



# Land Use Legislation

Current as of April 28, 2023



# HB 252/SB 365 – Multijurisdictional Property

- Currently, when a property is in multiple planning jurisdictions, the respective local governments may come to mutual agreement via resolution to determine enforcement of development control.
- HB 252 would allow for the property owner to decide which regulations apply.



# HB 252/SB 365 Status

- HB 252 Passed 3<sup>rd</sup> Reading on 3/30 (77-32) and was sent to the Senate
- SB 365 was referred to Committee on Rules and Operations on 4/3
- <https://www.ncleg.gov/BillLookup/2023/H252>
- <https://www.ncleg.gov/BillLookup/2023/S365>



# SB 290 – Short Term Rentals

- Local government may enforce maximum occupancy provisions within vacation rental properties.
- Bill includes a statutory cap at 4 persons per bedroom, but permits a local government to further restrict.
- Landlord must accurately represent bedrooms/bathrooms (based on tax records).
- Real estate brokers must verify bedrooms/bathrooms matches tax records, prohibits rentals that exceed maximum.



# SB 290 Status

- SB 290 was referred to Committee on Rules and Operations on 3/13 and does not appear to have been taken up since.
- <https://www.ncleg.gov/BillLookUp/2023/SB290>





# HB 332/SB 275 – Streamline Commercial & Multi-Family Building Plan Review

- **Building permits only, does not apply to zoning review.**
- 21 day “shot clock” to review commercial/multi-family plans submitted by professional engineer.
  - If changes are requested, further 15 days to issue permit.
- If permits not issued within timeframes, applicant may use 3<sup>rd</sup> party
  - If utilized and 3<sup>rd</sup> party approves, local government must accept within 72 hours, and must waive or return applications fees.
- Local government discharged from liability arising from the approval if 3<sup>rd</sup> party track is used.



# HB 332/SB 275 Status

- HB 332 was referred to Local Government Land Use Committee on 3/13, and reported favorably on 3/23, where it was then referred to the House Committee on Finance.
- SB 275 was referred to the Committee on Rules and Operations on 3/13 and has not moved since.
- <https://www.ncleg.gov/BillLookUp/2023/HB332>
- <https://www.ncleg.gov/BillLookUp/2023/S275>



# HB 294 – NC Housing Choice Incentive

- \$30 million grant program for communities to establish and promote multi-family, “middle” housing, and accessory dwelling units.
  - Accessory Dwelling Unit: accessory to a single-family dwelling, meets building codes.
  - Middle housing: duplex, triplex, quadplex, or townhouse
  - Multi-family: A residential dwelling with four or more units to be used as a residence. For this section, also includes ADUs and Middle Housing.
- Grant funds to be used by local governments for “local water, sewer, or transportation infrastructure projects”





# HB 294 – NC Housing Choice Incentive

- Requirements are different for communities with less than 100,000 population vs. more than 100,000 population.
  - Less than 100,000: five zoning districts of reasonable size where multi-family is a permitted use.
- Zoning districts must meet at least 4 of the 7 criteria:
  - Minimum gross density of 15 units per acre
  - District contain no age restrictions
  - Districts contain no parking minimums
  - Districts allow for setback waivers
  - Districts allow for ADUs
  - Districts have permissive building height requirements
  - Districts allow residential development in areas not zoned for residential use



# HB 294 – NC Housing Choice Incentive

- Local governments eligible for up to \$1,000,000 per grant. Must demonstrate that the districts “have produced a significant number of housing units.”
- When eligible grantees exceed available funds, funds are disbursed on a per-capita basis.
- County/municipality may only receive one grant award every five years.
- Grant funding for “local water, sewer, or transportation infrastructure projects.”



# HB 294 Status

- HB 294 was referred to the Appropriations Committee on 3/8, but was withdrawn on 3/21.
- Upon withdrawal, it was re-referred to Committee on Commerce – with favorable recommendation, it will then go back to Appropriations.
- <https://www.ncleg.gov/BillLookUp/2023/H294>



# HB 409/SB 374 – Accessory Dwelling Units (ADUs)

- “Local government shall allow the development of at least one ADU... for each single-family dwelling in areas zoned for residential use that allow for development of single-family dwellings.”
- Accessory Dwelling Unit defined:
  - “An attached or detached residential structure that is used in connection with or that is accessory to a primary single-family dwelling and that has less total square footage than the primary single-family dwelling.”



# HB 409/SB 374 - ADUs

- ADUs shall not be subject to any of the following:
  - Owner-occupancy of any dwelling unit, including the accessory unit;
  - Minimum parking requirements or other parking requirements;
  - Require conditional zoning as a means of approval of an ADU.
- Local government shall not:
  - Prohibit the connection of the ADU to existing utilities serving the primary dwelling unit
  - Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.



# HB 409/SB 374 - ADUs

- “Except as provided in this section, a local government may regulate accessory dwelling units pursuant to this chapter [160d], provided that the regulations do not act to discourage development or siting of accessory dwelling units through unreasonable costs or delay.”
  - Does not affect validity of private covenants or other contractual agreements among property owners\*
- “A local government may impose a setback minimum for accessory dwelling units of 5 feet or the setback minimum imposed generally upon lots in the same zoning classification, whichever is less.”





# HB 409/SB 374 – Overall Takeaways

- ADUs allowed in all residential districts that allow single-family, size restriction is limited to “smaller than primary.”
- Southport currently allows for ADUs in all residential zoning district but requires approval of a Special Use Permit.
  - While not explicitly prohibited (like conditional zoning is), SUP process is additional cost and delay not applicable to primary dwellings.
- Preemption of other requirements (setbacks, parking, owner-occupancy)



# HB409 – Modifications from 2<sup>nd</sup>/3<sup>rd</sup> Editions

- Owner-occupancy of primary dwelling can be required, but not within the ADU.
- Utility connections cannot be prohibited unless capacity does not exist to serve the ADU.
- Does not apply within a historic preservation district and on properties designated a National Historic Landmark.
- Changed minimum setback from 5 ft. to 10 ft.



# HB 409/SB 374 Status

- HB 409 has passed in the House, by a vote of 106-7, and has been sent to the Senate to join the already existing companion, SB 374.
- SB 374 was referred to Committee on Rules and Operations on 3/28.
- <https://www.ncleg.gov/BillLookup/2023/H409>
- <https://www.ncleg.gov/BillLookup/2023/S374>



# SB 317/HB 562 – “Addressing the Workforce Housing Crisis”

- Defines “workforce housing development” and “workforce housing lot.”
  - Workforce Housing Development: A development that meets the criteria for approval established in GS 160D-802.1
  - Workforce Housing Improved Lot: A lot that is subdivided, developed with an owner-occupied dwelling unit, and conveyed to a qualifying person, as specified in GS 160D-802.1.
- Prohibits local governments from applying any dimensional standards or design requirements to “workforce housing developments”



# SB 317/HB 562 – What is a Workforce Housing Development?

- At least 10 Acres
- At least 20% of the lots shall be improved with one-/two- family dwellings and conveyed as workforce housing improved lots.
  - Rest of lots must be one or two family dwelling or accessory structures.
- At least 50% of the workforce housing improved lots shall be for owner-occupants not making more than 80% of area median income (AMI) as provided by US HUD. Remaining workforce housing improved lots shall be for owner-occupants not making more than 100% of AMI.



# SB 317/HB 562 – Workforce Housing Improved Lots

- Owner occupant must move in within 60 days of conveyance
- Owner occupant has either:
  - >50% ownership interest in the lot, or
  - A beneficiary of a trust for estate planning and where the settlors of the trust have placed the lot into the trust.
- **Owner-occupant must maintain residency for at least a majority of a calendar year after moving in. After the first year, the owner-occupancy requirement is extinguished.**
- Must be occupied by family and/or no more than 3 other persons not related to the owner.





# SB 317/ HB 562 – Workforce Housing Developments

- A workforce housing development meeting the applicable regulations as defined by Statute shall be permitted in any zoning district, no matter the district's intent or allowable uses within it.
- A local government may require the provision and maintenance of a not-more-than-20 foot vegetative buffer along the perimeter of the project.
- Local government may not impose any type of vegetation requirement other than the point above.



# SB 317/HB 562 – Workforce Housing Developments

- Local government may still regulate within WHD's:
  - NC Residential/Building/Trade codes
  - Minimum housing codes
  - Subdivision regulations relating to roads/rights-of-way and utility performance standards
- Local government shall not “implement or enforce an ordinance or regulation that is more restrictive than, or that exceeds requirements necessary to comply with, federal or state law.”
  - Applicable to stormwater, floodplains, etc. by statute reference.



# SB 317/HB 562 – Approval of WHDs

- Administrative approvals only, bill would allow for Staff or a Planning Board to approve a preliminary site plan, provided that only the criteria laid out in statute be considered.
- Local government has a 45 day “shot clock” to review. If changes are requested, local government has 15 days to review 2<sup>nd</sup> round and shall approve or deny.
- **If local government has not provided a written decision within 60 days of original receipt, approval is automatically granted.**
- Local government shall monitor project to ensure workforce housing lots are constructed in equal ratio to rest of lots, and that purchaser of workforce housing lot meets criteria.
- Any person aggrieved by “the failure of a local government to comply with this section” may appeal directly to superior court.



# SB 317/HB 562 - Utilities

- Local government may not require a connection to public utility operated by the local government.
- Local government may not deny an application to serve the WHD unless:
  - Capacity limits established by statute would be exceeded; or
  - Nearest point of existing public utility infrastructure is more than 3 miles from the project
- If service is denied, developer may construct a private system in accordance with applicable laws.
- Local government may not impose impact or water/sewer system development fees upon any workforce housing improved lot.



# SB 317/HB 562 – Overall Takeaways

- WHDs must include at least 20% of workforce housing lots, AMI restrictions in place for first year following conveyance/move-in.
- No dimensional standards can be enforced and must be permitted in every zoning district.
- No vegetation requirements other than perimeter buffer.
- The bill seemingly gives ability to regulate floodplains, stormwater, etc., but qualifies that on only to the extent those regulations are to comply with state/federal law.
- Aggrieved parties from applicant side may file appeal immediately to superior court.



# SB 317/HB 562 Status

- SB 317 was referred to the Committee on Rules and Operations on 3/16
- HB 562 was referred to the Committee on Local Government – Land Use on 4/5.
- <https://www.ncleg.gov/BillLookup/2023/SB317>
- <https://www.ncleg.gov/BillLookup/2023/H562>





# HB 537

- Creation of a loan pool through NC Housing Finance Agency for homebuyers
- Permits state and local governments to sell or lease property at less than market value for qualifying affordable housing projects (using a definition much stricter than used in SB 317/HB 562)
- Requires local governments to allow multi-family housing by-right in commercial zoning districts and prohibits any design standards from being applied to multi-family.



# HB 537 Status

- Referred to Committee on Appropriations on 4/3. Withdrawn from Appropriations, and re-referred to House Committee on Local Government on 4/25.
  - If favorable, to Finance, then to Rules.
- <https://www.ncleg.gov/BillLookUp/2023/H537>



# HB 474 – “Facilitate Small Housing”

- Creates a small housing definition that includes ADUs less than 800 square feet.
- Would require local governments to regulate any structure meeting the “small housing” definition the same way the local government regulates traditional single-family detached.



# HB 474 Status

- HB 474 was referred to the Committee on Rules, Calendar, and Operations of the House on 3/27.
- <https://www.ncleg.gov/BillLookUp/2023/HB474>



# HB 488/SB 378 – Code Council Reorganization and Various Code Amendments

- Many procedural changes relating to the NC Building Codes, specifically by creating a new Residential Code Council separate from the Building Code Council and numerous reference amendments to reflect this change.
- Expands residential code applicability to include three- and four-bedroom structures, and expands prohibition on design controls at local level to include those structures.
- Permit exemption cost threshold increased from \$20,000 to \$40,000 – generally, work costing less than this amount may not require a building permit unless specific circumstances are in play.



# HB 488/SB 378 – Code Council Reorganization and Various Code Amendments

- Local governments cannot require more than one building permit for simultaneous projects located at the same address.
- Local governments would be expressly prohibited from requiring exterior sheathing inspections.
- Local government cannot require private streets to be built to any standard above and beyond NCDOT standards, and must also accept private street design standards sealed by a professional engineer even if less than NCDOT standards.



# HB 488/SB 378 – Code Council Reorganization and Various Code Amendments

- Directs DEQ to ask EPA to allow devolution of erosion control regulation to local governments. ***IF EPA grants this***, local governments will need to create their own erosion control regulations and implement them.
- Local government would only be allowed to force connections to water and sewer infrastructure if the capacity existed to serve the project on the day the connection is made.



# HB 488/SB 378 Status

- Referred to Committee on Local Government – Land Use on 3/28. Reported favorably on 3/30 with substitute, then referred to Committee on Finance on 3/30.
- SB 378 referred to Committee on Rules and Operations on 3/30.
- <https://www.ncleg.gov/BillLookup/2023/HB488>
- <https://www.ncleg.gov/BillLookup/2023/S378>





# SB 667 – Regulation of Short Term Rentals

- Prohibits local governments from imposing any regulation that does the following:
  - Prohibits using residential property as an STR;
  - Prohibits using Accessory Dwellings as an STR;
  - Limits the number of nights a property can be rented as an STR;
  - Requires the owner of the STR to occupy the property for any length of time during a rental;
  - Classifies an STR as a commercial use;
  - Limits the operation of a short-term rental marketplace.
- NOTE: Southport's current ordinance does all but the last bullet point.



# SB 667 Status

- SB 667 was referred to the Committee on Rules and Operations on 4/10
- <https://www.ncleg.gov/BillLookUp/2023/SB667>



# SB 675 – Land Use Clarification and Changes

- Schools must be allowed in commercial zoning districts
- Vested rights obtained by permit approval do not extinguish any other still valid vested rights
- Other clarifying amendments



# SB 675 – Land Use Clarification and Changes

- Eliminates Extra-Territorial Jurisdictions statewide, by eliminating it as a power granted to incorporated areas.
- Would require all local governments to rescind land use control of an ETJ no later than January 1, 2025.
- County would take control of all ETJ areas unless voluntarily annexed into incorporated area.



# SB 675 Status

- Referred to Committee on Rules and Operations on 4/10
- Subsequently withdrawn and re-referred to Judiciary Committee. If favorable, then it will be referred to Finance, and then back to Rules and Operations.
- <https://www.ncleg.gov/BillLookup/2023/SB675>



# SB 684 – Stormwater Program Revisions

- Shot-clock style requirements for NCDEQ Stormwater Permitting Program
- Clarifies that local governments or a group of local governments can submit to have authorization to enforce state's stormwater rules, and if project located in area with local government authorization, applicant would have the option to submit permit application where desired.
- Small appropriations to study permit review automation, including artificial intelligence.



# SB 684 Status

- Referred to Committee on Rules and Operations on 4/10
- Withdrawn from Rules, and re-referred to Agriculture, Energy, and Environment Committee on 4/13. If favorably, referred to Appropriations and then back to Rules and Operations.
- <https://www.ncleg.gov/BillLookup/2023/S684>



# SB 744 – Environmental Permitting Reforms

- Similar to SB 684, but includes shot clock style timelines for far more than just stormwater.
- Covers all permits reviewed and issued by NCDEQ, including CAMA permits.
- NOTE: CAMA Minor Permits issued by City of Southport are already subject to shot clock provisions, and volume is such that City is able to meet those provisions easily.





# SB 744 Status

- Referred to Committee on Rules and Operations on 4/10
- Withdrawn from Rules, and re-referred to Agriculture, Energy, and Environment Committee on 4/13. If favorably, referred to Appropriations and then back to Rules and Operations.
- <https://www.ncleg.gov/BillLookup/2023/SB744>

