



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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Division of Public Health

August 9, 2022

POSITION STATEMENT: Development Reform 2022

PURSUANT TO: Session Law 2022-11 (S372)

SOURCE: Jon Fowlkes, Branch Head, On-site Water Protection Branch

ISSUE: Implementation of Session Law Provisions

DISCUSSION AND RATIONALE:

Session Law 2022-11 (S372) has multiple sections that affect the on-site wastewater industry. This document is intended to provide the Division's interpretation of the language in this Session Law to local health departments (LHDs) and industry professionals to help promote consistency statewide. This information is presented according to the Section in the Session Law that addresses each issue.

Please note that Sections 2.(a), 2.(b), 4, 5.(a), 5.(b), 5.(c), 5.(d), 5.(e), and 5.(f) became immediately effective when this Session Law was signed into law by Governor Cooper on June 29, 2022. Section 6.(a) becomes effective October 1, 2022. In addition, Section 11.(c) of the "Regulatory Reform Act of 2018" position statement issued by the Division on July 24, 2018 is no longer valid.

Newly adopted on-site wastewater rules 15A NCAC 18E, Section 2.(a) and 2.(b):

Delays the implementation of 15A NCAC 18E (newly adopted on-site wastewater rule not effective until January 1, 2024), while also keeping 15A NCAC 18A .1900 (current on-site wastewater rules) in effect until 15A NCAC 18E becomes effective.

LSS-COVID Permitting under GS 130A-336.2, Section 4:

Amends Section 3.19.(e) of Session Law 2020-97 that currently allows permitting by Licensed Soil Scientists (LSS) under the coronavirus emergency to expire on January 1, 2023. This section also amends the following language:

"However, the expiration of this section shall not prevent a licensed soil scientist acting under this section's authority from completing a ~~proposed~~ wastewater system ~~begun before this section expires~~ already under construction."

Please refer to the N.C. Septic Tank Association Fact Sheet issued on July 1, 2022 (attached to this document) for more information and guidance on this Section.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Improvement Permit/Construction Authorization Permitting, Section 5.(a):

Amends language in G.S. 130A-335 by modifying language in (a2), and adds (a3), (a4), (a5), (a6), (a7), and (a8). G.S.130A-335(a2) was initially added to Article 11 of Chapter 130A under Session Law 2018-114. These amendments to (a2) and additional subsections expand upon permitting options previously provided under (a2), including additional options for owners and additional required actions by the LHDs and wastewater system contractors, depending upon which of these new subsections' conditions are met, as discussed below. The amended language, which is effective immediately, gives applicants many options to apply for an Improvement Permit (IP) and a Construction Authorization (CA). These options include:

- Applicant may apply for an IP from the LHD through the use of an LSS and may apply for a CA from the LHD through the use of an Authorized Onsite Wastewater Evaluator (AOWE) or Professional Engineer (PE).
- Applicant may apply for an IP from the LHD through the use of an LSS and may apply for a CA from the LHD. In this scenario, a site visit is required for the LHD to issue the CA.
- Applicant may apply for an IP from the LHD and may apply for a CA from the LHD through the use of an Authorized Onsite Wastewater Evaluator (AOWE) or Professional Engineer (PE).
- Applicant may apply for an IP from the LHD and may apply for a CA from the LHD (traditional public option permit).

Subsection (a2) allows an applicant to submit an LSS report with documentation of their evaluation of soil conditions and site features pursuant to G.S. 130A-335(a1) to be used in developing design and construction features for a new wastewater system or for repair of an existing system. This Subsection also allows a Licensed Geologist (LG) to submit documentation of their evaluation of geologic or hydrogeologic conditions where applicable. The language states that the LSS and LG evaluations “shall be approved by the applicable permitting authorities under G.S. 130A-336” provided that:

1. The LSS evaluation “...satisfies all requirements of this Article...” The LSS and LG, if applicable, must provide sufficient information to produce an IP in accordance with Article 11 of Chapter 130A; and
2. The LSS and LG, if applicable, “...maintains an errors and omissions liability insurance policy... in an amount commensurate with the risk.” There is no requirement for the LSS and LG to furnish paperwork and, thus, the LHD is not responsible for confirming the existence of an insurance policy or vetting the amount of coverage. The onus is on the licensed professionals to comply.

Improvement Permits, LHD/LSS combination permitting:

Subsections (a3) and (a4) direct the LHD to act on an application with an LSS/LG evaluation in accordance with subsection (a2) for an IP within 10 business days of receipt of a complete application. The LHD shall take one of the following actions:

1. Issue the IP.
2. Deny the IP and provide a signed, written report to the applicant citing the applicable rule(s) for permit denial.
3. Notify the applicant that the application for the IP is incomplete and that additional information is needed.

All information needed to issue the IP must be submitted with the application. The application shall include all information described in 15A NCAC 18A .1937(d) and be accompanied by a signed and dated statement from the applicant (owner or owner's legal representative) that reads as follows:

"The LSS/LG evaluation(s) attached to this application is to be used to issue an Improvement Permit in accordance with G.S. 130A-335(a2) and (a3)." †

The location of each boring or pit evaluated and reported in the LSS evaluation shall be shown on the site plan or plat relative to fixed reference points. Borings or pits shall be evaluated by the LSS in accordance with the provisions of 15A NCAC 18A .1940 through .1945. Results of borings or pits located within the proposed areas for both the initial system and the repair area shall include, at a minimum, the parameters listed on the Soil and Site Evaluation form (or equivalent) that is posted and available at this link: <https://ehs.dph.ncdhhs.gov/forms.htm#oswpForms>. A copy of the form is attached to this document.

Available space for the proposed initial system and repair area (as applicable) showing all required setbacks shall be documented on the site plan or plat by describing their boundaries relative to fixed reference points. This determination shall be based upon the applicant's specification of system type as described in, and in accordance with 15A NCAC 18A .1955, .1956, 1957, .1969, or .1970.

The LSS evaluation shall include conditions for any site modifications necessary to support the use of the specified system type. The LSS evaluation shall include results of any special site evaluation and groundwater mounding/hydrologic analysis and/or nutrient transport modelling investigations supporting the specific proposal or as needed to justify any proposed site modifications (such as drainage or areal fill) required for the system type. Signed and sealed reports of any supporting geologic or hydrogeologic investigations performed by a person licensed pursuant to Chapter 89E of the General Statutes as a LG shall also be submitted, if necessary, to permit the proposed system type.

Other details necessary to issue the IP include, but are not limited to: wastewater system layout including trench (or bed) location, LTAR for initial system and repair system, horizontal setbacks, and any site modification requirements, if applicable, including depth of fill and location/type of artificial drainage.

The LSS evaluation shall include a statement bearing the LSS seal and signature that reads as follows:

"The LSS evaluation is being submitted pursuant to and meets the requirements of G.S. 130A-335(a2)." †

Failure to provide enough information for the LHD to issue the IP shall result in an incomplete application, and the applicant shall be notified what is needed to issue the IP. **However, in order to meet the maximum 10 business day statutory mandate, a site visit by the LHD prior to IP issuance is not required or recommended.** The IP shall include those items listed in G.S. 130A-336(a), which include the following:

1. For permits that are valid without expiration, a plat, or, for permits that are valid for five years, a site plan.
2. A description of the facility the proposed site is to serve.
3. The proposed wastewater system and its location.
4. The design wastewater flow and characteristics.

5. The conditions for any site modifications.
6. Any other information required by the rules of the Commission.

An IP issued pursuant to this Section shall include the following statement:

“This Improvement Permit is issued pursuant to G.S. 130A-335 (a2), (a3), and (a4) using the signed and sealed LSS/LG evaluation(s) attached here.” †

While section (a2) of the statute says we “shall” approve the application for the IP/CA, section (a3) of the statute allows the LHD to deny the IP application. There may be circumstances in which a denial is appropriate, for example - when the application does not meet the provision of section (a2)(1) and (a2)(2). However, based on our understanding of the overall intent of the statute, and the limitation of liability language in subsection (a8), it is recommended to not deny an application based upon a previous site evaluation denial. Please consult with your regional soil scientist if there is a question regarding denial.

Construction Authorizations, LHD/AOWE/PE combination permitting:

Subsections (a5) and (a6) direct the LHD to act on an application for a CA when accompanied by signed and sealed plans or evaluations from an AOWE or PE within 10 business days of receipt of a complete application. The LHD shall take one of the following actions:

1. Issue the CA.
2. Deny the CA and provide a signed, written report to the applicant citing the applicable rule(s) for permit denial.
3. Notify the applicant that the application for the CA is incomplete and that additional information is needed.

The details of the AOWE/PE submittal shall be such that the LHD can produce a CA. The CA shall contain information regarding system type, system layout, location, and installation requirements in accordance with 15A NCAC 18A .1937(g) and (h), and .1938(j), when applicable, slope-corrected maximum trench (or bed) depth, trench (or bed) width, trench (or bed) length, center-to-center trench (or bed) spacing, distribution method, tank sizing, pump design (if needed), pressure manifold design (if needed), interceptor drain design (if needed), groundwater lowering design (if needed), and any other pertinent information needed to issue the CA. The AOWE/PE submittal shall be accompanied by a signed and dated statement from the applicant (owner or owner’s legal representative) that reads as follows:

“The plans or evaluations attached to this application are to be used to issue a Construction Authorization in accordance with G.S. 130A-335(a2), (a5) and (a6).” †

If the specified system type requires design and construction features be prepared by a PE, authorized designer, or other licensed individual, that information shall be provided prior to CA issuance. Failure to provide enough information for the LHD to issue the CA shall result in an incomplete application, and the applicant shall be notified what is needed to issue the CA. **In order to meet the maximum 10 business day statutory mandate, a site visit by the LHD prior to CA issuance is not required or recommended for AOWE/PE submittals under G.S 130A-335(a2) and (a5).**

The AOWE/PE submittal shall include a statement bearing the AOWE/PE seal and signature that reads as follows:

“This AOWE/PE submittal is pursuant to and meets the requirements of G.S. 130A-335(a2) and (a5).”†

A CA issued pursuant to this Section shall include the following statement:

“This Construction Authorization is issued pursuant to G.S. 130A-335 (a2), (a5) and (a6) using the signed and sealed plans or evaluations attached here.”†

The LHD shall consult the LSS, AOWE, PE and the LG, as applicable, regarding any clarification necessary for permitting purposes and shall document the related activities, discussions, and outcomes in writing. Non-compliant conditions (such as the existence of a well which affects the proposed system) shall be brought to the attention of the owner and LSS, AOWE, or PE, as applicable, for correction and submission of an updated proposal.

To help expedite the permitting process and to promote consistency statewide, our Branch has developed forms for the IP and the CA to be submitted pursuant to SL 2022-11 for your convenience. These forms are attached to this position statement for your reference. Please note that the use of these forms is not required.

While section (a2) of the statute says we “shall” approve the application for the IP/CA, section (a5) of the statute allows the LHD to deny the CA application. There may be circumstances in which a denial is appropriate, for example - when the application does not meet the provision of section (a2)(1) and (a2)(2). However, based on our understanding of the overall intent of the statute, and the limitation of liability language in subsection (a8), it is recommended to not deny an application based upon a previous site evaluation denial. Please consult with your regional soil scientist if there is a question regarding denial.

Subsection (a7) requires the wastewater system contractor to notify the LHD, PE, or AOWE, as applicable, before beginning the installation of the septic system for subsections (a2) and (a5). This subsection clearly says the LHD, PE, or AOWE “*retain the ability to delay construction until determination of site conditions.*” Thus, if a pre-construction conference is needed as determined by the LHD, PE, or AOWE, the wastewater system contractor shall not begin the installation until after this conference.

Subsection (a8) states that the Department, the Department’s authorized agents, and the LHD’s have no liability, duties, or responsibilities for evaluations submitted by an LSS/LG, or plans and evaluations submitted by an AOWE/PE pursuant to subsections (a2), (a5), and (a7) of this Section. However, the LHD is responsible and liable for the issuance of the Operation Permit and any other evaluations or actions that the LHD may perform. Thus, the LHD’s cannot perform any kind of soil/site evaluation or participate in the design of any wastewater system proposal submitted under this Section.

If the LHD determines that the wastewater system is not installed in accordance with the CA, the LSS/AOWE/PE, as applicable, should be contacted by the wastewater system owner as soon as possible for a new submittal. The LHD shall not issue an Operation Permit until a new IP/CA is issued, and the installed system meets the conditions of the new IP/CA.

Subsection (f1) changes the term ‘authorization for wastewater system construction’ to ‘construction authorization’.

Section 5.(b):

Amends the language in G.S. 130A-336 to change the term ‘authorization for wastewater system construction’ to ‘construction authorization’ and includes references to G.S. 130A-336.2 in addition to G.S. 130A-336.1.

Engineered Option Permit changes, Section 5.(c):

Amends the language in G.S. 130A-336.1(b)(9) to allow for either a plat or a site plan to be submitted with an Engineered Option Permit (EOP). Please keep in mind that an EOP has no expiration date regardless of plat or site plan submittal.

Post-Construction Conference, AOWE permits, Section 5.(d):

Amends the language in G.S. 130A-336.2(j) to remove the requirement for the local health department to attend the post-construction conference for an AOWE permit option.

Section 5.(e):

Amends the language in G.S. 130A-338 to change the term ‘authorization for wastewater system construction’ to ‘construction authorization’ and includes references to G.S. 130A-336.2, in addition to G.S. 130A-336.1.

Section 5.(f):

Amends the language in G.S. 130A-339 to change the term ‘authorization for wastewater system construction’ to ‘construction authorization’.

Well grout inspection changes, Section 6.(a):

Amends G.S. 87-97 by adding subsections (e2), (e3), and (e4). The amended language allows the LHD to be present for a private drinking water well grouting inspection, but permits the well contractor to dictate the time of the grouting and to proceed with grouting with or without the LHD present if all the following apply:

1. The well contractor provides written, verbal, or electronic notice of intent to grout to the LHD prior to 9:00 A.M. on the date of grouting.
2. The written, verbal, or electronic notice of intent to grout includes the location, permit number, and anticipated time for grouting and indicates that grouting may occur after normal business hours or on the weekend.
3. If the grouting is to occur on a State holiday, the written, verbal, or electronic notice of intent to grout is provided by the last business day prior to the State holiday.
4. The well contractor provides written certification, in a format and method specified by the Commission, to the local health department that the private drinking water well has been grouted in compliance with rules adopted pursuant to this Article (submittal of a GW-1/GW-30 completion form).

Subsection (e4) states that if a variance is issued to a rule requiring the grout of a private drinking water well to a certain depth, the well contractor shall schedule a time for the grouting inspection with the LHD and only the LHD shall have the authority to certify that the private drinking water well was grouted in compliance with 15A NCAC 02C .0118.

† All required statements listed in this document may use alternate language with the same meaning.

NOTE: Position statements are policy documents intended to clarify how to interpret or enforce a law or rule. They are not enforceable on their own, but are intended to promote uniform interpretation and enforcement of the underlying law or rule.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2022-11
SENATE BILL 372**

AN ACT TO MAKE VARIOUS CHANGES TO ELECTRICAL CONTRACTING LICENSES,
WASTEWATER, SEDIMENTATION, AND BUILDING CODE LAWS.

The General Assembly of North Carolina enacts:

MODIFY CLASSIFICATION OF ELECTRICAL CONTRACTING LICENSES

SECTION 1.(a) G.S. 87-43.3 reads as rewritten:

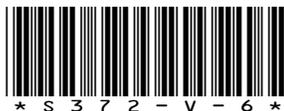
"§ 87-43.3. Classification of licenses.

(a) An electrical contracting license shall be issued in one of the following classifications:

- (1) Limited, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of one hundred thousand dollars (\$100,000) and on which the equipment or installation in the contract is rated at not more than 600 ~~volts;~~ volts. The limited classification and any special restricted classifications shall require no more than 3,000 hours of experience, of which, no less than 2,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.
- (2) Intermediate, under which a licensee shall be permitted to engage in a single electrical contracting project of a value, as established by the Board, not in excess of two hundred thousand dollars (~~\$200,000;~~—(\$200,000)). The intermediate classification shall require no more than 5,750 hours of experience, of which, no less than 5,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.
- (3) Unlimited, under which a licensee shall be permitted to engage in any electrical contracting project regardless of ~~value;~~ and value. The unlimited classification shall require no more than 9,000 hours of experience, of which, no less than 8,000 hours shall consist of primary experience gained by direct installation of electrical wiring and equipment governed by the National Electric Code.

(b) An electrical contracting license shall be issued in such other special Restricted classifications as the Board may establish from time to time to provide, (i) for the licensing of persons, partnerships, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature, and (ii) for the licensing of persons, partnerships, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business.

(c) The Board may establish appropriate standards for each classification, such standards not to be inconsistent with the provisions of G.S. 87-42. The Board may, by rule, modify the



project value limitations up to the maximum amounts set forth in this section for limited and intermediate licenses no more than once every three years based upon an increase or decrease in the project cost index for electrical projects in this State."

SECTION 1.(b) This section becomes effective October 1, 2022, and applies to applicants for licensure on or after that date.

DELAY EFFECTIVE DATE OF 18E WASTEWATER TREATMENT AND DISPERSAL RULES

SECTION 2.(a) Notwithstanding G.S. 150B-21.3, 15A NCAC 18E .0101 through .1713, as adopted by the North Carolina Commission for Public Health on August 4, 2021, and approved by the Rules Review Commission on September 16, 2021, shall become effective on January 1, 2024.

SECTION 2.(b) 15A NCAC 18A .1934 through .1971, as repealed by the North Carolina Commission for Public Health on August 4, 2021 and approved by the Rules Review Commission on September 16, 2021, shall remain in effect until the 15A NCAC 18E rules referenced in subsection (a) of this section become effective and shall be exempt from the periodic review and expiration of existing rules process required by G.S. 150B-21.3A.

HIGHLY TREATED WASTEWATER AMENDMENTS

SECTION 3.(a) Section 8.26(b) of S.L. 2021-180 reads as rewritten:

"**SECTION 8.26.(b)** Funds allocated from the State Fiscal Recovery Fund to the Board of Governors of The University of North Carolina for the Innovative Highly Treated Wastewater Pilot Program (Program) shall be provided to the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill (Collaboratory) to establish the Program as described in this subsection. The Collaboratory may use up to one million dollars (\$1,000,000) of the funds allocated by this subsection for research and administrative costs related to the Program, of which up to two hundred thousand dollars (\$200,000) may be used to reimburse the Department of Environmental Quality for its administrative costs. Project funding from the funds allocated by this section is limited to ~~the lesser of forty percent (40%) of the total project cost or four million dollars (\$4,000,000)~~. In implementing the Program, the Collaboratory shall do the following: In implementing the Program, the Collaboratory shall do the following:

- (1) Review and evaluate wastewater systems producing highly treated wastewater, either as a single unit or as a combination of treatment devices for suitability as a wastewater treatment option for local governments, sanitary districts, or public authorities that are either (i) considered distressed, as defined by G.S. 159G-20, that ~~(i)-(ii)~~ have no more than 10,000 ~~customers~~ customers, or ~~(ii)-(iii)~~ include residential or commercial developments or subdivisions that are unable to be served by existing wastewater systems.

...."

SECTION 3.(b) Subdivision 8.26(c)(1) of S.L. 2021-180 reads as rewritten:

- "(1) Review and qualify wastewater systems producing highly treated wastewater, either as a single unit or as a combination of treatment devices. The Department shall require the manufacturer of the wastewater system within five days of the ~~qualification~~ issuance of the permit to construct for a wastewater system qualified under this subdivision to file with the Department a performance bond or other surety with a minimum term of five years to be executed in favor of the permittee in the amount sufficient to cover system replacement. Operation, maintenance, abuse, or change in hydraulic flows or wastewater characteristics shall not be attached to the performance bond or surety."

PROVIDE THAT APPROVAL FOR LICENSED SOIL SCIENTISTS TO EVALUATE, INSPECT, AND APPROVE ON-SITE WASTEWATER SYSTEM PROJECTS DURING THE CORONAVIRUS EMERGENCY ENDS ON A DATE CERTAIN

SECTION 4. Section 3.19(e) of S.L. 2020-97 reads as rewritten:

"SECTION 3.19.(e) This section is effective when it becomes law and expires ~~90 days after Executive Order No. 116 is rescinded on January 1, 2023.~~ However, the expiration of this section shall not prevent a licensed soil scientist acting under this section's authority from completing a proposed wastewater system begun before this section expires already under construction."

ON-SITE WASTEWATER PERMITTING PROCESS AMENDMENTS

SECTION 5.(a) G.S. 130A-335 reads as rewritten:

"§ 130A-335. Wastewater collection, treatment and disposal; rules.

...

(a2) Evaluations conducted by a licensed soil scientist or a licensed geologist pursuant to subsection (a1) of this section ~~to produce shall be used in developing~~ design and construction features for a new proposed wastewater system or a proposed repair project for an existing wastewater system, including the addressing of any special hydrologic conditions that may be required under the applicable rules for an ~~authorization to construct or for permitting, improvement permit or a construction authorization,~~ shall be approved by the applicable permitting authorities under G.S. 130A-336 ~~and G.S. 130A-336.1,~~ provided both of the following conditions are met:

- (1) The evaluation of soil conditions, site features, or geologic and hydrogeologic conditions satisfies all requirements of this Article. The evaluation shall not cover areas outside the scope of the applicable license.
- (2) The licensed soil scientist or licensed geologist conducting the evaluation maintains an errors and omissions liability insurance policy issued by an insurer licensed under Chapter 58 of the General Statutes in an amount commensurate with the risk.

~~Upon receipt of a signed written evaluation from the soil scientist or licensed geologist, the Department, the Department's authorized agents, and the local health department shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or in common law from any claim arising out of or attributed to the soil conditions, site features, geologic conditions, or hydrogeologic conditions for which the signed written evaluation was submitted.~~

(a3) When an applicant for an improvement permit submits an application and a soil evaluation pursuant to subsection (a2) of this section, the local health department shall, within 10 business days of receiving the application, take one of the following actions:

- (1) Issue the improvement permit.
- (2) Deny the permit application and provide a signed, written report to the applicant citing the applicable rule(s) for permit denial.
- (3) Notify the applicant that additional information is needed if the application is incomplete.

(a4) If a local health department fails to act on an application for an improvement permit submitted pursuant to subsection (a3) of this section within 10 business days of receipt of a complete application, the local health department shall issue the improvement permit.

(a5) When an applicant for a construction authorization submits an application along with any necessary signed and sealed plans or evaluations, as required by the local health department, conducted by a person licensed pursuant to Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator, the local health department shall, within 10 business days of receiving the application, take one of the following actions:

- (1) Approve the permit application.
- (2) Deny the permit application and provide a signed, written report to the applicant citing the applicable rule(s) for permit denial.
- (3) Notify the applicant that additional information is needed if the application is incomplete.

(a6) If a local health department fails to act on an application for a construction authorization submitted pursuant to subsection (a5) of this section within 10 business days of receipt of a complete application, the local health department shall issue the construction authorization.

(a7) The wastewater system contractor shall notify the local health department, or professional engineer or Authorized On-Site Wastewater Evaluator, as applicable, prior to the start of construction of the proposed wastewater system by telephone or other electronic means. The local health department, professional engineer, or Authorized On-Site Wastewater Evaluator shall retain the ability to delay construction until determination of site conditions. The applicant or the system contractor certified under rules established by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall notify the local health department of completion of the wastewater system for the inspection and issuance of the operation permit pursuant to G.S. 130A-337 after determination of compliance with the construction authorization.

(a8) The Department, the Department's authorized agents, and the local health departments shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or in common law from any claim arising out of or attributed to evaluations, submittals, or actions from a licensed soil scientist or licensed geologist pursuant to subsection (a2) of this section. The Department, the Department's authorized agents, and the local health departments shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or in common law from any claim arising out of or attributed to plans, evaluations, preconstruction conference findings, submittals, or actions from a person licensed pursuant to Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator in subsections (a2), (a5), and (a7) of this section. The Department, the Department's authorized agents, and the local health departments shall be responsible and bear liability for their actions and evaluations and other obligations under State law or rule, including the issuance of the operations permit pursuant to G.S. 130A-337.

...

(f1) A preconstruction conference with the owner or developer, or an agent of the owner or developer, and a representative of the local health department shall be required for any ~~authorization for wastewater system construction~~ construction authorization issued with an improvement permit under G.S. 130A-336 when the authorization is greater than five years old. Following the conference, the local health department shall advise the owner or developer of any rule changes for wastewater system construction incorporating current technology that can reasonably be expected to improve the performance of the system. The local health department shall issue a revised ~~authorization for wastewater system construction~~ construction authorization incorporating the rule changes upon the written request of the owner or developer.

...."

SECTION 5.(b) G.S. 130A-336 reads as rewritten:

"§ 130A-336. Improvement permit and ~~authorization for wastewater system construction~~ construction authorization required.

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this Article or (ii) by a professional engineer, licensed soil scientist, or licensed geologist acting within the engineer's,

soil scientist's, or geologist's scope of work, as applicable, and pursuant to the conditions of the engineered option permit in ~~G.S. 130A-336.1.~~ G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option in G.S. 130A-336.2. An improvement permit issued by a local health department shall include:

- (1) For permits that are valid without expiration, a plat, or, for permits that are valid for five years, a site plan.
- (2) A description of the facility the proposed site is to serve.
- (3) The proposed wastewater system and its location.
- (4) The design wastewater flow and characteristics.
- (5) The conditions for any site modifications.
- (6) Any other information required by the rules of the Commission.

Neither the improvement permit nor the ~~authorization for wastewater system construction~~ construction authorization shall be affected by change of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and ~~an authorization for wastewater system construction~~ a construction authorization are obtained from the local health department unless that person is acting in accordance with the conditions and criteria of an engineered option permit pursuant to ~~G.S. 130A-336.1.~~ G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue ~~an authorization for wastewater system construction~~ a construction authorization authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. This ~~authorization for wastewater system construction~~ construction authorization shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued. No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and ~~an authorization for wastewater system construction~~ a construction authorization have been obtained from the Department or the local health department unless that person is acting in accordance with the conditions and criteria of an engineered option permit pursuant to ~~G.S. 130A-336.1.~~ G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. No improvement permit or ~~authorization for wastewater system construction~~ construction authorization shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and ~~an authorization for wastewater system construction~~ a construction authorization.

(b1) An improvement permit or ~~authorization for wastewater system construction~~ construction authorization issued by a local health department from January 1, 2000, to January 1, 2015, which has not been acted on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty, unless there are changes in the hydraulic flows or wastewater characteristics from the original local health department evaluation. Permits are transferrable with ownership of the property. Permits shall retain the site, soil evaluations, and construction conditions of the original permit. Site activities begun or completed pursuant to requirements from the local health department under the original permit, however, shall not be construed to be altered conditions and shall not constitute a basis for refusal of the permit extension. The property owner may contract with a person licensed pursuant to Chapter 89F of the General Statutes as a

licensed soil scientist to conduct a site verification to determine whether the conditions of the original permit are unchanged. Written verification by the licensed soil scientist shall be accepted by the local health department, used in lieu of verification by the local health department, and be attached to the permit.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of ~~an authorization for wastewater system construction~~ a construction authorization by the local health department.

...."

SECTION 5.(c) G.S. 130A-336.1(b) reads as rewritten:

"(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the engineered option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with jurisdiction over the location of the proposed wastewater system a notice of intent to construct a wastewater system utilizing the engineered permit option. The Department shall develop a common form for use as the notice of intent to construct that includes all of the following:

- (1) The owner's name, address, e-mail address, and telephone number.
- (2) The professional engineer's name, license number, address, e-mail address, and telephone number.
- (3) For the professional engineer, the licensed soil scientist, the licensed geologist, and any on-site wastewater contractors, proof of errors and omissions insurance coverage or other appropriate liability insurance.
- (4) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.
- (5) The type of proposed wastewater system and its location.
- (6) The design wastewater flow and characteristics.
- (7) Any proposed landscape, site, drainage, or soil modifications.
- (8) A soil evaluation that is conducted and signed and sealed by a either a licensed soil scientist or licensed geologist.
- (9) A plat, as defined in ~~G.S. 130A-334(7a)~~ G.S. 130A-334(7a), or a site plan, as defined in G.S. 130A-334(13a)."

SECTION 5.(d) G.S. 130A-336.2(j) reads as rewritten:

"(j) Post-Construction Conference. – The Authorized On-Site Wastewater Evaluator shall hold a post-construction conference with the owner, the certified contractor, and the certified water pollution control system operator, if ~~any, and representatives from the local health department.~~ any. The post-construction conference shall include start-up and any required verification of system components."

SECTION 5.(e) G.S. 130A-338 reads as rewritten:

"§ **130A-338.** ~~Authorization for wastewater system construction~~ **Construction authorization required before other permits to be issued.**

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until ~~an authorization for wastewater system construction~~ a construction authorization has been issued under G.S. 130A-336, or authorization has been obtained under G.S. 130A-337(c), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to ~~G.S. 130A-336.1(e)~~ G.S. 130A-336.1(c) or G.S. 130A-336.2(c)."

SECTION 5.(f) G.S. 130A-339 reads as rewritten:

"§ 130A-339. Limitation on electrical service.

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required ~~improvement permit authorization for wastewater system construction permit, construction authorization,~~ and an operation permit or authorization under G.S. 130A-337(c) or the letter of confirmation authorizing wastewater system operation under G.S. 130A-336.1(m) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338."

WELL GROUTING CERTIFICATION CHANGE

SECTION 6.(a) G.S. 87-97 is amended by adding the following new subsections to read:

"(e2) Grouting Certification. – Notwithstanding any other provision of this Article, during the construction, repair, or abandonment of a private drinking water well, the local health department shall not conduct a grouting inspection if all of the following apply:

- (1) The well contractor provides written, verbal, or electronic notice of intent to grout to the local health department prior to 9:00 A.M. on the date of grouting.
- (2) The written, verbal, or electronic notice of intent to grout includes the location, permit number, and anticipated time for grouting and indicates that grouting may occur after normal business hours or on the weekend.
- (3) If the grouting is to occur on a State holiday, the written, verbal, or electronic notice of intent to grout is provided by the last business day prior to the State holiday.
- (4) The well contractor provides written certification, in a format and method specified by the Commission, to the local health department that the private drinking water well has been grouted in compliance with rules adopted pursuant to this Article.

(e3) Health Department Optional Presence. – Upon receipt of a notice of intent to grout under subsection (e2) of this section, the local health department may opt to be present during the grouting but the failure of the local health department to be present shall not affect the authority of the well contractor to self-certify the grouting under that subsection.

(e4) Exception for Variance. – Notwithstanding subsection (e2) of this section, if a variance is issued to a rule requiring grouting of a private drinking water well to a certain depth under rules adopted pursuant to this Article, the well contractor shall schedule a grout time and inspection with the local health department and only the local health department shall have the authority to certify that the private drinking water well was grouted in compliance with this Article."

SECTION 6.(b) This section becomes effective October 1, 2022, and applies to inspections conducted on or after that date.

REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO STUDY EROSION AND SEDIMENTATION CONTROL REQUIREMENTS RELATIVE TO FEDERAL REQUIREMENTS APPLICABLE TO STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

SECTION 7. The Department of Environmental Quality shall study the requirements of the Sedimentation Pollution Control Act of 1973 (Act) and federal requirements applicable to stormwater discharges from construction activities under 40 C.F.R. § 122.26 and shall identify all requirements of the Act that are more stringent than, or redundant to, federal requirements applicable to stormwater discharges from construction activities under 40 C.F.R. § 122.26. In so doing, the Department shall clearly identify the sources of federal law that establish specific

requirements for (i) stormwater control design, installation, and maintenance at construction sites; (ii) permit applications to be submitted by operators of construction activity, including legal requirements for design and construction specifications to be included with permit applications; and (iii) transfer and termination of a builder, developer, or operator's obligations upon conveyance of property on which construction occurred. The Department shall report its findings, including recommendations for legislative action to streamline permitting of NCG01 applications, particularly any modifications to state sedimentation requirements that would result in a sedimentation and erosion control approval satisfying federal NCG01 permitting, to provide greater permitting efficiency within the regulated community, to the Environmental Review Commission no later than September 1, 2022.

BUILDING CODE AMENDMENTS

SECTION 8.(a) G.S. 143-140.1 reads as rewritten:

"§ 143-140.1. Appeals of alternative Alternative design construction and methods. 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 follow the 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."

SECTION 8.(b) Approved alternative designs and construction that are in effect at the time of the effective date of this act remain in effect.

SECTION 9.(a) G.S. 160D-1102 reads as rewritten:

"§ 160D-1102. Building code administration.

(a) A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or another title generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1104 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1104 and G.S. 160D-202. Every local government shall designate a person responsible for the daily oversight of the local government's duties and responsibilities under G.S. 160D-1104.

(b) In the event that any local government fails to provide inspection services or ceases to provide inspection services, the Commissioner of Insurance shall arrange for the provision of inspection services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner has and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention

to do so; however, the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that an earlier assumption will not unduly interfere with arrangements made for the provision of those services.

(c) No later than October 1 of 2023, 2024, and 2025, every local government shall publish an annual financial report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as required by G.S. 160D-402(d). This report is in addition to any other financial report required by law."

SECTION 9.(b) This section becomes effective October 1, 2022, and applies to financial reports due after that date.

MAXIMUM PARKING SPACE SIZE

SECTION 10.(a) G.S. 160D-702(c) reads as rewritten:

"(c) A zoning or other development regulation shall not ~~set~~ 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."

SECTION 10.(b) This section becomes effective October 1, 2022, and after that date any zoning or other development regulation inconsistent with G.S. 160D-702(c), as enacted by this act, is void and unenforceable.

NORTH CAROLINA HOME INSPECTOR LICENSURE BOARD REVISIONS

SECTION 11.(a) G.S. 143-151.45 reads as rewritten:

"§ 143-151.45. Definitions.

The following definitions apply in this Article:

- (1) Repealed by Session Laws 2009-509, s. 3.3, effective October 1, 2013. See note.
- (2) Board. – The North Carolina Home Inspector Licensure Board.
- (3) Compensation. – A fee or anything else of value.
- (4) Home inspection. – A written ~~evaluation~~ evaluation, based on observation or noninvasive testing, of two or more of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component. Noninvasive testing means testing methods which do not result in any damage to a component or system, such as tearing, puncturing, or gouging, provided that probing a wood component or system to inspect for deterioration is permissible.
- (5) Home inspector. – An individual who engages in the business of performing home inspections for compensation.
- (6) Residential building. – A structure intended to be, or that is in fact, used as a residence by one or more individuals."

SECTION 11.(b) G.S. 143-151.58 reads as rewritten:

"§ 143-151.58. Duties of licensed home inspector.

(a) Home Inspection Report. – A licensed home inspector must give to each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The inspector must give the person the report by the date set in a written agreement by the parties to the home inspection. If the parties to the home inspection did not agree on a date in a written agreement, the inspector must give the person the report ~~within three~~ within:

- (1) Three business days after the inspection was performed.

- (2) Ten business days after the inspection was performed, if the report describes a deficiency as a violation of the State Residential Building Code in accordance with subsection (a2) of this section.

(a1) Summary Page. – A written report provided under subsection (a) of this section for a prepurchase home inspection of three or more systems must include a summary page that contains the information required by this subsection. All other subject matters pertaining to the home inspection must appear in the body of the report. The summary page must contain the following statement: "This summary page is not the entire report. The complete report may include additional information of interest or concern to you. It is strongly recommended that you promptly read the complete report. For information regarding the negotiability of any item in this report under the real estate purchase contract, contact your North Carolina real estate agent or an attorney."

The summary page must describe any system or component of the home that does not function as intended, allowing for normal wear and tear that does not prevent the system or component from functioning as intended. The summary page must also describe any system or component that appears not to function as intended, based upon documented tangible evidence, and that requires either subsequent examination or further investigation by a specialist. The summary page may describe any system or component that poses a safety concern.

(a2) State Residential Building Code. – If a licensee includes a deficiency in the written report of a home inspection that is stated as a violation of the North Carolina State Residential Building Code, the licensee must do all of the following:

- (1) Determine the date of construction, renovation, and any subsequent installation or replacement of any system or component of the home.
- (2) Determine the ~~State Building Code~~ in effect at the time of construction, renovation, and any subsequent installation or replacement of any system or component of the home.
- (3) Conduct the home inspection using the ~~building codes Code~~ in effect at the time of the construction, renovation, and any subsequent installation or replacement of any system or component of the home.

In order to fully inform the client, if the licensee describes a deficiency as a violation of the ~~State Building Code~~ in the written report, then the report shall include the information described in subdivision (1) of this subsection and photocopies of the relevant provisions of the ~~State Building Code~~ used pursuant to subdivision (2) of this subsection to determine any violation stated in the report. The Board may adopt rules that are more restrictive on the use of the ~~State Building Code~~ by home inspectors.

...."

SECTION 11.(c) This section becomes effective October 1, 2022, and applies to inspections conducted on or after that date.

GENERAL CONTRACTOR LICENSE PROJECT VALUE INCREASE

SECTION 12. G.S. 87-10(a1) reads as rewritten:

"(a1) The Board shall require an applicant to pay the Board or a provider contracted by the Board an examination fee not to exceed one hundred dollars (\$100.00). In addition to the costs of any criminal background check, the Board shall also require an applicant to pay the Board a fee not to exceed one hundred twenty-five dollars (\$125.00) if the application is for an unlimited license, one hundred dollars (\$100.00) if the application is for an intermediate license, or seventy-five dollars (\$75.00) if the application is for a limited license. The fees accompanying any application or examination shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to one million five hundred thousand dollars (~~(\$1,000,000)~~);

(\$1,500,000), excluding the cost of land and any ancillary costs to improve the land; the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to ~~five-seven~~ fifty thousand dollars ~~(\$500,000), (\$750,000)~~, excluding the cost of land and any ancillary costs to improve the land. The license certificate shall be classified in accordance with this section."

INCREASE THRESHOLD FOR FIRE APPARATUS ACCESS ROADS

SECTION 13.(a) Section 6 of S.L. 2021-121 reads as rewritten:

"**SECTION 6.(a)** Definitions. – As used in this section, "Council" means the North Carolina Building Code Council, and "Code" means the current North Carolina Building Code collection, and amendments to the Code, as adopted by the Council.

"**SECTION 6.(b)** Code Amendment. – Until the effective date of the Code amendment that the Council is required to adopt pursuant to this section, the Council and Code enforcement officials enforcing the Code shall follow the provisions of subsection (c) of this section as it relates to Section D107 of the 2018 North Carolina Fire Code and other provisions that relate to fire apparatus access roads for one- or two-family dwelling residential developments.

"**SECTION 6.(c)** Implementation. – ~~Notwithstanding any provision of the Code or law to the contrary, the~~ The Council and Code enforcement officials shall not require an automatic sprinkler system two or more separate and approved fire apparatus access roads in developments of one- or two-family dwellings where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction. ~~units.~~

"**SECTION 6.(d)** Additional Rulemaking Authority. – The Council shall adopt a rule to amend Section D107 of the 2018 North Carolina Fire Code consistent with subsection (c) of this section. Notwithstanding G.S. 143-136(c), the Residential Code Committee within the Council shall consider the amendment required by this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Council pursuant to this subsection 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 6.(e)** Effective Date. – This section is effective when it becomes law.

"**SECTION 6.(f)** Sunset. – This section expires on the date that rules adopted pursuant to subsection (d) of this section become effective."

SECTION 13.(b) This section is effective when it becomes law.

CERTAIN BUILDING INSPECTIONS BY DEPARTMENT OF INSURANCE CHANGES

SECTION 14.(a) G.S. 143-139.4 is amended by adding a new subsection to read:

"(f1) Personnel assigned by the Commissioner to conduct inspections under this section must begin conducting an inspection within two business days after assignment by the Commissioner."

SECTION 14.(b) G.S. 143-139.4(k) reads as rewritten:

"(k) As used in this section, the following terms mean:

- (1) Inspection. – An inspection required by the North Carolina State Building Code in any of the following categories:
 - a. Plumbing.
 - b. Electrical systems.
 - c. General building restrictions and regulations.
 - d. Heating and air-conditioning.
 - e. General construction inspection.

- (2) Local inspection department. – Any county, city, or joint agency performing State Building Code ~~inspections under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes.~~inspections.
- (3) Requestor. – The permit holder, or an individual acting on behalf of the permit holder, who made an initial request for an inspection to a local inspection department."

SECTION 14.(c) G.S. 143-139.4 is amended by adding a new subsection to read:

"(l) The Commissioner shall contract with any individual, corporation, or other business entity that holds one of the applicable certificates as provided in G.S. 143-151.13 to conduct inspections under this section."

SECTION 14.(d) Subsection (a) of this section becomes effective October 1, 2022, and applies to inspections conducted on or after that date.

ADDITIONAL TECHNICAL CORRECTIONS TO CONFORM CERTAIN STATUTES TO CHAPTER 160D OF THE GENERAL STATUTES

SECTION 15. G.S. 143-139(b), as amended by Section 12.5(a) of S.L. 2021-117, reads as rewritten:

"(b) General Building Regulations. – The Insurance Commissioner shall have general authority, through the Division of Engineering of the Department of Insurance, to supervise, administer, and enforce all sections of the North Carolina State Building Code pertaining to plumbing, electrical systems, general building restrictions and regulations, heating and air conditioning, fire protection, and the construction of buildings generally, except those sections of the Code, the enforcement of which is specifically allocated to other agencies by subsections (c) through (e) below. In the exercise of the duty to supervise, administer, and enforce the North Carolina State Building Code (including local building codes which have superseded the State Building Code in a particular political subdivision pursuant to G.S. 143-138(e)), the Commissioner, through the Division of Engineering, shall:

- (1) Cooperate with local officials and local inspectors duly appointed by the governing body of any municipality or board of county commissioners pursuant to ~~Part 5 of Article 19 of Chapter 160A of the General Statutes or Part 4 of Article 18 of Chapter 153A~~ Article 11 of Chapter 160D of the General Statutes, or any other applicable statutory authority.
- (2) In accordance with G.S. 143-139.4, timely assign a Code-enforcement official from the marketplace pool established under G.S. 143-151.12(9)a. to conduct any plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, or general construction inspection required by the North Carolina State Building Code.
- (3) Develop eligibility criteria for and procedures to conduct certain inspections required by the North Carolina State Building Code as remote inspections. For the purposes of this subdivision, a "remote inspection" means an inspection of the manner of construction for North Carolina State Building Code compliance that an inspector conducts by (i) interactive real-time audio and video communication with a permit holder or (ii) a review of an electronic video recording submission by a permit holder."

ANSON COUNTY FUNDS FOR ECONOMIC DEVELOPMENT BUDGET TECHNICAL CORRECTION

SECTION 16.(a) Section 40.17(a) of S.L. 2021-180, as enacted by Section 9.1(d) of S.L. 2021-189, and amended in Section 18.1 of S.L. 2022-6, is amended by adding a new subdivision to read:

"(58) The funds for Anson County for economic development of county facilities, in the sum of eight million dollars (\$8,000,000) shall instead be provided to Anson Economic Development Corporation to be used for economic development purposes, including facilities."

SECTION 16.(b) This section is effective when it becomes law.

ZONING CONSISTENCY APPLIES TO COUNTIES

SECTION 17.(a) G.S. 160D-706(a) reads as rewritten:

"(a) Unless otherwise prohibited by ~~G.S. 160A-174(b) with respect to cities,~~ G.S. 160A-704(b), when regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. Unless otherwise prohibited by ~~G.S. 160A-174(b) with respect to cities,~~ G.S. 160A-704(b), when the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern."

SECTION 17.(b) This section is effective when it becomes law, clarifies and restates the intent of existing law, and applies to permit applications filed and appeals filed before, on, and after the effective date.

EFFECTIVE DATE

SECTION 18. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2022.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Donna McDowell White
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:30 p.m. this 29th day of June, 2022



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FACT SHEET ON SENATE 372

SESSION LAW 2022-11

The North Carolina Septic Tank Association was able to place certain sections in the above Senate Bill that dealt with wastewater issues around the State. We authored and help develop language that we thought would help both the regulatory community and the regulated industry.

Here are the special Sections and their impacts:

Section 2: Delays the effective date of the 15A NCAC 18E Rules, as adopted by the Commission for Public Health, until January 1, 2024. This was to give time for reasonable training from the Department to their authorized agents, and to the industry. If this delay had not been allowed, the 18E Rules, adopted by the Commission in August, 2021, would be in effect the day after adjournment of this Session of the General Assembly.

Section 4: Establishes a date certain of January 1, 2023 (180 days from now) for the Temporary COVID ability of a licensed soil scientist to act as an Authorized Onsite Wastewater Evaluator unless they complete the training established by the NCOWCICB. The language states that this does NOT prevent a licensed soil scientist from “completing a wastewater system already under construction.” The original language set out in Session law 2020-97 stated that the Temporary COVID ability ended 90 days after the Governor rescinded Executive Order 116 and that the licensed soil scientist could complete a “proposed” wastewater system “begun” before this Section expires. If the Governor rescinds the Executive Order, which could be very soon as the General Assembly is already urging him to do, and then this new language would actually expand the number of days for the licensed soil scientist. And the Department had not defined what was meant as “proposed” or “begun.” There is a reported 1400+ Temporary COVID systems already under a Notice of Intent. Almost all of these are from licensed soil scientists who are or soon will be earning their AOWE credentials. Most importantly, nothing in this language says the Temporary COVID permits expire on January 1, 2023. If the wastewater system needs to be completed after this date, it can be completed. Since Session Law refers to General Statute 130A-336.2, then this is the AOWE law, which begins with a Notice of Intent. The Notice of Intent includes actions by the AOWE that include activities like soil and site evaluations that are part of the construction of the wastewater system, so it would be reasonable to assume that the existence of an NOI (a document that is received and dated by the LHD) is evidence that the wastewater system is under construction. The local health departments shall not “accept” an NOI based from a Temporary COVID ability of a licensed soil scientist after that date. The Department has already established a common form that distinguishes the two processes.

Jerry Pearce
President
(919) 971 4599

Doug Lassiter
Executive Director, Lobbyist
(336) 345 8357

Section 5(a2) clarifies the wording used in G.S. 130A-335 for the 114 permits.

Section 5(a3) clarifies the actions available to the local health department when a complete application for an Improvement Permit is received. Within 10 business days, the LHD can either (1) Issue the IP, (2) Deny the Permit, or (3) Notify the applicant that the application is incomplete. In the 114 process, the application is submitted with the soil and site evaluation from a licensed soil scientist, so there is specific information in General Statute or rules that detail the information needed, just like the information established by the agent of the LHD under a regular wastewater permit. The Department helped develop this wording.

Section 5(a4) states that if the LHD fails to act within 10 business days of receiving a complete application, they shall issue the IP.

Section 5(a5) states that when an application for a Construction Authorization is submitted along with the required information signed and sealed by a professional engineer or an AOWE, the LHD shall within 10 business days, either (1) issue the CA, (2) deny the CA, or (3) notify the applicant of the need for further information. This separates the ability of a licensed soil scientist and an AOWE. Under Chapter 89F of the General Statutes, a licensed soil scientist cannot do “design” which is found in the information required in the CA. So the licensed soil scientist can do the IP, but not the CA.

Section 5(a6) like (a4) states that if the LHD fails to act within 10 business days, they shall issue the CA.

Section 5(a7) establishes that a pre-construction conference is not required, but that the certified wastewater system installer shall notify the holder of the CA, whether it be the applicant, PE, or AOWE, that they intend to start the installation of the wastewater system. The applicant, PE, or AOWE has the authority to delay the start of the installation until they can verify that the site conditions have not been altered and that construction can begin. This is similar to existing routines in most areas, but this gives the person who is holding the liability of assuring that site conditions and design can be accomplished the ability to delay the start of the installation. This Section also states that the installer notifies the LHD upon completion for the issuance of the Operation Permit.

Section 5(a8) details the separation of liabilities, duties and liabilities of all the parties involved, whether it's the Department, their authorized agents within the LHD, the AOWE, the PE, or the Installer. This language was requested by the Department and agreed to by the North Carolina Home Builders and the NCSTA.

Section 5(b) is simply clarifying existing language with current General Statute

Section 5(c) changes the language found in the Engineer Option Permit so that the submittal can come in with a plat or a site plan.

Section 5(d) changes the requirements for the Post-Construction meeting in the AOWE process, so that the representative from the local health department is removed from having to attend the post-construction meeting.

That's the facts, and this was done to help the onsite wastewater industry in North Carolina. Almost all of Section 5, dealing with the 114 permit process (which is still a county-issued permit), in their ability to reduce a backlog of permit applications and free up some of the time of their staff.

Have a great 4th of July. Stay safe.

Doug Lassiter, NCSTA Executive Director/Lobbyist

Jerry Pearce
President
(919) 971 4599

Doug Lassiter
Executive Director, Lobbyist
(336) 345 8357

IMPROVEMENT PERMIT FOR G.S. 130A-335(a2)/SL2022-11

PIN/Lot Identifier: _____

Issued To: _____

Property Location: _____

Subdivision: _____ Lot #: _____ Block: _____ Section: _____

LSS Report Provided: Yes No

If yes, name and license number of LSS: _____

New Repair Expansion System Relocation

Proposed Structure: _____

Proposed Wastewater System Type: _____ (Initial) _____ (Repair)

Fill System: Yes No If yes, specify: New Existing (when adding more than 6 inches of fill to system area please provide a fill plan)

Proposed Design Daily Flow: _____ GPD Proposed LTAR (Initial): _____ Proposed LTAR (Repair): _____

Design Wastewater Strength: domestic high strength industrial process

Number of bedrooms: _____ Number of Occupants: _____ Other: _____

Pump Required: Yes No May be required based upon final location and elevations of facilities

Artificial Drainage Required: Yes No If yes, please specify details: _____

Type of Water Supply: Private well Public well Municipal Supply Spring Other: _____

Drainfield location meets requirements of Rule .1945: Yes No

Drainfield location meets requirements of Rule .1950: Yes No

Permit valid for: Five years [site plan submitted pursuant to GS 130A-334(13a)] No expiration [plat submitted pursuant to GS 130A-334(7a)]

Permit conditions:

Licensed Soil Scientist Print Name: _____

Licensed Soil Scientist Signature: _____ Date: _____

The LSS evaluation is being submitted pursuant to and meets the requirements of G.S. 130A-335(a2).

See attached site sketch

County: _____

This Section for Local Health Department Use Only

Initial submittal received: _____ by _____
Date Initials

Permit Number: _____

G.S. 130A-335(a4) states the following: *'If a local health department fails to act on an application for an improvement permit submitted pursuant to subsection (a3) of the section within 10 business days of receipt of a complete application, the local health department shall issue the improvement permit.'*

In accordance with G.S. 130A-335(a3) the improvement permit application is:

Incomplete (If box is checked, information in this section is required.)

The following items are missing:

Copies of this were sent to the LSS and the Owner on _____
Date

State Authorized Agent: _____ Date: _____

Denied (See attached report.)

Copies of this were sent to the LSS and the Owner on _____
Date

State Authorized Agent: _____ Date: _____

Complete

State Authorized Agent: _____ Date of Issuance: _____

This Improvement Permit is issued pursuant to G.S. 130A-335 (a2), (a3), and (a4) using the signed and sealed LSS/LG evaluation(s) attached here. The issuance of this permit by the Health Department in no way guarantees the issuance of other permits. The permit holder is responsible for checking with appropriate governing bodies in meeting their requirements. This site is subject to revocation if the site plan, plat, or the intended use changes, or if information submitted in the application was falsified, inaccurate or misleading. The Improvement Permit shall not be affected by a change in ownership of the site. This permit is subject to compliance with the provisions of the Laws and Rules for Sewage Treatment and Disposal and to conditions of this permit. The location and identification of all property lines, easements, water lines, and other appropriate utilities shall be the responsibility of the owner.

The Department, the Department's authorized agents, and the local health departments shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or in common law from any claim arising out of or attributed to evaluations, submittals, or actions from a licensed soil scientist or licensed geologist pursuant to GS 130A-335(a2).

Improvement Permit Expiration Date: _____

See attached site sketch

CONSTRUCTION AUTHORIZATION FOR G.S. 130A-335(a2)/SL2022-11

PIN/Lot Identifier: _____

Issued To: _____

Property Location: _____

AOWE/PE Plans/Evaluations Provided: Yes No If yes, name and license number of AOWE/PE: _____

Facility Type: _____

New Expansion Repair System Relocation
Basement? Yes No Basement Fixtures? Yes No

Type of Wastewater System** _____ (Initial) _____ (Repair)

Design Daily Flow: _____ GPD Wastewater Strength: domestic high strength industrial process

Session Law 2014-120 Section 53, Engineering Design Utilizing Low-flow Fixtures and Low-flow Technologies? Yes No

Installation Requirements/Conditions

Septic Tank Size: _____ gallons Total Trench/Bed Length: _____ feet Trench/Bed Spacing: _____ feet on center

Drainfield square footage: _____ Trench/Bed Width: _____ inches LTAR: _____ gpd/ft²

Soil Cover: _____ inches Slope Adjusted Maximum Trench/Bed Depth: _____ inches

Aggregate Depth: _____ inches above pipe _____ inches below pipe _____ inches total

Pump Tank Size (if applicable): _____ gallons Requires more than 1 pump? Yes No

Pump Requirements: _____ ft. TDH vs. _____ GPM Grease Trap Size (if applicable): _____ gallons

Distribution Method: Serial D-Box or Parallel Pressure Manifold(s) LPP Other: _____

Artificial Drainage Required: Yes No If yes, please specify details: _____

Legal Agreements (If the answer is "Yes" to any type of legal agreements, please attach a copy of the agreement.)

Multi-party Agreement Required [.1937(h)]: Yes No

Easement, Right-of-Way, or Encroachment Agreement Required [.1938(j)]: Yes No

Declaration of Restrictive Covenants: Yes No

****If applicable:**
I understand the system type specified is different from the type specified on the application. I accept the specifications of this permit.

Owner/Legal Representative Print Name: _____

Owner/Legal Representative Signature: _____ Date: _____

Pre-Construction Conference Required: Yes No

Conditions: _____

The construction and installation requirements of Rules .1950, .1952, .1954, .1955, .1956, .1957, .1958, and .1959 are incorporated by reference into this permit and shall be met. Systems shall be installed in accordance with the attached system layout.

AOWE/PE Print Name: _____

AOWE/PE Signature: _____ Date: _____

This AOWE/PE submittal is pursuant to and meets the requirements of G.S. 130A-335(a2) and (a5).

See attached site sketch

County: _____

This Section for Local Health Department Use Only

Initial submittal received: _____ by _____
Date Initials

Permit Number: _____

G.S. 130A-335(a6) states the following: *'If a local health department fails to act on an application for a construction authorization submitted pursuant to subsection (a5) of the section within 10 business days of receipt of a complete application, the local health department shall issue the construction authorization.'*

In accordance with G.S. 130A-335(a5) the construction authorization application is:

Incomplete (If box is checked, information in this section is required.)

The following items are missing: _____

Copies of this were sent to the AOWE/PE and the Owner on _____
Date

State Authorized Agent: _____ Date: _____

Denied (See attached report.)

Copies of this were sent to the AOWE/PE and the Owner on _____
Date

State Authorized Agent: _____ Date: _____

Complete

State Authorized Agent: _____ Date of Issuance: _____

This Construction Authorization is issued pursuant to G.S. 130A-335(a2), (a5), and (a6) using the signed and sealed plans or evaluations attached here. This Construction Authorization is subject to revocation if the site plan, plat, or the intended use changes, or if information submitted in the application was falsified, inaccurate or misleading. The Construction Authorization shall not be affected by a change in ownership of the site. This Construction Authorization is subject to compliance with the provisions of the Laws and Rules for Sewage Treatment and Disposal and to the conditions of this permit. The location and identification of all property lines, easements, water lines, and other appropriate utilities shall be the responsibility of the owner. Final landscaping shall be constructed to divert water and establish vegetative cover.

The Department, the Department's authorized agents, and the local health departments shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or in common law from any claim arising out of or attributed to plans, evaluations, preconstruction conference findings, submittals, or actions from a person licensed pursuant to Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator in GS 130A-335(a2), (a5), and (a7). The Department, the Department's authorized agents, and the local health departments shall be responsible and bear liability for their actions and evaluations and other obligations under State law or rule, including the issuance of the operations permit pursuant to GS 130A-337.

Construction Authorization Expiration Date: _____

See attached site sketch

LEGEND

use the following standard abbreviations

<u>LANDSCAPE POSITION</u>	<u>GROUP</u>	<u>SOIL</u>	<u>CONVENTIONAL</u>	<u>LPP</u>	<u>MINERALOGY/</u>	<u>STRUCTURE</u>
		<u>TEXTURE</u>	<u>.1955 LTAR*</u>	<u>.1957 LTAR*</u>	<u>CONSISTENCE</u>	
CC (Concave Slope)	I	S (Sand)	1.2 - 0.8	0.6 - 0.4	SEXP (Slightly Expansive) EXP (Expansive)	G (Single Grain)
CV (Convex Slope)		LS (Loamy Sand)				M (Massive)
D (Drainage Way)	II	SL (Sandy Loam)	0.8 - 0.6	0.4 - 0.3		CR (Crumb)
DS (Debris Slump)		L (Loam)				GR (Granular)
FP (Flood Plain)						SBK (Subangular Blocky)
FS (Foot Slope)	III	Si (Silt)	0.6 - 0.3	0.3 - 0.15		ABK (Angular Blocky)
H (Head Slope)		SiCL (Silty Clay Loam)				PL (Platy)
L (Linear Slope)		CL (Clay Loam)				PR (Prismatic)
N (Nose Slope)		SCL (Sandy Clay Loam)				
R (Ridge)		SiL (Silt Loam)				
S (Shoulder Slope)						
T (Terrace)	IV	SC (Sandy Clay)	0.4 - 0.1	0.2 - 0.05	<u>MOIST</u> VFR (Very Friable) FR (Friable) FI (Firm) VFI (Very Firm v. Very Sticky) EFI (Extremely Firm)	<u>WET</u> NS (Non-sticky)
		SiC (Silty Clay)				SS (Slightly Sticky)
		C (Clay)				S (Sticky)
		O (Organic)				VS (Very Sticky)
						NP (Non-plastic)
			SP (Slightly Plastic)			
						P (Plastic)
						VP (Very Plastic)

*Adjust LTAR due to depth, consistence, structure, soil wetness, landscape, position, wastewater flow and quality.

NOTES

- HORIZON DEPTH* In inches below natural soil surface
 - DEPTH OF FILL* In inches from land surface
 - RESTRICTIVE HORIZON* Thickness and depth from land surface
 - SAPROLITE* S(suitable) or U(unsuitable)
 - SOIL WETNESS* Inches from land surface to free water or inches from land surface to soil colors with chroma 2 or less - record Munsell color chip designation
 - CLASSIFICATION* S (Suitable), PS (Provisionally Suitable), or U (Unsuitable)
- Evaluation of saporlite shall be by pits.
 Long-term Acceptance Rate (LTAR): gal/day/ft²

Show profile locations and other site features (dimensions, reference or benchmark, and North).

