

**Office of the Speaker Pro Tem
North Carolina
House of Representatives**

300 N. Salisbury St., Room 612, Raleigh, NC 27603
(919) 733-2962 – Paul.Stam@ncleg.net

*Representative
Paul Stam*



2015 – 2016 Session of the North Carolina General Assembly Property Legislation Summary

[SENATE BILL 25 / S.L. 2015-86](#)

An Act To Clarify When A County Or Municipality May Enact Zoning Ordinances Related To Design And Aesthetic Controls.

Precludes the ability of local governments to apply architectural or aesthetic controls to single family and two-family dwellings with certain exceptions. Became effective June 19, 2015.

[HOUSE BILL 201 / S.L. 2015-160](#)

Zoning Changes/Citizen Input

Removes the supermajority requirement for the approval of a protested rezoning case. Became effective August 1, 2015, and applies to zoning cases filed after that date.

[HOUSE BILL 44/ S. L. 2015-246](#)

Local Government Regulatory Reform 2015

- Section 2.(a) Requiring compliance with voluntary (or delayed) State regulations and rules prohibited. Effective Sept. 23, 2015
- Section 3. Developments Located in The City and The County

If property straddles a municipal and county jurisdiction line, the developer or land owner may voluntarily apply a condition to the development agreeing to apply a municipal rule to the county portion but only if it has been done

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without coercion or suggestion by the local municipality. Effective Sept. 23, 2015

- Section 5.(a) Permit Choice
If the rules change after an application is filed it allows the applicant to choose either rule. Had been previously applied to subdivisions and site plans. Will now also apply to rezonings. Effective Sept. 23, 2015
- Section 10. Local Review Of Franchise Food Establishments
If restaurant plan is approved by the state Department of Health it shall be exempt from local health department review provided that the state approved version is being permitted. Effective Sept. 23, 2015
- Section 13.1 (a)(b)(c)(d); Section 13.2 (a)and (b); Section 13.3 (a) (b) (c) and (d); and Section 13.4 (a) (b) and (c) all relate to Riparian Buffers.
In order to create or continue to enforce a buffer rule that exceeds applicable state or federal standards, a local government must justify to and receive approval from the EMC for the exceedance, which must be justified with scientific evidence that the increase is needed in the specific locale in order to meet the water quality purpose of the buffer. Local units with rules that exceed state or federal requirements have until January 1, 2017 to have them approved or cease to enforce them. Effective October 1, 2015
- Section 16 Zoning Density Credits
Requires that the same development credits be provided for ROW obtained via a zoning process as ones provided for similar ROW obtained through subdivision or site plan approval processes. Effective Sept. 23, 2015
- Section 19.(a)(b) (c) (d) and (e) Development Agreements in Counties and Cities
Removes the restrictions for: a minimum parcel size or length of term for a development agreement. Effective October 1, 2015

[HOUSE BILL 765 / S.L. 2015-286](#)

Regulatory Reform Act of 2015

Section 1.8 (b) revises both G.S. 160A-381(c) and G.S. 153A-340(c1) to require that conditions applied in the issuance of special use or conditional use permits shall not include requirements for which the city or County does not have statutory authority to require or which the courts have held to be unenforceable if imposed directly.

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Section 4.14.(a) and 15(a) On-Site Wastewater Amendments and Clarifications

Provides an “engineered permit option” for onsite wastewater disposal as an option to use of conventional systems.

Section 4.18(a) (b) (c) and (d) Amend Isolated Wetlands Laws clarifies: the types of wetlands that are considered to be isolated wetlands; mitigation for isolated wetlands shall only apply to the amount of impact that exceeds the threshold; impacts for isolated wetlands are not cumulative with any other type of wetlands impacts; and directs the EMC to establish (not later than March 1, 2016) the boundaries for a coastal region, piedmont region and mountain region within which the threshold impacts for isolated wetlands shall be, respectively; one (1) acre; one-half (1/2) acre; and (1/3) one-third acre.

Section 4.19 Study Coastal Water Quality and Coastal Storm Water Requirements to determine how low density impervious coverage requirements can be increased with an increase in the length of grassed swales used to manage the storm water.

Section 4.20.(a) Permit the use of any accepted engineering method to calculate the volume, velocity and discharge regarding pre and post development storm water differences. Prohibits local regulations from exceeding those of the state for the purposes of managing and treating storm water.

Section 4.20A Extends the sunset until December 31, 2017 regarding the exemption from storm water requirements for the installation of cluster mail boxes recently imposed by the U.S. Postal Service.

Section 4.31 Prohibits requirements for mitigation of intermittent streams, except required by federal law.

Section 4.38 Study flood elevations and building height requirements to determine if flood elevations are being used to reduce the number of habitable stories within structures.

[SENATE BILL 284/ S.L. 2015-121](#)

Infrastructure Assessment/Extend Sunset

Extends until July 1, 2020 the ability of local governments to issue revenue bonds for infrastructure and impose special assessments upon the benefited property.

[HOUSE BILL 721 / S.L. 2015-187](#)

Subdivision Ordinance/Land Development Changes

Sections 1. Provides for: performance guarantees for specific improvements only; varying types of guarantees at the choice of the developer; full release in a timely manner of the guarantee upon completion and final inspection of improvements; an extension for only the costs of the incomplete improvements provided reasonable progress toward completion is being made; the maximum amount of the guarantee shall be 125% of the engineer's cost estimate for the improvements yet to be made; and, that the guarantee is for construction only and not maintenance or repairs.

Sections 2. Building permits for a separate project cannot be withheld pending completion of items covered by a performance guarantee that is securing improvements that are the subject of a different building or construction permit.

This law became effective on October 1, 2015.

[HOUSE BILL 119](#)

Technical Corrections

Section 56.2 contains limits on local control of oil and gas exploration activities and coal combustion residuals.

Key Property Legislation accomplished during the 2016 Short Session

[S.L. 2016-111](#)

Land Use Regulatory Changes

Amendments to zoning regulations, subdivision regulations and unified development regulations enacted after the approval of a multi-phased development of 100 acres in size or greater are not applicable to the approved multi-phased development without the written consent of the owner. A multi-phased development is vested for the entire development when the site plan is approved for the initial phase and the initial phase is vested for a period of seven years from the approval of its site plan.

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S.L. 2016-94

Appropriations Act (Budget)

Section 14.13. of S.L. 2016-94 includes several elements for review and improvement of the state Nutrient Management Regulatory Framework. It includes a 3 year stay upon the implementation of the Jordan Lake Rules while two studies are undertaken.

One will be by the Sustainability Officer at UNC-Chapel Hill. It will focus on specific sampling to determine the effectiveness or lack thereof of current nutrient reduction practices on the water quality within the Jordan Lake and Falls Lake watersheds and the cost/benefits of those measures. While this study is funded at \$500,000.00 per year from 2016-17 through 2021-22 recommendations are to be provided on Jordan Lake by December 31, 2018 and for Falls Lake by December 31, 2021

The other study funded by a \$1.3 m appropriation will be done by DEQ. It will specifically focus on the use of algaecides or phosphorous locking technologies that could be employed for both Jordan and Falls Lakes.

The results of the two studies will be merged into a single set of recommendations for either new or continued use of nutrient reduction measures or strategies.

Partial Listing of Key Property Legislation Passed by the House but Left Pending Upon Adjournment of the 2016 Short Session

Items from SCS for HB 483 (Edition 4)

Land-Use Regulatory Changes

- Estoppel, waiver, release or acceptance no defense to unlawful conditions.
- Attorney's fees to plaintiffs if a statute or case law setting forth unambiguous limits on the authority of the city or counties violated.

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- Local governments shall not impose or accept conditions for which statutory authority does not exist or which the courts have held would be unenforceable if directly imposed, e.g. taxes, impact fees, building design elements, street improvements beyond those allowed for a driveway connection to the state road system.
- Cities and towns could not require applicants seeking development approval to either:
 - Install road improvements beyond those which the state can require for connection of a driveway or
 - Off-site dedication of right-of-way.

[Items from HCS for SB 778 \(Edition 4\)](#)

Performance Guarantees/Subdivision Streets

- Residual performance guarantees for streets offered for dedication in county based on the costs to install the final travel service pavement to be provided until :
 - Accepted under the prevailing Board of Transportation acceptance requirements; or
 - For streets constructed after the effective date that meet a reduced set of acceptance criteria on the second anniversary of the certification that the street has been fully constructed to standards;
 - the reduced standard applicable after two years is met
 - Fully completed streets that have been opened to traffic for 6 years be brought onto the state system for maintenance under the standards.

[Items from HCS for SB 303 \(Edition 6\)](#)

Regulatory Reform Act of 2016

- Approval of rezoning and any Comprehensive Plan amendment may be simultaneous.
- 3 year and 6 year statutes of limitations for local governments to take an enforcement action against a violation of land use law, except for danger or injury to public health or safety.

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- Exempts the division of a parcel of land 5 acres in size or greater into 3 lots so long as no other such division has occurred within the previous 10 years and the lots meet zoning requirements.

[Item from HCS #3 for SB 363 \(Edition 5\)](#)

Wage & Hour/Local Gov't Assessments

- Infrastructure assessment revisions would allow private developers to realize partial reimbursement from assessments levied against properties for the installation of large infrastructure improvements such as: wastewater pump stations; major roads; sewer collection facilities; water or wastewater treatment facilities; water distribution mains, when developer fronts the money.

[HB 108 Site and Building Development Fund](#)

- Pad ready sites or shell buildings are critical to recruiting industry. Over 75% of businesses expressing an interest in coming to North Carolina specify the need to move into an EXISTING building.
- HB 108 provides low interest revolving loans for pad ready sites or shell building spaces that will be repaid to the taxpayers and SECURED with a first lien position.
- The funds may be used for infrastructure (water or sewer extension, roads, etc.), site acquisition and preparation or actual building improvements.
- The Bill passed the House by a bi-partisan three-fourths majority vote of 90-25. The Session adjourned before the measure was taken up by the Senate.

For further information contact Don d'Ambrosi at 919-733-2962 or at don.d'Ambrosi@ncleg.net.