ARTICLE 18. Planning and Regulation of Development.


Each of the powers granted to counties by this Article, by Chapter 157A, and by Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360.

(1959, c. 1006, s. 1; c. 1007; 1965, c. 194, s. 2; c. 195; 1969, c. 1066, s. 1; 1973, c. 822, s. 1.)


A county may by ordinance create or designate one or more agencies to perform the following duties:

(1) Make studies of the county and surrounding areas;

(2) Determine objectives to be sought in the development of the study area;

(3) Prepare and adopt plans for achieving these objectives;

(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;

(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;

(7) Perform any other related duties that the board of commissioners may direct.

An agency created or designated pursuant to this section may include but shall not be limited to one or more of the following:

(1) A planning board or commission of any size (with not fewer than three members) or composition considered appropriate, organized in any manner considered appropriate;

(2) A joint planning board created by two or more local governments according to the procedures and provisions of Chapter 160A, Article 20, Part 1.

(1945, c. 1040, s. 1; 1955, c. 1252; 1957, c. 947; 1959, c. 327, s. 1; c. 390; 1973, c. 822, s. 1; 1979, c. 611, s. 6; 1997-309, s. 5.)

153A-322. Supplemental powers.

A county or its designated planning agency may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.
A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A, Article 19 or to support, and compensate members of, any planning agency that it may create or designate pursuant to this Article.

(1945, c. 1040, s. 1; 1955, c. 1252; 1957, c. 947; 1959, c. 327, s. 1; c. 390; 1973, c. 822, s. 1; 1983, c. 377, s. 8.)

153A-323. Procedure for adopting or amending ordinances under this Article and Chapter 160A, Article 19.

Before adopting or amending any ordinance authorized by this Article or Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days; nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(1959, c. 1006, s. 1; c. 1007; 1973, c. 822, s. 1; 1981, c. 891, ss. 2, 9.)

153A-324. Enforcement of ordinances.

In addition to the enforcement provisions of this Article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this Article, to Chapter 157A, or to Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153A-123.

(1959, c. 1006, s. 1; 1961, c. 414; 1973, c. 822, s. 1.)


A county may by ordinance require that when a property owner improves property at a cost of more than twenty-five hundred dollars ($2,500) but less than five thousand dollars ($5,000), the property owner must, within 14 days after the completion of the work, submit to the county assessor a statement setting forth the nature of the improvement and the total cost thereof.

(1983, c. 614, s. 4; 1987, c. 45, s. 1.)


Counties shall have the same authority to regulate building setback lines as is provided for cities in G.S. 160A-306.

(1987, c. 747, s. 15.)

153A-327 to 153A-329. [These sections have been reserved.]

These sections have been reserved for future codification purposes.

Part 2. Subdivision Regulation.

A county may by ordinance regulate the subdivision of land within its territorial jurisdiction. If a county, pursuant to G.S. 153A-342, has adopted a zoning ordinance that applies only to one or more designated portions of its territorial jurisdiction, it may adopt subdivision regulations that apply only within the areas so zoned and need not regulate the subdivision of land in the rest of its jurisdiction.

(1959, c. 1007; 1965, c. 195; 1973, c. 822, s. 1.)

153A-331. Contents and requirements of ordinance.

A subdivision control ordinance may provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. The ordinance may include requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformity with good surveying practice. A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area.

The ordinance may provide that in lieu of required street construction, a developer may provide funds to be used for the development of roads to serve the occupants, residents or invitees of the subdivision or development. All funds received by the county under this section shall be transferred to the municipality to be used solely for the development of roads, including design, land acquisition, and construction. Any municipality receiving funds from a county under this section is authorized to expend such funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county policies and standards, and, to assure compliance with these requirements, the ordinance may provide for the posting of bond or any other method that will offer guarantee of compliance.

The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or the planning agency. For the authorization to reserve school sites to be effective, the board of commissioners or planning agency, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning agency shall immediately notify the board of education. That board shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning agency of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the
power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.

The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place.

(1959, c. 1007; 1973, c. 822, s. 1; 1975, c. 231; 1987, c. 747, ss. 10, 17.)

153A-332. Ordinance to contain procedure for plat approval; approval prerequisite to plat recordation; statement by owner.

A subdivision ordinance adopted pursuant to this Part shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its registration.

The ordinance shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

(1) The district highway engineer as to proposed State streets, State highways, and related drainage systems;

(2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems;

(3) Any other agency or official designated by the board of commissioners.

The ordinance may provide that final approval of each individual subdivision plat is to be given by:

(1) The board of commissioners,

(2) The board of commissioners on recommendation of a planning agency, or

(3) A designated planning agency.

From the effective date of a subdivision ordinance that is adopted by the county, no subdivision plat of land within the county's jurisdiction may be filed or recorded until it has been submitted to and approved by the appropriate board or agency, as specified in the subdivision ordinance, and until this approval is entered in writing on the face of the plat by an authorized representative of the county. The Review Officer, pursuant to G.S. 47-30.2, shall not certify a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with this section.

(1959, c. 1007; 1973, c. 822, s. 1; 1997-309, s. 6.)


The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

(1959, c. 1007; 1973, c. 822, s. 1.)

If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of a county that has adopted a subdivision regulation ordinance subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the ordinance and recorded in the office of the appropriate register of deeds, he is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance.

(1959, c. 1007; 1973, c. 822, s. 1; 1977, c. 820, s. 1; 1993, c. 539, s. 1063; 1994, Ex. Sess., c. 24, s. 14(c).)


For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets; and

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

(1959, c. 1007; 1973, c. 822, s. 1; 1979, c. 611, s. 2.)

153A-336 to 153A-339. [These sections have been reserved.]

These sections have been reserved for future codification purposes.


153A-340. Grant of power.

(a) For the purpose of promoting health, safety, morals, or the general welfare, a county 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, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and to 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.
(b)(1) These regulations may affect property used for bona fide farm purposes only as provided in subdivision (3) of this subsection. This subsection does not limit regulation under this Part with respect to the use of farm property for nonfarm purposes.

(2) Bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

(3) The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction.

(c) The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When issuing or denying special use permits or conditional use permits, the board of commissioners shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the board of commissioners to issue such permits, and every such decision of the board of commissioners shall be subject to review by the superior court by proceedings in the nature of certiorari.

(d) A county may regulate the development over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12, within the bounds of that county.

(e) For the purpose of this section, the term "structures" shall include floating homes.

(f) Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board of commissioners is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the board of commissioners may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.


Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration as to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the county. In addition, the regulations shall be made with reasonable consideration to expansion and development of any cities within the county, so as to provide for their orderly growth and development.

The provisions of G.S. 160A-383.1 shall apply to counties.

153A-342. Districts; zoning less than entire jurisdiction.

A county may divide its territorial jurisdiction into districts of any number, shape, and area that it may consider best suited to carry out the purposes of this Part. Within these districts a county may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general standards; overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general or special use districts; and special use districts or conditional use districts, in which uses are permitted only upon the issuance of a special use permit or a conditional use permit. Property may be placed in a special use district or conditional use district only in response to a petition by the owners of all the property to be included. Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

A county may determine that the public interest does not require that the entire territorial jurisdiction of the county be zoned and may designate one or more portions of that jurisdiction as a zoning area or areas. A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by the addition of any amount of territory. A zoning area may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated.


(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, a county may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish once a week for four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of G.S. 153A-323. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation...
area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The person or persons mailing the notices shall certify to the board of commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a county shall post one or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

(c) The provisions of this section shall not be applicable to any zoning map adoption that initially zones property added to the territorial coverage of the ordinance.

(1973, c. 822, s. 1; 1985, c. 595, s. 1; 1987, c. 807, s. 2; 1989 (Reg. Sess., 1990), c. 980, s. 2; 1993, c. 469, s. 2; 1995, c. 261, s. 1; c. 546, s. 2; 1997-456, s. 25.)

153A-344. Planning agency; zoning plan; certification to board of commissioners; amendments.

(a) To exercise the powers conferred by this Part, a county shall create or designate a planning agency under the provisions of this Article or of a local act. The planning agency shall prepare a proposed zoning ordinance, including both the full text of such ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the ordinance. Upon completion, the planning agency shall certify the ordinance to the board of commissioners. The board of commissioners shall not hold the public hearing required by G.S. 153A-323 or take action until it has received a certified ordinance from the planning agency. Following its required public hearing, the board of commissioners may refer the ordinance back to the planning agency for any further recommendations that the agency may wish to make prior to final action by the board in adopting, modifying and adopting, or rejecting the ordinance.

Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. Whenever territory is added to an existing designated zoning area, it shall be treated as an amendment to the zoning ordinance for that area. Before an amendment may be adopted, it must be referred to the planning agency for the agency's recommendation. The agency shall be given at least 30 days in which to make a recommendation. The board of commissioners is not bound by the recommendations, if any, of the planning agency.

(b) Amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii) a vested right has been established pursuant to G.S. 153A-344.1 and such vested right remains valid and unexpired pursuant to G.S. 153A-344.1.

(1959, c. 1006, s. 1; 1965, c. 194, s. 3; 1973, c. 822, s. 1; 1979, c. 611, s. 3; 1985, c. 540, s. 1; 1989 (Reg. Sess., 1990), c. 996, s. 5.)


(a) The General Assembly finds and declares that it is necessary and desirable, as a matter of public policy, to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land-use planning process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in the area of land-use planning. Furthermore, the General Assembly recognizes that county approval of land-use development typically follows significant landowner investment in site evaluation, planning, development costs, consultant fees, and related expenses.
The ability of a landowner to obtain a vested right after county approval of a site specific development plan or a phased development plan will preserve the prerogatives and authority of local elected officials with respect to land-use matters. There will be ample opportunities for public participation and the public interest will be served. These provisions will strike an appropriate balance between private expectations and the public interest, while scrupulously protecting the public health, safety, and welfare.

(b) Definitions.

(1) "Landowner" means any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan under this section, in the manner allowed by ordinance.

(2) "County" shall have the same meaning as set forth in G.S. 153A-1 (3).

(3) "Phased development plan" means a plan which has been submitted to a county by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the county to be a site specific development plan.

(4) "Property" means all real property subject to zoning regulations and restrictions and zone boundaries by a county.

(5) "Site specific development plan" means a plan which has been submitted to a county by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat a preliminary or general development plan, a conditional or special use permit, a conditional or special use district zoning plan, or any other land-use approval designation as may be utilized by a county. Unless otherwise expressly provided by the county such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site specific development plan under this section that would trigger a vested right shall be finally determined by the county pursuant to an ordinance, and the document that triggers such vesting shall be so identified at the time of its approval. However, at a minimum, the ordinance to be adopted by the county shall designate a vesting point earlier than the issuance of a building permit. A variance shall not constitute a site specific development plan, and approval of a site
specific development plan with the condition that a variance 
be obtained shall not confer a vested right unless and 
until the necessary variance is obtained neither a sketch 
plan nor any other document which fails to describe with 
reasonable certainty the type and intensity of use for a 
specified parcel or parcels or property may constitute a site 
specific development plan.

(6) "Vested right" means the right to undertake and complete 
the development and use of property under the terms and 
conditions of an approved site specific development plan or 
an approved phased development plan.

c) Establishment of vested right.

A vested right shall be deemed established with respect to any property upon the valid approval, or 
conditional approval, of a site specific development plan or a phased development plan, following notice 
and public hearing by the county with jurisdiction over the property. Such vested right shall confer upon 
the landowner the right to undertake and complete the development and use of said property under the 
terms and conditions of the site specific development plan or the phased development plan including any 
amendments thereto. A county may approve a site specific development plan or a phased development plan 
upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and 
welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and 
conditions will result in a forfeiture of vested rights. A county shall not require a landowner to waive his 
vested rights as a condition of developmental approval. A site specific development plan or a phased 
development plan shall be deemed approved upon the effective date of the county's action or ordinance 
relating thereto.

d) Duration and termination of vested right.

(1) A right which has been vested as provided for in this section 
shall remain vested for a period of two years. This 
vesting shall not be extended by any amendments or modifications 
to a site specific development plan unless expressly 
provided by the county.

(2) Notwithstanding the provisions of subsection (d)(1), a 
county may provide that rights shall be vested for a period 
exceeding two years but not exceeding five years where 
warranted in light of all relevant circumstances, including, 
but not limited to, the size and phasing of development, the 
level of investment, the need for the development, economic 
cycles, and market conditions. These determinations 
shall be in the sound discretion of the county.

(3) Notwithstanding the provisions of (d)(1) and (d)(2), the 
county may provide by ordinance that approval by a 
county of a phased development plan shall vest the zoning 
classification or classifications so approved for a period not 
to exceed five years. The document that triggers such vesting 
shall be so identified at the time of its approval. The 
county still may require the landowner to submit a site 
specific development plan for approval by the county with 
respect to each phase or phases in order to obtain final 
approval to develop within the restrictions of the vested 
zoning classification or classifications. Nothing in this section
shall be construed to require a county to adopt an ordinance providing for vesting of rights upon approval of a phased development plan.

(4) Following approval or conditional approval of a site specific development plan or a phased development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the county to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the county from revoking the original approval for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(5) Upon issuance of a building permit, the provisions of G.S. 153A-358 and G.S. 153A-362 shall apply, except that a permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.

(6) A right which has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(e) Subsequent changes prohibited; exceptions.

(1) A vested right, once established as provided for in this section, precludes any zoning action by a county which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan, except:

a. With the written consent of the affected landowner;

b. Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan;

c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the county, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

d. Upon findings, by ordinance after notice and a hearing
that the landowner or his representative intentionally
supplied inaccurate information or made material
misrepresentations which made a difference in the approval
by the county of the site specific development
plan or the phased development plan; or

e. Upon the enactment or promulgation of a State or federal
law or regulation which precludes development as
contemplated in the site specific development plan or
the phased development plan, in which case the
county may modify the affected provisions, upon a
finding that the change in State or federal law has a
fundamental effect on the plan, by ordinance after notice
and a hearing.

(2) The establishment of a vested right shall not preclude the
application of overlay zoning which imposes additional requirements
but does not affect the allowable type or intensity
of use, or ordinances or regulations which are general
in nature and are applicable to all property subject to land-use
regulation by a county, including, but not limited to
building, fire, plumbing, electrical, and mechanical codes.
Otherwise applicable new regulations shall become effective
with respect to property which is subject to a site specific
development plan or a phased development plan upon
the expiration or termination of the vesting rights period
provided for in this section.

(3) Notwithstanding any provision of this section, the establishment
of a vested right shall not preclude, change or
impair the authority of a county to adopt and enforce zoning
ordinance provisions governing nonconforming situations
or uses.

(f) Miscellaneous provisions.

(1) A vested right obtained under this section is not a personal
right, but shall attach to and run with the applicable property.
After approval of a site specific development plan or a
phased development plan, all successors to the original
landowner shall be entitled to exercise such rights.

(2) Nothing in this section shall preclude judicial determination,
based on common-law principles or other statutory
provisions, that a vested right exists in a particular case or
that a compensable taking has occurred. Except as expressly
provided in this section, nothing in this section
shall be construed to alter the existing common law.

(3) In the event a county fails to adopt an ordinance setting
forth what constitutes a site specific development plan
triggering a vested right, a landowner may establish a
vested right with respect to property upon the approval of
a zoning permit, or otherwise may seek appropriate relief
from the Superior Court Division of the General Court of
Justice.
153A-345. Board of adjustment.

(a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member. If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.

A county may designate a planning agency to perform any or all of the duties of a board of adjustment in addition to its other duties.

(b) The board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing an ordinance adopted pursuant to this Part. Any person aggrieved or any officer, department, board, or bureau of the county may take an appeal. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time. The board of adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the circumstances. To this end the board has all of the powers of the officer from whom the appeal is taken.

(c) The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in the ordinance. The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under the zoning ordinance.

(d) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment may, in passing upon appeals, vary or modify any regulation or provision of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(e) The board of adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision, or determination of an administrative officer charged with enforcing an ordinance adopted
pursuant to this Part, or may decide in favor of the applicant a matter upon which the board is required to pass under the ordinance, or may grant a variance from the provisions of the ordinance. Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

(f) The chairman of the board of adjustment or any member temporarily acting as chairman may in his official capacity administer oaths to witnesses in any matter coming before the board.

(1959, c. 1006, s. 1; 1965, c. 194, s. 4; 1967, c. 1208, ss. 5-7; 1973, c. 822, s. 1; 1979, c. 611, s. 4; c. 635; 1981, c. 891, s. 8; 1985, c. 397, s. 1.)

153A-346. Conflict with other laws.

When regulations made under authority of this Part 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 Part govern. 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 regulations made under authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

(1959, c. 1006, s. 1; 1973, c. 822, s. 1.)

153A-347. Part applicable to buildings constructed by the State and its subdivisions; exception.

Each provision of this Part is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within an overlay district or a special use or conditional use district without approval of the Council of State.

(1959, c. 1006, s. 1; 1973, c. 822, s. 1; 1985, c. 607, s. 4.)


A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under this Part or other applicable law shall accrue upon adoption of the ordinance, or amendment thereto, and shall be brought within two months as provided in G.S. 1-54.1.

(1981, c. 705, s. 2; 1995 (Reg. Sess., 1996), c. 746, s. 6.)

153A-349. [This section has been reserved.]

This section has been reserved for future codification purposes.