

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 201
Mar 10, 2015
HOUSE PRINCIPAL CLERK

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HOUSE DRH20066-ST-18A (01/29)

Short Title: Zoning Changes/Citizen Input. (Public)

Sponsors: Representatives Stam, Goodman, Jackson, and Fraley (Primary Sponsors).

Referred to:

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9 changed, modified or repealed.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.~~
15 ~~If 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.~~

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

31 (3) ~~The foregoing provisions concerning protests shall not be applicable to any~~
32 ~~amendment which initially zones property added to the territorial coverage~~
33 ~~of the ordinance as a result of annexation or otherwise, or to an amendment~~
34 ~~to an adopted (i) special use district, (ii) conditional use district, or (iii)~~
35 ~~conditional district if the amendment does not change the types of uses that~~
36 ~~are permitted within the district or increase the approved density for~~



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1 residential development, or increase the total approved size of nonresidential
2 development, or reduce the size of any buffers or screening approved for the
3 special use district, conditional use district, or conditional district."

4 **SECTION 2.** G.S. 160A-386 is repealed.

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

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

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

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

24 "**§ 160A-75. Voting.**

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

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

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