

**RESOLUTION #19-12:**

**A RESOLUTION OPPOSING THE USURPING OF LOCAL GOVERNMENT AUTHORITY  
BY THE NORTH CAROLINA GENERAL ASSEMBLY**

**WHEREAS**, there are various proposed bills currently pending before the North Carolina General Assembly which limit, restrict, and/or usurp powers that local governments have historically possessed that enabled counties and municipalities to appropriately govern their jurisdictions; and

**WHEREAS**, these pending bills are enabling legislators to micromanage the governance of all of North Carolina's 100 counties and 552 municipalities; and

**WHEREAS**, local government leaders know and understand the needs of their communities best; they are more accessible to their residents, they conduct public hearings; and they prioritize their communities first. All of these factors enable counties and towns to make the best decisions for their distinctive communities in which they serve; and

**WHEREAS**, Attachment 1 contains a list of pending bills before the General Assembly, that have been compiled by the North Carolina Association of County Commissioners and the North Carolina League of Municipalities, that are opposed by the Village of Pinehurst Council.

**NOW, THEREFORE, BE IT RESOLVED** by the Village Council of the Village of Pinehurst, North Carolina in a work session assembled this 23<sup>rd</sup> day of April, 2019, as follows:

**SECTION 1.** The Village of Pinehurst Council opposes the bills listed in Attachment 1; and

**SECTION 2.** The Village of Pinehurst Council opposes the General Assembly's assault on local governments' authority impacting every local government in the State.

**THIS RESOLUTION** passed and adopted this 23<sup>rd</sup> day of April, 2019.

(Municipal Seal)



VILLAGE OF PINEHURST  
VILLAGE COUNCIL

By: Nancy Roy Fiorillo  
Nancy Roy Fiorillo, Mayor

Attest:

Beth Dunn  
Beth Dunn, Village Clerk

Approved as to Form:

Michael J. Newman  
Michael J. Newman, Village Attorney

## **ATTACHMENT 1**

### **S 0367 - Clarify Property Owners' Rights**

**Sponsor:** Thomas McInnis

**House Committee:** Senate Committee: SLG

**Last Action:** 4/9/2019 - Senate - Re-ref Com On Judiciary

**Analysis:**

Prohibits cities and counties from regulating removal of trees on private property, including areas in a city's extra-territorial jurisdiction, unless given express authority by the General Assembly. States that no other general police powers may be cited by a city or county as their authority for regulating tree removal on private property. Further, even when the General Assembly allows a city or county to regulate tree removal on private property, stipulates that the ordinance must include a provision granting private property owners the right to remove trees that interfere with a construction or renovation project, so long as they replace that tree with a sapling of the same or similar type. Requires all ordinances of this type that were previously authorized by local act to be updated to include the prior provision regarding replanting of trees removed during construction or renovation. (First Edition)

### **H 0492 - Simplify Builder Inventory Exclusion**

**Sponsor:** Mark Brody

**House Committee:**

**Senate Committee:**

**Last Action:** 3/28/2019 - House - Ref to the Com on Commerce, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

**Analysis:**

Extends an existing property tax exclusion, which allows builders who own real property held for sale to exclude from property tax calculations the increase in value of the property attributable to subdivision of the land or residential construction on the land. The extension would go from three to five years. Also eliminates an annual filing requirement builders must currently make to take advantage of this exclusion. (First Edition).

### **H 0645 & S 534 - Revisions to Outdoor Advertising Laws**

**Sponsor:** Jason Saine

**House Committee:** Trans

**Senate Committee:**

**Last Action:** 4/10/2019 - House - Ref to the Com on Transportation, if favorable, State and Local Government, if favorable, Rules, Calendar, and Operations of the House

**Analysis:**

Makes numerous changes to the state's billboard laws. Lists the factors for calculating just compensation to be paid if a sign is condemned, including potential future income the sign could earn. Sets new standards for relocating existing signs and preempts any local ordinances to the contrary. Broadens state standards for cutting vegetation. (First Edition)

## **H 0675 - 2019 Building Code Regulatory Reform**

**Sponsor:** Mark Brody

**House Committee:**

**Senate Committee:**

**Last Action:** 4/11/2019 - House - Ref to the Com on State and Local Government, if favorable, Regulatory Reform, if favorable, Rules, Calendar, and Operations of the House

**Analysis:**

Makes numerous changes to building inspection laws. Most importantly, mandates a two-day turnaround time to review residential building plans submitted under the seal of an engineer or architect, or five days for residential plans submitted by other persons. Among other additional provisions, directs creation of a standardized form to certify third-party inspections of various building components or elements; prohibits cities from requiring developers to bury power lines under specifically-listed circumstances; prohibits cities from requiring a minimum square footage for residential structures; exempts temporary structures related to motion picture, television, and theater stage sets from building permitting processes; and extends until October 1, 2021 a requirement for cities to report instances where building inspectors find more than 15 building code violations in one inspection. (First Edition)

## **H 0722 & S 355 - Land-Use Regulatory Changes**

**Sponsor:** Destin Hall

**House Committee:** RR

**Senate Committee:**

**Last Action:** 4/15/2019 - House - Ref to the Com on Regulatory Reform, if favorable, State and Local Government, if favorable, Rules, Calendar, and Operations of the House

**Analysis:**

Makes significant changes to the process of resolving and litigating land use disputes. Importantly, one of these changes includes an ability for a property owner to bypass the local board of adjustment and file an original action in superior or federal court, for certain types of legal claims. Another change confers standing on various potential plaintiffs, including non-property owners that have executed a private contract giving them an option to purchase the property subject to the disputed development approval. Yet another provision changes the rules of evidence that currently apply to these types of cases. The proposal also eliminates the defense of estoppel for these legal proceedings, which means that a property owner may continue the development process while challenging a local government's development approval decision, and those actions do not discount the property owner's arguments in the legal proceeding. Changes the attorney's fees statute to require an award of attorney's fees if the local government was found to have "violated a statute or case law setting forth unambiguous limits on its authority," rather than leaving that decision in the discretion of the court. Proposes exhaustive lists to define the terms "development," "development approval," and "land development regulation," which then apply to various land use statutes. Explicitly creates new vested rights for developers, which entitles them to lock in certain development rules and regulations contained in the applicable development approval. In another change, removes a current provision allowing non-property owners to request a rezoning of parcels, unless all affected landowners give written consent to the request. Also adds language to the current

“permit choice” statute to further define the circumstances under which a developer may choose between proceeding under a local government’s old or new zoning or subdivision ordinances, when the development proposal or approval is sought in the midst of an ordinance update. (First Edition)

### **S 0406 - Limit Conditional Zoning**

**Sponsor:** Thomas McInnis

**House Committee:**

**Senate Committee:** RulesOS

**Last Action:** 4/1/2019 - Senate - Ref To Com On Rules and Operations of the Senate

**State Summary Page**

**State Full Text Page**

**Analysis:**

Limits the discretion of local government officials when making conditional or special use zoning decisions, only allowing conditions that would otherwise be able to be imposed upon other similarly-situated parcels in the same zoning classification. (First Edition)

### **S 0571 - Local Governments/Unsafe Buildings**

**Sponsor:** Jim Perry

**House Committee:**

**Senate Committee:** SLG

**Last Action:** 4/11/2019 - Senate - Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate

**Analysis:**

Rolls back several reasons for which a municipal code enforcement official may consider a building or structure unsafe, including that the building “is likely to cause or contribute to blight, disease, vagrancy, or danger to children,” or “has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance,” such as gang activities. Puts in place a 60-day time period under which a building owner must take corrective action, and allows municipal officials to grant another 60-day extension to complete work to bring the building into compliance. (First Edition)

### **H 0495 – Prohibit Municipalities from Regulating Off-Site Septic Easements**

**Sponsor:** Pat McElraft

**House Committee:**

**Senate Committee:**

**Last Action:** Ref To Com On Rules and Operations of the Senate on 4/17/2019

**Analysis:** Amends GS 130A-335 to prohibit any municipalities from prohibiting, regulating by ordinance, or enforcing an existing ordinance that regulates the use of off-site wastewater systems or other systems approved by the Department of Health and Human Service under rules adopted by the Commission for Public Health so long as the proposed system meets the specific conditions of the

approval. Retroactively applies to municipal ordinances enacted on or after October 15, 2018. Voids and deems unenforceable any inconsistent municipal ordinance.