

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  
Senate Commerce Committee Substitute Adopted 6/30/15

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9 changed, modified or repealed.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.~~



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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 6.** This act becomes effective August 1, 2015, and applies to zoning  
50       ordinance changes initiated on or after that date.