

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**HOUSE BILL 628  
Committee Substitute Favorable 4/27/23**

Short Title: Amend On-Site Wastewater/Environment Statutes.

(Public)

Sponsors:

Referred to:

April 18, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING ON-SITE WASTEWATER SYSTEMS, TO MAKE CERTAIN NC ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD CHANGES, TO DIRECT THE BUILDING CODE COUNCIL TO CREATE AN ON-SITE WASTEWATER EXISTING SYSTEM AFFIDAVIT, TO MAKE CERTAIN WASTEWATER ELECTRICAL CHANGES, AND TO PROHIBIT FORCED SEWER CONNECTIONS IN CERTAIN SITUATIONS.

The General Assembly of North Carolina enacts:

**ON-SITE WASTEWATER CHANGES**

**SECTION 1.** G.S. 130A-335 reads as rewritten:

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

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed or repair is necessary for compliance may be evaluated for soil conditions and site features by a person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles. A person licensed pursuant to Chapter 89E of the General Statutes as a licensed geologist may evaluate the proposed site or repair area, as applicable, for geologic and hydrogeologic conditions.

(a2) Evaluations conducted by a licensed soil scientist or a licensed geologist pursuant to subsection (a1) of this section 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 ~~improvement permit~~ Improvement Permit or a ~~construction authorization~~, Construction Authorization, shall be approved by the applicable permitting authorities under G.S. 130A-336 provided both of the following conditions are met:



1           (1) ~~The evaluation of soil conditions, site features, or geologic and hydrogeologic~~  
2           ~~conditions satisfies all requirements of this Article. The evaluation shall not~~  
3           ~~cover areas outside the scope of the applicable license.~~

4           (2) The licensed soil scientist or licensed geologist conducting the evaluation  
5           maintains an errors and omissions liability insurance policy issued by an  
6           insurer licensed under Chapter 58 of the General Statutes in an amount  
7           commensurate with the risk.

8           (a3) ~~When an applicant for an improvement permit~~ Improvement Permit ~~submits to a local~~  
9           ~~health department an application~~ Improvement Permit application, the permit fee charged by the  
10           ~~local health department, the common form developed by the Department, and a soil evaluation~~  
11           ~~pursuant to subsection (a2) of this section, the local health department shall, within 10 five~~  
12           ~~business days of receiving the application, take one of the following actions:~~ application, conduct  
13           ~~a completeness review of the submittal. A determination of completeness means that the~~  
14           ~~Improvement Permit includes all of the required components. If the local health department~~  
15           ~~determines that the Improvement Permit is incomplete, the local health department shall notify~~  
16           ~~the applicant of the components needed to complete the Improvement Permit. The applicant may~~  
17           ~~submit additional information to the local health department to cure the deficiencies in the~~  
18           ~~Improvement Permit. The local health department shall make a final determination as to whether~~  
19           ~~the Improvement Permit is complete within five business days after the local health department~~  
20           ~~receives the additional information from the applicant. If the local health department fails to act~~  
21           ~~within any period set out in this subsection, the applicant may treat the failure to act as a~~  
22           ~~determination of completeness. The Department shall develop a common form for use as the~~  
23           ~~Improvement Permit.~~

24           (1) ~~Issue the improvement permit.~~

25           (2) ~~Deny the permit application and provide a signed, written report to the~~  
26           ~~applicant citing the applicable rule(s) for permit denial.~~

27           (3) ~~Notify the applicant that additional information is needed if the application is~~  
28           ~~incomplete.~~

29           (a4) ~~If a local health department fails to act on an application for an improvement permit~~  
30           ~~submitted pursuant to subsection (a3) of this section within 10 business days of receipt of a~~  
31           ~~complete application, the local health department shall issue the improvement permit.~~ The  
32           ~~licensed soil scientist or licensed geologist submitting the evaluation pursuant to subsection (a2)~~  
33           ~~of this section shall have the right to request that the local health department revoke or suspend~~  
34           ~~the Improvement Permit for cause. Upon written request by the licensed soil scientist or licensed~~  
35           ~~geologist, the local health department shall suspend or revoke the Improvement Permit pursuant~~  
36           ~~to G.S. 130A-23.~~

37           (a5) ~~When an applicant for a construction authorization~~ Construction Authorization, or an  
38           ~~Improvement Permit and Construction Authorization together, submits an application along with~~  
39           ~~a Construction Authorization, or an Improvement Permit and Construction Authorization~~  
40           ~~application together, the permit fee charged by the local health department, the common form~~  
41           ~~developed by the Department, and any necessary signed and sealed plans or evaluations, as~~  
42           ~~required by the local health department, evaluations~~ conducted by a person licensed pursuant to  
43           ~~Chapter 89C of the General Statutes as a licensed engineer or a person certified pursuant to~~  
44           ~~Article 5 of Chapter 90A of the General Statutes as an Authorized On-Site Wastewater Evaluator,~~  
45           ~~the local health department shall, within 10 five business days of receiving the application, take~~  
46           ~~one of the following actions:~~ conduct a completeness review of the submittal. A determination of  
47           ~~completeness means that the Construction Authorization or Improvement Permit and~~  
48           ~~Construction Authorization includes all of the required components. If the local health~~  
49           ~~department determines that the Construction Authorization or Improvement Permit and~~  
50           ~~Construction Authorization is incomplete, the local health department shall notify the applicant~~  
51           ~~of the components needed to complete the Construction Authorization or Improvement Permit~~

1 and Construction Authorization. The applicant may submit additional information to the local  
2 health department to cure the deficiencies in the Construction Authorization or Improvement  
3 Permit and Construction Authorization. The local health department shall make a final  
4 determination as to whether the Construction Authorization or Improvement Permit and  
5 Construction Authorization is complete within five business days after the local health  
6 department receives the additional information from the applicant. If the local health department  
7 fails to act within any period set out in this subsection, the applicant may treat the failure to act  
8 as a determination of completeness. The applicant may apply for the building permit for the  
9 project upon the decision of completeness of the Construction Authorization or Improvement  
10 Permit and Construction Authorization by the local health department or if the local health  
11 department fails to act within five business days. The Authorized On-Site Wastewater Evaluator  
12 or licensed engineer submitting the evaluation pursuant to this subsection may request that the  
13 local health department revoke or suspend the Construction Authorization or Improvement  
14 Permit and Construction Authorization for cause. Upon written request of the Authorized On-Site  
15 Wastewater Evaluator or licensed engineer, the local health department shall suspend or revoke  
16 the Construction Authorization or Improvement Permit and Construction Authorization pursuant  
17 to G.S. 130A-23. The Department shall develop a common form for use as the Construction  
18 Authorization.

19 (1) ~~Approve the permit application.~~

20 (2) ~~Deny the permit application and provide a signed, written report to the~~  
21 ~~applicant citing the applicable rule(s) for permit denial.~~

22 (3) ~~Notify the applicant that additional information is needed if the application is~~  
23 ~~incomplete.~~

24 (a6) ~~If a local health department fails to act on an application for a construction~~  
25 ~~authorization submitted pursuant to subsection (a5) of this section within 10 business days of~~  
26 ~~receipt of a complete application, the local health department shall issue the construction~~  
27 ~~authorization. The local health department may assess a fee for the Construction Authorization or~~  
28 ~~the Improvement Permit/Construction Authorization combination permit of up to forty percent~~  
29 ~~(40%) of the fee established for similar systems permitted by the local health department.~~

30 (a7) The wastewater system contractor shall notify the local health department, or  
31 professional engineer or Authorized On-Site Wastewater Evaluator, as applicable, prior to the  
32 start of construction of the proposed wastewater system by telephone or other electronic means.  
33 The local health department, professional engineer, or Authorized On-Site Wastewater Evaluator  
34 conducting the evaluation pursuant to subsection (a5) of this section shall retain the ability to  
35 delay construction until determination of site conditions. conditions, including soil wetness,  
36 grading or landscaping that damages the soil evaluation, soil compaction, or landscape position.  
37 The owner or certified on-site wastewater contractor shall notify the authorizing agent and is  
38 responsible for contacting the authorizing agent, as applicable, and the certified on-site  
39 wastewater contractor prior to the start of system construction of any known changes to the site  
40 that alter the site evaluation or conditions.

41 ~~The applicant or the wastewater system contractor certified under rules established by the~~  
42 ~~North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall notify~~  
43 ~~the local health department of completion of the wastewater system for the inspection and~~  
44 ~~issuance of the operation permit pursuant to G.S. 130A-337 after determination of compliance~~  
45 ~~with the construction authorization.~~

46 (a8) The Department, the Department's authorized agents, and the local health departments  
47 shall be discharged and released from any liabilities, duties, and responsibilities imposed by  
48 statute or in common law from any claim arising out of or attributed to evaluations, submittals,  
49 or actions from a licensed soil scientist or licensed geologist pursuant to subsection (a2) of this  
50 section. The Department, the Department's authorized agents, and the local health departments  
51 shall be discharged and released from any liabilities, duties, and responsibilities imposed by

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

9 (a9) Proposed wastewater systems submitted to the local health department pursuant to  
10 this section shall not be required to meet the requirements of 15A NCAC 18A .1938(e) or 15A  
11 NCAC 18A .1938(f). Any proposals sent to the Department for review shall not be required to  
12 meet the time constraints set forth in this section.

13 (b) All wastewater systems shall either (i) be regulated by the Department under rules  
14 adopted by the ~~Commission or Commission~~, (ii) conform with the engineered option permit  
15 criteria set forth in G.S. 130A-336.1 and under rules adopted by the ~~Commission~~ Commission,  
16 or (iii) conform with the Authorized On-Site Wastewater Evaluator permit criteria pursuant to  
17 G.S. 130A-336.2 and rules adopted by the North Carolina On-Site Wastewater Contractors and  
18 Inspectors Certification Board except for the following wastewater systems that shall be  
19 regulated by the Department of Environmental Quality under rules adopted by the Environmental  
20 Management Commission:

- 21 (1) Wastewater collection, treatment, and disposal systems designed to discharge  
22 effluent to the land surface or surface waters.
- 23 (2) Wastewater systems designed for groundwater remediation, groundwater  
24 injection, or landfill leachate collection and disposal.
- 25 (3) Wastewater systems designed for the complete recycle or reuse of industrial  
26 process wastewater.
- 27 (4) Gray water systems as defined in G.S. 143-350.

28 ...

29 (c2) Notwithstanding any other provision of law, a ~~municipality~~ unit of local government  
30 shall not prohibit or regulate by ordinance or enforce an existing ordinance regulating the use of  
31 off-site wastewater systems or other systems approved by the Department under rules adopted  
32 by the Commission when the proposed system meets the specific conditions of the approval.

33 ...

34 (d1) The Department or owner of a wastewater system may file a written complaint with  
35 the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules  
36 and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing  
37 failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to  
38 this Article. The Department or owner of a wastewater system may file a written complaint with  
39 the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures  
40 adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed  
41 soil scientist to adhere to the rules adopted by the Commission pursuant to this Article. The  
42 Department or owner of a wastewater system may file a written complaint with the North  
43 Carolina Board for Licensing of Geologists in accordance with rules and procedures adopted by  
44 the Board pursuant to Chapter 89E of the General Statutes citing failure of a licensed geologist  
45 to adhere to the rules adopted by the Commission pursuant to this Article. The Department or  
46 owner of a wastewater system may file a written complaint with the North Carolina On-Site  
47 Wastewater Contractors and Inspectors Certification Board in accordance with rules and  
48 procedures adopted by the Board pursuant to Article 5 of Chapter 90A of the General Statutes  
49 citing failure of a contractor to adhere to the rules adopted by the Commission pursuant to this  
50 ~~Article~~ Article or for failure of an Authorized On-Site Wastewater Evaluator to adhere to rules  
51 adopted by the Commission or the Board pursuant to this Article.

1 ...  
2 (f) The rules of the Commission and the rules of the local board of health shall classify  
3 systems of wastewater collection, treatment and disposal according to size, type of treatment and  
4 any other appropriate factors. The rules shall provide construction requirements, including  
5 pretreatment and system control requirements, standards for operation, maintenance, monitoring,  
6 reporting, and ownership requirements for each classification of systems of wastewater  
7 collection, treatment and disposal in order to prevent, as far as reasonably possible, any  
8 contamination of the land, groundwater and surface waters. The Department and local health  
9 departments may impose conditions on the issuance of permits and may revoke the permits for  
10 failure of the system to satisfy the conditions, the rules, or this Article. Permits other than  
11 improvement permits shall be valid for a period prescribed by rule. Improvement permits shall  
12 be valid upon a showing satisfactory to the Department or the local health department that the  
13 site and soil conditions are unaltered, that the facility, design wastewater flow, and wastewater  
14 characteristics are not increased, and that a wastewater system can be installed that meets the  
15 permitting requirements in effect on the date the ~~improvement permit~~ Improvement Permit was  
16 issued. Improvement permits for which a plat is provided shall be valid without expiration.  
17 Improvement permits for which a site plan is provided shall be valid for five years. The period  
18 of time for which the permit is valid and a statement that the permit is subject to revocation if the  
19 site plan or plat, whichever is applicable, or the intended use changes shall be displayed  
20 prominently on both the application form for the permit and the permit.

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

30 ...  
31 (g) Prior to denial of an ~~improvement permit~~, Improvement Permit, the local health  
32 department shall advise the applicant of possible site modifications or alternative systems, and  
33 shall provide a brief description of those systems. When an ~~improvement permit~~ Improvement  
34 Permit is denied, the local health department shall issue the site evaluation in writing stating the  
35 reasons for the unsuitable classification. The evaluation shall also inform the applicant of the  
36 right to an informal review by the Department, the right to appeal under G.S. 130A-24, and to  
37 have the appeal held in the county in which the site for which the ~~improvement permit~~  
38 Improvement Permit was requested is located.

39 ...."

40 **SECTION 2.** G.S. 130A-335.1 reads as rewritten:

41 "**§ 130A-335.1. Effluent filters and access devices for certain septic tank systems.**

42 ...  
43 (b) The access device required by G.S. 130A-335(f) shall provide access to each  
44 compartment of a septic tank for inspection and maintenance either by means of an opening in  
45 the top of the septic tank or by a riser assembly and shall include an appropriate cover. The access  
46 device shall:

- 47 (1) Be of sufficient size to facilitate inspection and service.
- 48 (2) Be designed and constructed to equal or exceed the minimum loading  
49 specifications applicable to the septic tank.
- 50 (3) Prevent water entry.
- 51 (4) Come to within six inches of the finished grade.

1           (5) ~~Be visibly marked so that the access device can be readily located."~~

2           **SECTION 3.** G.S. 130A-336.1 reads as rewritten:

3           "**§ 130A-336.1. Alternative process for wastewater system approvals.**

4           (a) Engineered Option Permit Authorized. – A professional engineer licensed under  
5 Chapter 89C of the General Statutes may, at the direction of the owner of a proposed wastewater  
6 system who wishes to utilize the engineered option permit, prepare signed and sealed drawings,  
7 specifications, plans, and reports for the design, construction, operation, and maintenance of the  
8 wastewater system in accordance with this section and rules adopted thereunder.

9           (b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction,  
10 siting, repair, or relocation of a wastewater system, the owner of a proposed wastewater system  
11 who wishes to utilize the engineered option permit, or a professional engineer authorized as the  
12 legal representative of the owner, shall submit to the local health department with jurisdiction  
13 over the location of the proposed wastewater system a ~~notice of intent to construct~~ Notice of  
14 Intent to Construct a wastewater system utilizing the ~~engineered permit option~~. Engineered  
15 Option Permit along with the fee required pursuant to subsection (n) of this section. The owner  
16 may apply for a building permit for the project upon submitting a complete Notice of Intent to  
17 Construct to the local health department. The owner shall notify the local health department upon  
18 completing installation of the wastewater system, adherence to the submitted Notice of Intent to  
19 Construct, and the submittal of the Authorization to Operate to the local health department. The  
20 Department shall develop a common form for use as the ~~notice of intent to construct~~ Notice of

21 Intent to Construct that includes all of the following:

22           (1) The owner's name, address, e-mail address, and telephone number.

23           (2) The professional engineer's name, license number, address, e-mail address,  
24 and telephone number.

25           (3) For the professional engineer, the licensed soil scientist, the licensed  
26 geologist, and any on-site wastewater contractors, proof of errors and  
27 omissions insurance coverage or other appropriate liability insurance.

28           (4) A description of the facility the proposed site is to serve and any factors that  
29 would affect the wastewater load.

30           (5) The type of proposed wastewater system and its location.

31           (6) The design wastewater flow and characteristics.

32           (7) Any proposed landscape, site, drainage, or soil modifications.

33           (8) A soil evaluation that is conducted and signed and sealed by a either a licensed  
34 soil scientist or licensed geologist.

35           (9) A plat, as defined in G.S. 130A-334(7a), or a site plan, as defined in  
36 G.S. 130A-334(13a).

37           (c) ~~Completeness Review for Notice of Intent to Construct.~~ – ~~The local health department~~  
38 ~~shall determine whether a notice of intent to construct, as required pursuant subsection (b) of this~~  
39 ~~section, is complete within 15 business days after the local health department receives the notice~~  
40 ~~of intent to construct. A determination of completeness means that the notice of intent to construct~~  
41 ~~includes all of the required components. If the local health department determines that the notice~~  
42 ~~of intent to construct is incomplete, the department shall notify the owner or the professional~~  
43 ~~engineer of the components needed to complete the notice. The owner or professional engineer~~  
44 ~~may submit additional information to the department to cure the deficiencies in the notice. The~~  
45 ~~local health department shall make a final determination as to whether the notice of intent to~~  
46 ~~construct is complete within 10 business days after the department receives the additional~~  
47 ~~information from the owner or professional engineer. If the department fails to act within any~~  
48 ~~time period set out in this subsection, the owner or professional engineer may treat the failure to~~  
49 ~~act as a determination of completeness.~~

50           (d) Submission of Notice of Intent to Construct to Department for Certain Systems. –  
51 Prior to commencing in the construction, siting, repair, or relocation of a wastewater system

1 designed (i) for the collection, treatment, and disposal of industrial process wastewater or (ii) to  
2 treat greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes  
3 to utilize the ~~engineered option permit~~, Engineered Option Permit, or a professional engineer  
4 authorized as the legal representative of the owner, shall provide to the Department a duplicate  
5 copy of the ~~notice of intent to construct~~ Notice of Intent to Construct submitted to the local health  
6 department required pursuant to subsection (b) of this section.

7 (e) Site Design, Construction, and Activities. –

- 8 (1) The professional engineer designing the proposed wastewater system shall use  
9 recognized principles and practices of engineering and applicable rules of the  
10 Commission in the calculations and design of the wastewater system. The  
11 investigations and findings of the professional engineer shall include, at a  
12 minimum, the information required in rules adopted by the Commission  
13 pursuant to G.S. 130A-335(e). The professional engineer may, at the  
14 engineer's discretion, employ pretreatment technologies not yet approved in  
15 this State.
- 16 (2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater  
17 system shall employ a person licensed pursuant to Chapter 89F of the General  
18 Statutes as a licensed soil scientist to conduct soil and site evaluations and, as  
19 applicable, a person licensed pursuant to Chapter 89E of the General Statutes  
20 as a licensed geologist to evaluate geologic and hydrogeologic conditions.
- 21 (3) The professional engineer designing the proposed wastewater system:
- 22 a. Shall be responsible for the engineer's scope of work, including all  
23 aspects of the design and any drawings, specifications, plans, or  
24 reports that are signed and sealed by the professional engineer.
- 25 b. Shall prepare a signed and sealed statement of special inspections that  
26 includes the following items:
- 27 1. The materials, systems, components, and work subject to  
28 special inspection or testing.
- 29 2. The type and extent of each special inspection and each test.
- 30 3. The frequency of each type of special inspection. For purposes  
31 of this sub-sub-subdivision, frequency of special inspections  
32 shall be required on either a continuous or periodic basis.  
33 Continuous special inspections mean the full-time observation  
34 of work requiring special inspection by an approved special  
35 inspector who is present in the area where the work is  
36 performed. Periodic special inspections mean the part-time or  
37 intermittent observation of work requiring a special inspection  
38 by an approved special inspector who is present in the area  
39 where the work is or has been performed and at the completion  
40 of the work.
- 41 c. May assist the owner of the proposed wastewater system with the  
42 selection of an on-site wastewater system contractor certified pursuant  
43 to Article 5 of Chapter 90A of the General Statutes.
- 44 (4) An on-site wastewater system contractor, licensed pursuant to Article 5 of  
45 Chapter 90A of the General Statutes, who is employed by the owner of the  
46 wastewater system, shall:
- 47 a. Be responsible for all aspects of the construction and installation of the  
48 wastewater system or components of the wastewater system, including  
49 adherence to the design, specifications, and any special inspections  
50 that are prepared, signed, and sealed by the professional engineer in  
51 accordance with all the applicable provisions of this section.

- 1                   b.       Submit a signed and dated statement of responsibility to the owner of  
2                   the wastewater system, prior to the commencement of work, that  
3                   contains acknowledgement and awareness of the requirements in the  
4                   professional engineer's statement of special inspections.
- 5           (5)     ~~Where the professional engineer's designs, plans, and specifications call for  
6           the installation of a conventional wastewater system, such designs, plans, and  
7           specifications shall allow for the installation of an accepted system in lieu of  
8           a conventional system in accordance with the accepted system approval.~~
- 9           (6)     In addition to the requirements of this section, the owner, the professional  
10           engineer designing the proposed wastewater system, and any on-site  
11           wastewater system contractors employed to construct or install the wastewater  
12           system shall comply with applicable federal, State, and local laws, regulations,  
13           rules, and ordinances.
- 14       (f)     No Public Liability. – The Department, the Department's authorized agents, or local  
15       health departments shall have no liability for wastewater systems designed, constructed, and  
16       installed pursuant to ~~a engineered option permit.~~ an Engineered Option Permit.
- 17       (g)     Inspections, Construction Observations, and Reports. –
- 18           (1)     ~~Site visits. – The local health department may, at any time, conduct a site visit  
19           of the wastewater system.~~
- 20           (2)     Construction observations. – The professional engineer who designed the  
21           wastewater system shall make periodic visits to the site, at intervals  
22           appropriate to the stage of construction, to observe the progress and quality of  
23           the construction and to determine, generally, if the construction is proceeding  
24           in accordance with the engineer's plans and specifications.
- 25           (3)     Special inspections. – The owner of the proposed wastewater system shall  
26           employ one or more approved special inspectors to conduct special  
27           inspections during the construction of the wastewater system. The  
28           professional engineer who designed the wastewater system, or the engineer's  
29           personnel, may function as an approved agency to conduct special inspections  
30           required by this subdivision. The professional engineer's personnel shall only  
31           operate as an approved agency for special inspections if the personnel can  
32           demonstrate competence and relevant experience or training. For purposes of  
33           this subdivision, experience or training shall be considered relevant when the  
34           documented experience or training is related in complexity to the same type  
35           of special inspection activities for projects of similar complexity and material  
36           qualities.
- 37           (4)     Inspection reports. – Approved special inspectors shall maintain and furnish  
38           all inspection records to the professional engineer who designed the  
39           wastewater system. The records shall indicate whether the work inspected was  
40           completed in conformance with the engineer's design and specifications. Any  
41           discrepancies identified between the completed work and the engineer's  
42           design shall be brought to the immediate attention of the on-site wastewater  
43           system contractor for correction. If discrepancies are not corrected, they shall  
44           be brought to the attention of the professional engineer who designed the  
45           wastewater system prior to completion of work. A final inspection report  
46           documenting the required special inspections and the correction of any  
47           identified discrepancies shall be provided to the professional engineer and the  
48           owner of the wastewater system for review at the post-construction conference  
49           required pursuant to subsection (j) of this section.
- 50       (h)     Local Authority. – This section shall not relieve the owner or operator of a wastewater  
51       system from complying with any and all modifications or additions to rules adopted by a local



1 health department to protect public health pursuant to G.S. 130A-335(c) that are required at the  
2 time the owner or operator submits the ~~notice of intent to construct~~ Notice of Intent to Construct  
3 pursuant to G.S. 130A-336.1(b). The local health department shall notify the owner or operator  
4 of the wastewater system of any issues of compliance related to such modifications or additions.

5 ...

6 (j) Post-Construction Conference. – The professional engineer designing the wastewater  
7 system shall hold a post-construction conference with the owner of the wastewater system; the  
8 licensed soil scientist or licensed geologist who performed the soils evaluation for the wastewater  
9 system; the on-site wastewater system contractor, certified pursuant to Article 5 of Chapter 90A  
10 of the General Statutes, who installed the wastewater system; and the certified operator of the  
11 wastewater system, if any; ~~and representatives from the local health department and, as~~  
12 ~~applicable, the Department, any.~~ The post-construction conference shall include start-up of the  
13 wastewater system and any required verification of system design or system components. The  
14 post-construction conference required by this subsection may be waived for Type I, II, and III  
15 wastewater systems, as listed in 15A NCAC 18A.1961 Table V(a), upon written request by the  
16 professional engineer and written approval by the owner of the wastewater system.

17 (k) Required Documentation. –

18 (1) At the completion of the post-construction conference conducted pursuant to  
19 subsection (j) of this section, the professional engineer who designed the  
20 wastewater system shall deliver to the owner signed, sealed, and dated copies  
21 of the engineer's report, which, for purposes of this subsection, shall include  
22 the following:

- 23 a. The evaluation of soil conditions and site features as prepared by either  
24 the licensed soil scientist or licensed geologist.
- 25 b. The drawings, specifications, plans, and reports of the wastewater  
26 system, including the statement of special inspections required  
27 pursuant to G.S. 130A-336.1(e)(3); the on-site wastewater system  
28 contractor's signed statement of responsibility required pursuant to  
29 G.S. 130A-336.1(e)(4); records of all special inspections; and the final  
30 inspection report documenting the correction of any identified  
31 discrepancies required pursuant to subsection (g) of this section.
- 32 c. The operator's management program manual that includes a copy of  
33 the contract with the certified water pollution control system operator  
34 required pursuant to subsection (i) of this section.
- 35 d. Any reports and findings related to the design and installation of the  
36 wastewater system.
- 37 e. A copy of the authorization to operate that can be used for the  
38 certificate of occupancy for the facility.

39 (2) Upon reviewing the professional engineer's report, the owner of the  
40 wastewater system shall sign ~~and notarize the report as having been~~  
41 ~~received~~ the report confirming acceptance and receipt of the report.

42 (l) Reporting Requirements. –

- 43 (1) The owner of the wastewater system shall submit the following to the local  
44 health department:
  - 45 a. A copy of the professional engineer's report required pursuant to  
46 G.S. 130A-336.1(k)(1).
  - 47 b. A copy of the operations and management program.
  - 48 e. ~~The fee required pursuant to subsection (n) of this section.~~
  - 49 d. A ~~notarized~~ letter that documents the owner's acceptance of the system  
50 from the professional engineer.
  - 51 e. A copy of the Authorization to Operate.

1 (2) The owner of any wastewater system that is subject to subsection (d) of this  
2 section shall deliver to the Department copies of the engineer's report, as  
3 described G.S. 130A-336.1(k)(1).

4 ~~(m) Authorization to Operate.— Within 15 business days of receipt of the documents and  
5 fees required pursuant to G.S. 130A-336.1(l)(1), the local health department shall issue the owner  
6 a letter of confirmation that states the documents and information contained therein have been  
7 received and that the wastewater system may operate in accordance with rules adopted by the  
8 Commission.~~

9 (n) Fees. – The local health department may assess ~~a~~ an administrative fee for the  
10 engineered option permit of up to thirty percent (30%) of the cumulative total of the fees the  
11 department has established to obtain an improvement permit, an authorization to construct, and  
12 an operations permit for wastewater systems under its jurisdiction. The fee shall only be used by  
13 the department in support of its work pursuant to this section to conduct site inspections; support  
14 the department's staff participation at post construction conference meetings; and archive the  
15 engineered permit with the county register of deeds or other recordation of the wastewater system  
16 as required of no more than thirty-five dollars (\$35.00) for filing costs.

17 (o) Change in System Ownership. – A wastewater system authorized pursuant to this  
18 section shall ~~not be affected by change in ownership of the site for the wastewater system,~~  
19 ~~provided both the site for the wastewater system and the facility the system serves are unchanged~~  
20 ~~and remain under the ownership or control of the person owning the facility.~~ be transferrable to a  
21 new owner with the consent of the professional engineer. The new owner and the professional  
22 engineer shall enter a contract for the wastewater system.

23 (o1) Revocation. – A Notice of Intent to Construct or an Authorization to Operate issued  
24 by an engineer under this section may be revoked by the engineer that issued the Notice of Intent  
25 to Construct or the Authorization to Operate. The professional engineer shall send written  
26 notification of the revocation to the owner, the licensed soil scientist, the licensed geologist, if  
27 any, the certified contractor, the local health department, and the certified water pollution control  
28 system operator, if any. The professional engineer shall cite the specific reason for the revocation  
29 in the written notification.

30 (o2) Repair of Malfunctioning Systems. – The owner may apply for an Improvement  
31 Permit and a Construction Authorization from the local health department or obtain a Notice of  
32 Intent to Construct to repair a malfunctioning wastewater system initially established under this  
33 section.

34 (p) Remedies. – Notwithstanding any other provision of this section or any other  
35 provision of law, owners; operators; professional engineers who utilize the engineered option  
36 permit, who prepare drawings, specifications, plans, and reports; licensed soil scientists; licensed  
37 geologists; and on-site wastewater system contractors employed for the construction or  
38 installation of the wastewater system shall be subject to the provisions and remedies provided to  
39 the Department and local health departments pursuant to Article 1 of this Chapter.

40 (q) Rule Making. – The Commission shall adopt rules to implement the provisions of this  
41 section.

42 (r) Reports.— ~~The Department shall report to the Environmental Review Commission~~  
43 ~~and the Joint Legislative Oversight Committee on Health and Human Services on or before~~  
44 ~~January 1, 2017, and annually thereafter, on the implementation and effectiveness of this section.~~  
45 ~~For the report due on or before January 1, 2017, the Department shall specifically study (i)~~  
46 ~~whether the engineered option permit resulted in a reduction in the length of time improvement~~  
47 ~~permits or authorizations to construct are pending; (ii) whether the engineered option permit~~  
48 ~~resulted in increased system failures or other adverse impacts; (iii) if the engineered option permit~~  
49 ~~resulted in new or increased environmental or public health impacts; (iv) an amount of errors and~~  
50 ~~omissions insurance or other liability sufficient for covering professional engineers, licensed soil~~  
51 ~~scientists, licensed geologists, and contractors who employ the engineered option permit; and (v)~~

1 the fees charged by local health departments to administer the engineered option permit pursuant  
2 to subsection (n) of this section. The Department may include recommendations, including any  
3 legislative proposals, in its reports to the Commission and Committee."

4 **SECTION 4.** G.S. 130A-336.2 reads as rewritten:

5 "**§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.**

6 (a) Authorized On-Site Wastewater Evaluator. – An individual licensed as a soil scientist  
7 pursuant to Chapter 89F of the General Statutes and further certified under conditions developed  
8 and administered by the North Carolina On-Site Wastewater Contractors and Inspectors  
9 Certification Board may, at the direction of the owner of a proposed wastewater system, prepare  
10 signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout,  
11 construction, operation, and maintenance of a wastewater system in accordance with this section  
12 and rules adopted pursuant to this section. An Authorized On-Site Wastewater Evaluator shall  
13 not perform any of the functions performed by a professional engineer for engineered wastewater  
14 systems described in G.S. 130A-336.1.

15 (b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction,  
16 siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system  
17 who wishes to use an Authorized On-Site Wastewater Evaluator shall submit a ~~notice of intent~~  
18 ~~to construct~~ complete Notice of Intent to Construct a wastewater system using an Authorized  
19 On-Site Wastewater Evaluator to the local health department with jurisdiction over the location  
20 of the proposed wastewater system. The owner may apply for a building permit for the project  
21 upon submitting a complete Notice of Intent to Construct and the fee required pursuant to  
22 subsection (n) of this section to the local health department. ~~The Department of Health and~~  
23 ~~Human Services North Carolina On-Site Wastewater Contractors and Inspectors Certification~~  
24 ~~Board shall develop a common form for use as a notice of intent to construct that includes all of~~  
25 ~~the following:~~ Notice of Intent to Construct.

- 26 (1) ~~The owner's name, e-mail address, mailing address, and phone number.~~
- 27 (2) ~~The Authorized On-Site Wastewater Evaluator's name, certification number,~~  
28 ~~mailing address, e-mail address, and telephone number.~~
- 29 (3) ~~The physical location of proposed site.~~
- 30 (4) ~~Proof of errors and omissions, liability, or other insurance adequate for the~~  
31 ~~proposed wastewater system.~~
- 32 (5) ~~A description of the facility the proposed site is to serve and any factors that~~  
33 ~~would affect the wastewater load.~~
- 34 (6) ~~The type of wastewater system proposed.~~
- 35 (7) ~~The estimated wastewater flow and wastewater characteristics.~~
- 36 (8) ~~Any proposed landscape, site, drainage, or soil modifications.~~
- 37 (9) ~~An evaluation of soil conditions and site features that is conducted and signed~~  
38 ~~and sealed by a licensed soil scientist or for geologic or hydrogeologic~~  
39 ~~conditions by a licensed geologist.~~
- 40 (10) ~~A plat, as defined in G.S. 130A-334(7a), or a site plan, as defined in~~  
41 ~~G.S. 130A-334(13a).~~

42 (c) ~~Completeness Review for Notice of Intent to Construct.~~ – ~~The local health department~~  
43 ~~shall determine whether the notice of intent to construct required pursuant to subsection (b) of~~  
44 ~~this section is complete within five business days after receiving the notice of intent to construct.~~  
45 ~~A determination of completeness means that the notice of intent to construct includes all of the~~  
46 ~~required components. If the local health department determines that the notice of intent to~~  
47 ~~construct is incomplete, the local health department shall notify the owner and list the information~~  
48 ~~needed to complete the notice. The owner may then submit additional information to the local~~  
49 ~~health department to cure the deficiencies in the initial notice. The local health department shall~~  
50 ~~make a final determination as to whether the notice of intent to construct is complete within five~~  
51 ~~business days after the department receives the additional information. If the local health~~

1 department fails to act within any time period set out in this subsection, the owner may treat the  
2 failure to act as a determination of completeness. The owner shall be able to apply for the building  
3 permit for the project upon the decision of completeness of the notice of intent by the local health  
4 department or if the local health department fails to act within the five business day time period.

5 (d) Soil and Site Evaluation, Construction, and Activities. –

6 (1) The Authorized On-Site Wastewater Evaluator shall use standards  
7 incorporated in recognized soil and siting practices in North Carolina. The  
8 evaluation and findings shall include, at a minimum, the information required  
9 in rules adopted by the Commission pursuant to G.S. 130A-335(e). An  
10 Authorized On-Site Wastewater Evaluator shall not form a direct business  
11 relationship with any technology that may result in a conflict of interest.

12 (2) The Authorized On-Site Wastewater Evaluator shall prepare a signed and  
13 sealed statement of special inspections that includes the following items:

14 a. The materials, systems, components, and work subject to special  
15 inspections and testing.

16 b. The type, frequency, and extent of each special inspection and each  
17 test. For the purposes of this subdivision, "special inspection" means  
18 any continuous or intermittent inspection or visitation performed by  
19 the Authorized On-Site Wastewater Evaluator at the construction site  
20 on behalf of the owner.

21 (3) The Authorized On-Site Wastewater Evaluator shall assist the owner in the  
22 selection of an on-site wastewater system contractor who shall be under  
23 contractual obligation to the owner of the system and have sufficient errors  
24 and omissions, liability, or other insurance for the system constructed.

25 (4) The Authorized On-Site Wastewater Evaluator may assist in the construction,  
26 siting, relocation, or repair of any wastewater system described in  
27 G.S. 130A-343.

28 ~~(5) Where the Authorized On-Site Wastewater Evaluator's designs, plans, and  
29 specifications call for the installation of a conventional wastewater system,  
30 those designs, plans, and specifications shall allow for the installation of an  
31 Accepted system in lieu of a conventional system in accordance with the  
32 Accepted system approval.~~

33 ...

34 (g) Inspections, Construction Observations, and Reports. –

35 ~~(1) A local health department may, at any time, conduct a site visit of the  
36 wastewater system.~~

37 (2) An Authorized On-Site Wastewater Evaluator shall make periodic visits to the  
38 site to observe the progress and quality of the construction.

39 (3) An Authorized On-Site Wastewater Evaluator may employ independent  
40 inspectors to observe and direct the construction of the wastewater system.  
41 Authorized On-Site Wastewater Evaluators shall be liable for any errors or  
42 omissions made by independent inspectors they employ or contract with.

43 (4) All construction and inspection reports shall be signed by the authorized  
44 inspector or Authorized On-Site Wastewater Evaluator. Copies shall be  
45 furnished to the owner and the certified contractor and shall be included in the  
46 submittal package to the local health department.

47 (h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater  
48 system from complying with all rules adopted by a local health department pursuant to  
49 G.S. 130A-335(c) that are in effect at the time the owner submits the ~~notice of intent to construct~~  
50 Notice of Intent to Construct described in subsection (b) of this section. The local health

1 department shall notify the owner of the wastewater system of any issues of compliance related  
2 to such modifications or additions.

3 (i) Operation and Management. –

4 (1) An Authorized On-Site Wastewater Evaluator shall establish a written  
5 operation and management program based on the rules established for similar  
6 wastewater systems and shall provide this information to the owner of the  
7 system.

8 (2) If necessary to comply with rules adopted by the ~~Commission, North Carolina~~  
9 On-Site Wastewater Contractors and Inspectors Certification Board, the  
10 owner shall enter into a contract with a water pollution control system operator  
11 certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.

12 (3) The owner shall be responsible for the continued adherence to the operations  
13 and management program established by the Authorized On-Site Wastewater  
14 Evaluator pursuant to subdivision (1) of this subsection.

15 (j) Post-Construction Conference. – The Authorized On-Site Wastewater Evaluator shall  
16 hold a post-construction conference with the owner, the certified contractor, and the certified  
17 water pollution control system operator, if any. The post-construction conference shall include  
18 start-up and any required verification of system components.

19 (k) Required Documents. – At the post-construction conference, the Authorized On-Site  
20 Wastewater Evaluator shall provide the owner with the following documents:

21 (1) A signed and sealed copy of reports on soil conditions and site features,  
22 layouts, drawings, specifications, justification on any proposed design daily  
23 flow reductions, and any special inspection reports or corrections made during  
24 the construction of the system.

25 (2) The owner's operation and management program established for the specific  
26 wastewater system under subdivision (1) of subsection (i) of this section.

27 (3) Any reports and findings related to the evaluation, siting, and construction of  
28 the wastewater system.

29 (4) The Authorization to Operate to be used for the certificate of occupancy for  
30 the facility.

31 (l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner  
32 shall sign ~~and notarize a document~~ confirming acceptance and receipt of the report. The owner  
33 shall then submit the following to the local health department:

34 (1) A copy of the Authorized On-Site Wastewater Evaluator's ~~report~~report,  
35 including the Authorization to Operate.

36 (2) A copy of the operations and management program established for the system  
37 by the Authorized On-Site Wastewater Evaluator.

38 (3) The fee established pursuant to subsection (n) of this section.

39 (4) ~~A notarized letter that documents the owner's acceptance of the system.~~ A copy  
40 of the document confirming acceptance and receipt of the report by the owner.

41 (m) ~~Authorization to Operate. — Within five business days of receipt of the required~~  
42 ~~documents and fees described in subsection (l) of this section, the local health department shall~~  
43 ~~issue the owner an authorization to operate confirming all the requirements of this section have~~  
44 ~~been met and all rules adopted by the Commission pertaining to nonengineered on-site~~  
45 ~~wastewater systems have been complied with.~~

46 (n) Fees. – The local health department may assess ~~a~~ an administrative fee for the system  
47 developed by the Authorized On Site Wastewater Evaluator of up to thirty percent (30%) of the  
48 cumulative total of the fees established for similar systems permitted by the local health  
49 department. The fee shall only be used by the local health department in support of its work  
50 pursuant to duties established by this section of no more than thirty-five dollars (\$35.00) for filing  
51 costs.

1 (o) Change in System Ownership. – A wastewater system authorized pursuant to this  
2 section shall ~~not be affected by change of ownership of the site for the wastewater system,~~  
3 ~~provided both the site for the wastewater system and the type of facility the system serves are~~  
4 ~~unchanged.~~ be transferrable to a new owner with the consent of the Authorized On-Site  
5 Wastewater Evaluator. The new owner and the Authorized On-Site Wastewater Evaluator shall  
6 enter a contract for the wastewater system.

7 (o1) Revocation. – A Notice of Intent to Construct or an Authorization to Operate issued  
8 by an Authorized On-Site Wastewater Evaluator under this section may be revoked by the  
9 Authorized On-Site Wastewater Evaluator that issued the Notice of Intent to Construct or the  
10 Authorization to Operate. The Authorized On-Site Wastewater Evaluator shall send written  
11 notification of the revocation to the owner, the licensed soil scientist, if applicable, the licensed  
12 geologist, if any, the certified contractor, the local health department, and the certified water  
13 pollution control system operator, if any. The Authorized On-Site Wastewater Evaluator shall  
14 cite the specific reason for the revocation in the written notification.

15 (o2) Repair of Malfunctioning Systems. – The owner may apply for an Improvement  
16 Permit and a Construction Authorization from the local health department or obtain a Notice of  
17 Intent to Construct to repair a malfunctioning wastewater system initially established under this  
18 section.

19 (p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized  
20 On-Site Wastewater Evaluators, certified contractors described in subsection (e) of this section,  
21 and certified water pollution control systems operators described in subdivision (2) of subsection  
22 (i) of this section shall be subject only to the disciplinary authority of their individual certifying  
23 boards.

24 (q) Rule Making. –

25 (1) ~~The Commission~~ North Carolina On-Site Wastewater Contractors and  
26 Inspectors Certification Board shall have the power to adopt rules to  
27 implement the provisions of this section.

28 (2) Notwithstanding any provision of law to the contrary, the North Carolina  
29 On-Site Wastewater Contractors and Inspectors Certification Board shall have  
30 the exclusive authority to promulgate rules regarding certification of  
31 Authorized On-Site Wastewater Evaluators where review and seal of a  
32 professional engineer is not necessary pursuant to this section.

33 (3) The rules adopted by the Board for wastewater systems approved under the  
34 alternative wastewater system approvals for nonengineered system criteria  
35 pursuant to G.S. 130A-336.2 shall be, at a minimum, as stringent as the rules  
36 for wastewater systems established by the Commission.

37 (r) ~~Reports.~~ ~~The Department shall report to the Environmental Review Commission~~  
38 ~~and the Joint Legislative Oversight Committee on Health and Human Services by January 1,~~  
39 ~~2020, and annually thereafter, on the program established under this section. The Department~~  
40 ~~shall specifically include the efficiency and effectiveness of the program developed under this~~  
41 ~~section and whether the program aided in reducing the length of time in issuing permits. The~~  
42 ~~Department shall obtain activity reports from the local health departments showing the~~  
43 ~~wastewater systems developed under this section. The annual report shall include any suggestions~~  
44 ~~for the improvement of this section, including adequate and appropriate insurance coverage,~~  
45 ~~operator reporting requirements, or fee allowance."~~

46 **SECTION 5.** G.S. 130A-337 reads as rewritten:

47 **"§ 130A-337. Inspection; operation permit required.**

48 (a) No system of wastewater collection, treatment and disposal shall be covered or placed  
49 into use by any person until an inspection by the local health department has determined that the  
50 system has been installed or repaired in accordance with any conditions of the ~~improvement~~  
51 ~~permit, Improvement Permit,~~ the rules, and this Article.

1       (a1) Notwithstanding subsection (a) of this section, an applicant may contract with an  
2 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of Chapter 90A of the  
3 General Statutes to conduct any required verifications or inspections. The evaluator shall provide  
4 the applicant with written verification that all conditions of the Improvement Permit and  
5 Construction Authorization have been met, including an as-built drawing meeting the standards  
6 and scale of the local health department issuing the Construction Authorization as certified by  
7 the evaluator. The applicant may cover the system and place it into operation upon receipt of the  
8 evaluator's written verification and shall submit the verification to the local health department  
9 within two business days of receipt of the verification. The Department, the Department's  
10 authorized agents, and the local health department shall be discharged and released from any  
11 liabilities, duties, and responsibilities imposed by statute or common law from any claim arising  
12 out of or attributed to the on-site wastewater system installation.

13       (b) Upon determining that the system is properly installed or repaired and that the system  
14 is capable of being operated in accordance with the conditions of the ~~improvement permit,~~  
15 Improvement Permit, the rules, this Article and any conditions to be imposed in the operation  
16 permit, as applicable, the local health department shall issue an operation permit authorizing the  
17 residence, place of business or place of public assembly to be occupied and for the system to be  
18 placed into use or reuse.

19       (c) Upon determination that an existing wastewater system has a valid operation permit  
20 and is operating properly in a manufactured home park, the local health department shall issue  
21 authorization in writing for a manufactured home to be connected to the existing system and to  
22 be occupied. Notwithstanding G.S. 130A-336, an ~~improvement permit~~ Improvement Permit is  
23 not required for the connection of a manufactured home to an existing system with a valid  
24 operation permit in a manufactured home park.

25       (d) No person shall occupy a residence, place of business or place of public assembly, or  
26 place a wastewater system into use or reuse for a residence, place of business or place of public  
27 assembly until an operation permit has been issued or authorization has been obtained pursuant  
28 to G.S. 130A-337(c)."

29       **SECTION 6.(a)** G.S. 130A-343 reads as rewritten:

30       "**§ 130A-343. Approval of on-site subsurface wastewater systems.**

31       ...

32       (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an Innovative  
33 wastewater dispersal system or other approved trench dispersal system specifically identified in  
34 a rule adopted by the Commission that has been in general use in this State for a minimum of  
35 five years may petition the Commission to have the system designated as an Accepted wastewater  
36 system as provided in this subsection. The manufacturer shall provide the Commission with the  
37 data and findings of all prior evaluations of the performance of the system in this State and other  
38 states referenced in the petition, including disclosure of any conditions found to result in  
39 unacceptable structural integrity, treatment, or hydraulic performance. In addition, the  
40 manufacturer shall provide the Commission with information sufficient to enable the  
41 Commission to fully evaluate the performance of the system in this State for at least the five-year  
42 period immediately preceding the petition. The Commission shall designate a wastewater  
43 dispersal system as an Accepted wastewater system only if it finds that there is clear, convincing,  
44 and cogent evidence based on actual field surveys and county activity reports (i) to confirm the  
45 findings made by the Department at the time the Department approved the system as a wastewater  
46 dispersal system and (ii) that the system performs in a manner that is equal or superior to a  
47 conventional or Accepted wastewater system under actual field conditions in this State. The  
48 Commission shall specify the circumstances in which use of the system is appropriate and any  
49 conditions and limitations related to the use of the system. However, the Commission shall not  
50 include more restrictive conditions and limitations in the approval of a wastewater system as  
51 Accepted that are not included in the approval of the wastewater system as Innovative or

1 otherwise approved by rule. If the Commission designates a wastewater dispersal system as an  
2 Accepted wastewater system pursuant to this section, the following shall apply:

3 (1) The approval shall be limited to the manufacturer who submitted the petition  
4 and received the Accepted status from the Commission.

5 (2) Neither the Commission, the Department, or any local health department shall  
6 condition, delay, or deny the substitution of any Accepted wastewater system  
7 based on location of nitrification lines when all parts of the dispersal field can  
8 be installed within the approved initial dispersal field area while complying  
9 with all Commission rules.

10 (i) Nonproprietary Wastewater Systems. – The Department may initiate a review of a  
11 nonproprietary wastewater system and approve the system for use as a provisional wastewater  
12 system or an innovative wastewater system without having received an application from a  
13 manufacturer. ~~The Department may recommend that the Commission designate a nonproprietary~~  
14 ~~wastewater system as an accepted wastewater system without having received a petition from a~~  
15 ~~manufacturer.~~

16 (j) Repealed by Session Laws 2015-286, s. 4.15(a), effective October 22, 2015.

17 (j1) Clarification With Respect to Certain Dispersal Media. – In considering the  
18 application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic  
19 aggregate particles as a septic effluent dispersal medium for approval of the system under this  
20 section, neither the Commission nor the Department may condition, delay, or deny the approval  
21 based on the particle or bulk density of the expanded polystyrene material. With respect to  
22 approvals already issued by the Department or Commission that include conditions or  
23 requirements related to the particle or bulk density of expanded polystyrene material, the  
24 Commission or Department, as applicable, shall promptly reissue all such approvals with the  
25 conditions and requirements relating to the density of expanded polystyrene material  
26 permanently deleted while leaving all other terms and conditions of the approval intact.

27 ...."

28 **SECTION 6.(b)** This section is effective when it becomes law and applies  
29 retroactively to any wastewater system approvals issued by the Commission for Public Health or  
30 the Department of Health and Human Services.

## 31 NC ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS 32 CERTIFICATION BOARD CHANGES

33 **SECTION 7.(a)** G.S. 90A-73 reads as rewritten:

34 "**§ 90A-73. Creation and membership of the Board.**

35 (a) Creation and Appointments. – There is created the North Carolina On-Site  
36 Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine  
37 members appointed to three-year terms as follows:

38 (1) One member appointed by the Governor who, at the time of appointment, is  
39 engaged in the construction, installation, repair, or inspection of on-site  
40 wastewater systems, to a term that expires on 1 July of years that precede by  
41 one year those years that are evenly divisible by three.

42 (2) One member appointed by the Governor who, at the time of appointment, is a  
43 certified water pollution control system operator pursuant to Article 3 of this  
44 Chapter, to a term that expires on 1 July of years evenly divisible by three.

45 (3) One member appointed by the Governor who is a registered professional  
46 engineer licensed under Chapter 89C of the General Statutes and whose work  
47 experience includes the design of on-site wastewater systems to a term that  
48 expires on 1 July of years that follow by one year those years that are evenly  
49 divisible by three.  
50



- 1 (4) One member appointed by the General Assembly upon recommendation of  
2 the President Pro Tempore of the Senate who, at the time of appointment, is  
3 engaged in the construction, installation, repair, or inspection of on-site  
4 wastewater systems, to a term that expires on 1 July of years that follow by  
5 one year those years that are evenly divisible by three.
- 6 (5) One member appointed by the General Assembly upon recommendation of  
7 the President Pro Tempore of the Senate who, at the time of appointment, is  
8 engaged in the business of inspecting on-site wastewater systems, to a term  
9 that expires on 1 July of years that precede by one year those years that are  
10 evenly divisible by three.
- 11 (6) One member appointed by the General Assembly upon recommendation of  
12 the President Pro Tempore of the Senate upon the recommendation of the  
13 North Carolina Home Builders Association, to a term that expires on 1 July of  
14 years evenly divisible by three.
- 15 (7) One member appointed by the General Assembly upon recommendation of  
16 the Speaker of the House of Representatives who, at the time of appointment,  
17 is engaged in the construction, installation, repair, or inspection of on-site  
18 wastewater systems, to a term that expires on 1 July of years evenly divisible  
19 by three.
- 20 (8) One member appointed by the General Assembly upon recommendation of  
21 the Speaker of the House of Representatives who, at the time of appointment,  
22 is (i) ~~employed as an a registered~~ environmental health specialist, and (ii)  
23 engaged primarily in the inspection ~~and permitting~~ of on-site wastewater  
24 ~~systems, systems pursuant to Article 5 of this Chapter, and the operation of~~  
25 on-site wastewater systems, to a term that expires on 1 July of years that  
26 follow by one year those years that are evenly divisible by three.
- 27 (9) One member appointed by the General Assembly upon recommendation of  
28 the Speaker of the House of Representatives who, at the time of appointment,  
29 is ~~a soil scientist licensed under Chapter 89F of the General Statutes with~~  
30 ~~experience in soil and site evaluation for on-site wastewater systems, an~~  
31 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of  
32 this Chapter, to a term that expires on 1 July of years that precede by one year  
33 those years that are evenly divisible by three.
- 34 (b) Vacancies. – An appointment to fill a vacancy on the Commission created by the  
35 resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired  
36 term. Vacancies in appointments made by the General Assembly shall be filled as provided in  
37 G.S. 120-122.
- 38 (c), (d) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010.
- 39 (e) Officers. – The Board shall elect a Chair from among its members. The Chair shall  
40 serve from the time of election until 30 June of the following year, or until a successor is elected.
- 41 (f) Compensation. – Board members who are State employees shall receive no per diem  
42 compensation for serving on the Board but shall be reimbursed for their expenses in accordance  
43 with G.S. 138-6. All other Board members shall receive per diem compensation and  
44 reimbursement in accordance with the compensation rate established in G.S. 93B-5.
- 45 (g) Quorum. – A majority of the members of the Board constitutes a quorum for the  
46 transaction of business.
- 47 (h) Meetings. – The Board shall meet at least twice each year and may hold special  
48 meetings at the call of the Chair or a majority of the members of the Board.
- 49 (i) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010."
- 50 **SECTION 7.(b)** This section is effective when it becomes law and applies to terms  
51 beginning on or after that date.

1           **SECTION 8.** G.S. 90A-74 reads as rewritten:

2    "**§ 90A-74. Powers and duties of the Board.**

3       The Board shall have the following general powers and duties:

- 4           (1) To adopt rules in the manner prescribed by Chapter 150B of the General  
5 Statutes to govern its actions and to implement the provisions of this  
6 ~~Article~~ Article, as well as the provisions of G.S. 130A-336.2.
- 7           (2) To determine the eligibility requirements for persons seeking certification  
8 pursuant to this Article.
- 9           (3) To establish grade levels of certifications based on design capacity,  
10 complexity, projected costs, and other features of approved on-site wastewater  
11 systems.
- 12           (4) To develop and administer examinations for specific grade levels of  
13 certification as approved by the Board. The Board may approve applications  
14 by recognized associations for certification of its members after a review of  
15 the requirements of the association to ensure that they are equivalent to the  
16 requirements of the Board.
- 17           (5) To issue, renew, deny, restrict, suspend, or revoke certifications and to carry  
18 out any of the other actions authorized by this Article.
- 19           (6) To establish, publish, and enforce rules of professional conduct of persons  
20 who are certified pursuant to this Article.
- 21           (7) To maintain a record of all proceedings and make available to persons  
22 certified under this Article, and to other concerned parties, an annual report of  
23 all Board action.
- 24           (8) To establish reasonable fees for application, certification, and renewal, and  
25 other services provided by the Board.
- 26           (9) To conduct investigations to determine whether violations of this Article or  
27 grounds for disciplining persons certified under this Article exist.
- 28           (10) To adopt a common seal containing the name of the Board for use on all  
29 certificates and official reports issued by the Board.
- 30           (10a) To employ staff necessary to carry out the provisions of this Article and to  
31 determine the compensation, duties, and other terms and conditions of  
32 employment of its staff.
- 33           (10b) To employ professional, clerical, investigative, or special personnel necessary  
34 to carry out the provisions of this Article.
- 35           (10c) To acquire, hold, convey, rent, encumber, alienate, and otherwise deal with  
36 real property in the same manner as a private person or corporation, subject  
37 only to the approval of the Governor and Council of State. The rents, proceeds,  
38 and other revenues and benefits of the ownership of real property shall inure  
39 to the Board. Collateral pledged by the Board for any encumbrance of real  
40 property shall be limited to the assets, income, and revenues of the Board.
- 41           (11) To conduct other services necessary to carry out the purposes of this Article."
- 42

43    **DIRECT THE BUILDING CODE COUNCIL TO CREATE AN ON-SITE**  
44    **WASTEWATER EXISTING SYSTEM AFFIDAVIT**

45       **SECTION 8.1.(a)** G.S. 160D-1110 is amended by adding a new subsection to read:

46       "**(h1)** No local government may withhold a building permit under this section where the  
47 project does not propose to increase the design daily flow or wastewater strength of the existing  
48 system, and the property owner submits an on-site wastewater existing system inspection  
49 exemption affidavit. The property owner shall affirm that any modifications will meet local and  
50 State on-site wastewater system setback requirements pursuant to G.S. 130A-335."

1           **SECTION 8.1.(b)** The North Carolina Building Code Council, with assistance from  
2 the North Carolina Department of Insurance, shall create an on-site wastewater existing system  
3 inspection exemption affidavit for distribution to all building inspection departments throughout  
4 the State. The on-site wastewater existing system inspection exemption affidavit shall inform the  
5 property owner of their ability to consult with an authorized on-site wastewater evaluator  
6 certified by the North Carolina On-Site Wastewater Contractors and Inspectors Certification  
7 Board or an inspector, as defined in G.S. 90A-71(5), to locate the on-site wastewater existing  
8 system and verify system setback requirements prior to executing the affidavit at the option of  
9 the property owner. The property owner shall not be required to consult with an authorized on-site  
10 wastewater evaluator or an inspector to submit an on-site wastewater existing system inspection  
11 exemption affidavit to a local health department.

12           **SECTION 8.1.(c)** The Building Code Council shall create and distribute the affidavit  
13 required by subsection (b) of this section no later than October 1, 2023.

## 14           **WASTEWATER ELECTRICAL CHANGES**

15           **SECTION 9.** G.S. 87-43.1 reads as rewritten:

### 16           **"§ 87-43.1. Exceptions.**

17           The provisions of this Article shall not apply:

18           ...

19           (11) To the installation, construction, maintenance, or repair of electrical wiring or  
20 devices, appliances, or equipment by a person who is an on-site wastewater  
21 contractor certified pursuant to Article 5 of Chapter 90A of the General  
22 Statutes when the contractor is wiring the wastewater pump to the control  
23 panel for the wastewater system."

## 24           **PROHIBIT FORCED SEWER CONNECTIONS IN CERTAIN SITUATIONS**

25           **SECTION 10.(a)** G.S. 160A-317(a) reads as rewritten:

### 26           **"§ 160A-317. Power to require connections to water or sewer service and the use of solid**

27           **waste collection services.**

28           (a) Connections. – ~~A~~ Except as provided in subdivisions (1) and (2) of this subsection, a  
29 city may require an owner of developed property on which there are situated one or more  
30 residential dwelling units or commercial establishments located within the city limits and within  
31 a reasonable distance of any water line or sewer collection line owned, leased as lessee, or  
32 operated by the city or on behalf of the city to connect the owner's premises with the water or  
33 sewer line or both, and may fix charges for the connections. In lieu of requiring connection under  
34 this subsection and in order to avoid hardship, the city may require payment of a periodic  
35 availability charge, not to exceed the minimum periodic service charge for properties that are  
36 connected. The following provisions apply to a city's authority to require connection of an  
37 owner's premises to a water or sewer line:

38           (1) A property owner shall be exempt from mandatory connection to a city's sewer  
39 if:

40           a. The city has inadequate capacity to transport and treat the proposed  
41 new wastewater from the premises at the time of connection.

42           b. The costs of connection, including the costs of underground piping and  
43 connections to the dwelling or building, exceed the costs of installing  
44 an on-site wastewater system authorized pursuant to Article 11 of  
45 Chapter 130A of the General Statutes. Determination of the  
46 comparative costs of connection shall be assessed by (i) a licensed soil  
47 scientist, as defined in G.S. 89F-3, (ii) an on-site wastewater  
48 contractor certified under Article 5 of Chapter 90A of the General  
49 Statutes, or (iii) a plumbing contractor licensed under Article 2 of  
50 Chapter 130A of the General Statutes.

Chapter 87 of the General Statutes. If a property owner elects to install an on-site wastewater system in lieu of connection to the city's sewer system pursuant to this subdivision, (i) the on-site wastewater system shall comply with all applicable requirements of Article 11 of Chapter 130A of the General Statutes, and rules adopted thereunder, and (ii) the owner shall have sole responsibility for the system and its use and performance.

(2) A property owner shall be exempt from a mandatory connection to a city's water supply if adequate water pressure cannot be achieved using the same piping size as the meter provides to the owner's premises. A city is prohibited from requiring a property owner to install a larger meter and corresponding larger piping connection, or imposing an increased fee, to achieve adequate water pressure. For purposes of this subdivision, the term "adequate water pressure" shall mean the average water pressure delivered to all connected customers within a one-quarter mile radius in either direction of the owner's point of connection. In order to establish the adequacy or inadequacy of water pressure for purposes of this subdivision, a property owner shall submit to the city a determination of same prepared by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes. In the event water pressure is determined to be inadequate, a property owner may elect, in lieu of connection to the city's water supply, to install a private drinking water well, as that term is defined under G.S. 87-85, which well shall be approved by the city if the well meets the requirements of Chapter 87 of the General Statutes and rules adopted thereunder. A city, however, shall have no liability for the quality or quantity of water, or water pressure, from a private drinking water well installed pursuant to this subdivision."

**SECTION 10.(b)** G.S. 153A-284 reads as rewritten:

**"§ 153A-284. Power to require connections.**

(a) A county may require the owner of developed property on which there are situated one or more residential dwelling units or commercial establishments located so as to be served by a water line or sewer collection line owned, leased as lessee, or operated by the county or on behalf of the county to connect the owner's premises with the water or sewer line and may fix charges for these connections. A county may only require connection of an owner's premises to a sewer line, however, if the county has adequate capacity to transport and treat the proposed new wastewater from the premises at the time of connection.

...."

**SEVERABILITY CLAUSE**

**SECTION 11.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 12.** Except as otherwise provided, this act is effective when it becomes law.