

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH70289-LD-45A (2/25)

Short Title: Solar Collectors on Residential Properties. (Public)

Sponsors: Representatives Fisher and Harrison (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE CURRENT LIMITATIONS ON CITY ORDINANCES,  
COUNTY ORDINANCES, DEED RESTRICTIONS, COVENANTS, AND OTHER  
SIMILAR AGREEMENTS THAT REGULATE THE INSTALLATION OF SOLAR  
COLLECTORS FOR RESIDENCES AND TO CHANGE THE AUTHORITY TO  
AWARD ATTORNEYS' FEES TO ONLY THE PREVAILING PROPERTY OWNER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-201 reads as rewritten:

**"§ 160A-201. Limitations on regulating solar collectors.**

(a) ~~Except as provided in subsection (c) of this section, no~~ No city ordinance shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a ~~detached single family residence,~~ residential property, and no person shall be denied permission by a city to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a ~~detached single family residence.~~ residential property.

(b) This section does not prohibit an ordinance regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the ordinance does not have the effect of preventing the reasonable use of a solar collector for a ~~detached single family residence.~~ residential property.

(c) ~~This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:~~

- (1) ~~On the facade of a structure that faces areas open to common or public access;~~
- (2) ~~On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces; or~~
- (3) ~~Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.~~

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing ~~party.~~ property owner."

**SECTION 2.** G.S. 153A-144 reads as rewritten:

**"§ 153A-144. Limitations on regulating solar collectors.**



1       (a) ~~Except as provided in subsection (c) of this section, no~~No county ordinance shall  
2 prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar  
3 radiation as a substitute for traditional energy for water heating, active space heating and  
4 cooling, passive heating, or generating electricity for a ~~detached single family~~  
5 ~~residence~~residential property. No person shall be denied permission by a county to install a  
6 solar collector that gathers solar radiation as a substitute for traditional energy for water  
7 heating, active space heating and cooling, passive heating, or generating electricity for a  
8 ~~detached single family residence~~residential property.

9       (b) This section does not prohibit an ordinance regulating the location or screening of  
10 solar collectors as described in subsection (a) of this section, provided the ordinance does not  
11 have the effect of preventing the reasonable use of a solar collector for a ~~detached single family~~  
12 ~~residence~~residential property.

13       (c) ~~This section does not prohibit an ordinance that would prohibit the location of solar~~  
14 ~~collectors as described in subsection (a) of this section that are visible by a person on the~~  
15 ~~ground:~~

- 16           (1) ~~On the facade of a structure that faces areas open to common or public~~  
17 ~~access;~~  
18           (2) ~~On a roof surface that slopes downward toward the same areas open to~~  
19 ~~common or public access that the facade of the structure faces; or~~  
20           (3) ~~Within the area set off by a line running across the facade of the structure~~  
21 ~~extending to the property boundaries on either side of the facade, and those~~  
22 ~~areas of common or public access faced by the structure.~~

23       (d) In any civil action arising under this section, the court may award costs and  
24 reasonable attorneys' fees to the prevailing ~~party~~property owner."

25       **SECTION 3.** G.S. 22B-20 reads as rewritten:

26       **"§ 22B-20. Deed restrictions and other agreements prohibiting solar collectors.**

27       (a) The intent of the General Assembly is to protect the public health, safety, and  
28 welfare by encouraging the development and use of solar resources and by prohibiting deed  
29 restrictions, covenants, and other similar agreements that could have the ultimate effect of  
30 driving the costs of owning and maintaining a residence beyond the financial means of most  
31 owners.

32       (b) ~~Except as provided in subsection (d) of this section, any~~Any deed restriction,  
33 covenant, or similar binding agreement that runs with the land that would prohibit, or have the  
34 effect of prohibiting, the installation of a solar collector that gathers solar radiation as a  
35 substitute for traditional energy for water heating, active space heating and cooling, passive  
36 heating, or generating electricity for a ~~detached single family residence~~residential property on  
37 land subject to the deed restriction, covenant, or agreement is void and unenforceable.

38       (c) This section does not prohibit a deed restriction, covenant, or similar binding  
39 agreement that runs with the land that would regulate the location or screening of solar  
40 collectors as described in subsection (b) of this section, provided the deed restriction, covenant,  
41 or similar binding agreement does not have the effect of preventing the reasonable use of a  
42 solar collector for a ~~detached single family residence~~residential property.

43       (d) ~~This section does not prohibit a deed restriction, covenant, or similar binding~~  
44 ~~agreement that runs with the land that would prohibit the location of solar collectors as~~  
45 ~~described in subsection (b) of this section that are visible by a person on the ground:~~

- 46           (1) ~~On the facade of a structure that faces areas open to common or public~~  
47 ~~access;~~  
48           (2) ~~On a roof surface that slopes downward toward the same areas open to~~  
49 ~~common or public access that the facade of the structure faces; or~~

1           (3) ~~Within the area set off by a line running across the façade of the structure~~  
2           ~~extending to the property boundaries on either side of the façade, and those~~  
3           ~~areas of common or public access faced by the structure.~~

4           (e) In any civil action arising under this section, the court may award costs and  
5 reasonable attorneys' fees to the prevailing ~~party-property owner.~~"

6           **SECTION 4.** G.S. 160A-400.4 reads as rewritten:

7           "**§ 160A-400.4. Designation of historic districts.**

8           (a) Any municipal governing board may, as part of a zoning or other ordinance enacted  
9 or amended pursuant to this Article, designate and from time to time amend one or more  
10 historic districts within the area subject to the ordinance. Such ordinance may treat historic  
11 districts either as a separate use district classification or as districts which overlay other zoning  
12 districts. Where historic districts are designated as separate use districts, the zoning ordinance  
13 may include as uses by right or as conditional uses those uses found by the Preservation  
14 Commission to have existed during the period sought to be restored or preserved, or to be  
15 compatible with the restoration or preservation of the district.

16           (b) No historic district or districts shall be designated under subsection (a) of this  
17 section until:

18           (1) An investigation and report describing the significance of the buildings,  
19 structures, features, sites or surroundings included in any such proposed  
20 district, and a description of the boundaries of such district has been  
21 prepared, and

22           (2) The Department of Cultural Resources, acting through the State Historic  
23 Preservation Officer or his or her designee, shall have made an analysis of  
24 and recommendations concerning such report and description of proposed  
25 boundaries. Failure of the department to submit its written analysis and  
26 recommendations to the municipal governing board within 30 calendar days  
27 after a written request for such analysis has been received by the Department  
28 of Cultural Resources shall relieve the municipality of any responsibility for  
29 awaiting such analysis, and said board may at any time thereafter take any  
30 necessary action to adopt or amend its zoning ordinance.

31           (c) The municipal governing board may also, in its discretion, refer the report and  
32 proposed boundaries under subsection (b) of this section to any local preservation commission  
33 or other interested body for its recommendations prior to taking action to amend the zoning  
34 ordinance. With respect to any changes in the boundaries of such district subsequent to its  
35 initial establishment, or the creation of additional districts within the jurisdiction, the  
36 investigative studies and reports required by subdivision (1) of subsection (b) of this section  
37 shall be prepared by the preservation commission, and shall be referred to the local planning  
38 agency for its review and comment according to procedures set forth in the zoning ordinance.  
39 Changes in the boundaries of an initial district or proposal for additional districts shall also be  
40 submitted to the Department of Cultural Resources in accordance with the provisions of  
41 subdivision (2) of subsection (b) of this section.

42           On receipt of these reports and recommendations, the municipality may proceed in the same  
43 manner as would otherwise be required for the adoption or amendment of any appropriate  
44 zoning ordinance provisions.

45           (d) The provisions of G.S. 160A-201 apply to zoning ordinances pertaining to historic  
46 districts, and the authority under G.S. 160A-201(b) for the ordinance to regulate the location or  
47 screening of solar collectors, may encompass requiring the use of plantings or other measures  
48 to ensure that the use of solar collectors is not incongruous with the special character of the  
49 district."

1           **SECTION 5.** This act becomes effective October 1, 2009. Section 3 of this act  
2 applies to deed restrictions, covenants, or similar binding agreements that run with the land and  
3 that are recorded on or after that date.