

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 201
PROPOSED COMMITTEE SUBSTITUTE H201-PCS10134-ST-8

Short Title: Zoning Changes/Citizen Input.

(Public)

Sponsors:

Referred to:

March 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROCESS BY WHICH THE CITY COUNCILS RECEIVE
3 CITIZEN INPUT IN ZONING ORDINANCE AMENDMENTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-385(a) reads as rewritten:

6 "**§ 160A-385. Changes.**

7 (a) ~~Qualified Protests.~~Citizen Comments.

8 (1) Zoning ordinances may from time to time be amended, supplemented,
9 changed, modified or repealed. ~~In case, however, of a qualified protest~~
10 ~~against a zoning map amendment, that amendment shall not become~~
11 ~~effective except by favorable vote of three fourths of all the members of the~~
12 ~~city council. For the purposes of this subsection, vacant positions on the~~
13 ~~council and members who are excused from voting shall not be considered~~
14 ~~"members of the council" for calculation of the requisite supermajority.~~If
15 any resident or property owner in the city submits a written statement
16 regarding a proposed amendment, modification, or repeal to a zoning
17 ordinance to the clerk to the board at least two business days prior to the
18 proposed vote on such change, the clerk to the board shall deliver such
19 written statement to the city council. If the proposed change is the subject of
20 a quasi-judicial proceeding under G.S. 160A-388, the clerk shall provide
21 only the names and addresses of the individuals providing written comment,
22 and the provision of such names and addresses to all members of the board
23 shall not disqualify any member of the board from voting.

24 (2) ~~To qualify as a protest under this section, the petition must be signed by the~~
25 ~~owners of either (i) twenty percent (20%) or more of the area included in the~~
26 ~~proposed change or (ii) five percent (5%) of a 100 foot wide buffer~~
27 ~~extending along the entire boundary of each discrete or separate area~~
28 ~~proposed to be rezoned. A street right of way shall not be considered in~~
29 ~~computing the 100 foot buffer area as long as that street right of way is 100~~
30 ~~feet wide or less. When less than an entire parcel of land is subject to the~~
31 ~~proposed zoning map amendment, the 100 foot buffer shall be measured~~
32 ~~from the property line of that parcel. In the absence of evidence to the~~
33 ~~contrary, the city may rely on the county tax listing to determine the~~
34 ~~"owners" of potentially qualifying areas.~~

35 (3) ~~The foregoing provisions concerning protests shall not be applicable to any~~
36 ~~amendment which initially zones property added to the territorial coverage~~



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1 of the ordinance as a result of annexation or otherwise, or to an amendment
2 to an adopted (i) special use district, (ii) conditional use district, or (iii)
3 conditional district if the amendment does not change the types of uses that
4 are permitted within the district or increase the approved density for
5 residential development, or increase the total approved size of nonresidential
6 development, or reduce the size of any buffers or screening approved for the
7 special use district, conditional use district, or conditional district."

8 **SECTION 2.** G.S. 160A-386 is repealed.

9 **SECTION 3.** G.S. 122C-403(3) reads as rewritten:

10 "(3) Regulate the development of the reservation in accordance with the powers
11 granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the
12 General Statutes. The Secretary may not, however, grant a special use
13 permit, a conditional use permit, or a special exception under Part 3 of that
14 Article. In addition, the Secretary is not required to notify landowners of
15 zoning classification actions under G.S. 160A-384, and the protest petition
16 requirements in G.S. 160A-385, and 160A-386 do not apply, but the
17 Secretary shall give the mayor of the Town of Butner at least 14 days'
18 advance written notice of any proposed zoning change. The Secretary may
19 designate Advisory establish a board to act like a Board of Adjustment to
20 make recommendations to the Secretary concerning implementation of plans
21 for the development of the reservation. When acting as a Board of
22 Adjustment, Advisory that board shall be subject to subsections (b), (c), (d),
23 (f), and (g) of G.S. 160A-388."

24 **SECTION 4.** This act also repeals any local act authority for submission, review,
25 or action by any municipality upon any zoning protest petition, whether or not enacted as a
26 provision in a municipal charter.

27 **SECTION 5.** G.S. 160A-75 reads as rewritten:

28 "**§ 160A-75. Voting.**

29 No member shall be excused from voting except upon matters involving the consideration
30 of the member's own financial interest or official conduct or on matters on which the member is
31 prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). In all other
32 ~~eases, cases except votes taken under G.S. 160A-385,~~ a failure to vote by a member who is
33 physically present in the council chamber, or who has withdrawn without being excused by a
34 majority vote of the remaining members present, shall be recorded as an affirmative vote. The
35 question of the compensation and allowances of members of the council is not a matter
36 involving a member's own financial interest or official conduct.

37 An affirmative vote equal to a majority of all the members of the council not excused from
38 voting on the question in issue, including the mayor's vote in case of an equal division, shall be
39 required to adopt an ordinance, take any action having the effect of an ordinance, authorize or
40 commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of
41 the city. In addition, no ordinance nor any action having the effect of any ordinance may be
42 finally adopted on the date on which it is introduced except by an affirmative vote equal to or
43 greater than two thirds of all the actual membership of the council, excluding vacant seats and
44 not including the mayor unless the mayor has the right to vote on all questions before the
45 council. For purposes of this section, an ordinance shall be deemed to have been introduced on
46 the date the subject matter is first voted on by the council."

47 **SECTION 6.** This act becomes effective May 1, 2015, and applies to zoning
48 ordinance changes adopted on or after that date.