

Mayor
Christy Clark

Mayor Pro Tem
Jennifer Hunt

Commissioners
Alisia Bergsman
Amanda Dumas
Edwin Quarles
LaToya Rivers
Nick Walsh



Town Manager
Anthony Roberts

Deputy Town Manager
Jackie Huffman

Assistant Town Manager
Bobby Williams

Town Attorney
Emily Sloop

Town Clerk
Janet Pierson

AGENDA
Regular Town Board Meeting
October 1, 2024 - 6:00 PM
TOWN HALL (101 Huntersville-Concord Road)

Live stream available via YouTube [@townofhuntersvillenc28078](https://www.youtube.com/@townofhuntersvillenc28078)

1. Pre-meeting - 5:15 p.m.

- 1.A. Closed Session pursuant to N.C.G.S. §143-318.11(a)(5) to instruct staff or negotiating agents concerning the price and other material terms for the acquisition of real property. *(Stephen Trott)*

2. Call to Order

3. Invocation/Moment of Silence

4. Pledge of Allegiance

5. Announcements

6. Public Comments, Requests, or Presentations

- 6.A. Presentation of The President's Volunteer Service Award to Lake Norman Teen Council Member. *(Lindsay Small)*

- 6.B. Fire Prevention Week Proclamation. *(Mayor Clark)*

- 6.C. National Arts and Humanities Month Proclamation. *(Mayor Clark)*

7. Agenda Changes/Adoption of Agenda

8. Consent Agenda

- 8.A. Approve the minutes of the September 17, 2024 Regular Town Board Meeting. *(Janet Pierson)*

- 8.B. Adopt amended 2024 Huntersville Town Board Regular Meeting Schedule changing the Tuesday, November 5 meeting to Monday, November 4. (*Janet Pierson*)
- 8.C. Approve Property Tax Refund Report from Mecklenburg County. (*Pattie McGinnis*)
- 8.D. Call a public hearing for Tuesday, October 15, 2024, at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, Huntersville, NC 28078, on holding certain properties (Parcel ID numbers of 01711645 and 01711611) owned by the Town of Huntersville for resale pursuant to N.C.G.S. §158-7.1(b)(2). (*Emily Sloop*)
- 8.E. Call a public hearing for Monday, November 4, 2024 at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, Huntersville NC 28078, on Petition #R24-05 Hillco Skilled Nursing Facility, a request by Novant Health Inc. to rezone approximately 13.9 acres of land from Corporate Business to Campus Institutional Conditional District to develop a Skilled Nursing Facility. The property is located at 13600 Reese Boulevard East in the Huntersville Business Park. (*Brad Priest*)
- 8.F. Call a public hearing for Monday, November 4, 2024 at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, Huntersville, NC 28078 on Petition #R24-09, a request by HFH Investments LLC., Frank Lowery, Martha Rawdon, Derong Huang to rezone +/- 3.213 acres located west of the intersection of Gilead Road and Statesville Road from Neighborhood Residential District to Town Center. (*Brian Richards*)

9. Public Hearings

- 9.A. Conduct public hearing on Petition #TA24-14, a request by the Town of Huntersville Planning Department to amend the Town's Soil Erosion Control Ordinance to align the Town's ordinance with state statute. (*Rebecca Bleich*)

10. Other Business

11. Closing Comments

12. Adjourn

General Meeting Information

Town Board:

The Town of Huntersville Mayor and Board of Commissioners are elected for two-year terms. Huntersville operates under the council-manager form of government, which establishes the Town's policies that are carried out by the Town Manager and staff. For more information, visit www.huntersville.org.

Meeting Time, Place and Agenda:

All meetings of the Board are open to the public and the public is invited and encouraged to attend. The Board meets in the Town Hall at 6:00 p.m. on the first and third Tuesday of each month (unless otherwise posted). Agendas are published Thursdays before the meeting on our website. The Board reserves the right to deviate from the agenda.

Public Comment and Public Hearing Policy:

Persons desiring to address the Board during the public comment period or a public hearing shall sign up via the speaker sign-up sheet prior to the beginning of the meeting. Once the meeting has begun, a person may not sign up to speak. Persons who have signed up to speak shall be allowed to speak for up to three (3) minutes. The Mayor shall have the discretion to shorten the allotted speaking time depending on the number persons registered to speak and in consideration of the length of the agenda. ([Public Comment and Public Hearing Policy - Amended February 19, 2024](#))

Special Accommodations:

Please contact the Town Clerk, 72 hours prior to the meeting, for special accommodations to attend this meeting and/or if this information is needed in an alternative format. Janet Pierson can be reached at clerk@huntersville.org or 704-875-6541.



A PROCLAMATION FOR FIRE PREVENTION WEEK

WHEREAS, the Town of Huntersville is committed to ensuring the safety and security of all those living in and visiting our town; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,700 people in the United States in 2022, according to the National Fire Protection Association, and fire departments in the United States responded to 360,000 home fires; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires almost in half - as roughly three out of five fire deaths happen in homes with either no smoke alarms or with no working smoke alarms; and

WHEREAS, smoke alarms sense smoke well before you can, alerting you to danger in the event of fire in which you may have as little as 2 minutes to escape safely; and

WHEREAS, Huntersville residents should install smoke alarms in every sleeping room, outside each separate sleeping area, and on every level of the home; and

WHEREAS, Huntersville residents will make sure their smoke alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

WHEREAS, Huntersville residents should test smoke alarms at least once a month; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, the 2024 Fire Prevention Week theme, "Smoke alarms: Make them work for you," serves to remind us the importance of having working smoke alarms in the home.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim the week of October 6 through 12 as "**FIRE PREVENTION WEEK**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 1st day of October, 2024.

Christy Clark, Mayor



A PROCLAMATION FOR NATIONAL ARTS AND HUMANITIES MONTH

WHEREAS, the month of October has annually been recognized as National Arts and Humanities Month by thousands of arts and culture organizations – including the Arts & Science Council, the local arts agency of the Town of Huntersville and Mecklenburg County – and by communities, counties, and states across the country for nearly 30 years; and

WHEREAS, the arts and humanities help community members explore their diverse history and culture with the support and creativity of large, midsize, and small cultural organizations, creative individuals, educational institutions, and local businesses; and

WHEREAS, cities and states - through their local and state arts agencies and representing thousands of cultural organizations have celebrated the value and importance of culture in the lives of Americans and the health of thriving communities during National Arts and Humanities Month for several years; and

WHEREAS, the arts and culture industry also strengthens our economy by generating \$151.7 billion in total economic activity annually, \$29 billion in government revenue, and by supporting the full-time equivalent of 5 million jobs; and

WHEREAS, the arts and humanities are a vital part of the nation's economy, and the creative economy drives tourism, commerce, supports American workers, makes up 4.3% of the annual GDP and is a \$1.1 trillion industry; and

WHEREAS, the arts and humanities embody so much of the accumulated wisdom, intellect, and imagination of humankind, and play a unique role in the lives of our families and our community.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim the month of October as "**NATIONAL ARTS AND HUMANITIES MONTH**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 1st day of October, 2024.

Christy Clark, Mayor



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Janet Pierson, Town Clerk

Subject: Approval of Minutes

EXPLAIN REQUEST:

Consider approving the minutes of the September 17, 2024 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Draft Minutes

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**September 17, 2024
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

None

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on September 17, 2024.

GOVERNING BODY MEMBERS PRESENT: Mayor Christy Clark; Commissioners Alisia Bergsman, Amanda Dumas, Jennifer Hunt, Edwin Quarles, LaToya Rivers and Nick Walsh.

Mayor Clark called for a moment of silence.

Mayor Clark led the Pledge of Allegiance.

ANNOUNCEMENTS

ElectriCities Updates

- ElectriCities is switching to a new billing system for Huntersville customers. The new billing system goes live the week of September 23.
- Widespread outage over the weekend caused by a fallen tree that downed four power poles. Accessibility issues led to longer repair times.

Red Line Public Meetings

- CATS is holding public meetings on the updated design of the Red Line.

Huntersville Police Department Updates

- National Night Out will be held October 1 at Huntersville Athletic Park.

Grant Award

- The Town of Huntersville has been awarded \$240,000 through the U.S. Department of Transportation Safe Streets and Roads for All Discretionary Grant program. Huntersville's Planning Department will use the federal funding to develop a Safe Roads Action Plan.

Ways to connect with us – website, social media pages, Town of Huntersville app, newsletter.

PUBLIC COMMENTS, REQUESTS OR PRESENTATIONS

Constitution Week Proclamation. Mayor Clark proclaimed September 17-23, 2024 as Constitution Week.

A PROCLAMATION FOR CONSTITUTION WEEK

WHEREAS, September 17, 2024 marks the two hundred and thirty-seventh anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to read, study, and preach the greatest document of human liberty and to protect the freedoms set forth in the Bill of Rights; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 17 through 23 as “**CONSTITUTION WEEK**” in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 17th day of September, 2024.

World Peace Day Proclamation. Mayor Clark proclaimed September 21, 2024 as World Peace Day.

A PROCLAMATION FOR WORLD PEACE DAY

WHEREAS, Rotary as a humanitarian organization, peace is a cornerstone of our mission. We believe when people work to create peace in their communities, that change can have a global effect; and

WHEREAS, Rotary creates environments of peace by carrying out service projects and supporting peace fellowships and scholarships, our members take action to address the underlying causes of conflict, including poverty, discrimination, ethnic tension, lack of access to education, and unequal distribution of resources; and

WHEREAS, the issue of peace embraces the deepest hopes of all peoples and remains humanity's guiding inspiration; and

WHEREAS, in 1981 the United Nations proclaimed the International Day of Peace be "devoted to commemorating and strengthening the ideals of peace both within and among all nations and peoples"; and

WHEREAS, the United Nations expanded the observance of the International Day of Peace in 2001 to include the call for a day of global ceasefire and non-violence, and invited all nations and people to honor a cessation of hostilities for the duration of the Day; and

WHEREAS, there is growing support within our nation for the observance of the International Day of Peace, which affirms a vision of our world at peace, and fosters cooperation between individuals, organizations and nations; and

WHEREAS, global crises impel all citizens to work toward converting humanity's noblest aspirations for world peace into a practical reality for future generations; and

WHEREAS, the Rotary Club of Lake Norman-Huntersville, is one of over 60+ Rotary and Rotaract clubs throughout our Rotary District 7680 with over 2,300 members sponsoring service projects to address such critical issues as poverty, health, hunger, illiteracy, and the environment in their local communities, and abroad.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 21 as “**WORLD PEACE DAY**” in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 17th day of September, 2024.

AGENDA CHANGES

Commissioner Dumas made a motion to adopt the agenda. Commissioner Hunt seconded the motion. Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes. Commissioner Bergsman made a motion to approve the minutes of the September 3, 2024 Regular Town Board Meeting. Commissioner Hunt seconded the motion. Motion carried unanimously.

Budget Amendment – USTA Grant. Commissioner Bergsman made a motion to approve budget amendment appropriating USTA Grant revenue in the amount of \$23,000 for the resurfacing of the tennis courts at North Mecklenburg Park. Commissioner Hunt seconded the motion. Motion carried unanimously.

Resolution – Electronic Public Auction of Surplus Fire Vehicles. Commissioner Bergsman made a motion to adopt Resolution authorizing the electronic public auction of surplus fire vehicles. Commissioner Hunt seconded the motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 1.

PUBLIC HEARINGS

None

OTHER BUSINESS

Petition #TA24-06, Farmhouse Cluster Changes. Nathan Farber, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 2.*

For Farmhouse Clusters staff is proposing to require an 80' landscape buffer along the street frontage of the subdivisions. The buffer must keep existing vegetation. If no vegetation exists, staff proposes to add some flexibility to these buffers by giving an option of either providing a required planting or to use existing field or meadow with a mixture of hardscape and softscape. Staff is also proposing to remove the ability to add open space and tree save within private buildable lots.

On May 2, 2024, the Huntersville Ordinances Advisory Board recommended approval by a vote of 7-1.

On August 27, 2024, the Planning Board recommended approval by a vote of 7-1.

Staff recommends approval of the proposed Text Amendment TA24-06 based on consistency with Policies LU-9.2, EOS-3.1 and EOS-6.1 of the Huntersville 2040 Community Plan. It's reasonable and in the public interest to amend the Zoning Ordinance because it provides higher quality open space while ensuring the preservation of rural character which complies with the Huntersville 2040 Community Plan.

Commissioner Dumas said can you clarify what hardscape and softscape is for people watching?

Mr. Farber said softscape would be anything that's primarily vegetation, so in this case it would be the existing fields and meadows or trees and shrubs or any other vegetation that they wanted to add, and hardscapes would be fences, walls, water features, or anything substantial that they would also add into that buffer.

Commissioner Rivers made a motion that we accept Petition TA24-06, Farmhouse Cluster Changes, a text amendment request by the Town of Huntersville Planning Department, to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2(d)3(c) and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space.

Emily Sloop, Town Attorney, said can you please add a consistency statement to the motion.

Commissioner Rivers said with the consistency statement, I apologize, it's consistent with Policies LU-9.2, EOS-3.1 and EOS-6.1 of the Huntersville 2040 Community Plan.

Commissioner Walsh seconded the motion.

Mayor Clark called for the vote to approve Petition #TA24-06.

Motion carried unanimously.

Petition #TA24-07, Accessory Dwelling Units in GR. Patrick Patterson, Planner II, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 3.*

Accessory Dwelling Units (ADUs) are conditionally permitted in every residential district of the Town of Huntersville. In the General Residential zoning district, ADUs are currently restricted for use exclusively by a related person. This restriction does not apply to other residential districts. Planning staff recommends eliminating the family-only occupancy requirement from the GR district regulations to achieve consistency with the rules governing ADUs in other residential zones.

On March 7, 2024, the Huntersville Ordinances Advisory Board recommended approval by a vote of 7-1.

On August 27, 2024, the Planning Board recommended approval by a vote of 4-3-1.

Commissioner Dumas said there are ADUs in GR already. Do we currently require registration?

Mr. Patterson said we do have that in the ordinance. We traditionally have not registered them, but we are going to start registering them going forward.

Commissioner Hunt said can you address any issues of parking that there might be with ADUs?

Mr. Patterson said that is not necessarily addressed within our conditions for accessory dwelling units. We do have stipulations with the principal structure of the home that your driveway has to be a certain length in order to have that stacking, it's 20', so that would be how we would address it. You're not allowed to have a separate driveway for your accessory dwelling unit. You can if it's rear alley accessed. In the past I have seen ADUs where there is maybe a separate drive to that. If you have a detached garage with an ADU on top, the garage can provide some parking as well.

Commissioner Hunt said do you foresee there being any issues with emergency vehicles needing to get to an ADU?

Mr. Patterson said I do not, no.

Commissioner Hunt said how many permits for ADUs have we seen in the last few years?

Mr. Patterson said I spoke about it a little bit at Planning Board, when ADUs come in they don't always come in strictly as an ADU. Occasionally they might come in as a detached garage or maybe even a pool house. It's then the determination of us and hopefully the applicant will disclose that it is an ADU, so when going back looking at permits, it's roughly about 20 within the past 5 years that we can track.

Commissioner Hunt said I believe, Ms. Sloop, you have some information to share.

Emily Sloop, Town Attorney, said we had received some questions about accessory dwelling units and so this is really for clarification. A local government here in North Carolina can use development regulations such as a Zoning Ordinance and Subdivision Ordinance to regulate the use and the division of land, however we cannot use development regulations to regulate the ownership of land in North Carolina per North Carolina case law.

Specifically, the requirement for owner-occupancy of a principal residence or an accessory dwelling in order for a residential property to have an accessory dwelling unit on a specific parcel of property has been ruled unconstitutional and beyond the scope of delegated zoning authority by the North Carolina Court of Appeals.

There are two pending bills that are before the General Assembly. Those would be HB 409 and SB 374. If those were to move forward and be enacted, they would enact a new section of Chapter 160D, specifically 160D-917. What that section would do is it would require local governments to allow at least one accessory dwelling unit or ADU for each detached single-family dwelling, where allowed, in zoning districts for residential use. Subsection (b) of that section would prohibit a local government from requiring owner-occupancy of any dwelling unit, including an accessory dwelling unit.

The proposed bill, both the version that's before the House and the Senate, do not provide direct authority for regulating who the ADU is rented to, nor is there a specific grant of authority in existing Chapter 160D for doing so via a development regulation.

Commissioner Bergsman said Article 9.1, restrictions that would limit an ADU to one per lot, so that's going to remain the same, that doesn't change under this.

Mr. Patterson said we're not changing that.

Commissioner Bergsman said what are the height restrictions for ADUs?

Mr. Patterson said 20' for an accessory structure, but the way we measure height in Huntersville is from the highest grade relative to the street frontage up to the roof eaves, so we don't necessarily look at the pitch of your roof. It's essentially that vertical wall that we are measuring.

Commissioner Bergsman said could any ADUs possibly be higher than the primary home?

Mr. Patterson said possibly if you had a ranch home, a single-story home. Part of the catch as well is that accessory structures have to be clearly subordinate to principal structures, so you wouldn't be able to have a massive accessory structure that's larger than your principal.

Commissioner Bergsman said I wanted to confirm that the ordinances also provide that you cannot have an ADU in a side yard, that they are for rear yards only.

Mr. Patterson said correct.

Commissioner Dumas said ADUs have been allowed without restrictions in other zoning districts. Have there been any reported issues with this change in those areas?

Mr. Patterson said what we are looking at right now are the conditions for an ADU. The only thing that's different in all of our residential districts and what's different in GR is that a family member has to live there. In GR you have to comply with all of these rules, and it has to be occupied by a family member and since I've been here, we've had no complaints about ADUs.

Commissioner Hunt made a motion to approve TA24-07, a request by the Planning Department to amend Article 3.2.3(c) of the Zoning Ordinance to remove the related person requirement for accessory dwelling units from the General Residential zoning district. Section 9.1 of the Zoning Ordinance allows one accessory dwelling per deeded lot in conjunction with the principal dwelling unit. The amendment is consistent with Section LU-10.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it will increase diverse housing options for Huntersville residents.

Commissioner Rivers seconded the motion.

Commissioner Hunt said as a Board we asked staff to look for ways to create affordable housing opportunities and this was one way to create additional options. As we noted already, ADUs are already allowed in residential zoning districts with the familial exception and so by simply removing that exclusion, folks maybe are using it for guests or storage or an office and now they could potentially rent it to another individual. They should be able to make that choice for themselves. While there is no silver bullet to address affordable housing, cleaning up this ordinance to allow another housing opportunity is beneficial, it's a prime example of missing middle housing. It can create opportunities for folks who want to downsize, folks who don't want to purchase a single-family home, can't afford to, etc., a great option for folks entering the housing market, as well as the aging population who these homes typically don't have stairs or steps. They are also good for the environment because they use less resources and less energy. They do not contribute to suburban sprawl, which we see a lot of in town, and they've just been lauded as a step toward addressing affordable housing in other parts of the country where there's very limited housing stock, so I very much support this.

Commissioner Bergsman said some of the conversation around this has been in regards to corporate landlords and I did want to mention that before we vote, because I do feel across the country that is something that a lot of communities are struggling with and with especially the larger corporate landlords taking away from what's available, particularly in regards to naturally occurring affordable housing. I kind of did a bit of a deep dive and I wanted to bring up one thing which is I didn't think I would be mentioning this, but the AARP has a lot of information on their website and it includes guidance for local, state and federal governments in regards to ADUs and I found it striking that they are one of the biggest supporters of increasing opportunities for ADUs and they've included as part of a

larger strategy to address the senior housing crisis and I just want to encourage for those who are paying attention and listening and are interested in this topic that that is an interesting source of information worth checking out.

Commissioner Dumas said I went a little bit back and forth on this ordinance change. I will be voting yes. I do believe this is one more option for affordable housing in town when we are trying our best to find all the options. I did have concern in regards to what Commissioner Bergsman talked about with the corporations, but that's beyond our control unfortunately. I'm happy to see that at least our legislators are discussing that and as a civilian will be lobbying and working towards making that happen.

Mayor Clark called for the vote to approve Petition #TA24-07.

Motion carried unanimously.

Petition #TA24-08, Family Care Home. Patrick Patterson, Planner II, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 4.*

Planning staff proposes to update the definition of Family Care Homes to specify where a Family Care Home's one-half mile radius distance is measured from.

Staff recommends approval of the proposed Text Amendment TA24-08 as it specifies where a Family Care Home's one-half mile radius distance is measured from.

On March 7, 2024, the Huntersville Ordinances Advisory Board recommended approval by a vote of 8-0.

On August 27, 2024, the Planning Board recommended approval by a vote of 8-0.

Commissioner Bergsman said before I make the motion, during the public hearing and afterwards I had asked about the possibility of reducing the radius from a half mile to a quarter mile and I actually was prepared to have a motion to that effect until I realized that would require a second public hearing. The motion I have is as written, but I just wanted to make sure there's an opportunity with the rest of the Board is fine with that.

Commissioner Bergsman made a motion to approve Amendment TA24-08 based on the amendment being consistent with the policies of the Huntersville 2040 Community Plan and its compliance with state statute. It is reasonable and in the public interest to amend the Zoning Ordinance because it will provide further clarification to the language.

Commissioner Dumas seconded the motion.

Mayor Clark called for the vote to approve Petition #TA24-08.

Motion carried unanimously.

Petition #TA24-09, Building Separation. Patrick Patterson, Planner II, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 5.*

Article 8.10 of the Huntersville Zoning Ordinance contains requirements regarding building separation for principal and accessory structures. Staff is seeking to change building separation standards stated in

the Huntersville Zoning Ordinance to reflect the North Carolina State Building Codes or North Carolina Residential Codes for building separation. This will simplify the Zoning Ordinance by referring to building code requirements for building separation and ensures that Huntersville won't need to amend the ordinance whenever building code standards are updated.

Additionally, the text amendment adds the definition of "Fire Separation Distance" into the ordinance and replaces all instances of "Building Separation" with "Fire Separation Distance." This adjustment is necessary because the North Carolina State Building Code and North Carolina Residential Code do not explicitly define building separation and instead define it as "Fire Separation Distance." This proposed language is not going to remove any sort of setbacks for homes or setbacks for accessory structures or any sort of other zoning requirements and Mecklenburg County will still review and inspect all structures for applicable fire separation distance during the construction process.

Staff recommends approval of the proposed text amendment as it simplifies the Zoning Ordinance by deferring to North Carolina State Building Code Standards.

The Huntersville Ordinances Advisory Board recommended approval by a vote of 8-0.

The Planning Board recommended approval by a vote of 8-0.

Commissioner Walsh made a motion to approve Petition TA24-09, Building Separation, a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align the Town's rules regarding building separation to the North Carolina Building Code and the North Carolina Residential Code Standards. The text amendment is consistent with Section LU-10.1 of the Huntersville 2040 Community Plan.

Commissioner Quarles seconded the motion.

Mayor Clark called for the vote to approve Petition #TA24-09.

Motion carried unanimously.

Petition #TA24-12, Special Use Permit Amendments. Brad Priest, Assistant Planning Director, explained staff is recommending transferring some special use permit processes to conditional use rezoning processes to eliminate the quasi-judicial nature of the applications. *Staff Report attached hereto as Exhibit No. 6.*

On August 27, 2024, the Planning Department recommended approval of the petition by a unanimous vote.

Commissioner Quarles made a motion to approve Petition TA24-12, a request by the Planning Department to amend Articles 3 and 9 of the Zoning Ordinance to modify the uses requiring a special use permit. The text amendment is consistent with Section LU-8 of the Huntersville 2040 Community Plan.

Commissioner Rivers seconded the motion.

Commissioner Dumas said I'm very much in favor, I just want to make a comment that in my experience, as limited as it might be, the process for special use permit leans heavily in favor of the applicant and not the residents that are impacted, so I'm very excited that we're making this change.

Commissioner Bergsman said mostly it's just an echo of what Commissioner Dumas said that I feel this is going to be more beneficial for our residents, so I appreciate the work that staff has done on this.

Mayor Clark called for the vote to approve Petition TA24-12.

Motion carried unanimously.

Resolution Authorizing Issuance of GO Bonds Series 2024. Pattie McGinnis, Finance Director, said what you have before you is the Resolution to authorize the issuance of General Obligation bonds. The voters approved \$58 million of GO bonds in November 2023. This gives us permission to sell the bonds. We plan on selling \$29 million on October 8. That's our date with the LGC and this will be the last action you'll need to take before we sell the bonds. We are AAA rated with S&P and with Moody's.

Commissioner Dumas made a motion to adopt Resolution authorizing the issuance of General Obligation bonds Series 2024.

Commissioner Bergsman seconded the motion.

Mayor Clark called for the vote to adopt Resolution.

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 7.

Capital Project Ordinance. Pattie McGinnis, Finance Director, said this is how we will fund the projects. We've got \$25 million in Transportation projects and \$4 million in Parks and Recreation. This just lists the different projects that we plan to work on.

Commissioner Quarles made a motion to adopt the Capital Project Ordinance for the 2024 Transportation General Obligation Bond of \$25 million and the 2024 Parks and Recreation General Obligation Bond for \$4 million issue.

Commissioner Bergsman seconded the motion.

Mayor Clark said I just want to say thank you to the voters who voted for these bonds last year. They will do great things for Huntersville and I'm looking forward to all of the great things that come out of these bonds that voters put their trust and faith in the Town of Huntersville to do and can't wait to see all the good things that come.

Mayor Clark called for the vote to adopt Capital Project Ordinance.

Motion carried unanimously.

Capital Project Ordinance attached hereto as Exhibit No. 8.

AT&T Letter of Agreement Overhead to Underground Conversion – Gilead Road. David Lucore, Electric System Manager, said this work is in conjunction with the conversion of overhead lines on Gilead Road between the Post Office and the elementary school. AT&T has lines on our poles and they would need to convert theirs to underground as well. We have contacted them and they have given us a price to do that work and we would appreciate your consideration and approval to allow that work to move forward so that we can complete this project.

Commissioner Walsh made a motion to approve the Letter of Agreement with AT&T for the conversion of overhead utility lines to underground on Gilead Road.

Commissioner Dumas seconded the motion.

Mayor Clark called for the vote to approve Letter of Agreement.

Motion carried unanimously.

Letter of Agreement attached hereto as Exhibit No. 9.

Budget Amendment – Electric Budget. David Lucore, Electric System Manager, said the original scope of this underground project did not include this section or the expense of burying AT&T's lines, so we are requesting a budget amendment to fund the construction to put these lines underground.

Commissioner Rivers said do we happen to know how long this project will take once it has been approved or if approved?

Mr. Lucore said we have asked that question and have not received an answer from AT&T. Our goal at this time is to complete this work by Christmas or the end of the year.

Commissioner Rivers made a motion to consider approving the budget amendment appropriating Electric fund balance in the amount of \$450,000 for the contract to remove AT&T aerial cables from Gilead Road.

Commissioner Quarles seconded the motion.

Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, Commissioner Walsh made a motion to adjourn. Commissioner Hunt seconded the motion. Motion carried unanimously.

Approved this the ____ day of _____, 2024.



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Janet Pierson, Town Clerk

Subject: Amended Town Board Regular 2024 Meeting Schedule

EXPLAIN REQUEST:

Consider adopting Amended 2024 Huntersville Town Board Regular Meeting Schedule changing the Tuesday, November 5 meeting to Monday, November 4 due to November 5 being Election Day.

ACTION RECOMMENDED:

Adopt Amended Meeting Schedule.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Board of Commissioners - Meeting Schedule 2024 - Amended 20241001

Huntersville Board of Commissioners

2024 Town Board Regular Meeting Schedule

Meetings begin at 6:00 p.m. at Huntersville Town Hall located at 101 Huntersville-Concord Road, Huntersville, NC 28078 (unless otherwise posted) and livestreamed at <https://www.youtube.com/@townofhuntersvillenc28078>. Pre-meetings may occur as part of any regular meeting at the time and for the purposes specified on the regular meeting agenda. The time and purpose(s) of pre-meetings will be published on the agenda.

The Board of Commissioners reserve the right to hold virtual board meetings during declared States of Emergency as applicable in the Town of Huntersville. Notice of virtual meetings will be issued pursuant to N.C.G.S. § 166A-19.24.

When meetings are held virtually, the following procedures apply:
Meetings will be held both in person and virtually via livestream. The Board of Commissioners will participate remotely. The public is invited to attend and comment during public comment or during any of the public hearings: (1) in person or (2) by telephonic communication in accordance with instructions sent to persons who have registered with the Town Clerk no later than 3 p.m. the day of the meeting. The public may also submit comments by email to the Town Clerk. Emailed comments regarding public hearings may be submitted up to 24 hours prior to the scheduled time for the beginning of the public hearing. The Town Clerk may be reached by email at jpierson@huntersville.org or by phone at (704) 766-2202.

January 2, 2024	Tuesday, due to New Year’s Day Observed
January 16, 2024	Tuesday, due to Martin Luther King, Jr Day
February 5, 2024	
February 19, 2024	
March 4, 2024	
March 18, 2024	
April 1, 2024	
April 15, 2024	
May 6, 2024	
May 20, 2024	
June 3, 2024	
June 17, 2024	
July 2, 2024	Canceled, due to Independence Day
July 16, 2024	
August 6, 2024	
August 20, 2024	
September 3, 2024	
September 17, 2024	
October 1, 2024	
October 15, 2024	
November 4, 2024	Moved to Monday, due to Election Day
November 19, 2024	
December 3, 2024	
December 17, 2024	



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Pattie McGinnis, Finance Director

Subject: Property Tax Refund

EXPLAIN REQUEST:

Attached is a Refund report from Mecklenburg County. This report includes a refund totaling \$345.74 which includes \$19.79 in interest. This refund is the result of the NC Property Tax Commission.

ACTION RECOMMENDED:

Approve refund.

FINANCIAL IMPLICATIONS:

Decrease in revenue of \$345.74.

ATTACHMENTS:

1. Huntersville PTC Refunds 24 09 12

HUNTERSVILLE Refunds

Tax Year	Bill Number	Parcel #	Source Type	Adj. #	Adj. Reason	Date of Adj.	Recipient Name	Address	City	State	Zip Code	Payment Date for Interest Calculation	Refund Amount (\$)	Total Interest to Pay if mailed on or before 10/9/2024 (\$)
2023	0001472594-2023-2023-0000-01	01510108	REI	626459	PTC Decision	9/9/2024	SHAW, MARK C AND TUTTLE, MELISSA A	9232 GILEAD RD	HUNTERSVILLE	NC	28078	1/6/2024	325.95	19.79
TOTAL													325.95	19.79



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Emily Sloop, Town Attorney

Subject: Call a Public Hearing for Town Property Resale

EXPLAIN REQUEST:

The Town believes that the properties, further described as having Parcel ID numbers of 01711645 and 01711611, are suitable for commercial use and that it would be in the public interest to hold and resell the properties for economic development pursuant to G.S. 158-7.1(b)(2). A public hearing must be held in order to hold the properties for economic development pursuant to G.S. 158-7.1(b)(2).

ACTION RECOMMENDED:

Call for Public Hearing

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

None



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Brad Priest, Assistant Planning Director

Subject: Petition #R24-05: Hillco Skilled Nursing Facility

EXPLAIN REQUEST:

R24-05 is a request by Novant Health Inc. to rezone approximately 13.9 acres of land from Corporate Business (CB) to Campus Institutional Conditional District (CI-CD). The property is located at 13600 Reese Boulevard East in the Huntersville Business Park (PIN 01719110)

ACTION RECOMMENDED:

Call a public hearing for Monday November 4th, 2024

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

None



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Brian Richards, Planning Director

Subject: Petition #R24-09 a request to rezone +/- 3.213 acres from Neighborhood Residential to Town Center.

EXPLAIN REQUEST:

Call a public hearing for Monday, November 4, 2024 at 6:00 p.m. at Huntersville Town Hall on Petition #R24-09, a request by HFH Investments LLC., Frank Lowery, Martha Rawdon, Frances & Larry Garner to rezone +/- 3.213 acres located west of the intersection of Gilead Rd and Statesville Rd (Parcels # 01711623, 01711620, 01711621, 01712208) from Neighborhood Residential District to Town Center.

ACTION RECOMMENDED:

Call a public hearing for Monday, November 4, 2024 at 6:00 p.m. at Huntersville Town Hall on Petition #R24-09, a request by HFH Investments LLC., Frank Lowery, Martha Rawdon, Frances & Larry Garner to rezone +/- 3.213 acres located west of the intersection of Gilead Rd and Statesville Rd (Parcels # 01711623, 01711620, 01711621, 01712208) from Neighborhood Residential District to Town Center.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

None



Request for Board Action

October 1, 2024

To: The Honorable Mayor and Board of Commissioners

From: Rebecca Bleich, Planner II

Subject: Public Hearing - Soil Erosion Control Ordinance Amendment

EXPLAIN REQUEST:

Conduct a public hearing on a text amendment to the Town's Soil Erosion Sedimentation Control Ordinance to align the Town's ordinance with North Carolina Session Law 2023-108 and S.L. 2023-142

ACTION RECOMMENDED:

Conduct Public Hearing

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. TA24-14 Staff Report PH
2. Signed Application_TA24-14
3. SESCO Ordinance for SL 2023-108 7-25-24
4. SL2023-108
5. SL2023-142

TA24-14 Soil Erosion and Sedimentation Control Compliance

PART 1: DESCRIPTION

TA24-14 is a text amendment request by the Town of Huntersville Planning Department to amend Articles 153.02, 153.03, 153.04, 153.10(A)(4), 153.1(f), 153.11, 153.13(D), and 153.09(F) of the Huntersville Soil Erosion and Sedimentation Control Ordinance to closer align Huntersville regulations to North Carolina Session Law 2023-108 and S.L. 2023- 142.

PART 2: BACKGROUND

NC S.L. 2023-108 and S.L. 2023-142 contained numerous changes. The applicable change allows permits to be transferred to a different entity, assuming all requirements are met, and defines and allows at risk building permits.

PART 3: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment TA24-14 as it aligns the Town’s Soil Erosion and Sedimentation Control Ordinance with state law.

PART 4: PUBLIC HEARING

The Public Hearing is scheduled for October 1st, 2024.

PART 5: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled for November 19th, 2024.

PART 6: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance
3. Session Law 2023-108
4. Session Law 2023-142

PART 7: STATEMENT OF CONSISTENCY – TA24-14		
Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-14, Planning Staff recommends approval as it aligns the Town’s Soil Erosion and Sedimentation Control Ordinance with state law.	APPROVAL: In considering the proposed amendment TA24-14, the Planning Board recommends approval based on the amendment being consistent with... <u>(insert applicable statement)</u>	APPROVAL: In considering the proposed amendment TA24-14, the Town Board recommends approval based on the amendment being consistent with... <u>(insert applicable statement)</u>
DECISION:	DECISION:	DECISION:



Text Amendment Application

Date of Application 8/20/2024

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Huntersville Soil Erosion and Sedimentation Control Ordinance, Article(s): 153, Section(s): 2, 3, 4, 10, 11, & 13

Current Ordinance	See attached
Proposed Text	See attached
Reason for Proposed Change	Compliance with State Statute

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Planning Department

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature Brian Richards  Date 8/21/24

Title Planning Director Email brichards@huntersville.org

Address of Applicant _____

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 8/21/24

Staff Initials: RUB

**AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE SOIL EROSION AND
SEDIMENTATION CONTROL ORDINANCE TO COMPLY WITH NORTH CAROLINA SL 2023-**

108

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.02 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.02 Definitions

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply.

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Adequate erosion control measures, structures, or devices means ones that control the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another Person.

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow means fill material that is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or watercourse.

Commission means the North Carolina Sedimentation Control Commission.

Committee means the Town of Huntersville Storm Water Advisory Committee as established by the resolution of the Huntersville Board of Commissioners, together with any amendments thereto.

Completion of construction or development means that no further land-disturbing activity is required on a tract except that which is necessary for establishing a permanent ground cover. Completion of construction or development may occur for a tract, a phase, or an entire project as determined by the town engineer.

Contractor conducting the land-disturbing activity means any person who participates in the land-disturbing activity, including, but not limited to, the general contractor and sub-

contractors with the responsibility for supervising the work on the tract for the changing of the natural cover or topography of the tract, or any part thereof.

Days means calendar days unless otherwise specified.

Department means the North Carolina Department of Environmental Quality.

Director means the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

Discharge point means that point at which runoff leaves a tract of land.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Forest practice guidelines means the written directions related to water quality prepared by the Department's Division of Forest Resources and the United States Forest Service, including, but not limited to, the "Forestry Best Management Practices Manual" prepared by the Department.

Forestland (alternatively may be referred to herein as forest land) means land that is devoted to growing trees for the production of timber, wood, and other forest products.

Forestry means the professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Ground cover means any vegetative growth or other material that renders the soil surface stable against accelerated erosion.

Lake or watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-disturbing activity means any use of the land by any person in residential, governmental, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act.

Natural erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Permit means the "Permit to Conduct Land-disturbing Activities" (grading permit) issued by the town engineer after a plan is approved.

Person(s) means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity means any person who may be held responsible for violation unless expressly provided otherwise by this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act.

Person responsible for the violation as used in this ordinance means:

1. The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity;
2. The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefited from it or has failed to comply with any provision of this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act.

Phase means a specific geographic portion of a project as indicated on an approved Plan.

Phase of grading means one of two types of grading, rough or fine.

Plan(s) means an erosion and sedimentation control plan for a project, including all phases and all tracts.

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a wetland, lake or watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances that serve to collect and convey storm water through and from a given drainage area.

Storm water runoff means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

Subsidiary means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another Person.

Ten-year storm means a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Town department of engineering and public works, as used in this ordinance, "town department of engineering and public works" refers to both the town department of engineering and the town department of public works.

Town engineer - as used in this ordinance, "town engineer" refers to both the town engineer and the director of public works, both of whom shall have full authority and responsibility under this ordinance where the term "town engineer" is used.

Tract means contiguous lands and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership. A plan may have more than one phase, and each phase may have more than one tract.

Twenty-five-year storm means a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract.

Velocity means the average velocity of flow through the cross section of the main channel at the peak flow of the design storm. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste means surplus materials resulting from on-site construction and disposed of at other locations.

Watershed means any water supply watershed protection area regulated with various controls within the jurisdictional boundaries of the Town of Huntersville.

Wetland(s) means land having the vegetative, soil and hydrologic characteristics to be regulated by Section 401 and 404 of the Federal Clean Water Act as defined by the United States Army Corp of Engineers.

Working days means days exclusive of Saturday, and Sunday and town government holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.03 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.03. Reserved

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.04 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.04 Scope And Exclusions

This ordinance shall regulate land-disturbing activity within the territorial jurisdiction of the Town of Huntersville and to the extraterritorial jurisdiction of the Town of Huntersville.

This ordinance shall not apply to the following land-disturbing activities. Only those portions of a tract that are in actual use for the land-disturbing activities listed below shall be exempt from this ordinance:

1. Activities including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 1. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 2. Dairy animals and dairy products.
 3. Poultry and poultry products.
 4. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules and goats.
 5. Bees and apiary products.
 6. Fur producing animals.
 7. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

2. Activities undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted ~~in accordance~~ in accordance with such Forest Practice Guidelines, then the provisions of this ordinance shall apply.
3. Activities for which a permit is required under the Mining Act of 1971, G.S. ch. 74, art. 7.
4. For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
5. Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
6. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
7. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2.

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.10(A)(4) of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

4. The land-disturbing activity described in the plan shall comply with all federal, state, and local water quality laws, rules, and regulations, including, but not limited to, the Federal Clean Water Act. The Town Engineer shall condition approval of draft erosion and sedimentation control plans upon compliance with said laws, rules, and regulations. The Town Engineer may require supporting documentation.

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.10(f) of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

f. *Plan Transfer.* Applications for plan transfers shall be submitted jointly by the plan holder and successor-owners in interest. Notwithstanding the foregoing, the Town may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection if the successor-owner in interest requests

that the Town accept the application without the signature of the plan holder. The Town may transfer a plan if all of the following ~~conditions~~ requirements are satisfied ~~met~~:

1. ~~The successor owner of the property submits to the local government a~~ A written request application for the transfer of the plan and an authorized statement of financial responsibility and ownership is submitted to the Town.

- a. When the plan transfer requirements set forth in subsubsection 153.10(F)(2) below are met on or after July 1, 2021, the Town shall require that a plan transfer application be submitted within 90 days.
- b. When the plan transfer requirements set forth in below in subsubsection 153.10(F)(2) are met prior to July 1, 2021, the Town may request a plan transfer application at any time after determining that the plan transfer conditions have been met and may require the application for transfer to be submitted within 180 days of the request.
- c. When the activity on the property does not conform to the approved plan conditions, the plan transfer application shall include one of the following:
 1. A written schedule of actions to bring permitted activities into compliance with the approved plan conditions within one calendar year.
 2. If there has been or will be a modification to the permitted activities, an application for a plan modification.
- d. Where a plan holder can demonstrate to the Town that the activity on the property was in substantial compliance with the approved plan in the period either 12 months immediately before or after the conditions of subsubsection 153.10(F)(2) below were met, then the requirements of 153.10(F)(1)(c) above shall be the sole responsibility of the successor-owner.
- e. Where the plan holder is a person or entity described in 153.10(F)(2)(a)(4), or if the plan holder is the declarant of a condominium or planned community and the successor-owner is an association as described in 153.10(F)(2)(b)(3), the plan holder shall be responsible for satisfying the requirements of 153.10(F)(1)(c) above and for bringing the property into substantial compliance with the approved plan conditions before the permit is transferred.

2. The Town finds all of the following transfer conditions are met:

a. The plan holder is one of the following:

- 1) A natural person who is deceased.
- 2) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved, has completed the winding up of the business as required by law or equity, and does not have a successor-in-interest to the plan.
- 3) A person or entity who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur through foreclosure, bankruptcy, or other legal proceeding.
- 4) A person or entity who has sold the property on which the permitted activity is occurring or will occur.

b. The successor-owner ~~holds title to the property on which the permitted activity is occurring or will occur~~ is one of the following:

- 1) A person or entity holding title to the property on which the permitted activity is occurring or will occur.
- 2) The claimant of the right to engage in the permitted activity.
- 3) An association, as defined in N.C.G.S. § 47C-1-103 or N.C.G.S. § 47F-1-103.
- 4) Any other natural person, group of persons, or entity deemed appropriate by the Town to operate and maintain the permit.

~~c. The successor owner is the sole claimant of the right to engage in the permitted activity.~~

~~d.~~ c. There will be no substantial change in the permitted activity.

3. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

4. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

5. Plan transfers from the declarant of a condominium or a planned community to the unit owners' association, owners' association, or other management entity identified in the condominium or planned community's declaration are subject to the requirements set forth in N.C.G.S. § 143-214.7(c2).

Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of

the successor-owner. Nothing in this subsection shall prevent the Town from requiring a revised plan pursuant to G.S. § 113A-54.1(b).

Section 5. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.11 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.11 Permits

- A. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a permit from the Town Engineer. The only exception to this requirement is a land-disturbing activity that:
 - 1. Has been approved by the Town Engineer at a pre-construction conference for the purpose of installing erosion control measures indicated on the approved plan,
 - 2. Is for the purpose of fighting fires,
 - 3. Is for the stock piling of raw or processed sand, stone, or gravel in existing material processing plants and existing storage yards, provided that sediment control measures are utilized to protect against off-site damage, ~~or~~
 - 4. Does not exceed one acre of disturbed area. In determining the size of the disturbed area, all tracts shown on the plan for the project will be aggregated regardless of ownership, and regardless of whether such tracts are contiguous or not, and regardless of whether such tracts are in the same phase. Although a plan and a permit may not be required for activity comprising less than one acre, such activity is subject to all other requirements of this ordinance, or
 - 5. Is proceeding pursuant to an "at risk" building permit in accordance with N.C.G.S. § 160D-1110.1(h).
- B. No person shall undertake any land-disturbing activity for more than one acre without acquiring an NCG01 Permit (in addition to the permit required by Section 153.11(A) above) by completing and submitting an electronic Notice of Intent (NOI) form requesting a Certificate of Coverage (COC) under the NCG010000 Construction Stormwater General Permit. The letter of approval from the engineer shall contain a notice of the NCG01 Permit requirement and the acreage approved for disturbance.
- C. The transfer of permits shall be subject to the provisions governing permit transfer set forth in N.C.G.S. §§ 143-214.7(c2) and 143-214.7(c5).

Section 6. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.13(D) of the Soil Erosion and Sedimentation Control Ordinance, Penalties, is hereby amended as follows:

D. The Town Engineer shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under N.C.G.S. § 1A-1, Rule 4 and shall direct the violator to either pay the assessment, contest the assessment within 30 days as specified in Section 153.16, or file a request with the Sedimentation Control Commission for remission of the assessment within ~~60~~ 30 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing by the Stormwater Advisory Committee and a stipulation as to the facts on which the assessment was based. If a violator does not pay a civil penalty assessed by the Town Engineer within ~~60~~ 30 Days after it is due, the Town Engineer shall request the Town Attorney to institute a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court.

Section 7. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.09(F) of the Soil Erosion and Sedimentation Control Ordinance, Design and Performance Standards, is hereby amended as follows:

F. Borrow and waste areas. ~~When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, the following areas are considered as part of the land-disturbing activity.~~

- ~~1. Areas from which borrow is obtained that are not regulated by the provisions of the Mining Act of 1971 and its subsequent amendments, or~~
- ~~2. Waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management.~~

~~When the Person conducting the land-disturbing activity is the person conducting the borrow or waste disposal activity, the activity shall not be considered a separate land-disturbing activity.~~

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered as separate land-disturbing activities.

The responsible person conducting the borrow or waste areas shall provide adequate erosion control measures, structures, or devices and comply with all provisions of this ordinance.

Section 8. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: N/A

PUBLIC HEARING:

PLANNING BOARD:

TOWN BOARD:

**AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE SOIL EROSION AND
SEDIMENTATION CONTROL ORDINANCE TO COMPLY WITH NORTH CAROLINA SL 2023-**

108

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.02 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.02 Definitions

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply.

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Adequate erosion control measures, structures, or devices means ones that control the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another Person.

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow means fill material that is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or watercourse.

Commission means the North Carolina Sedimentation Control Commission.

Committee means the Town of Huntersville Storm Water Advisory Committee as established by the resolution of the Huntersville Board of Commissioners, together with any amendments thereto.

Completion of construction or development means that no further land-disturbing activity is required on a tract except that which is necessary for establishing a permanent ground cover. Completion of construction or development may occur for a tract, a phase, or an entire project as determined by the town engineer.

Contractor conducting the land-disturbing activity means any person who participates in the land-disturbing activity, including, but not limited to, the general contractor and sub-

contractors with the responsibility for supervising the work on the tract for the changing of the natural cover or topography of the tract, or any part thereof.

Days means calendar days unless otherwise specified.

Department means the North Carolina Department of Environmental Quality.

Director means the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

Discharge point means that point at which runoff leaves a tract of land.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Forest practice guidelines means the written directions related to water quality prepared by the Department's Division of Forest Resources and the United States Forest Service, including, but not limited to, the "Forestry Best Management Practices Manual" prepared by the Department.

Forestland (alternatively may be referred to herein as forest land) means land that is devoted to growing trees for the production of timber, wood, and other forest products.

Forestry means the professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Ground cover means any vegetative growth or other material that renders the soil surface stable against accelerated erosion.

Lake or watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-disturbing activity means any use of the land by any person in residential, governmental, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act.

Natural erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Permit means the "Permit to Conduct Land-disturbing Activities" (grading permit) issued by the town engineer after a plan is approved.

Person(s) means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity means any person who may be held responsible for violation unless expressly provided otherwise by this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act.

Person responsible for the violation as used in this ordinance means:

1. The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity;
2. The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefited from it or has failed to comply with any provision of this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act.

Phase means a specific geographic portion of a project as indicated on an approved Plan.

Phase of grading means one of two types of grading, rough or fine.

Plan(s) means an erosion and sedimentation control plan for a project, including all phases and all tracts.

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a wetland, lake or watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances that serve to collect and convey storm water through and from a given drainage area.

Storm water runoff means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

Subsidiary means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another Person.

Ten-year storm means a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Town department of engineering and public works, as used in this ordinance, "town department of engineering and public works" refers to both the town department of engineering and the town department of public works.

Town engineer - as used in this ordinance, "town engineer" refers to both the town engineer and the director of public works, both of whom shall have full authority and responsibility under this ordinance where the term "town engineer" is used.

Tract means contiguous lands and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership. A plan may have more than one phase, and each phase may have more than one tract.

Twenty-five-year storm means a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract.

Velocity means the average velocity of flow through the cross section of the main channel at the peak flow of the design storm. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste means surplus materials resulting from on-site construction and disposed of at other locations.

Watershed means any water supply watershed protection area regulated with various controls within the jurisdictional boundaries of the Town of Huntersville.

Wetland(s) means land having the vegetative, soil and hydrologic characteristics to be regulated by Section 401 and 404 of the Federal Clean Water Act as defined by the United States Army Corp of Engineers.

Working days means days exclusive of Saturday, and Sunday and town government holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.03 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.03. Reserved

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.04 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.04 Scope And Exclusions

This ordinance shall regulate land-disturbing activity within the territorial jurisdiction of the Town of Huntersville and to the extraterritorial jurisdiction of the Town of Huntersville.

This ordinance shall not apply to the following land-disturbing activities. Only those portions of a tract that are in actual use for the land-disturbing activities listed below shall be exempt from this ordinance:

1. Activities including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 1. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 2. Dairy animals and dairy products.
 3. Poultry and poultry products.
 4. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules and goats.
 5. Bees and apiary products.
 6. Fur producing animals.
 7. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

2. Activities undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted ~~in accordance~~ in accordance with such Forest Practice Guidelines, then the provisions of this ordinance shall apply.
3. Activities for which a permit is required under the Mining Act of 1971, G.S. ch. 74, art. 7.
4. For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
5. Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
6. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
7. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2.

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.10(A)(4) of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

4. The land-disturbing activity described in the plan shall comply with all federal, state, and local water quality laws, rules, and regulations, including, but not limited to, the Federal Clean Water Act. The Town Engineer shall condition approval of draft erosion and sedimentation control plans upon compliance with said laws, rules, and regulations. The Town Engineer may require supporting documentation.

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.10(f) of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

f. *Plan Transfer.* Applications for plan transfers shall be submitted jointly by the plan holder and successor-owners in interest. Notwithstanding the foregoing, the Town may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection if the successor-owner in interest requests

that the Town accept the application without the signature of the plan holder. The Town may transfer a plan if all of the following ~~conditions~~ requirements are satisfied ~~met~~:

1. ~~The successor-owner of the property submits to the local government a~~ A written request application for the transfer of the plan and an authorized statement of financial responsibility and ownership is submitted to the Town.

- a. When the plan transfer requirements set forth in subsection 153.10(F)(2) below are met on or after July 1, 2021, the Town shall require that a plan transfer application be submitted within 90 days.
- b. When the plan transfer requirements set forth in below in subsection 153.10(F)(2) are met prior to July 1, 2021, the Town may request a plan transfer application at any time after determining that the plan transfer conditions have been met and may require the application for transfer to be submitted within 180 days of the request.
- c. When the activity on the property does not conform to the approved plan conditions, the plan transfer application shall include one of the following:
 1. A written schedule of actions to bring permitted activities into compliance with the approved plan conditions within one calendar year.
 2. If there has been or will be a modification to the permitted activities, an application for a plan modification.
- d. Where a plan holder can demonstrate to the Town that the activity on the property was in substantial compliance with the approved plan in the period either 12 months immediately before or after the conditions of subsection 153.10(F)(2) below were met, then the requirements of 153.10(F)(1)(c) above shall be the sole responsibility of the successor-owner.
- e. Where the plan holder is a person or entity described in 153.10(F)(2)(a)(4), or if the plan holder is the declarant of a condominium or planned community and the successor-owner is an association as described in 153.10(F)(2)(b)(3), the plan holder shall be responsible for satisfying the requirements of 153.10(F)(1)(c) above and for bringing the property into substantial compliance with the approved plan conditions before the permit is transferred.

2. The Town finds all of the following transfer conditions are met:

a. The plan holder is one of the following:

- 1) A natural person who is deceased.
- 2) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved, has completed the winding up of the business as required by law or equity, and does not have a successor-in-interest to the plan.
- 3) A person or entity who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur through foreclosure, bankruptcy, or other legal proceeding.
- 4) A person or entity who has sold the property on which the permitted activity is occurring or will occur.

b. The successor-owner ~~holds title to the property on which the permitted activity is occurring or will occur~~ is one of the following:

- 1) A person or entity holding title to the property on which the permitted activity is occurring or will occur.
- 2) The claimant of the right to engage in the permitted activity.
- 3) An association, as defined in N.C.G.S. § 47C-1-103 or N.C.G.S. § 47F-1-103.
- 4) Any other natural person, group of persons, or entity deemed appropriate by the Town to operate and maintain the permit.

c. ~~The successor owner is the sole claimant of the right to engage in the permitted activity.~~

~~d.~~ c. There will be no substantial change in the permitted activity.

3. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

4. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

5. Plan transfers from the declarant of a condominium or a planned community to the unit owners' association, owners' association, or other management entity identified in the condominium or planned community's declaration are subject to the requirements set forth in N.C.G.S. § 143-214.7(c2).

Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of

the successor-owner. Nothing in this subsection shall prevent the Town from requiring a revised plan pursuant to G.S. § 113A-54.1(b).

Section 5. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.11 of the Soil Erosion and Sedimentation Control Ordinance, Plan Transfer, is hereby amended as follows:

153.11 Permits

- A. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a permit from the Town Engineer. The only exception to this requirement is a land-disturbing activity that:
 - 1. Has been approved by the Town Engineer at a pre-construction conference for the purpose of installing erosion control measures indicated on the approved plan,
 - 2. Is for the purpose of fighting fires,
 - 3. Is for the stock piling of raw or processed sand, stone, or gravel in existing material processing plants and existing storage yards, provided that sediment control measures are utilized to protect against off-site damage,~~or~~
 - 4. Does not exceed one acre of disturbed area. In determining the size of the disturbed area, all tracts shown on the plan for the project will be aggregated regardless of ownership, and regardless of whether such tracts are contiguous or not, and regardless of whether such tracts are in the same phase. Although a plan and a permit may not be required for activity comprising less than one acre, such activity is subject to all other requirements of this ordinance~~, or~~
 - 5. Is proceeding pursuant to an “at risk” building permit in accordance with N.C.G.S. § 160D-1110.1(h).
- B. No person shall undertake any land-disturbing activity for more than one acre without acquiring an NCG01 Permit (in addition to the permit required by Section 153.11(A) above) by completing and submitting an electronic Notice of Intent (NOI) form requesting a Certificate of Coverage (COC) under the NCG010000 Construction Stormwater General Permit. The letter of approval from the engineer shall contain a notice of the NCG01 Permit requirement and the acreage approved for disturbance.
- C. The transfer of permits shall be subject to the provisions governing permit transfer set forth in N.C.G.S. §§ 143-214.7(c2) and 143-214.7(c5).

Section 6. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.13(D) of the Soil Erosion and Sedimentation Control Ordinance, Penalties, is hereby amended as follows:

D. The Town Engineer shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under N.C.G.S. § 1A-1, Rule 4 and shall direct the violator to either pay the assessment, contest the assessment within 30 days as specified in Section 153.16, or file a request with the Sedimentation Control Commission for remission of the assessment within ~~60~~ 30 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing by the Stormwater Advisory Committee and a stipulation as to the facts on which the assessment was based. If a violator does not pay a civil penalty assessed by the Town Engineer within ~~60~~ 30 Days after it is due, the Town Engineer shall request the Town Attorney to institute a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court.

Section 7. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 153.09(F) of the Soil Erosion and Sedimentation Control Ordinance, Design and Performance Standards, is hereby amended as follows:

~~F. Borrow and waste areas. When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, the following areas are considered as part of the land-disturbing activity.~~

- ~~1. Areas from which borrow is obtained that are not regulated by the provisions of the Mining Act of 1971 and its subsequent amendments, or~~
- ~~2. Waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management.~~

~~When the Person conducting the land-disturbing activity is the person conducting the borrow or waste disposal activity, the activity shall not be considered a separate land-disturbing activity.~~

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered as separate land-disturbing activities.

The responsible person conducting the borrow or waste areas shall provide adequate erosion control measures, structures, or devices and comply with all provisions of this ordinance.

Section 8. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: N/A

PUBLIC HEARING:

PLANNING BOARD:

TOWN BOARD:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-108
HOUSE BILL 488**

AN ACT TO REORGANIZE THE BUILDING CODE COUNCIL AND CREATE THE RESIDENTIAL CODE COUNCIL, TO AMEND VARIOUS PROVISIONS OF THE NORTH CAROLINA STATE BUILDING CODE AND LAND DEVELOPMENT REGULATIONS, AND TO INCREASE THE PROJECT COST MINIMUM FOR APPLICABILITY OF GENERAL CONTRACTOR LICENSING REQUIREMENTS.

The General Assembly of North Carolina enacts:

BUILDING CODE COUNCIL REORGANIZATION, CREATION OF THE RESIDENTIAL CODE COUNCIL, AND CLARIFY STATUTORY REFERENCES TO THE NORTH CAROLINA STATE BUILDING CODE

SECTION 1.(a) Article 9 of Chapter 143 of the General Statutes reads as rewritten:

"Article 9.

"Building Code ~~Council~~ Council, Residential Code Council, and North Carolina State Building Code.

"§ 143-136. Building Code Council created; membership, committees.

...

(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina State ~~Residential Building Code: Residential Code for One and Two Family Dwellings.~~ Code. The committee shall be composed of the following nine members of the Building Code Council:

- (1) One of the licensed architects appointed by the chairman of the Building Code Council.
- (2) The licensed engineer practicing mechanical engineering.
- (3) The licensed engineer practicing electrical engineering.
- (4) The licensed engineer practicing structural engineering.
- (5) The municipal elected official.
- (6) The fire service representative.
- (7) The municipal or county building inspector.
- (8) The State agency engineer.
- (9) The licensed general contractor.

The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee shall meet upon the call of the chairman to review any proposal for revision or amendment to the North Carolina State ~~Building Code~~, including provisions applicable to the North Carolina Energy Conservation Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, the North Carolina Existing Building Code, and any other code applicable to commercial or multi-family construction, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also



oversee the process by which the Council conducts its revision of the codes applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

"§ 143-136.1. Residential Code Council created; membership.

(a) Creation; Membership. – There is hereby created a Residential Code Council, which consists of 13 members appointed as follows:

- (1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited residential contractor license under Chapter 87 of the General Statutes.
- (2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold an intermediate residential contractor license under Chapter 87 of the General Statutes.
- (3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold a plumbing contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold a heating contractor license under Chapter 87 of the General Statutes and specializes in residential construction.
- (5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in coastal construction.
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall hold a limited residential contractor license under Chapter 87 of the General Statutes.
- (7) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall hold an electrical contractor license under Chapter 87 of the General Statutes.
- (8) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a licensed professional engineer under Chapter 89C of the General Statutes and specializes in residential construction.
- (9) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a Level I or Level II Code-enforcement official employed by a municipality or county.
- (10) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a member of the public-at-large.
- (11) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a representative of the natural gas industry.

- (12) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall be a fire service representative.
- (13) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution, who shall hold a general contractor license under Chapter 87 of the General Statutes and specializes in residential foundations or concrete placement.

(b) Terms; Vacancies; Chair. – Of the members initially appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one shall serve for a term of two years, one shall serve for a term of four years, and one shall serve for a term of six years. Of the members initially appointed by the Governor, two shall serve for a term of two years, two shall serve for a term of four years, and three shall serve for a term of six years. Thereafter, all appointments shall be for terms of six years. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor shall be filled by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution. The Governor shall designate one member of the Council as chair.

(c) Compensation. – Members of the Residential Code Council, other than any who are employees of the State, shall receive seven dollars (\$7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(d) Duties. – The Residential Code Council shall review and consider any proposal for revision or amendment to the North Carolina Residential Code, including applicable provisions from the North Carolina Energy Conservation Code, North Carolina Electrical Code, North Carolina Fuel Gas Code, North Carolina Plumbing Code, North Carolina Mechanical Code, North Carolina Existing Building Code, and any other code applicable to residential construction. This Council shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to the North Carolina Residential Code and make disposition of the appeal or issue an interpretation.

"§ 143-137. Organization of Council; rules; meetings; staff; fiscal affairs.

...

(d) Fiscal Affairs of the Council. – All funds for the operations of the Council and its staff shall be appropriated to the Department of Insurance for the use of the Council. All such funds shall be held in a separate or special account on the books of the Department of Insurance, with a separate financial designation or code number to be assigned by the Department of Administration-Insurance or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as the expenditure of any other Department of Insurance funds. The Department of Insurance may hire such additional personnel as may be necessary to handle the work of the Building Code Council, within the limits of funds appropriated for the Council and with the approval of the Council.

"§ 143-137.1. Organization of Residential Code Council; rules; meetings; staff; fiscal affairs; quorum.

(a) First Meeting; Organization; Rules. – Within 30 days after its appointment, the Residential Code Council shall meet on call of the Commissioner of Insurance. The Council shall adopt rules it may deem necessary for the proper discharge of its duties. The chair may establish and appoint members to any committees the work of the Council may require. In addition, the

chair may establish and appoint an ad hoc code revision committee to consider and prepare revisions and amendments to the North Carolina Residential Code. The ad hoc committee shall consist of members of the Council, licensed contractors, and design professionals most affected by the North Carolina Residential Code, and members of the public. Committees shall meet upon the call of their respective chairs and shall report their recommendations to the Council.

(b) Meetings. – The Residential Code Council shall meet regularly, at least once every six months, at places and dates to be determined by the Council. Special meetings may be called by the chair and must be called by the chair at the request of two or more members of the Council. All members shall be notified by the chair in writing of the time and place of regular and special meetings at least seven days in advance of such meeting. All meetings shall be open to the public.

(c) Staff. – Personnel of the Division of Engineering of the Department of Insurance shall serve as a staff for the Residential Code Council. This staff shall have the following duties:

(1) Keeping an accurate and complete record of all meetings, hearings, correspondence, laboratory studies, and technical work performed by or for the Council, and making these records available for public inspection at all reasonable times.

(2) Handling correspondence for the Council.

(d) Fiscal Affairs of the Council. – All funds for the operations of the Residential Code Council and its staff shall be appropriated to the Department of Insurance for the use of the Council. These funds shall be held in a separate or special account on the books of the Department of Insurance, with a separate financial designation or code number to be assigned by the Department of Insurance or its agent. Expenditures for staff salaries and operating expenses shall be made in the same manner as the expenditure of any other Department of Insurance funds. The Department of Insurance may hire any additional personnel necessary to handle the work of the Council, within the limits of funds appropriated for the Council and with the approval of the Council.

(e) Quorum; Voting; No Proxy Vote. – Nine members shall constitute a quorum for the transaction of business and an affirmative vote of nine members present shall be necessary to approve any action of the Council, including any amendment or revision to the North Carolina Residential Code. No member may vote by proxy.

"§ 143-138. North Carolina State Building Code.

(a) Preparation and Adoption. – The Building Code Council and Residential Code Council may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. Before the adoption of any volume of the Code, or any part of the Code, the responsible Council shall hold at least one public hearing. A notice of the public hearing shall be published in the North Carolina Register at least 15 days before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., any volume, or any part, of the North Carolina State Building Code as adopted by the Building Code Council or Residential Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes. For the purposes of this Article, "North Carolina State Building Code" or "Code" shall collectively refer to all Code volumes, as revised or amended, prepared and adopted by the Building Code Council or Residential Code Council pursuant to this Article, including the following Code volumes:

- (1) North Carolina Administrative Code and Policies.
- (2) North Carolina Building Code.
- (3) North Carolina Electrical Code.
- (4) North Carolina Energy Conservation Code.
- (5) North Carolina Existing Building Code.
- (6) North Carolina Fire Code.
- (7) North Carolina Fuel Gas Code.
- (8) North Carolina Mechanical Code.

- (9) North Carolina Plumbing Code.
- (10) North Carolina Residential Code.
- (a1) Additional Adoption Requirements. –
 - (1) The Building Code Council or Residential Code Council shall request the Office of State Budget and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit. The change can become effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the ~~Council-Councils~~ shall be required to expend any monies to pay for the preparation of any fiscal note under this section by any person outside of the Department or ~~Council-Councils~~ unless the Department or ~~Council-contracs-Councils contract~~ with a third-party vendor to prepare the fiscal note.
 - (2) The responsible Council shall conduct a cost-benefit analysis for all proposed changes considered after January 1, 2018, to the North Carolina Energy Conservation Code.

(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council or Residential Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

...

(b2) Carbon Monoxide Alarms. – The Code (i) may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide alarms in every dwelling unit having a combustion heater, appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain provisions requiring the installation of electrical carbon monoxide alarms at a lodging establishment. Violations of this subsection and rules adopted pursuant to this subsection shall be punishable in accordance with subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

...

- (3) The Building Code Council shall modify the ~~NC State Building Code (Fire Prevention)~~ North Carolina Fire Code to regulate the provisions of this subsection in new and existing lodging establishments, including hotels, motels, tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247; provided nothing in this subsection shall prevent the Building Code Council from establishing more stringent rules regulating carbon monoxide alarms or detectors for new lodging establishments, including hotels, motels, tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247. The Building Code Council shall modify the ~~NC~~

- ~~State Building Code (Fire Prevention)~~ North Carolina Fire Code minimum inspection schedule to include annual inspections of new and existing lodging establishments, including hotels, motels, and tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), and bed and breakfast inns and bed and breakfast homes as defined in G.S. 130A-247 for the purpose of compliance with this subsection.
- (4) Upon discovery of a violation of this subsection that poses an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the code official responsible for enforcing the ~~NC State Building Code (Fire Prevention)~~ North Carolina Fire Code shall immediately notify the local health director for the county in which the violation was discovered, or the local health director's designee, by verbal contact and shall also submit a written report documenting the violation of this subsection to the local health director for the county in which the violation was discovered, or the local health director's designee, on the next working day following the discovery of the violation. Within one working day of receipt of the written report documenting a violation of this subsection, the local health director for the county in which the violation was discovered, or the local health director's designee, shall investigate and take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the ~~NC State Building Code (Fire Prevention)~~ North Carolina Fire Code.
- (5) Upon discovery of a violation of this subsection that does not pose an imminent hazard and that is not corrected during an inspection of a lodging establishment subject to the provisions of G.S. 130A-248, the owner or operator of the lodging establishment shall have a correction period of three working days following the discovery of the violation to notify the code official responsible for enforcing the ~~NC State Building Code (Fire Prevention)~~ North Carolina Fire Code verbally or in writing that the violation has been corrected. If the code official receives such notification, the code official may reinspect the portions of the lodging establishment that contained violations, but any fees for reinspection shall not exceed the fee charged for the initial inspection. If the code official receives no such notification, or if a reinspection discovers that previous violations were not corrected, the code official shall submit a written report documenting the violation of this subsection to the local health director for the county in which the violation was discovered, or the local health director's designee, within three working days following the termination of the correction period or the reinspection, whichever is later. The local health director shall investigate and may take appropriate action regarding the permit for the lodging establishment, as provided in G.S. 130A-248. Lodging establishments having five or more rooms that are exempted from the requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the penalties set forth in the ~~NC State Building Code (Fire Prevention)~~ North Carolina Fire Code.

...

(b7) Appendices. – For the information of users thereof, the Code shall include as appendices the following:

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council or Residential Code Council believes pertinent.

The Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council or Residential Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

...

(b9) Exclusion for Industrial Machinery. – Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the ~~building-code-Code~~ inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product or acquired by a State-supported center providing testing, research, and development services to manufacturing clients. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

...

(b13) Migrant Housing. – The Building Code Council shall provide for an exemption from any requirements in the ~~fire-prevention-code-North Carolina Fire Code~~ for installation of an automatic sprinkler system applicable to buildings meeting all of the following:

- (1) Has one floor.
- (2) Meets all requirements of 29 C.F.R. § 1910.142, as amended.
- (3) Meets all requirements of Article 19 of Chapter 95 of the General Statutes and rules implementing that Article.

For purposes of this subsection, "migrant housing" and "migrant" shall be defined as in G.S. 95-223.

...

(b15) Exclusion from Energy Conservation Code Requirements for Existing Commercial Buildings. – The alteration of commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011. The addition to commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011, so long as the addition does not increase the building area of the existing commercial building or structure to more than one hundred fifty percent (150%) of the building area of the commercial building or structure as it was in existence on December 31, 2011. For the purpose of this subsection, the term "commercial buildings and structures" shall include all structures and buildings that are not classified as a Group R occupancy by the Building Code Council.

...

(b18) Exclusion From Energy ~~Efficiency~~-Conservation Code Requirements for Certain Use and Occupancy Classifications. – The Building Code Council shall provide for an exemption from any requirements in the energy efficiency standards pursuant to Chapter 13 of the 2012

North Carolina Building Code and the 2012 Energy Conservation Code, and any subsequent amendments to the North Carolina Building Code and North Carolina Energy Conservation Code, for the following use and occupancy classifications pursuant to Chapter 3 of the 2012 North Carolina Building Code: Section 306, Factory Group F; Section 311, Storage Group S; and Section 312, Utility and Miscellaneous Group U. This exclusion shall apply to the entire floor area of any structure for which the primary use or occupancy is listed herein.

(b19) Exclusion From Energy Efficiency Code Requirements for Residential Garages. – The Residential Code Council shall provide for an exemption for detached and attached garages located on the same lot as a dwelling from any requirements in the energy efficiency standards pursuant to Chapter 11 of the North Carolina Residential Code ~~for One- and Two-Family Dwellings~~ and Chapter 4 of the North Carolina Energy Conservation Code.

...

(b22) (Expires December 31, 2024 – see note) Limit Requirement for Certain Plans to be Under Professional Seal. – The North Carolina State Building Code shall not require that plans and specifications for any alteration, remodeling, renovation, or repair of a commercial building or structure be prepared by and under the seal of a registered architect licensed under Chapter 83A of the General Statutes, or a registered engineer licensed under Chapter 89C of the General Statutes, if the alteration, remodeling, renovation, or repair costs less than three hundred thousand dollars (\$300,000) or if the total building area does not exceed 3,000 square feet in gross floor area and all of the following apply:

- (1) The alteration, remodeling, renovation, or repair does not include the addition, repair, or replacement of load-bearing structures.
- (2) The alteration, remodeling, renovation, or repair is not subject to the requirements of G.S. 133-1.1(a).
- (3) The alteration, remodeling, renovation, or repair is performed in accordance with the current edition of the North Carolina Fire ~~Prevention~~ Code.

(c) Standards to Be Followed in Adopting the Code. – All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, health and safety, and their provisions shall be construed reasonably to those ends. Requirements of the Code shall conform to good engineering practice. The Building Code Council and Residential Code Council may use as guidance, but is not required to adopt, the requirements of the International Building Code of the International Code Council, the Standard Building Code of the Southern Building Code Congress International, Inc., the Uniform Building Code of the International Conference of Building Officials, the National Building Code of the Building Officials and Code Administrators, Inc., the National Electric Code, the Life Safety Code, the National Fuel Gas Code, the Fire Prevention Code of the National Fire Protection Association, the Safety Code for Elevators and Escalators, and the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, and standards promulgated by the American National Standards Institute, Standards Underwriters' Laboratories, Inc., and similar national or international agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety.

...

(d) Amendments of the Code. – ~~Subject to the procedures set forth in G.S. 143-136(e) and (d), the~~ The Building Code Council and Residential Code Council may periodically revise and amend ~~the those parts of the North Carolina State Building Code, Code for which those Councils are responsible, either on its their own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the responsible Council, the Residential Code Council shall, following the procedure set forth in G.S. 143-136(e), shall perform a comprehensive review and revise or amend the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, Code, including provisions applicable to One- and Two-Family Dwellings dwellings~~

covered by the North Carolina Residential Code, from the ~~NC~~ North Carolina Energy Conservation Code, ~~NC~~ North Carolina Electrical Code, ~~NC~~ North Carolina Fuel Gas Code, ~~NC~~ North Carolina Plumbing Code, and ~~NC~~ North Carolina Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision by the Residential Council under this subsection shall be adopted to become effective January 1, ~~2019, 2031,~~ and every six years thereafter. After its appointment pursuant to G.S. 143-136.1, the Residential Code Council shall review the North Carolina Energy Conservation Code, the North Carolina Fuel Gas Code, and the North Carolina Mechanical Code and may amend the relevant chapters of the North Carolina Residential Code, affected by that review, by January 1, 2026. Following the adoption of amendments to the North Carolina Residential Code affected by that review, the North Carolina Residential Code shall also be subject to the first six-year revision under this subsection. In adopting any amendment, the Building Code Council and Residential Code Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Building Code Council and Residential Code Council, through the Department of Insurance, shall publish in the North Carolina Register all appeal decisions made by the responsible Code Council and all formal opinions at least semiannually. The Building Code Council and Residential Code Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web-site website address and information on how to find additional commentary and interpretation of the Code.

(d1) Cost-Benefit Analysis. – When the Building Code Council or Residential Code Council revises or amends the North Carolina State Building ~~Code Code~~, or any part of the Code, as provided in subsection (d) of this section and considers an economic analysis or cost-benefit analysis of the proposed revision or amendment, the responsible Code Council shall not limit its review to an economic analysis or cost-benefit analysis submitted by the proponent of the proposed revision or amendment but shall either conduct its own economic analysis or cost-benefit analysis or consider an economic analysis or cost-benefit analysis submitted other than by the proponent of the proposed revision or amendment. This section shall not apply to a proposal for revision or amendment made upon motion of a responsible Code Council or submitted by a State agency or political subdivision of the State.

(e) Effect upon Local Codes. – Except as otherwise provided in this section, the North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160D-202 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than floodplain management regulations and those permitted by G.S. 160D-1128, shall be effective until they have been officially approved by the Building-responsible Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems, foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council or Residential Code Council, or in the event that approval is withdrawn, local fire prevention codes

and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the ~~State Building Code~~, may be approved. Local governments may enforce the fire prevention code of the ~~State Building Code~~ using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160D-1127.

A local government may not adopt any ordinance ~~in~~ conflict with the exemption provided by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit the exemption provided by subsection (c1) of this section.

...

(g) Publication and Distribution of Code. – The Building Code Council and Residential Code Council shall cause to be printed, after adoption by ~~the~~ each responsible Code Council, the North Carolina State Building ~~Code~~ Code, or any part of the Code, and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction.....	1
Attorney General (Library)	1
Commissioner of Agriculture.....	1
Commissioner of Labor.....	1
Commissioner of Insurance	1
Department of Environmental	
Quality.....	1
Department of Health and Human Service	1
Division of Adult Correction and Juvenile Justice of the	
Department of Public Safety	1
Board of Transportation	1
Utilities Commission.....	1
Department of Administration	1
Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Department of Natural and Cultural Resources [State	
Library]	1
Supreme Court Library	1
Legislative Library	1
Office of Administrative Hearings.....	1
Rules Review Commission	1

Schools

All state-supported colleges and universities
in the State of North Carolina *1 each

Local Officials

Clerks of the Superior Courts..... 1 each

Chief Building Inspector of each incorporated
municipality or county 1

In addition, the Building Code Council and Residential Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public. The proceeds from sales of the ~~Building Code Code~~, or any part of the Code, shall be credited to the Insurance Regulatory Fund under G.S. 58-6-25.

...

(j) Subsection (i) of this section does not apply to business occupancy buildings as defined in the North Carolina ~~State~~ Building Code except that evacuation plans as required on page 8, lines 2 through 16, and smoke detectors as required for Class I Buildings as required by Section 1008.2, page 11, lines 5 through 21; Class II Buildings as required by Section 1008.3, page 17, lines 17 through 28 and page 18, lines 1 through 10; and Class III Buildings, as required by Section 1008.4, lines 21 through 25 shall not be exempted from operation of this act as applied to business occupancy buildings, except that the Council shall adopt rules that allow a business occupancy building built prior to 1953 to have a single exit to remain if the building complies with the North Carolina Building Code on or before December 31, 2006.

(j1) A nonbusiness occupancy building built prior to the adoption of the 1953 Building Code that is not in compliance with Section 402.1.3.5 of Volume IX of the Building Code or Section 3407.2.2 of Volume I of the Building Code must comply with the applicable sections by December 31, 2006.

...

"§ 143-138.1. Introduction and instruction of the North Carolina State Building Code; posting of written commentaries and interpretations on Department of Insurance ~~Web site~~website.

(a) Prior to the effective date of Code changes pursuant to G.S. 143-138, the ~~State Building responsible~~ Code Council and Department of Insurance shall provide for instructional classes for the various trades affected by the ~~Code changes~~. The Department of Insurance shall develop the curriculum for each class but shall consult the affected licensing boards and trade organizations. The curriculum shall include explanations of the rationale and need for each Code amendment or revision. Classes may also be conducted by, on behalf of, or in cooperation with licensing boards, trade associations, and professional societies. The Department of Insurance may charge fees sufficient to recover the costs it incurs under this section. The responsible Code Council shall ensure that courses are accessible to persons throughout the State.

(b) The Department of Insurance shall post and maintain on that portion of its ~~Web site~~ website devoted to the Building Code Council and Residential Code Council written commentaries and written interpretations made and given by staff to ~~the each responsible Code Council~~ and the Department for each section of the North Carolina State Building Code within 10 business days of issuance.

"§ 143-139. Enforcement of the North Carolina State Building Code.

(a) Procedural Requirements. – Subject to the provisions set forth herein, the Building Code Council and Residential Code Council shall adopt such procedural requirements in the North Carolina State Building Code as shall appear reasonably necessary for adequate enforcement of the Code while safeguarding the rights of persons subject to the Code.

...

"§ 143-139.1. Certification of manufactured buildings, structures or components by recognized independent testing laboratory; minimum standards for single-family, on-frame modular homes.

(a) Certification. – The North Carolina State Building Code may provide, in circumstances deemed appropriate by the ~~Building-responsible~~ Code Council, for testing, evaluation, inspection, and certification of buildings, structures or components manufactured off the site on which they are to be erected, by a recognized independent testing laboratory having follow-up inspection services approved by the ~~Building-responsible~~ Code Council. Approval of such buildings, structures or components shall be evidenced by labels or seals acceptable to the responsible Council. All building units, structures or components bearing such labels or seals shall be deemed to meet the requirements of the North Carolina State Building Code and this Article without further inspection or payment of fees, except as may be required for the enforcement of the Code relative to the connection of units and components and enforcement of local ordinances governing zoning, utility connections, and foundations permits. The Building Code Council and Residential Code Council shall adopt and may amend from time to time such reasonable and appropriate rules and regulations as ~~it deems they deem~~ necessary for approval of agencies offering such testing, evaluation, inspection, and certification services and for overseeing their operations. Such rules and regulations shall include provisions to insure that such agencies are independent and free of any potential conflicts of interest which might influence their judgment in exercising their functions under the ~~Code, for which they are responsible.~~ Such rules and regulations may include a schedule of reasonable fees to cover administrative expenses in approving and overseeing operations of such agencies and may require the posting of a bond or other security satisfactory to the responsible Code Council guaranteeing faithful performance of duties under the Code.

The ~~Building-responsible~~ Code Council may also adopt rules to insure that any person that is not licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina labeled manufactured modular building, meets the manufacturer's installation instructions and applicable provisions of the North Carolina State Building Code. Any such person, before securing a permit to erect a modular building, shall provide the code enforcement official proof that he has in force for each modular building to be erected a \$5,000 surety bond insuring compliance with the regulations of the North Carolina State Building Code governing installation of modular buildings.

...

"§ 143-139.2. Enforcement of insulation requirements; certificate for occupancy; no electric service without compliance.

(a) In addition to other enforcement provisions set forth in this Chapter, no single family or multi-unit residential building on which construction is begun in North Carolina on or after January 1, 1978, shall be occupied until it has been certified as being in compliance with the minimum insulation standards for residential construction, as prescribed in the North Carolina State Building Code or as approved by the ~~Building-responsible~~ Code Council as provided in G.S. 143-138(e).

(b) No public supplier of electric service, including regulated public utilities, municipal electric service and electric membership corporations, shall connect for electric service to an occupant any residential building on which construction is begun on or after January 1, 1978, unless said building complies with the insulation requirements of the North Carolina State Building Code or of local building codes approved by the ~~Building Codes-responsible~~ Code Council as provided in G.S. 143-138(e), and has been certified for occupancy in compliance with the minimum insulation standards of the North Carolina State Building Code or of any local modification approved as provided in G.S. 143-138(e), by a person designated as an inspector pursuant to subsection (a) of this section.

(c) This section shall apply only in any county or city that elects to enforce the insulation and energy utilization standards of the North Carolina State Building Code pursuant to G.S. 143-151.27.

...

"§ 143-140. Hearings before enforcement agencies as to questions under the North Carolina State Building Code.

(a) Any person desiring to raise any question under this Article or under the North Carolina State Building Code shall be entitled to a technical interpretation from the appropriate enforcement agency, as designated in the preceding section. Upon request in writing by any such person, the enforcement agency through an appropriate official shall within a reasonable time provide a written interpretation, setting forth the facts found, the decision reached, and the reasons therefor. In the event of dissatisfaction with such decision, the person affected shall have the options of:

- (1) Appealing to the Building Code Council or the Residential Code Council.
- (2) Appealing directly to the Superior Court, as provided in G.S. 143-141.

(b) If an interpretation under this section or under G.S. 143-141(b) changes after a building permit is issued, the permit applicant may choose which version of the interpretation will apply to the permit, unless such a choice would cause harm to life or property.

"§ 143-140.1. Alternative design construction and methods; appeals.

~~The North Carolina Building Code Council shall, by January 1, 2023, promulgate rules, procedures, and policies for the approval of alternative designs and construction. Alternative designs and construction shall that follow the North Carolina State Building Code. The Residential Code Council shall, by January 1, 2026, promulgate rules, procedures, and policies for the approval of alternative designs and construction that follow the North Carolina State Building Code.~~ In the event of a dispute between a local authority having jurisdiction and the designer or owner-representative regarding alternative designs and construction, and notwithstanding any other section within this Article, appeals by the designer or owner-representative on matters pertaining to alternative design construction or methods shall be heard by the Department of Insurance Engineering Division. The Department of Insurance Engineering Division shall issue its decision regarding an appeal filed under this section within 10 business days. The Commissioner of Insurance shall adopt rules in furtherance of this section.

"§ 143-141. Appeals to Building Code Council and Residential Code Council.

(a) Method of Appeal. – Whenever any person desires to take an appeal to the Building responsible Code Council from the decision of a State enforcement agency relating to any matter under this Article or under the North Carolina State Building Code, ~~he the appellant shall~~ within 30 days after ~~such the~~ decision give written notice of appeal to the Building responsible Code Council through the Division of Engineering of the Department of Insurance ~~that he desires to take an appeal. Insurance.~~ A copy of ~~such the~~ notice of appeal shall be filed at the same time with the enforcement agency from which the appeal is taken. The chairman of the Building responsible Code Council shall fix a reasonable time and place for a hearing, giving reasonable notice to the appellant and to the enforcement agency. Such hearing shall be not later than the next regular meeting of the responsible Code Council. The Building responsible Code Council shall thereupon conduct a full and complete hearing as to the matters in controversy, after which it shall within a reasonable time give a written decision setting forth its findings of fact and its conclusions.

(b) Interpretations of the Code. – The Building responsible Code Council shall have the duty, in hearing appeals, to give interpretations of such provisions of the North Carolina State Building Code ~~as shall be~~ pertinent to the ~~matter at issue. appeal.~~ Where the responsible Code Council finds that an enforcement agency was in error in its interpretation of the Code, it shall remand the case to the agency with instructions to take such action as it directs. Interpretations by the responsible Code Council and local enforcement officials shall be based on a reasonable construction of the Code provisions.

(c) Variations of the Code. – Where the Building responsible Code Council finds on appeal that materials or methods of construction proposed to be used are as good as those required by the Code, it shall remand the case to the enforcement agency with instructions to permit the use of such materials or methods of construction. The responsible Code Council shall thereupon

immediately initiate procedures for amending the Code as necessary to permit the use of such materials or methods of construction.

(c1) Posting on Department ~~Web Site~~ Website – The Department of Insurance shall post and maintain on that portion of its ~~Web site~~ website devoted to the ~~Building responsible~~ Code Council all appeal decisions, interpretations, and variations of the Code issued by the ~~responsible~~ Code Council within 10 business days of issuance.

(d) Further Appeals to the Courts. – Whenever any person desires to take an appeal from a decision of the ~~Building responsible~~ Code Council or from the decision of an enforcement agency (with or without an appeal to the ~~Building responsible~~ Code Council), ~~he the appellant~~ may take an appeal either to the Wake County Superior Court or to the superior court of the county in which the proposed building is to be situated, in accordance with the provisions of Chapter 150B of the General Statutes.

"§ 143-142. Further duties of the ~~Building Code Council~~ Councils.

(a) Recommended Statutory Changes. – It shall be the duty of the ~~Building responsible~~ Code Council to make a thorough and continuing study of the building laws of the State, including both the statutes enacted by the General Assembly and the rules and regulations adopted by State and local agencies. On the basis of such ~~study~~ studies, the ~~responsible~~ Council shall from time to time recommend to the ~~1959 and subsequent General Assemblies~~ Assembly desirable statutory changes to simplify and improve such laws.

(b) Recommend Changes in Enforcement Procedures. – It shall be the duty of the ~~Building responsible~~ Code Council to make a thorough and continuing study of the manner in which the building laws of the State are enforced by State, local, and private agencies. On the basis of such studies, the Council may recommend to the General Assembly any statutory changes necessary to improve and simplify the enforcement machinery. The ~~responsible~~ Code Council may also advise State agencies as to any changes in administrative practices which could be made to improve the enforcement of building laws without statutory changes.

...

"§ 143-143.2. Electric wiring of houses, buildings, and structures.

(a) The electric wiring of houses or buildings for lighting or for other purposes shall conform to the requirements of the North Carolina State Building Code and any other applicable State and local laws.

...

"§ 143-143.3. Temporary toilet facilities at construction sites.

(a) Suitable toilet facilities shall be provided and maintained in a sanitary condition during construction. An adequate number of facilities must be provided for the number of employees at the construction site. There shall be at least one facility for every two contiguous construction sites. Such facilities may be portable, enclosed, chemically treated, tank-tight units. Portable toilets shall be enclosed, screened, and weatherproofed with internal latches. Temporary toilet facilities need not be provided on-site for crews on a job site for no more than one working day and having transportation readily available to nearby toilet facilities.

(b) It shall be the duty of the ~~Building responsible~~ Code Council to establish standards to carry out the provisions of subsection (a) of this section not inconsistent with the requirements for toilet facilities at construction sites established pursuant to federal occupational safety and health rules.

...."

SECTION 1.(b) G.S. 143-136(c) is repealed.

SECTION 1.(c) G.S. 160D-102(14) reads as rewritten:

"(14) Development regulation. – A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless

telecommunication facility regulation, historic preservation or landmark regulation, housing code, North Carolina State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development."

SECTION 1.(d) G.S. 160D-702 reads as rewritten:

"§ 160D-702. Grant of power.

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

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

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

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

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

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

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

- (1) Set a minimum square footage of any structures subject to regulation under the ~~North Carolina Residential Code for One and Two Family Dwellings Code.~~
- (2) Set a maximum parking space size larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking."

SECTION 1.(e) G.S. 160D-804(i) reads as rewritten:

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

SECTION 1.(f) G.S. 160D-706(b) reads as rewritten:

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

SECTION 1.(g) G.S. 160D-915(a)(5) reads as rewritten:

"(5) Temporary family health care structure. – A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the North Carolina State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted."

SECTION 1.(h) G.S. 160D-1001(c) reads as rewritten:

"(c) This Article is supplemental to the powers conferred upon local governments and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the North Carolina State Building Code or State or local housing codes that are not part of the local government's development regulations. When the governing board approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Article, the provisions of G.S. 160D-605(a) apply."

SECTION 1.(i) G.S. 160D-1103 reads as rewritten:

"§ 160D-1103. Qualifications of inspectors.

No local government shall employ an inspector to enforce the North Carolina State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position."

SECTION 1.(j) G.S. 160D-1104, as amended by Section 4(b) of this act, reads as rewritten:

"§ 160D-1104. Duties and responsibilities.

...

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

(d) Except as provided in G.S. 160D-1117 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code ~~for One and Two Family Dwellings~~ in addition to the specific inspections required by the North Carolina State Building Code without first obtaining approval from the ~~North Carolina Building Residential~~ Code Council. A local government may not adopt or enforce a local ordinance or resolution or any other policy that requires routine exterior sheathing inspections for structures or dwellings covered by the North Carolina Building Code or North Carolina Residential Code located in a region where the ultimate wind speed is less than 140 miles per hour. The ~~North Carolina Building Residential~~ Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential ~~Building~~ Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code ~~for One and Two Family Dwellings~~ or the North Carolina State Building Code. When a subsequent inspection is conducted to verify completion or correction of instances of Code noncompliance, any additional violations of the Code noted by the inspector on items already approved by the inspections department shall not delay the issuance of a temporary certificate of occupancy, and the inspections department shall not charge a fee for reinspection of those items.

...."

SECTION 1.(k) G.S. 160D-1106 reads as rewritten:

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

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

- ...
- (3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the local government with a signed written document certifying that the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina ~~State Building Code or the North Carolina Residential Code for One and Two Family Dwellings~~ Code. The certification required under this subdivision shall be provided by electronic or physical delivery, [and] its receipt shall be promptly acknowledged by the local government through reciprocal means. The certification shall be made on a ~~form~~ forms created by the ~~North Carolina Building Code Council~~ and Residential Code Council which shall include at least the following:

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

...

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

...."

SECTION 1.(l) G.S. 160D-1109(b) reads as rewritten:

"(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One and Two Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d)."

SECTION 1.(m) G.S. 160D-1110, as amended by Section 2(g) of this act, reads as rewritten:

"§ 160D-1110. Building permits.

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

- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.
- (2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if (i) the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and (ii) the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the North Carolina State Building Code.
- (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:
 - a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

- b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
- c. The work is performed by a person licensed under G.S. 87-43.
- d. The repair or replacement installation meets the current edition of the North Carolina State Building Code, including the ~~State~~North Carolina Electrical Code.

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

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

...

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is forty thousand dollars (\$40,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina ~~Uniform Residential Building Code~~, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in

G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is forty thousand dollars (\$40,000) or more.

...."

SECTION 1.(n) G.S. 160D-1112 reads as rewritten:

"§ 160D-1112. Changes in work.

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the North Carolina State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department."

SECTION 1.(o) G.S. 160D-1114 reads as rewritten:

"§ 160D-1114. Appeals of stop orders.

(a) The owner or builder may appeal from a stop order involving alleged violation of the North Carolina State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

- (1) Appealing to the Building Code Council or Residential Code Council.
- (2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405."

SECTION 1.(p) G.S. 160D-1127 reads as rewritten:

"§ 160D-1127. Appeals.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the North Carolina State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State-Building Code Council or Residential Code Council or to the courts as provided by law."

SECTION 1.(q) Subject to Section 7 and Section 8 of this act, nothing in this section shall be construed to affect the timing of, or abrogate the duties of, the Building Code Council in its revision of the North Carolina State Building Code collection, including the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, into the 2024 North Carolina State Building Code collection, to become effective on January 1, 2025, as required by G.S. 143-138(d) prior to the effective date of the remainder of this section.

SECTION 1.(r) Subsection (q) of this section is effective when it becomes law, and the remainder of this section becomes effective January 1, 2025.

DEPARTMENT OF INSURANCE TO REPORT ON BUILDING CODE COUNCIL REORGANIZATION AND CREATION OF THE RESIDENTIAL CODE COUNCIL AND CLARIFICATION OF STATUTORY REFERENCES TO THE NORTH CAROLINA STATE BUILDING CODE

SECTION 1A. The Department of Insurance, in consultation with the Building Code Council, shall report to the chair of the House Local Government – Land Use, Planning and Development Committee, the chair of the Senate State and Local Government Committee, and the Joint Legislative Commission on Governmental Operations on or before January 31, 2024, and submit recommendations for legislative changes necessary to implement the reorganization of the Building Code Council, the creation of the Residential Code Council, and clarifications of statutory references to the North Carolina State Building Code, and its volumes, under Section 1 of this act. This report shall include recommended statutory changes, subject matter clarifications, and any additional information the Department deems relevant.

MODIFY PERMIT EXEMPTIONS AND RESTRICTIONS WITH RELATED GENERAL CONTRACTOR LICENSURE AND CONFORMING CHANGES

SECTION 2.(a) G.S. 87-1(a) reads as rewritten:

"(a) For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is ~~thirty-four~~ thirty-four thousand dollars ~~(\$30,000)-(\$40,000)~~ or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a "general contractor" engaged in the business of general contracting in the State of North Carolina."

SECTION 2.(b) G.S. 87-14 reads as rewritten:

"§ 87-14. Regulations as to issue of building permits.

(a) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost is to be ~~thirty-four~~ thirty-four thousand dollars ~~(\$30,000)-(\$40,000)~~ or more, shall, before being entitled to a permit, satisfy the following:

(1) Furnish satisfactory proof to the inspector or authority that the applicant seeking the permit or another person contracting to superintend or manage the construction is licensed under this Article to carry out or superintend the construction or is exempt from licensure under G.S. 87-1(b). If an applicant claims an exemption from licensure pursuant to G.S. 87-1(b)(2), the applicant for the building permit shall execute a verified affidavit attesting to the following:

- a. That the applicant is the owner of the property on which the building is being constructed and, if the applicant is a firm or corporation, that the person submitting the application is an owner, officer, or member of the firm or corporation that owns the property.
- b. That the applicant will personally superintend and manage all aspects of the construction of the building and that the duty will not be delegated to any other person not licensed under this Article.
- c. That the applicant will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

The building inspector or other authority shall transmit a copy of the affidavit to the Board, which shall verify that the applicant was validly entitled to claim the exemption under G.S. 87-1(b)(2). If the Board determines that the

applicant was not entitled to claim the exemption under G.S. 87-1(b)(2), the building permit shall be revoked pursuant to G.S. 160D-1115.

- (2) Furnish proof that the applicant has in effect Workers' Compensation insurance as required by Chapter 97 of the General Statutes.

...

(a1) Any person, firm, or corporation, upon making application to the building inspector or other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160D-1110 for any improvements for which the combined cost is to be ~~thirty-four~~ thirty thousand dollars (~~\$30,000~~) (~~\$40,000~~) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and email address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a).

...."

SECTION 2.(c) G.S. 143-138(b5) reads as rewritten:

"(b5) Permit Exclusion for Certain Minor Activities. – No permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code and costing ~~twenty thousand dollars (\$20,000)~~ thirty thousand dollars (\$30,000) or less in any single family residence, farm building, or commercial building unless the work involves any of the following:

- (1) The addition, repair, or replacement of load bearing structures. However, no permit is required for replacements of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.
- (2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.
- (3) The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, appliances, or equipment, other than a like-kind replacement of electrical devices and lighting fixtures.
- (4) The use of materials not permitted by the North Carolina State Building Code.
- (5) The addition (excluding replacement) of roofing.
- (6) Any changes to which the North Carolina Fire ~~Prevention~~ Code applies."

SECTION 2.(d) G.S. 143-138(b21) reads as rewritten:

"(b21) Exclusion for Certain Minor Activities in Commercial Buildings and Structures. – No permit shall be required under the Code or any local variance thereof approved under subsection (e) of this section for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing ~~twenty thousand dollars (\$20,000)~~ thirty thousand dollars (\$30,000) or less in any commercial building or structure unless the work involves any of the activities described in subdivisions (1) through (6) of subsection (b5) of this section. For the purpose of determining applicability of permit exclusions for a commercial building or structure under this subsection, subsection (b5) of this section, and G.S. 160D-1110(c), cost is the total cost of work, including all building addition, demolition, alteration, and repair work, occurring on the property within 12 consecutive months."

SECTION 2.(e) G.S. 160D-1110(c) reads as rewritten:

"(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes is required for any construction, installation, repair, replacement, or alteration performed in

accordance with the current edition of the North Carolina State Building Code costing ~~twenty thousand dollars (\$20,000)~~ forty thousand dollars (\$40,000) or less in any single-family residence, farm building, or commercial building unless the work involves any of the following:

- (1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.
- (2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.
- (3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.
- (4) The use of materials not permitted by the North Carolina State Building Code.
- (5) The addition (excluding replacement) of roofing."
- (6) Any changes to which the North Carolina Fire ~~Prevention~~ Code applies."

SECTION 2.(f) G.S. 160D-1110(d) reads as rewritten:

"(d) A local government shall not ~~require~~ do any of the following:

- (1) Require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.
- (2) Require more than one building permit for simultaneous projects at the time of the application located at the same address and subject to the North Carolina Residential Code."

SECTION 2.(g) G.S. 160D-1110(g) reads as rewritten:

"(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is ~~thirty-four~~ thirty-four thousand dollars ~~(\$30,000)-(\$40,000)~~ or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is ~~thirty-four~~ thirty-four thousand dollars ~~(\$30,000)-(\$40,000)~~ or more."

SECTION 2.(h) G.S. 44A-11.1(a) reads as rewritten:

"(a) With regard to any improvements to real property to which this Article is applicable for which the costs of the undertaking are ~~thirty-four~~ thirty-four thousand dollars ~~(\$30,000)-(\$40,000)~~ or more, either at the time that the original building permit is issued or, in cases in which no building permit is required, at the time the contract for the improvements is entered into with the owner,

the owner shall designate a lien agent no later than the time the owner first contracts with any person to improve the real property. Provided, however, that the owner is not required to designate a lien agent for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that is occupied by the owner as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residence. The owner shall deliver written notice of designation to its designated lien agent by any method authorized in G.S. 44A-11.2(f), and shall include in its notice the street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property for the improvements to which the lien agent has been designated, and the owner's contact information. Designation of a lien agent pursuant to this section does not make the lien agent an agent of the owner for purposes of receiving a Claim of Lien on Real Property, a Notice of Claim of Lien upon Funds, a Notice of Subcontract, or for any purpose other than the receipt of notices to the lien agent required under G.S. 44A-11.2."

SECTION 2.(i) G.S. 89D-12(c) reads as rewritten:

"(c) A landscape contractor licensed under this Chapter is not required to be licensed as a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed landscape contractor is performing landscape construction or contracting work valued at an amount greater than ~~thirty-four~~ thirty thousand dollars ~~(\$30,000)-(\$40,000).~~"

SECTION 2.(j) This section becomes effective October 1, 2023, and subsections (b) through (g) of this section apply to permit applications for construction, installation, repair, replacement, remodeling, renovation, or alteration projects submitted on or after that date.

AUTHORIZE ALTERNATIVE PAVEMENT DESIGN STANDARDS WITHIN DEVELOPMENTS

SECTION 3.(a) G.S. 160D-804 is amended by adding a new subsection to read:

"(j) Private Driveway Pavement Design Standards. – The regulation shall not require pavement design standards for new private driveway construction that are more stringent than the minimum pavement design standards adopted by the North Carolina Department of Transportation. Notwithstanding any regulation adopted by the local government, the local government must accept engineered pavement design standards that do not meet minimum standards required by the Department of Transportation if the proposed design standard is signed and sealed by a duly licensed professional engineer, under Chapter 89C of the General Statutes, and meets vehicular traffic and fire apparatus access requirements. This subsection applies to construction of new privately owned driveways, parking lots, and driving areas associated with parking lots within a new development or subdivision that the developer designates as private and that are intended to remain privately owned after construction. If driveways, parking lots, and driving areas associated with parking lots are constructed to pavement design standards that do not meet minimum standards required by a regulation adopted by the local government, as authorized by this subsection, the developer must include disclosures to prospective buyers as outlined in G.S. 136-102.6(f) prior to entering into any agreement or any conveyance with any prospective buyer. A local government is discharged and released from any liabilities, duties, and responsibilities imposed by this Article, or in common law, from any claim arising out of, or attributed to, the plan review or acceptance of signed and sealed pavement design standards submitted pursuant to this subsection. Nothing in this section limits the authority of local governments or the Department of Transportation to regulate private roads, driveways, or street connections to a public system, or to regulate transportation and utilities, pursuant to subsection (c) of this section, or as otherwise authorized by law."

SECTION 3.(b) This section becomes effective October 1, 2023, and applies to permit applications submitted on or after that date.

PROHIBIT EXTERIOR SHEATHING INSPECTIONS

SECTION 4.(a) G.S. 143-138 is amended by adding a new subsection to read:

"(b23) Exterior Sheathing Inspections Prohibited. – The Code shall not require routine exterior sheathing inspections for structures or dwellings covered by the North Carolina Building Code or North Carolina Residential Code located in a region where the ultimate wind speed is less than 140 miles per hour."

SECTION 4.(b) G.S. 160D-1104(d) reads as rewritten:

"(d) Except as provided in G.S. 160D-1117 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. A local government may not adopt or enforce a local ordinance or resolution or any other policy that requires routine exterior sheathing inspections for structures or dwellings covered by the North Carolina Building Code or North Carolina Residential Code located in a region where the ultimate wind speed is less than 140 miles per hour. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code. When a subsequent inspection is conducted to verify completion or correction of instances of Code noncompliance, any additional violations of the Code noted by the inspector on items already approved by the inspections department shall not delay the issuance of a temporary certificate of occupancy, and the inspections department shall not charge a fee for reinspection of those items."

SECTION 4.(c) This section is effective when it becomes law and applies permit applications submitted on or after that date.

MODIFY BUILDING CODE SUMMARY (APPENDIX B) REQUIREMENTS

SECTION 5.(a) Definitions. – For purposes of this section: "Code" means the North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council; "Appendix B Rules" means Sections 106.3.1 and 106.3.2, as amended by the Building Code Council on December 14, 2021, and approved by the Rules Review Commission on February 17, 2022, effective January 1, 2023, within the North Carolina State Building Code: Administrative Code and Policies; and "Appendix B" means the Appendix B Building Code Summary for All Commercial Projects (Except 1 and 2-Family Dwellings and Townhouses) within the North Carolina State Building Code: Administrative Code and Policies. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council as created in Section 1 of this act.

SECTION 5.(b) Appendix B Rules Amendment. – Until the effective date of the rules to amend the Code that the Council is required to adopt pursuant to this section, the Council and local governments enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to the Appendix B Rules and Appendix B.

SECTION 5.(c) Appendix B Rules Implementation. – Notwithstanding Appendix B Rules, a local government shall not require a permit applicant to complete Appendix B with a set of plans submitted for review.

SECTION 5.(d) Additional Rulemaking Authority. – The Council shall adopt rules to amend the Appendix B Rules and Appendix B to be consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Council pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 5.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AMEND INSULATION REQUIREMENTS FOR UNVENTED ATTIC AND ENCLOSED RAFTER ASSEMBLIES

SECTION 6.(a) Definitions. – As used in this section, "Code" means the current North Carolina State Building Code collection, and amendments to the Code, as adopted by the Council. For purposes of this section and its implementation, "R402 Rules" means provisions and tables within Section 402, Building Thermal Envelope, North Carolina – Residential Provisions, of the North Carolina Energy Conversation Code. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council as created in Section 1 of this act.

SECTION 6.(b) R402 Rules Amendment. – The Council shall amend R402 Rules to include, as an optional alternative to residential ceiling insulation minimums, minimum insulation requirements for the use of air-impermeable insulation in unvented attic and unvented enclosed rafter assemblies. In developing this amendment, the Council shall include in that optional alternative that where R402 Rules require R-38 insulation in the ceiling, installing air-impermeable insulation, as follows, to the underside or directly above the roof deck shall be deemed to satisfy the R-38 requirements: (i) R-20 (equivalent U-factor 0.05) for climate zone 3; (ii) R-25 (equivalent U-factor 0.037) for climate zone 4; and (iii) R-25 (equivalent U-factor 0.037) for climate zone 5. These air-impermeable insulation alternative R-value minimums apply in residences meeting the following criteria:

- (1) The unvented attic or unvented enclosed rafter assemblies are constructed under Section R806.5 of the North Carolina Residential Code.
- (2) The residence contains a mechanical ventilation system that operates on a positive, balanced, or hybrid pressure strategy.
- (3) For residences with air-impermeable insulation installed below the roof deck, exposed portions of the roof rafters are wrapped by a minimum of R-3 insulation unless directly covered by drywall or finished ceiling material. For residences with air-impermeable insulation installed above the roof deck, roof rafters do not require insulation wrapping if air-impermeable insulation installed above the roof deck is continuous.
- (4) The residence obtains an ACH50 blower door test result of less than 3.0.
- (5) The residence contains heating, cooling, and ventilation equipment and ductwork within thermal envelope.

SECTION 6.(c) Sunset. – This section expires when permanent rules adopted as required by subsection (b) of this section become effective.

PROHIBIT FURTHER AMENDMENTS TO VARIOUS CHAPTERS WITHIN THE NORTH CAROLINA RESIDENTIAL CODE

SECTION 7.(a) Definitions. – As used in this section, "Council" means the Building Code Council.

SECTION 7.(b) The Council shall not adopt rules to amend the following Parts within the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings:

- (1) Part V – Mechanical (Chapters 12 through 23).
- (2) Part VI – Fuel Gas (Chapter 24).

SECTION 7.(c) This section is effective when it becomes law and applies retroactively to March 1, 2023.

SECTION 7.(d) Sunset. – This section expires January 1, 2026.

PROHIBIT FURTHER ENERGY CONSERVATION AND EFFICIENCY AMENDMENTS TO THE NORTH CAROLINA STATE BUILDING CODE UNTIL 2026

SECTION 8.(a) Definitions. – As used in this section, "Code" means the current North Carolina State Building Code collection and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council as created in Section 1 of this act.

SECTION 8.(b) Notwithstanding G.S. 143-138, the Council shall not: (i) adopt rules to amend Part IV – Energy Conservation (Chapter 11) within the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings; or (ii) prepare and adopt a new code provision, or any part of the Code, that relates to energy conservation or efficiency of buildings, dwellings, and structures to which the North Carolina State Residential Code applies.

SECTION 8.(c) This section is effective when it becomes law and applies retroactively to March 1, 2023.

SECTION 8.(d) Sunset. – This section expires January 1, 2026.

AMEND THE RESIDENTIAL CODE TO INCLUDE THREE-AND FOUR-FAMILY DWELLINGS

SECTION 9.(a) Definitions. – As used in this section, "Code" means the current North Carolina State Building Code collection and amendments to the Code, as adopted by the Council. As used in this section, "Council" means the Building Code Council. On or after January 1, 2025, "Council" means the Residential Code Council as created in Section 1 of this act.

SECTION 9.(b) The Council shall adopt rules to amend the North Carolina Residential Code to include three-family (triplex) and four-family (quadplex) dwellings within its scope by modifying, transitioning, and establishing minimum prescriptive requirements to address the design and construction of those dwellings and make conforming changes to the Code in accordance with this section. In amending rules pursuant to this subsection, the Council shall not require greater than a 2-hour fire resistance rating for triplex and quadplex wall, floor, and ceiling separation assemblies or require automatic fire sprinkler systems within the North Carolina Residential Code.

SECTION 9.(c) Sunset. – This section expires when the permanent rules adopted as required by subsection (b) of this section become effective.

SECTION 9.(d) This section is effective when it becomes law.

CLARIFY FEE CALCULATION FOR EROSION AND SEDIMENTATION CONTROL PLAN REVIEW

SECTION 10. G.S. 113A-60(a) reads as rewritten:

"§ 113A-60. Local erosion and sedimentation control programs.

(a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its jurisdiction and may adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related activities. The fee shall ~~be calculated on the basis of either~~ be, on the

~~option of the applicant, either (i) calculated on the basis of the number of acres disturbed or~~
~~disturbed or (ii) no more than one hundred dollars (\$100.00) per lot developed in the case of a~~
~~single-family lot in a residential development or that is less than one acre, including such a lot~~
~~that is part of a larger common plan of development that is less than one acre set at no more than~~
~~one hundred dollars (\$100.00) per lot developed. development.~~ Local governments are
authorized to create or designate agencies or subdivisions of local government to administer and
enforce the programs. Except as otherwise provided in this Article, an ordinance adopted by a
local government shall at least meet and may exceed the minimum requirements of this Article
and the rules adopted pursuant to this Article."

DIRECT DEQ TO SEEK APPROVAL FROM USEPA TO STREAMLINE IMPLEMENTATION OF REQUIREMENTS OF THE SEDIMENTATION POLLUTION CONTROL ACT AND FEDERAL REQUIREMENTS FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

SECTION 11. No later than September 1, 2023, the Department of Environmental Quality shall develop a plan for submittal to USEPA that eliminates any program redundancies between the State's Sedimentation Pollution Control Act of 1973 (Act), and its implementation of requirements for stormwater discharges from construction activities set forth under the 2022 Clean Water Act National Pollution Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities (Construction Permit), 87 Federal Register 3522, through NPDES General Permit NCG010000 (NCG01). Specifically, the plan shall include measures to streamline permitting requirements to ensure persons conducting land-disturbing activity are required to apply for one permit addressing all federal, State, and local requirements, and, if applicable, that permit may be issued by a local government with delegated authority to operate a local program in order to eliminate (i) unnecessary costs to, and duplication of efforts by, persons initiating land-disturbing activities, (ii) unnecessary delays in project development, and (iii) inefficient use of Department personnel and staff of local governments that administer delegated erosion and sedimentation control programs. The Department shall report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning August 1, 2024, until such time as the General Assembly repeals this reporting requirement.

PROHIBIT FORCED SEWER CONNECTIONS IN CERTAIN SITUATIONS

SECTION 12.(a) G.S. 160A-317(a) reads as rewritten:

"(a) Connections. – A city may require an owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the city limits and within a reasonable distance of any water line or sewer collection line owned, leased as lessee, or operated by the city or on behalf of the city to connect the owner's premises with the water or sewer line or both, and may fix charges for the connections. In lieu of requiring connection under this subsection and in order to avoid hardship, the city may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. A city may only require connection of an owner's premises to a sewer line, however, if the city has adequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection."

SECTION 12.(b) G.S. 153A-284(a) reads as rewritten:

"(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. A county may only require connection of an owner's premises to

a sewer line, however, if the county has adequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection."

PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING PAYMENTS FROM OWNERS OF STORMWATER CONTROL SYSTEMS FOR FUTURE MAINTENANCE OR REPLACEMENT COSTS OF A SYSTEM

SECTION 13.(a) G.S. 160D-925 reads as rewritten:

"§ 160D-925. Stormwater control.

...

(d) A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that ~~requires (i) deed~~ requires deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water ~~quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.~~ quantity.

(d1) A local government is prohibited from adopting any regulation that requires an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of (i) the owner's stormwater control project or (ii) other stormwater control projects within the local government's jurisdiction. A local government may, however, require an owner of a privately owned and maintained stormwater control project to establish, collect, and retain funds for maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project, which shall not exceed ten percent (10%) of the stormwater control project's original cost of construction and shall be retained by the owner of the system. A local government shall allow a time period of at least five years, beginning when the stormwater control project is accepted by the local government as constructed per the local government's regulations, for the funds to be collected and retained by the owner of the stormwater control project. If funds are collected and retained, a local government can also require those funds be held in a segregated account used solely for the purposes of maintaining, repairing, replacing, and reconstructing the owner's stormwater control project.

...."

SECTION 13.(b) If, prior to the effective date of G.S. 160D-925(d1), as enacted by subsection (a) of this section, a local government has required an owner of a privately owned and maintained stormwater control project to make payments to the local government for the purpose of ensuring assets are available for maintenance, repair, replacement, and reconstruction costs of the owner's stormwater control project or other stormwater control projects within the local government's jurisdiction, in accordance with G.S. 160D-925(d1), as enacted by subsection (a) of this section, the local government shall make such funds accessible to the owner to cover necessary maintenance, repair, replacement, and reconstruction costs for the owner's stormwater control project. For stormwater control projects in residential communities, in the event maintenance, repair, replacement or reconstruction of a project is needed, such funds shall be exhausted before the local government may assess costs of the necessary work on individual homeowners within the community, or any applicable owners' association.

REQUIRE LOCAL GOVERNMENTS ISSUING STORMWATER PERMITS TO TRANSFER SUCH PERMITS IN ACCORDANCE WITH REQUIREMENTS FOR TRANSFER OF STATE-ISSUED STORMWATER PERMITS

SECTION 13.1.(a) G.S. 143-214.7 reads as rewritten:
"§ 143-214.7. Stormwater runoff rules and programs.

...
(c2) ~~The Department~~ Department, or a local government that has issued a permit for a stormwater management system, shall transfer a permit issued under this section for a stormwater management system from the declarant of a condominium or a planned community to the unit owners association, owners association, or other management entity identified in the condominium or planned community's declaration upon request of a permittee if the ~~Department~~ Department, or local government, finds that (i) common areas related to the operation and maintenance of the stormwater management system have been conveyed to the unit owners association or owners association in accordance with the declaration; (ii) the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant; and (iii) the stormwater management system is in substantial compliance with the stormwater permit issued to the permittee by the ~~Department~~ Department, or local government. In support of a request made pursuant to this subsection, a permittee shall submit documentation to the ~~Department~~ Department, or local government, sufficient to demonstrate that ownership of the common area related to the operation and maintenance of the stormwater management system has been conveyed from the declarant to the association and that the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant. For purposes of this subsection, declarant of a condominium shall have the same meaning as provided in Chapter 47C of the General Statutes, and declarant of a planned community shall have the same meaning as provided in Chapter 47F of the General Statutes.

...
(c5) ~~The Department~~ Department, or a local government that has issued a permit for a stormwater management system, may transfer a permit issued pursuant to this section without the consent of the permit holder or of a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

- (1) ~~The Department~~ Department, or local government, may require the submittal of an application for a permit transfer when all of the following conditions are met:
 - ...
 - b. The successor-owner is one of the following:
 - ...
 4. Any other natural person, group of persons, or entity deemed appropriate by the ~~Department~~ Department, or local government, to operate and maintain the permit.
 - c. There will be no substantial change in the permitted activity.
 - (1a) The permit transfer application shall be submitted jointly by the permit holder and the successor-owner except that the successor-owner may solely submit the application in any of the following circumstances:
 - a. The permit holder is a natural person who is deceased or is a business association that is described by sub-sub-subdivision (1)a.2. of this subsection.
 - b. The successor-owner requests that the ~~Department~~ Department, or local government, accept the application without the signature of the permit holder.
 - (1b) When the permit transfer conditions set forth in subdivision (1) of this subsection are met on or after July 1, 2021, the ~~Department~~ Department, or local government, shall require that a permit transfer application be submitted within 90 days.

(1c) When the permit transfer conditions set forth in subdivision (1) of this subsection were met prior to July 1, 2021, the ~~Department~~ Department, or local government, may request a permit transfer application at any time after determining that the permit transfer conditions have been met and may require this application be submitted within 180 days of the request. Where a permit holder can demonstrate to the ~~Department~~ Department, or local government, that the activity on the property was in substantial compliance with its permit in the period either 12 months immediately before or after the conditions of subdivision (1) of this subsection were met, then the requirements included in subdivision (1d) of this subsection shall be the sole responsibility of the successor-owner.

...
(4) Notwithstanding changes to law made after the original issuance of the permit, the ~~Department~~ Department, or local government, shall not impose new or different design standards on the project without the prior express consent of the successor-owner.

...."

SECTION 13.1.(b) G.S. 153A-454 reads as rewritten:

"§ 153A-454. Stormwater control.

...
(e) A county that issues permits for stormwater management systems within its jurisdiction shall be subject to the provisions governing transfer of permits set forth in G.S. 143-214.7(c2) and (c5)."

SECTION 13.1.(c) G.S. 160D-925 reads as rewritten:

"§ 160D-925. Stormwater control.

...
(f) A local government that issues permits for stormwater management systems within its jurisdiction shall be subject to the provisions governing transfer of permits set forth in G.S. 143-214.7(c2) and (c5)."

SEVERABILITY CLAUSE

SECTION 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 15. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 6:21 p.m. this 16th day of August, 2023.

s/ Ms. Sarah Holland
Senate Principal Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-142
SENATE BILL 677

AN ACT TO ALLOW A LIMITED RIGHT OF ENTRY FOR PROFESSIONAL LAND SURVEYORS IN CERTAIN CIRCUMSTANCES AND TO EXPEDITE PLAN REVIEW AND AUTHORIZE AT-RISK CONSTRUCTION PERMITTING FOR CERTAIN COMMERCIAL AND MULTIFAMILY BUILDING PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 89C of the General Statutes is amended by adding a new section to read:

"§ 89C-19.2. Limited right of entry by professional land surveyors.

(a) A professional land surveyor licensed under this Chapter shall have the right to enter upon the lands of others, if necessary to perform surveys for the practice of land surveying, including the location of property corners, boundary lines, rights-of-way, and easements, and may carry with them their customary equipment and vehicles. An entry by a professional land surveyor to perform the practice of land surveying under this section shall not constitute trespass under Article 22A or 22B of Chapter 14 of the General Statutes or shall not cause the professional land surveyor to be subject to arrest or a civil action by reason of the entry.

(b) Nothing in this section shall be construed as giving authority to a professional land surveyor to destroy, injure, damage, or move anything on the lands of another without the written permission of the landowner, and nothing in this section shall be construed as removing civil liability for such damage.

(c) A professional land surveyor shall make reasonable efforts to notify adjoining landowners upon whose land it is necessary to enter.

(d) No professional land surveyor or person under such surveyor's supervision shall have a civil cause of action against a landowner or lessee for personal injury or property damage incurred while on the land for purposes consistent with those described in subsection (a) of this section, except when such damages and injury were willfully or deliberately caused by the landowner or lessee.

(e) Nothing in this section shall be construed as to give authority to a professional land surveyor to enter lands traversed by an operating railroad or properties owned, held, used, or operated by a railroad or their subsidiaries.

(f) Nothing in this section shall be construed as to give authority to a professional land surveyor to enter lands containing critical infrastructure or critical infrastructure facilities.

(g) For the purposes of this section, the following terms are defined as follows:

(1) Critical infrastructure. – As defined in 42 U.S.C. § 5195c.

(2) Critical infrastructure facilities. – Critical infrastructure that is completely enclosed by a fence or other physical barriers that is obviously designed to exclude intruders or clearly marked with a sign or signs posted on the property that are reasonably likely to come to the attention of a person and indicate that entry is forbidden without site authorization.

(3) Professional land surveyor. – As defined in G.S. 89C-3, including any agents, employees, or personnel under their supervision."



SECTION 1.(b) This section becomes effective July 1, 2024, and applies to acts on or after that date.

SECTION 2.(a) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1110.1. Commercial and multifamily building permits for applications with sealed plans; third-party plan review alternatives; at-risk building foundation permits; at-risk building structure permits.

(a) Applicability. – This section applies to commercial and multifamily development project building permit applications that have plans and specifications that are complete and sealed for construction, as applicable, by a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes.

(b) Pre-Submittal Meeting Option. – A local government must provide the option for an eligible building permit applicant to request and schedule within five business days of a request a pre-submittal meeting prior to applying for a building permit to discuss a building project and to determine whether the permit applicant possesses necessary plans and sufficient information the local government would require for building permit plan review. A building permit applicant is eligible to request a pre-submittal meeting under the following circumstances:

- (1) The project plans and specifications for a building project are complete and sealed for construction, as applicable, by a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes.
- (2) The project plans and specifications for a building project are substantially identical to those that the permit applicant would submit with the building permit application.
- (3) The building permit applicant has made best efforts to compile and prepare documents required by a local government, and other State or federal agencies, for the building project.
- (4) The building permit applicant has determined whether an at-risk permit option will be utilized in accordance with subsection (h) of this section.

(c) Plan Review Time Line. – A local government shall complete its review of plans and specifications and issue a building permit decision to a permit applicant that has submitted necessary plans and sufficient information with a permit application within 45 days, unless a local government and a permit applicant otherwise agree. If a local government requests additional information or requires plan resubmission with changes during its review, after receiving requested information and changes from the permit applicant, a local government has up to 10 additional days to issue a building permit decision. Notwithstanding the 45-day limit in this subsection, a local government may issue a building permit decision within 60 days if a local government issues an at-risk building permit at the request of a permit applicant pursuant to subsection (h) of this section.

(d) Independent Third-Party Review to Assist Local Government. – A local government may utilize and contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform independent third-party plan review under this section, provided that the review time does not exceed the time frame prescribed by subsection (c) of this section.

(e) Independent Third-Party Review Election by Permit Applicant. – If a local government initially undertakes plan review of the submitted plans and does not issue a building permit decision or determines it is unable to complete plan review within the time frame prescribed by subsection (c) of this section, a permit applicant may subsequently elect to utilize and contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform an independent third-party plan review. Upon the local government's receipt of a completed plan review with certification required by subsection (f) of this section, the local government shall issue applicable building permits for the project within

three business days and will refund or waive all applicable plan review and permit fees for the project upon issuance of the applicable building permits.

(f) Third-Party Review Certification Required. – A permit applicant that elects a third-party review under subsection (e) of this section shall provide the local government with a written certification signed by the plan reviewer that plans comply with applicable North Carolina State Building Codes and other applicable State and local laws. The certification shall be made on a form created by the local government.

(g) Conflicts of Interest. – A third-party plan reviewer shall avoid conflicts of interest in conducting independent third-party plan reviews under this section. Conflicts of interest include a plan reviewer having any financial interest in, or being employed, other than as a plan reviewer under this section, by a business that has a financial interest in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of, or any involvement in the making of plans or specifications for, the project subject to plan review.

(h) At-Risk Building Permit Options. – At-risk building permit options are available to an eligible building permit applicant that requested and attended a pre-submittal meeting in accordance with subsection (b) of this section to discuss a building project prior to permit application. An eligible permit applicant proceeding with an at-risk permit issued by a local government pursuant to this subsection assumes all risks of liability, and the local government is discharged and released from any liabilities, duties, and responsibilities attributable to the review, approval, or construction pursuant to that at-risk permit. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, a permit issued by a local government pursuant to this subsection is not an initial development permit for purposes of the vesting protections of G.S. 160D-108(e). The following at-risk building permit options are available:

- (1) At-risk building foundation permit. – At the time of permit application, an eligible building permit applicant may request an at-risk building foundation permit authorizing a permit applicant to proceed with building foundation construction. A local government must issue an at-risk building foundation permit if a local government determines a permit applicant has submitted all necessary plans and sufficient information, as discussed at a pre-submittal meeting pursuant to subsection (b) of this section, and received all approvals necessary, for building foundation construction notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. For the purposes of this subdivision, a permit applicant must have received an approved erosion and sedimentation control plan in accordance with Article 4 of Chapter 113A of the General Statutes for land-disturbing activity at a building foundation construction site.
- (2) At-risk building structure permit. – An eligible building permit applicant that has obtained an at-risk building foundation permit pursuant to subdivision (1) of this subsection may request the issuance of an at-risk building structure permit. A local government may issue an at-risk building structure permit authorizing a permit applicant to proceed with building structure construction if a local government determines a permit applicant has submitted all necessary plans and sufficient information, and received all approvals necessary, for building structure construction notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. Prior to issuance of an at-risk building structure permit, a local government may require a meeting with a permit applicant to discuss issues with submitted plans and information that a permit applicant would need to address prior to building structure permit

issuance. For the purposes of this subdivision, "building structure construction" includes the erection and installation of structural or framing members for exterior walls and roof assemblies.

(i) Manufacturer Information. – In the event the local government requires manufacturer specifications or manufacturer engineering information on an element, component, or fixture related to the submitted plans and specifications, a local government shall not delay or deny the issuance of applicable building permits based upon the receipt of specifications or manufacturer engineering information on an element, component, or fixture.

(j) Local Government Liability and Vested Rights. – A permit issued by a local government pursuant to this section shall not be construed to guarantee the issuance of further building permits, development approvals, or certificates of occupancy by a local government, or other State or federal agencies, that a project requires. A local government and inspection department are discharged and released from any liabilities, duties, and responsibilities imposed by this Article, or in common law, from any claim arising out of, or attributed to, plans subject to a third-party independent review pursuant to subsection (e) of this section."

SECTION 2.(b) G.S. 143-151.8(a)(3) reads as rewritten:

"(3) Code enforcement. – The examination and approval of plans and specifications, the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and their components, or the enforcement of fire code regulations by any of the following, to assure compliance with the State Building Code and related local building rules:

- a. An employee of the State or local government, except an employee of the State Department of Labor engaged in the administration and enforcement of sections of the Code that pertain to boilers and elevators.
- b. An employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands.
- c. An individual contracting with the State, a local government, or a federally recognized Indian Tribe to perform inspections on tribal lands.
- d. An individual who is employed by a company contracting with a county or a city to conduct inspections.
- e. A person who is contracting with a local government to perform third-party plan review under G.S. 160D-1110.1(d).
- f. A person who is contracting with a permit applicant to perform third-party plan review under G.S. 160D-1110.1(e)."

SECTION 2.(c) G.S. 143-151.13 is amended by adding a new subsection to read:

"(g) A licensed architect or licensed professional engineer who possesses a valid certificate under subsection (f) of this section, but is not employed by the State or a local government, may utilize that certificate for the limited purpose of performing independent third-party plan review under subsections (d) and (e) of G.S. 160D-1110.1."

SECTION 2.(d) G.S. 113A-61 reads as rewritten:

"§ 113A-61. Local approval of erosion and sedimentation control plans.

...

(b1) A local government shall not deny a draft erosion and sedimentation control plan based solely upon the applicant's need to obtain other development approvals for the project, as that term is defined by G.S. 160D-102(13). A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules

adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

...."

SECTION 2.(e) G.S. 160D-922 reads as rewritten:

"§ 160D-922. Erosion and sedimentation control.

(a) Any local government may enact and enforce erosion and sedimentation control regulations as authorized by Article 4 of Chapter 113A of the General Statutes and shall comply with all applicable provisions of that Article and, to the extent not inconsistent with that Article, with this Chapter. Fees charged by a local government under its erosion and sedimentation control program shall not exceed that authorized in G.S. 113A-60(a).

(b) Once a local government administering an erosion and sedimentation control program approves an erosion and sedimentation control plan for land-disturbing activity at a site, the local government shall allow the plan holder to begin land-disturbing activity in accordance with G.S. 160D-1110.1(h) and the approved plan, notwithstanding that other development approvals that may be required from the local government for the project have not yet been obtained. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, approval of an erosion and sedimentation control plan is not an initial development permit for purposes of the vesting protections of that subsection.

SECTION 2.(f) G.S. 160D-1110, as amended by Section 16 of S.L. 2023-46 and Section 8.1(a) of S.L. 2023-90, reads as rewritten:

"§ 160D-1110. Building permits.

(a) Except as provided in subsection (c) of this section, and subsection (h) of G.S. 160D-1110.1, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

...

(e) No building permit shall be issued pursuant to subsection (a) of this section or G.S. 160D-1110.1(h) for any land-disturbing activity, as defined in G.S. 113A-52, or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under Article 4 of Chapter 113A of the General Statutes, the Sedimentation Pollution Control Act.

...."

SECTION 2.(g) This section becomes effective July 1, 2024, and applies to permit applications submitted on or after that date.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.
In the General Assembly read three times and ratified this the 10th day of October, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 10th day of October, 2023 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This 21st day of October, 2023,

s/ Greg Johnson
Enrolling Clerk