

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 150*
Committee Substitute Favorable 3/14/13
Third Edition Engrossed 3/19/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H150-PCS70343-SU-7

Short Title: Zoning/Design & Aesthetic Controls.

(Public)

Sponsors:

Referred to:

February 27, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING
ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

The General Assembly of North Carolina enacts:

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

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

- (1) The structures are located in an area designated as a local historic district pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.
- (2) The structures are located in an area designated as a historic district on the National Register of Historic Places.
- (3) The structures are individually designated as local, State, or national historic landmarks.
- (4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- (5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160A-383.1 and federal law.
- (6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

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



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1 include any of the following: (i) the height, bulk, orientation, or location of a structure on a
2 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the
3 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted
4 pursuant to this Article governing the permitted uses of land or structures subject to the North
5 Carolina Residential Code for One- and Two-Family Dwellings.

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

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

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

15 (1) The structures are located in an area designated as a local historic district
16 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.

17 (2) The structures are located in an area designated as a historic district on the
18 National Register of Historic Places.

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

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

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

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

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

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

47 **SECTION 3.** This act is effective when it becomes law. The act clarifies and
48 restates the intent of existing law and applies to ordinances adopted before, on, and after the
49 effective date.