CITY OF SOUTHPORT
BOARD OF ALDERMEN
REGULAR MEETING AGENDA

223 E. BAY STREET
March 28, 2023
1:30 PM

Agenda

Please turn off all cell phones

Meetings are open to the public. Face masks and social distancing may be used at the discretion of each individual. The Board of Aldermen reserve the right to make changes to this policy, as needed to help prevent the spread of the Coronavirus.

If you are not able to attend the Board of Aldermen meetings in person, the meeting will be available for you to watch via live-stream on the City of Southport website (https://cityofsouthport.com/board-of-aldermen-meetings/), Facebook page, and YouTube channel.

A. Call to Order

B. Invocation

C. Pledge of Allegiance

D. Approval of Agenda

E. Agenda

1. Pending Planning State Legislation That Could Affect Southport

F. Mayor's Comments

G. Board Comments

H. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H **1**

HOUSE BILL 294

Short Title:	NC Housing Choice Incentive.	(Public)
Sponsors:	Representatives Alston, G. Brown, and Hardister (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Appropriations, if favorable, Rules, Calendar, and Operations of the House	

March 8, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA HOUSING CHOICE GRANT TO EMPOWER AND ENCOURAGE LOCAL GOVERNMENTS TO ADDRESS THE CRITICAL HOUSING NEEDS IN THEIR COMMUNITIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) As used in this section, the following definitions apply:

(1) Accessory dwelling unit. – An attached or detached residential structure that is used in connection with or that is accessory to a single family dwelling that conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code.

(2) Middle housing. – A residential dwelling that is one of the following:

a. A duplex.

b. A triplex.

c. A quadplex.

d. A townhouse.

(3) Multifamily housing. – A residential dwelling comprised of four or more units, each intended to be occupied by a person or family for use as a residence. The term also includes accessory dwelling units and middle housing.

SECTION 1.(b) The Department of Commerce shall establish the North Carolina Housing Choice Grant and shall award grant funds annually to counties and municipalities in accordance with the criteria provided in this section to be used by the grant recipients for local water, sewer, or transportation infrastructure projects.

SECTION 1.(c) A county or municipality shall be eligible for grant funds under this section if the county or municipality (i) has a population of 100,000 or less, as of the most recent decennial census, and has designated at least five zoning districts of reasonable size in which multifamily housing is a permitted use or (ii) has a population of more than 100,000, as of the most recent decennial census, and has designated at least 10 zoning districts of reasonable size in which multifamily housing is a permitted use and at least four of the following criteria apply to the designated multifamily zoning districts:

(1) There is a minimum gross density of 15 units per acre.

(2) The districts contain no age restrictions.

(3) The districts contain no parking minimums.

(4) The districts allow for setback waivers.

(5) The districts allow for accessory dwelling units.

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(6) The districts have permissive building height requirements.

(7) The districts allow residential development in areas not zoned for residential use.

SECTION 1.(d) Eligible counties and municipalities shall apply for funding under this section no later than April 1 of each year. The Department of Commerce may award up to one million dollars ($1,000,000) per grant to counties or municipalities meeting the criteria in subsection (c) of this section that have produced a significant number of housing units via the designated multifamily zoning districts. In the event that eligible grantees exceed available funds in any year, the Department of Commerce shall distribute the grant funds on a per capita basis according to the population of the grant recipient. Unawarded grant funds shall not revert and are available to the Department of Commerce to award in future years. A county or municipality may only receive one grant award under this section every five years. Funds awarded under this section shall be used by the grant recipient for local water, sewer, or transportation infrastructure projects.

SECTION 1.(e) There is appropriated from the General Fund to the Department of Commerce the sum of thirty million dollars ($30,000,000) in recurring funds for the 2024-2025 fiscal year to be used for the North Carolina Housing Choice Grant program established in this section.

SECTION 2. This act becomes effective July 1, 2023.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H **1**

HOUSE BILL 332

Short Title:	Streamline Comm./Multifam. Bldg. Plan Review.	(Public)
Sponsors:	Representatives Zenger, Johnson, Tyson, and Potts (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Local Government - Land Use, Planning and Development, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House	

March 13, 2023

A BILL TO BE ENTITLED

AN ACT TO EXPEDITE THE APPROVAL OF SEALED COMMERCIAL AND MULTIFAMILY BUILDING PLANS BY LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1110.1. Commercial and multifamily plan review of sealed plans; third-party plan review alternatives.**

(a) Plan Review of Sealed Plans. – For commercial and multifamily building plans submitted with a permit application that require the seal of a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes, a local government shall complete its review of those plans and issue applicable building permit decisions within 21 days, unless otherwise agreed to by all parties. If the local government requests additional information or requires plan resubmission with changes, after receiving requested information and changes from the permit applicant, the local government has up to 15 days to issue all applicable permits.

(b) Third-Party Review to Assist Local Government. – A local government may utilize and contract with the Department of Insurance and its marketplace pool of qualified Code-enforcement officials or contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform plan reviews under this section, provided that the review time does not exceed time frames prescribed by subsection (a) of this section.

(c) Third-Party Review Election by Permit Applicant. – If the local government does not issue applicable building permit decisions or determines it is unable to complete plan reviews within the time frames prescribed by subsection (a) of this section, the permit applicant may elect to utilize the Department of Insurance and its marketplace pool of qualified Code-enforcement officials or elect to hire a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to review and certify submitted plans as required by subsection (d) of this section. Upon acceptance of a completed plan review with certification required by subsection (d) of this section, the local government shall issue applicable permits for the project within 72 hours and will refund or waive all applicable plan review and permit fees for the project upon issuance of the applicable permits.

(d) Third-Party Review Certification Required. – A permit applicant that elects a third-party review under subsection (c) of this section shall provide the local government with a written certification signed by the plan reviewer that plans comply with applicable North

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Carolina State Building Codes and all other applicable State and local laws. The certification shall be made on a form created by the local government.

(e) Local Government Liability. – Upon issuance of applicable permits under subsection (c) of this section, the 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 reviewed under subsection (c) of this section.

(f) 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, a local government shall not delay or deny the issuance of applicable permits based upon the receipt of specifications or manufacturer engineering information on an element, component, or fixture."

SECTION 2. 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 reviews under G.S. 160D-1110.1(b).

f. A person who is contracting with a permit applicant to perform third-party plan reviews under G.S. 160D-1110.1(c)."

SECTION 3. G.S. 143-151.12(9) reads as rewritten:

"(9) Establish within the Department of Insurance a marketplace pool of qualified Code-enforcement officials available for the following purposes:

a. When requested by the Insurance Commissioner, to assist in the discharge of the Commissioner's duty under G.S. 143-139 to supervise, administer, and enforce the North Carolina State Building Code.

…

c. When requested by a permit applicant under G.S. 160D-1110.1(c)."

SECTION 4. 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 third-party plan reviews under subsections (b) and (c) of G.S. 160D-1110.1."

SECTION 5. This act becomes effective October 1, 2023, and applies to permit applications submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S **1**

SENATE BILL 290

Short Title:	Short Term Rentals.	(Public)
Sponsors:	Senator Sawyer (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

March 13, 2023

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE SAFE RENTAL OF CERTAIN PROPERTIES BY REQUIRING COMPLIANCE WITH LOCAL ORDINANCES AND CODES AND ESTABLISHING A MAXIMUM OCCUPANCY LIMITATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160D-1207 reads as rewritten:

"**§ 160D-1207. Periodic inspections.**

(a) Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a),

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respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a legislative hearing regarding the plan, (ii) hold a legislative hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars ($500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. <u>Nothing in this subsection shall be deemed to prevent a local government from enforcing ordinances related to maximum occupancy, as that term is defined in G.S. 42A-4, for a vacation rental property that is subject to the provisions of Chapter 42A of the General Statutes.</u> For purposes of this section, the term "verified violation" means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter."

SECTION 2. G.S. 42A-4 reads as rewritten:

"**§ 42A-4. Definitions.**

The following definitions apply in this Chapter:

(1) Advanced payments. – All payments made by a tenant in a vacation rental agreement to a landlord or the landlord's real estate broker prior to occupancy for the purpose of renting a vacation rental property for a future period of time as specified in the vacation rental agreement.

(1a) Landlord. – An owner of residential property offered for lease as a vacation rental with or without the assistance of a real estate broker.

(1b) Maximum occupancy. – The maximum number of persons allowed in a vacation rental. The maximum occupancy is measured as an amount not exceeding four persons per bedroom.

…."

SECTION 3. G.S. 42A-31 reads as rewritten:

"**§ 42A-31. Landlord to provide fit premises.**

A landlord of a residential property used for a vacation rental shall:

(1) Comply with all current applicable local ordinances and codes, including building and housing ~~codes~~ codes, to the extent required by the operation of the ordinances and codes. However, no new requirement is imposed if a structure is exempt from a current building or housing code.

(1a) Comply with all applicable elevator safety requirements in G.S. 143-143.7.

(2) Make all repairs and do whatever is reasonably necessary to put and keep the property in a fit and habitable condition.

(3) Keep all common areas of the property in safe condition.

(3a) Accurately represent the number of bedrooms and bathrooms on the property and prohibit the rental of the property to a tenant if the maximum occupancy will be exceeded. For the purposes of this subdivision, the number of bedrooms and bathrooms on the property shall be determined by the most recent tax records for the subject property.

(4) Maintain in good and safe working order and reasonably and promptly repair all electrical, plumbing, sanitary, heating, ventilating, and other facilities and major appliances supplied by him or her upon written notification from the tenant that repairs are needed.

(5) Provide operable smoke detectors. The landlord shall replace or repair the smoke detectors if the landlord is notified by the tenant in writing that replacement or repair is needed. The landlord shall annually place new batteries in a battery-operated smoke detector, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered negligence on the part of the tenant or landlord.

(6) Provide a minimum of one operable carbon monoxide alarm per rental unit per level, either battery-operated or electrical, that is listed by a nationally

recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide alarms in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the landlord shall retain or provide as proof of compliance. A landlord that installs one carbon monoxide alarm per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of alarms. The landlord shall replace or repair the carbon monoxide alarms within three days of receipt of notification if the landlord is notified of needed replacement or repairs in writing by the tenant. At least every six months, the landlord shall ensure that a carbon monoxide alarm is operable and in good repair. Unless the landlord and the tenant have a written agreement to the contrary, the landlord shall place new batteries in a battery-operated carbon monoxide alarm annually and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered as negligence on the part of the tenant or the landlord. A carbon monoxide alarm may be combined with smoke alarms if the combined alarm does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke alarms and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. This subdivision applies only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace and in any dwelling unit having an attached garage. Any operable carbon monoxide detector installed before January 1, 2015, shall be deemed to be in compliance with this subdivision.

These duties shall not be waived; however, the landlord and tenant may make additional covenants not inconsistent herewith in the vacation rental agreement."

SECTION 4. G.S. 42A-32 reads as rewritten:

"**§ 42A-32. Tenant to maintain dwelling unit.**

The tenant of a residential property used for a vacation rental shall:

(1) Keep that part of the property which he or she occupies and uses as clean and safe as the conditions of the property permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the property that he or she uses.

(2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner.

(3) Keep all plumbing fixtures in the property or used by the tenant as clean as their condition permits.

(4) Not deliberately or negligently destroy, deface, damage, or remove any part of the property or render inoperable the smoke detector provided by the landlord or knowingly permit any person to do so.

(5) Comply with all obligations imposed upon the tenant by current applicable <u>local ordinances and codes, including </u>building and housing codes.

(6) Be responsible for all damage, defacement, or removal of any property inside the property that is in his or her exclusive control unless the damage, defacement, or removal was due to ordinary wear and tear, acts of the landlord or his or her agent, defective products supplied or repairs authorized by the landlord, acts of third parties not invitees of the tenant, or natural forces.

(7) Notify the landlord of the need for replacement of or repairs to a smoke detector. The landlord shall annually place new batteries in a battery-operated smoke detector, and the tenant shall replace the batteries as needed during the tenancy. Failure of the tenant to replace the batteries as needed shall not be considered negligence on the part of the tenant or the landlord.

These duties shall not be waived; however, the landlord and tenant may make additional covenants not inconsistent herewith in the vacation rental agreement."

SECTION 5. G.S. 42A-33 reads as rewritten:

"**§ 42A-33. Responsibilities and liability of real estate broker.**

(a) A real estate broker managing a vacation rental property on behalf of a landlord shall do all of the following:

(1) Manage the property in accordance with the terms of the written agency agreement signed by the landlord and real estate broker.

(2) Offer vacation rental property to the public for leasing in compliance with all applicable federal and State laws, regulations, local ordinances and codes, and ethical duties, including, but not limited to, those prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicapping condition, or familial status.

(3) Notify the landlord regarding any necessary repairs to keep the property in a fit and habitable or safe condition and follow the landlord's direction in arranging for any such necessary repairs, including repairs to all electrical, plumbing, sanitary, heating, ventilating, and other facilities and major appliances supplied by the landlord upon written notification from the tenant that repairs are needed.

(4) Verify that the landlord has installed operable smoke detectors and carbon monoxide alarms.

(5) Verify that the landlord has annually placed new batteries in a battery-operated smoke detector or carbon monoxide alarm. Failure of the tenant to replace the batteries as needed shall not be considered negligence on the part of the real estate broker.

(6) Verify that the number of bedrooms and bathrooms advertised for the vacation rental property accurately reflects the most recent tax records for the subject property.

(7) Prohibit the rental of the property to a tenant if the maximum occupancy exceeds four persons per bedroom.

(b) A real estate broker or firm managing a vacation rental property on behalf of a landlord client shall not become personally liable as a party in any civil action between the landlord and tenant solely because the real estate broker or firm fails to identify the landlord of the property in the vacation rental agreement."

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H **1**

HOUSE BILL 409

Short Title:	Regulation of Accessory Dwelling Units.	(Public)
Sponsors:	Representatives Winslow, Alston, Tyson, and G. Brown (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Local Government - Land Use, Planning and Development, if favorable, Rules, Calendar, and Operations of the House	

March 20, 2023

A BILL TO BE ENTITLED

AN ACT TO INCREASE AFFORDABLE HOUSING BY ALLOWING FOR THE CONSTRUCTION OR SITING OF ACCESSORY DWELLING UNITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-917. Accessory dwelling units.**

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. An accessory dwelling unit may be built or sited at any time before, concurrently, or after the primary dwelling has been constructed or sited. Nothing in this section shall prohibit a local government from permitting accessory dwelling units in any area not otherwise required under this section. For the purposes of this section, the term "accessory dwelling unit" means 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.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions, including the imposition of additional parking requirements where an existing structure is converted for use as an accessory dwelling unit.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.

(d) Except as otherwise provided in this section, a local government may regulate accessory dwelling units pursuant to this Chapter, provided that the regulations do not act to discourage development or siting of accessory dwelling units through unreasonable costs or

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delay. Nothing in this section shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions.

(e) 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."

SECTION 1.(b) This section becomes effective October 1, 2023.

SECTION 2. Local governments shall adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions in this act no later than October 1, 2023.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S **1**

SENATE BILL 317

Short Title:	Addressing the Workforce Housing Crisis.	(Public)
Sponsors:	Senators P. Newton, Moffitt, and Lowe (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 16, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH WORKFORCE HOUSING DEVELOPMENTS TO ADDRESS CRITICAL HOUSING SHORTAGES FOR FIREFIGHTERS, LAW ENFORCEMENT OFFICERS, TEACHERS, NURSES, FIRST RESPONDERS, AND OTHER VITAL WORKERS AND FIRST-TIME HOMEBUYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160D-102 reads as rewritten:

"**§ 160D-102. Definitions.**

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

(1) Administrative decision. – Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

…

<u>(33a)</u> <u>Workforce housing development. – A development that meets the criteria for approval established in G.S. 160D-802.1.</u>

<u>(33b)</u> <u>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 G.S. 160D-802.1.</u>

(34) Zoning map amendment or rezoning. – An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

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(35) Zoning regulation. – A zoning regulation authorized by Article 7 of this Chapter."

SECTION 2. 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.

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.

(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.

(d) Except as provided in G.S. 160D-802.1, a local government may not implement or enforce a zoning regulation for a development that qualifies as a workforce housing development, including, without limitation, development standards regulating lot widths, setbacks, density, or building design elements."

SECTION 3. Article 8 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-802.1. Workforce housing developments.**

(a) Notwithstanding any provision of law or any ordinance or regulation to the contrary, a development that meets the criteria for a workforce housing development provided in this section shall be permitted in any zoning district and in any territorial area of a local government and made subject only to the land development regulations set forth in this section.

(b) A local government shall, upon submission of an application for development approval by a landowner, issue a development approval as a workforce housing development for a development meeting the following criteria:

(1) The development is at least 10 acres.

(2) No fewer than twenty percent (20%) of the lots in the development will be improved with dwelling units as defined by the North Carolina Residential Code for One- and Two-Family Dwellings and conveyed as workforce housing improved lots. If a building is constructed on the remaining lots in the development, it must (i) conform with the North Carolina Residential Code for One- and Two-Family Dwellings or (ii) be an accessory building or accessory structure, as defined in the North Carolina Uniform Residential Building Code.

(3) At least fifty percent (50%) of the workforce housing improved lots in the development will be conveyed to owner-occupants that qualify for lender financing based upon an income amount that does not exceed eighty percent (80%) of the most recently published area median income (AMI), as provided by the federal Department of Housing and Urban Development. The remaining workforce housing improved lots may be conveyed to owner-occupants that qualify for lender financing based upon an income amount that does not exceed one hundred percent (100%) of the most recently published AMI. For the purposes of this section, the AMI for the area where the majority of the development is situated shall be used.

(4) Workforce housing improved lots will be conveyed subject to the following conditions:

a. The owner-occupant will move into the dwelling within 60 days of the conveyance.

b. The owner-occupant will maintain the dwelling as the principal residence for at least a majority of a calendar year after moving into the dwelling. After the first full year of owner-occupancy, the owner-occupancy requirement is extinguished.

c. The owner-occupant has either of the following:

1. A greater than fifty percent (50%) ownership interest in the lot.

2. A beneficiary of a trust where the primary purpose of the trust is for estate planning and where the settlors of the trust have placed the lot into the trust.

d. The lot will be used solely for single family residential purposes. For the purposes of this sub-subdivision, the term "family" means the person who owns the lot and (i) any persons living together with the owner that are related by blood, adoption, or marriage or (ii) no more than three other persons who are not related to the owner. Single family residential use does not include fractional ownership or timeshares.

(c) Unless geographically impossible, a local government may require that a workforce housing development provide and maintain a vegetative buffer zone not exceeding 20 feet in width, including existing trees and shrubs, along the perimeter of the development between the development and any adjoining properties. A local government may not impose any type of vegetation requirement, including the removal, preservation, or use of trees and shrubs, in any area of the workforce housing development beyond the vegetative buffer described in this subsection.

(d) A local government may require that a workforce housing development be identified on a preliminary site plan or plat and that a permit application be administratively approved by the local government by its planning staff or a planning board subject only to the criteria provided in subsection (b) of this section. Notwithstanding any provision of law to the contrary, a local government receiving a permit application submitted pursuant to this subsection shall approve or deny the application within 45 days of receipt. During the initial 45-day period, the local government shall communicate with the applicant to resolve questions and issues with the application. If the local government requests additional information or requires that the application be resubmitted with changes, the local government shall review the requested information or resubmitted application and issue an approval or denial within 15 days from the receipt of the requested information or resubmitted application. If the local government does not issue a written approval or denial within 60 days of the initial application submission, the application shall be deemed approved. A local government may require a developer to record a declaration describing the limitations imposed upon a workforce housing development described by this section. Nothing in this section shall limit a developer from imposing restrictive covenants or other restrictions upon lots in the development.

(e) A local government may restrict the issuance of certificates of occupancy for the development to ensure that the workforce housing improved lots are constructed in a ratio roughly proportional to the other lots in the development. The local government may require a builder to certify that a purchaser of a workforce housing improved lot qualifies pursuant to this section.

(f) Notwithstanding any provision of law to the contrary, a local government may not require a connection to a public utility operated by the local government, nor may a local government deny an application to serve the workforce housing development with the extension or connection of a public utility operated by the local government, unless (i) the provision of service would exceed capacity limits established pursuant to applicable statutes or (ii) the nearest point of the existing public utility infrastructure is more than 3 miles from the development. If public utility infrastructure is denied due to lack of capacity or if either water or wastewater infrastructure is not contiguous to the workforce housing development, then the developer may provide the unavailable service to the development by private system under applicable law. A local government may not charge a higher rate to residents in a workforce housing development than the local government charges to other residential customers in its territorial area. For the purposes of this subsection, the term "local government" includes a city, county, sanitary district, water and sewer authority, and any applicable interlocal agreement between a city or county and a water and sewer authority.

(g) Nothing in this section shall prohibit a local government from enforcing any of the following:

(1) Article 11 or Article 12 of this Chapter.

(2) With the exception of G.S. 160D-921, any local development regulation described in Part 2 of Article 9 of this Chapter, subject to the limitations in subdivision (h)(1) of this section.

(3) With the exception of dedications under G.S. 136-66.10 or G.S. 136-66.11, any regulations providing for the dedication of rights-of-way or easements for street or utility purposes or road or utility construction performance standards.

(4) G.S. 160D-804.1.

(h) A local government may not do any of the following:

(1) Implement or enforce an ordinance or regulation that is more restrictive than, or that exceeds requirements necessary to comply with, federal or State law.

(2) Impose impact fees or water or wastewater system development fees on workforce housing improved lots.

(i) A person aggrieved by the failure of a local government to comply with this section may apply for an order in superior court compelling compliance by the local government. An action brought pursuant to this subsection, and any subsequent appeals, shall be given preference over other matters on the court's calendar. The provisions of G.S. 6-21.7 shall apply to an action brought pursuant to this subsection. The remedies provided in this subsection shall supplement any other remedy available at law.

(j) Nothing in this section shall be deemed to establish, alter, or expand a local government's authority to enact or enforce owner-occupancy development standards, rent control, or other standards related to affordable housing."

SECTION 4. This act becomes effective October 1, 2023.

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SENATE BILL 275

Short Title:	Streamline Comm./Multifam. Bldg. Plan Review.	(Public)
Sponsors:	Senators Jarvis, Moffitt, and McInnis (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 13, 2023

A BILL TO BE ENTITLED

AN ACT TO EXPEDITE THE APPROVAL OF SEALED COMMERCIAL AND MULTIFAMILY BUILDING PLANS BY LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-1110.1. Commercial and multifamily plan review of sealed plans; third-party plan review alternatives.**

(a) Plan Review of Sealed Plans. – For commercial and multifamily building plans submitted with a permit application that require the seal of a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes, a local government shall complete its review of those plans and issue applicable building permit decisions within 21 days, unless otherwise agreed to by all parties. If the local government requests additional information or requires plan resubmission with changes, after receiving requested information and changes from the permit applicant, the local government has up to 15 days to issue all applicable permits.

(b) Third-Party Review to Assist Local Government. – A local government may utilize and contract with the Department of Insurance and its marketplace pool of qualified Code-enforcement officials or contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform plan reviews under this section, provided that the review time does not exceed time frames prescribed by subsection (a) of this section.

(c) Third-Party Review Election by Permit Applicant. – If the local government does not issue applicable building permit decisions or determines it is unable to complete plan reviews within the time frames prescribed by subsection (a) of this section, the permit applicant may elect to utilize the Department of Insurance and its marketplace pool of qualified Code-enforcement officials or elect to hire a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to review and certify submitted plans as required by subsection (d) of this section. Upon acceptance of a completed plan review with certification required by subsection (d) of this section, the local government shall issue applicable permits for the project within 72 hours and will refund or waive all applicable plan review and permit fees for the project upon issuance of the applicable permits.

(d) Third-Party Review Certification Required. – A permit applicant that elects a third-party review under subsection (c) 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 all other applicable State and local laws. The certification shall be made on a form created by the local government.

(e) Local Government Liability. – Upon issuance of applicable permits under subsection (c) of this section, the 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 reviewed under subsection (c) of this section.

(f) 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, a local government shall not delay or deny the issuance of applicable permits based upon the receipt of specifications or manufacturer engineering information on an element, component, or fixture."

SECTION 2. 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 reviews under G.S. 160D-1110.1(b).

f. A person who is contracting with a permit applicant to perform third-party plan reviews under G.S. 160D-1110.1(c)."

SECTION 3. G.S. 143-151.12(9) reads as rewritten:

"(9) Establish within the Department of Insurance a marketplace pool of qualified Code-enforcement officials available for the following purposes:

a. When requested by the Insurance Commissioner, to assist in the discharge of the Commissioner's duty under G.S. 143-139 to supervise, administer, and enforce the North Carolina State Building Code.

…

c. When requested by a permit applicant under G.S. 160D-1110.1(c)."

SECTION 4. 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 third-party plan reviews under subsections (b) and (c) of G.S. 160D-1110.1."

SECTION 5. This act becomes effective October 1, 2023, and applies to permit applications submitted on or after that date.