

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 201
Committee Substitute Favorable 3/19/15
Third Edition Engrossed 3/25/15

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9 changed, modified or repealed.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.



1 (3) ~~The foregoing provisions concerning protests shall not be applicable to any~~
2 ~~amendment which initially zones property added to the territorial coverage~~
3 ~~of the ordinance as a result of annexation or otherwise, or to an amendment~~
4 ~~to an adopted (i) special use district, (ii) conditional use district, or (iii)~~
5 ~~conditional district if the amendment does not change the types of uses that~~
6 ~~are permitted within the district or increase the approved density for~~
7 ~~residential development, or increase the total approved size of nonresidential~~
8 ~~development, or reduce the size of any buffers or screening approved for the~~
9 ~~special use district, conditional use district, or conditional district."~~

10 **SECTION 2.** G.S. 160A-386 is repealed.

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

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

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

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

30 "**§ 160A-75. Voting.**

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

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

49 **SECTION 5.5.** G.S. 160A-364(a) reads as rewritten:

50 "(a) Before adopting, amending, or repealing any ordinance authorized by this Article,
51 the city council shall hold a public hearing on it. A notice of the public hearing shall be given

1 once a week for two successive calendar weeks in a newspaper having general circulation in
2 the area. The notice shall be published the first time not less than 10 days nor more than 25
3 days before the date fixed for the hearing. In computing such period, the day of publication is
4 not to be included but the day of the hearing shall be included. In addition, the city council shall
5 give written notice to all adjacent property owners at least 30 days prior to the date fixed for the
6 public hearing."

7 **SECTION 6.** This act becomes effective May 1, 2015, and applies to zoning
8 ordinance changes initiated on or after that date.