



SENATE BILL 266: Historic Flood Event Bldg. Code Exemption.

2025-2026 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	May 1, 2025
Introduced by:	Sens. Moffitt, Daniel, Britt	Prepared by:	Jennifer McGinnis Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 266 would:

- *Authorize the owner of a lawfully established building or structure damaged by a historic flood event to replace or reconstruct the building or structure within the base floodplain to the same or lesser extent or volume existing immediately before the historic flood event, without regard to changes in State or local regulations adopted after the building or structure was lawfully established. Replacement or reconstruction that increases the extent or volume of the building or structure within the base floodplain would not be authorized unless hydrologic and hydraulic analyses, prepared in accordance with standard engineering practice by a registered design professional, demonstrate that the proposed replacement or reconstruction will not result in any increase in the base flood elevation. The bill would also limit local government authority to adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas to reflect the provisions of the bill.*
- *In the counties affected by Helene, exempt the processing of tree stumps and other vegetative debris into mulch or soil amendments from solid waste composting rules, State-only stormwater and sedimentation control requirements, State-only air quality permits, soil amendment or compost product registration, and Fire Code limitations on mulch pile storage.*

CURRENT LAW:

A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas that are consistent with the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes.

The federal government administers the National Flood Insurance Program (NFIP) which is a voluntary program. When a community elects to participate, a local government must adopt floodplain regulations that meet or exceed the federal minimum standards in order for local residents and businesses to have access to federal flood insurance and in order for the community to access some disaster assistance. The minimum floodplain development standards are outlined at [44 CFR §§ 60.3](#). In general, these federal minimums prohibit development in the floodway, require elevation of habitable floors in the floodplain areas, and limit the location of manufactured homes in the floodplain.¹

To participate in the NFIP, a community agrees to, among other things:

¹ "Frequently Asked Questions about Local Floodplain Regulations in North Carolina," November 12, 2024 Adam Lovelady, Professor, UNC School of Government and Steve Garrett, State NFIP Coordinator, North Carolina Division of Emergency Management

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- Adopt and enforce a flood damage prevention ordinance
- Require permits for all development in the floodplain
- Require new or substantially improved homes and manufactured homes to be elevated above the Base Flood Elevations (BFEs)
- Require other structures be flood proofed or elevated above the BFE
- Conduct field inspections; cite and remedy building or code violations
- Resolve non-compliance issues and violations
- Advise FEMA and the state when updates to flood maps are needed
- Maintain records of all development within the Special Flood Hazard Area

(see [North Carolina Floodplain Management 2017 Quick Guide North Carolina Department of Crime Control and Public Safety](#))

A community eligible for the sale of flood insurance which:

- Fails to adequately enforce flood plain management regulations meeting the minimum federal requirements are subject to probation. Probation results in formal notification to the community that the Federal Insurance Administrator regards the community's flood plain management program as not compliant with NFIP criteria. An additional policy premium is charged on policies sold or renewed during the period of probation.
- Fails to adequately enforce its flood plain management regulations meeting the minimum federal requirements and does not correct deficiencies identified and remedy all violations to the maximum extent possible in accordance with compliance deadlines established during a period of probation is subject to suspension of NFIP eligibility.
- Repeals its flood plain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum federal requirements must be suspended from the NFIP. The community eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Federal Insurance Administrator.

See [44 CFR Part 59](#) for more detail on actions that a community must take to become eligible and to remain eligible for NFIP, and ramifications of ineligibility.

BILL ANALYSIS:

Section 1 would authorize the owner of a lawfully established building or structure damaged by a historic flood event to replace or reconstruct the building or structure within the base floodplain to the same or lesser extent or volume existing immediately before the historic flood event, without regard to changes in State or local regulations adopted after the building or structure was lawfully established. Replacement or reconstruction that increases the extent or volume of the building or structure within the base floodplain would not be authorized unless hydrologic and hydraulic analyses, prepared in accordance with standard engineering practice by a registered design professional, demonstrate that the proposed replacement or reconstruction will not result in any increase in the base flood elevation. The bill would also limit local government authority to adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas to reflect the provisions of the bill.

This section would have a delayed effective date contingent on approval of FEMA. No later than August 1, 2025, the State's Department of Insurance must prepare and submit to FEMA the proposed changes made by the section. Section would become effective on the later of the following dates:

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- October 1, 2025.
- The first day of a month that is 30 days after the Commissioner of Insurance certifies to the Revisor of Statutes that FEMA has approved the proposed changes.

Section 2 would require the Department of Environmental Quality, the Department of Agriculture and Consumer Services, and a unit of local government, as applicable, to waive all of the following requirements, to the extent the requirements are State or local in origin and not otherwise required to satisfy federal law, as they may apply to activities to process tree stumps and other vegetative debris into mulch or soil amendments in the counties designated before, on, or after the effective date of this act under a major disaster declaration by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene:

- Solid waste composting rules for Type 1 facilities.
- Stormwater and sedimentation and erosion control requirements.
- Air quality permit requirements for vegetative debris processing equipment.
- Soil amendment or compost product registration required by the Department of Agriculture and Consumer Services.
- State Fire Code limitations on mulch pile storage.

This section would become effective when it becomes law and expire July 1, 2027.

EFFECTIVE DATE: Except as otherwise provided, this bill would be effective when it becomes law.