

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 150*
PROPOSED COMMITTEE SUBSTITUTE H150-PCS30179-ST-5

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 or modular housing, in a
19 manner 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 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
23 zoning district, special use district, conditional use district, or conditional district unless
24 voluntarily consented to by the owners of all the property to which those regulations may be
25 applied as part of and in the course of the process of seeking and obtaining a zoning
26 amendment or a zoning, subdivision, or development approval, nor may any such regulations
27 be applied indirectly as part of a review pursuant to G.S. 160A-383 of any proposed zoning
28 amendment for consistency with an adopted comprehensive plan or other applicable officially
29 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
30 exterior building color; type or style of exterior cladding material; style or materials of roof
31 structures or porches; exterior nonstructural architectural ornamentation; location or
32 architectural styling of windows and doors, including garage doors; the number and types of
33 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)
34 the height, bulk, orientation, or location of a structure on a zoning lot; and (ii) the use of
35 buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or
36 to protect the privacy of neighbors.



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

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

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

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

12 (2) The structures are listed on the National Registry of Historic Places.

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

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

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

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

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

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

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