrity of the water well."

SECTION 3.5.(j) Subsections (c) through (i) of this section become effective August 1, 2016. The remainder of this section becomes effective December 1, 2015, and applies to permits and licenses issued on or after that date. G.S. 87-97.2(e)(4), as enacted by subsection (d) of this section, expires on July 1, 2017.

REGULATION OF SIGNAGE

SECTION 4.(a) G.S. 153A-340 is amended by adding a new subsection to read:

"(n) Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the county may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required."

SECTION 4.(b) G.S. 160A-381 is amended by adding a new subsection to read:

"(j) Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the city may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required."

PERMIT CHOICE

SECTION 5.(a) G.S. 143-755 reads as rewritten:

"**§ 143-755. Permit choice.**

(a) If a permit applicant submits a permit application for any type of development and a rule or ordinance changes between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit.

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

~~(c) This section shall not apply to any zoning permit.~~"

SECTION 5.(b) This section is effective when this act becomes law and applies to permits for which a permit decision has not been made by that date.

PREAUDIT CERTIFICATIONS

SECTION 6.(a) G.S. 159-28 reads as rewritten:

"**§ 159-28. Budgetary accounting for appropriations.**

(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project

ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is ~~evidenced by~~reduced to a written contract or written agreement requiring the payment of ~~money~~ money, or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with ~~this~~ subsection ~~unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required.~~ (a) of this section. The certificate, which shall be signed by the finance ~~officer~~ officer, or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

~~Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.~~

(a2) Failure to Preaudit. – An obligation incurred in violation of ~~this subsection~~subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~section, in accordance with any rules adopted by the Local Government Commission.

(b) Disbursements. – When a bill, invoice, or other claim against a local government or public authority is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget ordinance or a capital project or a grant project authorized by a project ordinance, the finance officer may approve the claim only if both of the following apply:

(1) ~~He~~ The finance officer determines the amount to be ~~payable and~~payable.

(2) The budget ordinance or a project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

The finance officer may approve a bill, invoice, or other claim requiring disbursement from an intragovernmental service fund or trust or agency fund not included in the budget ordinance, only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the governing board. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local government or public authority that has been disapproved by the finance officer. ~~It~~ The governing board may not approve a claim for which no appropriation appears in the budget ordinance or in a project ordinance, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The governing board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the ~~board~~ board, or some other member designated for this ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. – A local government or public authority may not pay a bill, invoice, salary, or other claim except by any of the following methods:

(1) ~~a check~~Check or draft on an official ~~depository,~~depository.

(2) ~~a bank~~Bank wire transfer from an official ~~depository,~~depository.

(3) ~~or an electronic~~Electronic payment or an electronic funds transfer originated by the local government or public authority through an official depository.

(4) Cash, if the local government has adopted an ordinance authorizing the use of cash, and specifying the limits of the use of cash.

(d1) Except as provided in this ~~subsection~~ section, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

(d2) An electronic payment or electronic funds transfer ~~must~~ shall be ~~subjected~~subject to the ~~pre-audit process. Execution~~preaudit process in accordance with this section and any rules adopted by the Local Government Commission. The rules so adopted shall address execution of ~~the~~ electronic payment or electronic funds transfer ~~shall~~and how to indicate that the finance officer or duly appointed deputy finance officer has performed the ~~pre-audit~~ preaudit process ~~as required by G.S. 159-28(a).~~in accordance with this section. A finance officer or duly appointed deputy finance officer shall be presumed in compliance with this section if the finance officer or duly appointed deputy finance officer complies with the rules adopted by the Local Government Commission. ~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.~~

~~No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.~~

~~As used in this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer" means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.~~

(e) Penalties. – If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, ~~he~~ that officer or employee, and the sureties on ~~his~~ any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer or any ~~properly designated~~duly appointed deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, ~~he~~ the finance officer or duly appointed deputy finance officer, and the sureties on ~~his~~ any official ~~bond~~ bond, are liable for any sums illegally committed or disbursed thereby. The governing board shall determine, by resolution, if payment from the official bond shall be sought and if the governing body will seek a judgment from the finance officer or duly appointed deputy finance officer for any deficiencies in the amount.

(f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:

(1) An obligation or a document related to the obligation has been approved by the Local Government Commission.

(2) Payroll expenditures, including all benefits for employees of the local government.

(3) Electronic payments, as specified in rules adopted by the Local Government Commission.

(g) As used in this section, the following terms shall have the following meanings:

(1) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(2) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer."

SECTION 6.(b) G.S. 115C-441 reads as rewritten:

"**§ 115C-441. Budgetary accounting for appropriations.**

(a) Incurring Obligations. – Except as set forth below, no obligation may be incurred by a local school administrative unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current

fiscal year the sums obligated by the transaction for the current fiscal year. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is ~~evidenced by~~reduced to a written contract or written agreement requiring the payment of ~~money or by~~money, or is evidenced by a purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with subsection (a) of this section. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

_____
(Date)

_____
(Signature of finance officer)"

(a2) Failure to Preaudit. – An obligation incurred in violation of subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this ~~section.~~section, in accordance with any rules adopted by the Local Government Commission.

(b) Disbursements. – When a bill, invoice, or other claim against a local school administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only ~~if he determines the amount~~if all of the following apply:

(1) The amount claimed is determined to be ~~payable,~~payable.

(2) ~~the~~ The budget resolution includes an appropriation authorizing the ~~expenditure and either~~expenditure.

(3) Either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education. The finance officer shall establish procedures to assure compliance with this subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Board of Education Approval of Bills, Invoices, or Claims. – The board of education may, as permitted by this subsection, approve a bill, invoice, or other claim against the local school administrative unit that has been disapproved by the finance officer. ~~It~~ The board of education may not approve a claim for which no appropriation appears in the budget resolution, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The board of education shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the ~~board~~ board, or some other member designated for this ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(c1) Continuing Contracts for Capital Outlay. – ~~An~~ A local school administrative unit may enter into a contract for capital outlay expenditures, some portion or all of which is to be performed ~~and/or~~or paid in ensuing fiscal years, without the budget resolution including an appropriation for the entire obligation, ~~provided:~~provided all of the following apply:

a. The budget resolution includes an appropriation authorizing the current fiscal year's portion of the ~~obligation;~~obligation.

b. An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal ~~year; and~~year.

c. Contracts for capital outlay expenditures are approved by a resolution adopted by the board of county commissioners, which resolution when adopted shall bind the

SECTION 8. Article 55 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-645. Limitations on local government regulation of hives.**

(a) Notwithstanding Article 6 of Chapter 153A of the General Statutes, no county shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer hives.

(b) Notwithstanding Article 8 of Chapter 160A of the General Statutes, a city may adopt an ordinance to regulate hives in accordance with this subsection. The city shall comply with all of the following:

(1) Any ordinance shall permit up to five hives on a single parcel within the land use planning jurisdiction of the city.

(2) Any ordinance shall require that the hive be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the city may permit the anchor or stand to be permanently attached to a roof surface.

(3) Any ordinance may include regulation of the placement of the hive on the parcel, including setbacks from the property line and from other hives.

(4) Any ordinance may require removal of the hive if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(c) For purposes of this section, the term "hive" has the same definition as in G.S. 106-635 (15)."

LEASES OF PROPERTY BY LOCAL GOVERNMENTS FOR COMMUNICATION TOWERS

SECTION 9. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided ~~herein)~~ in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon ~~10~~ 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) ~~The~~Notwithstanding subsection (b1) of this section, the council may approve a lease without treating that lease as a sale of property for any of the following reasons:

(1) ~~for~~For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 ~~years without treating the lease as a sale of property and without giving notice by publication of the intended lease.~~years.

(2) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years."

LOCAL REVIEW OF PROTOTYPE FRANCHISE FOOD ESTABLISHMENTS

SECTION 10. G.S. 130A-248 is amended by adding a new subsection to read:

"(e1) Plans for a franchised or chain food establishment that have been reviewed and approved by the Department shall not require further review and approval under this section by any local health department. The local health department may suggest revisions to a reviewed and approved plan to

the Department. The local health department shall not impose any of the suggestion revisions on the owner or operator without written approval from the Department."

NOTICE TO PROPERTY OWNERS PRIOR TO CONSTRUCTION

SECTION 12.(a) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-457. Notice prior to construction.**

(a) A county shall notify the property owners and adjacent property owners prior to commencement of any construction project by the county.

(b) Notice under this section shall be in writing at least 15 days prior to the commencement of construction, except in any of the following instances:

(1) If the construction is a repair of an emergency nature, the notice may be given by any means, including verbally, that the county has for contacting the property owner within a reasonable time prior to, or after, commencement of the repair.

(2) The property owner requests action of the county that requires construction activity.

(3) The property owner consents to less than 15 days' notice.

(4) Notice of the construction project is given in any open meeting of the county prior to the commencement of the construction project."

SECTION 12.(b) Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-499.4. Notice prior to construction.**

(a) A city shall notify the property owners and adjacent property owners prior to commencement of any construction project by the city.

(b) Notice under this section shall be in writing at least 15 days prior to the commencement of construction, except in any of the following instances:

(1) If the construction is a repair of an emergency nature, the notice may be given by any means, including verbally, that the city has for contacting the property owner within a reasonable time prior to, or after, commencement of the repair.

(2) The property owner requests action of the city that requires construction activity.

(3) The property owner consents to less than 15 days' notice.

(4) Notice of the construction project is given in any open meeting of the city prior to the commencement of the construction project."

SECTION 12.(c) This section becomes effective October 1, 2015, and applies to construction commenced on or after that date.

RIPARIAN BUFFER REFORM

SECTION 13.1.(a) Subsection (e1) of G.S. 143-214.23 is repealed.

SECTION 13.1.(b) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.23A. Limitations on local government riparian buffer requirements.**

(a) As used in this section:

(1) "Local government ordinance" means any action by a local government carrying the effect of law approved before or after October 1, 2015, whether by ordinance, comprehensive plan, policy, resolution, or other measure.

(2) "Protection of water quality" means nutrient removal, pollutant removal, stream bank protection, or protection of an endangered species as required by federal law.

(3) "Riparian buffer area" means an area subject to a riparian buffer requirement.

(4) "Riparian buffer requirement" means a landward setback from surface waters.

(b) Except as provided in this section, a local government may not enact, implement, or enforce a local government ordinance that establishes a riparian buffer requirement that exceeds riparian buffer requirements necessary to comply with or implement federal or State law or a condition of a permit, certificate, or other approval issued by a federal or State agency.

(c) Subsection (b) of this section shall not apply to any local government ordinance that establishes a riparian buffer requirement enacted prior to August 1, 1997, if (i) the ordinance included findings that the requirement was imposed for purposes that include the protection of aesthetics, fish and wildlife habitat, and recreational use by maintaining water temperature, healthy tree canopy and

understory, and the protection of the natural shoreline through minimization of erosion and potential chemical pollution in addition to the protection of water quality and the prevention of excess nutrient runoff, and (ii) the ordinance would permit small or temporary structures within 50 feet of the water body and docks and piers within and along the edge of the water body under certain circumstances.

(d) A local government may request from the Commission the authority to enact, implement, and enforce a local government ordinance that establishes a riparian buffer requirement for the protection of water quality that exceeds riparian buffer requirements for the protection of water quality necessary to comply with or implement federal or State law or a condition of a permit, certificate, or other approval issued by a federal or State agency. To do so, a local government shall submit to the Commission an application requesting this authority that includes the local government ordinance, including the riparian buffer requirement for the protection of water quality, scientific studies of the local environmental and physical conditions that support the necessity of the riparian buffer requirement for the protection of water quality, and any other information requested by the Commission. Within 90 days after the Commission receives a complete application, the Commission shall review the application and notify the local government whether the application has been approved, approved with modifications, or disapproved. The Commission shall not approve a local government ordinance that establishes a riparian buffer requirement for the protection of water quality unless the Commission finds that the scientific evidence presented by the local government supports the necessity of the riparian buffer requirement for the protection of water quality.

(e) Cities and counties shall not treat the land within a riparian buffer area as if the land is the property of the State or any of its subdivisions unless the land or an interest therein has been acquired by the State or its subdivisions by a conveyance or by eminent domain. Land within a riparian buffer area in which neither the State nor its subdivisions holds any property interest may be used by the property owner to satisfy any other development-related regulatory requirements based on property size, including, but not limited to, residential density and nonresidential intensity calculations and yields, tree conservation purposes, open space or conservation area requirements, setbacks, perimeter buffers, and lot area requirements.

(f) When riparian buffer requirements are included within a lot, cities and counties shall require that the riparian buffer area be shown on the recorded plat. Nothing in this subsection shall be construed to require that the riparian buffer area be surveyed. When riparian buffer requirements are placed outside of lots in portions of a subdivision that are designated as common areas or open space and neither the State nor its subdivisions holds any property interest in that riparian buffer area, the local government shall attribute to each lot abutting the riparian buffer area a proportionate share based on the area of all lots abutting the riparian buffer area for purposes of development-related regulatory requirements based on property size, including, but not limited to, residential density and nonresidential intensity calculations and yields, tree conservation purposes, open space or conservation area requirements, setbacks, perimeter buffers, and lot area requirements.

(g) The Commission may adopt rules to implement this section."

SECTION 13.1.(c) The definitions set out in G.S. 143-214.23A(a), as enacted by Section 13.1(b) of this act, shall apply to this section. Notwithstanding G.S. 143-214.23A(b), as enacted by Section 13.1(b) of this act, a local government ordinance that establishes a riparian buffer requirement for the protection of water quality that exceeds riparian buffer requirements necessary to comply with or implement federal or State law or a condition of a permit, certificate, or other approval issued by a federal or State agency that is in effect on October 1, 2015, may remain in effect and enforceable until January 1, 2017. If the local government ordinance is authorized by the Environmental Management Commission pursuant to G.S. 143-214.23A(d), as enacted by Section 13.1(b) of this act, on or before January 1, 2017, the ordinance may continue to be in effect and enforceable. If the local government ordinance is not authorized by the Environmental Management Commission pursuant to G.S. 143-214.23A(d), as enacted by Section 13.1(b) of this act, on or before January 1, 2017, the ordinance shall no longer be in effect or enforceable.

SECTION 13.1.(d) This section becomes effective October 1, 2015.

SECTION 13.2.(a) The Environmental Management Commission, with the assistance of the Department of Environment and Natural Resources, shall examine ways to provide regulatory relief from the impacts of riparian buffer rules adopted to implement the State's Riparian Buffer Protection Program for parcels of land that were platted on or before the effective date of the applicable riparian buffer rule. The Commission shall specifically examine ways to fairly provide properties with relief where a change in use has occurred that would otherwise trigger the

requirements of the riparian buffer rules. Such relief would be determined on a case-by-case basis and provide relief to successor owners. For purposes of this study, a change in use that would otherwise trigger the requirements of the riparian buffer rules shall not include either of the following circumstances:

(1) Developing from a vacant condition to a use allowed by the current local regulations, unless the local regulations have been changed at the request of the property owner since the date the buffer rule was applied; the parcel was recorded prior to the effective date of the applicable buffer rule; and the allowable use is for any nonfarming or nonagricultural purpose.

(2) The property configuration has not been altered except as a result of either an eminent domain action or a recombination involving not more than three parcels, all of which were recorded before the effective date of the applicable buffer rule.

The Commission may also consider and recommend other circumstances that should not constitute a change in use that would otherwise trigger the requirements of the riparian buffer rules. No later than April 1, 2016, the Commission shall report the results of its study, including any recommendations, to the Environmental Review Commission.

SECTION 13.2.(b) This section becomes effective October 1, 2015.

SECTION 13.3.(a) As used in this section, "coastal wetlands" means any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides, whether or not the tidewaters reach the marshland areas through natural or artificial watercourses, provided this shall not include hurricane or tropical storm tides.

SECTION 13.3.(b) For purposes of implementing 15A NCAC 02B .0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) and 15A NCAC 02B .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers), Zone 1 of a protective riparian buffer for coastal wetlands shall begin at the most landward limit of the normal high water level or the normal water level, as appropriate.

SECTION 13.3.(c) The Environmental Management Commission shall adopt temporary rules to amend its rules consistent with this section.

SECTION 13.3.(d) This section becomes effective October 1, 2015.

SECTION 13.4.(a) The Environmental Management Commission shall amend its rules for the protection of existing riparian buffers to provide for the case-by-case modification of the requirement for maintaining woody vegetation in the riparian buffer area upon a showing by a landowner that alternative measures will provide equal or greater water quality protection.

SECTION 13.4.(b) The Environmental Management Commission shall adopt temporary rules to amend its rules consistent with this section.

SECTION 13.4.(c) This section becomes effective October 1, 2015.

ZONING DENSITY CREDITS

SECTION 16. G.S. 160A-381(a) reads as rewritten:

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION OF BEDROOM

SECTION 18.(a) G.S. 153A-346 reads as rewritten:

"**§ 153A-346. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Part govern.

When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

(b) When adopting regulations under this Part, a county may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

SECTION 18.(b) G.S. 160A-390 reads as rewritten:

"**§ 160A-390. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, regulations made under authority of this Part shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Part, a city may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

DEVELOPMENT AGREEMENTS

SECTION 19.(a) G.S. 153A-349.4 reads as rewritten:

"**§ 153A-349.4. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ Part for developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(b) G.S. 160A-400.23 reads as rewritten:

"**§ 160A-400.23. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ Part for developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands,~~

~~mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(c) G.S. 153A-349.3 reads as rewritten:

"**§ 153A-349.3. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(d) G.S. 160A-400.22 reads as rewritten:

"**§ 160A-400.22. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(e) This section becomes effective October 1, 2015, and applies to development agreements entered into on or after that date.

SECTION 20. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 21. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of September, 2015.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Paul Stam
Presiding Officer of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:30 p.m. this 23rd day of September, 2015