

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 150*
Committee Substitute Favorable 3/14/13
Third Edition Engrossed 3/20/13

Short Title: Zoning/Design & Aesthetic Controls.

(Public)

Sponsors:

Referred to:

February 27, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING
3 ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-381 is amended by adding new subsections to read:

6 "(g) Any zoning and development regulation ordinance relating to building design
7 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
8 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
9 under the North Carolina Residential Code for One- and Two-Family Dwellings except under
10 one or more of the following circumstances:

- 11 (1) The structures are located in an area designated as local historic districts
12 pursuant to Part 3C of Chapter 160A of the General Statutes.
13 (2) The structures are listed on the National Registry of Historic Places.
14 (3) The structures are individually designated as local, State, or national historic
15 landmarks.
16 (4) The regulations are directly and substantially related to the requirements of
17 applicable safety codes adopted under G.S. 143-138.
18 (5) Where the regulations are applied to manufactured housing, in a manner
19 consistent with G.S. 160A-383.1 and federal law.
20 (6) Where the regulations are adopted as a condition of participation in the
21 National Flood Insurance Program.
22 (7) Where the regulations adopted pursuant to this Article governing the permitted
23 uses of land or structures subject to the North Carolina Residential Code for
24 One- and Two-Family Dwellings.

25 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
26 zoning district, special use district, conditional use district, or conditional district unless
27 voluntarily consented to by the owners of all the property to which those regulations may be
28 applied as part of and in the course of the process of seeking and obtaining a zoning
29 amendment or a zoning, subdivision, or development approval, nor may any such regulations
30 be applied indirectly as part of a review pursuant to G.S. 160A-383 of any proposed zoning
31 amendment for consistency with an adopted comprehensive plan or other applicable officially
32 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
33 exterior building color; type or style of exterior cladding material; style or materials of roof
34 structures or porches; exterior nonstructural architectural ornamentation; location or
35 architectural styling of windows and doors, including garage doors; the number and types of



1 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)
2 the height, bulk, orientation, or location of a structure on a zoning lot; and (ii) the use of
3 buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or
4 to protect the privacy of neighbors.

5 (h) Nothing in subsection (g) of this section shall affect the validity or enforceability of
6 private covenants or other contractual agreements among property owners relating to building
7 design elements."

8 **SECTION 2.** G.S. 153A-340 is amended by adding new subsections to read:

9 "(k) Any zoning and development regulation ordinance relating to building design
10 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
11 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
12 under the North Carolina Residential Code for One- and Two-Family Dwellings except under
13 one or more of the following circumstances:

14 (1) The structures are located in an area designated as local historic districts
15 pursuant to Part 3C of Chapter 160A of the General Statutes.

16 (2) The structures are listed on the National Register of Historic Places.

17 (3) The structures are individually designated as local, State, or national historic
18 landmarks.

19 (4) The regulations are directly and substantially related to the requirements of
20 applicable safety codes adopted under G.S. 143-138.

21 (5) Where the regulations are applied to manufactured housing, in a manner
22 consistent with G.S. 153A-341.1 and federal law.

23 (6) Where the regulations are adopted as a condition of participation in the
24 National Flood Insurance Program.

25 (7) Where the regulations adopted pursuant to this Article governing the permitted
26 uses of land or structures subject to the North Carolina Residential Code for
27 One- and Two-Family Dwellings.

28 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
29 zoning district, special use district, conditional use district, or conditional district unless
30 voluntarily consented to by the owners of all the property to which those regulations may be
31 applied as part of and in the course of the process of seeking and obtaining a zoning
32 amendment or a zoning, subdivision, or development approval, nor may any such regulations
33 be applied indirectly as part of a review pursuant to G.S. 153A-341 of any proposed zoning
34 amendment for consistency with an adopted comprehensive plan or other applicable officially
35 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
36 exterior building color; type or style of exterior cladding material; style or materials of roof
37 structures or porches; exterior nonstructural architectural ornamentation; location or
38 architectural styling of windows and doors, including garage doors; the number and types of
39 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)
40 the height, bulk, orientation, or location of a structure on a zoning lot; and (ii) the use of
41 buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or
42 to protect the privacy of neighbors.

43 (l) Nothing in subsection (k) of this section shall affect the validity or enforceability of
44 private covenants or other contractual agreements among property owners relating to building
45 design elements."

46 **SECTION 3.** This act is effective when it becomes law and applies to development
47 approvals granted on or after that date.