



Legislation Text

File #: 16-046, **Version:** 1

TITLE:

Response to Legislation Limiting Local Stream Buffer Regulation

PURPOSE: The purpose of this agenda item is to respond to legislation recently enacted that limits the Town's ability to exceed minimum State requirements for riparian buffers.

CONTACT INFORMATION: Randy Dodd, 919 918-7326; Christina Moon, 919 918-7325; Patricia McGuire, 919 918-7327

INFORMATION: The Town has administered Land Use Ordinance provisions for regulating riparian buffers since 1983. In 2015, the NC General Assembly passed Section 13.1 of Session Law 2015-246 (An Act to Reform Various Provisions of the Law Related to Local Governments) limiting local authority to implement buffer provisions that are more restrictive than State provisions. Under SL 2015-246, a local government may be able to obtain State approval to implement more restrictive provisions if: 1) doing so complies with or implements federal or State law, or is a condition of a State or federal permit, certificate, or other approval; 2) the ordinance was enacted prior to August 1, 1997 and allows "small or temporary structures within 50 feet of the water body and docks and piers within and along the edge of the water body under certain circumstances"; or 3) approval for more restrictive requirements is obtained from the Environmental Management Commission (EMC) and based on "scientific studies of the local environmental and physical conditions that support the necessity of the riparian buffer requirement for the protection of water quality, and any other information requested by the Commission." Staff continue to investigate all three options. At this juncture, the third option ("scientific evidence") may be the most appropriate for the Town to pursue. If the Town chooses to pursue this option, the State Division of Water Resources (DWR) staff has requested that the Town submit an application by August, 2016 for presentation to the Environmental Management Commission (EMC) at their November, 2016 meeting. Staff have drafted a letter to DWR indicating the Town's approach for complying with the legislation.

FISCAL AND STAFF IMPACT: There is no fiscal impact associated with this item. There will be a staff impact to prepare a response for State review.

RECOMMENDATION: It is recommended that the Board authorize staff to pursue approval from the State for the Town to continue to enact, implement, and enforce current LUO buffer provisions by submitting the attached letter and taking appropriate follow up actions.