

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

S

1

SENATE BILL 139\*

Short Title: Zoning/Design & Aesthetic Controls. (Public)

Sponsors: Senators Clodfelter, Gunn, Tarte (Primary Sponsors); Clark, Daniel, Hise, Hunt, Jenkins, McLaurin, and Walters.

Referred to: Commerce.

February 27, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING  
3 ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-381 is amended by adding a new subsection to read:

6 "(g) Regulations relating to building design elements adopted under Parts 2 and 3 of  
7 Article 19 of this Chapter, or adopted pursuant to any recommendation made under  
8 G.S. 160A-452(6)c., may not be applied to any structures subject to regulation under the North  
9 Carolina Residential Code for One- and Two-Family Dwellings except under the following  
10 circumstances:

- 11 (1) Structures located in areas designated as local historic districts pursuant to  
12 Part 3C of Chapter 160A of the General Statutes.  
13 (2) Structures located in areas listed on the National Registry of Historic Places.  
14 (3) Structures located in individually designated local, State, or national historic  
15 landmarks.  
16 (4) The regulations are directly and substantially related to the requirements of  
17 applicable safety codes adopted under G.S. 143-138.  
18 (5) Where applied to manufactured or modular housing, in a manner consistent  
19 with G.S. 160A-383.1 and federal law.  
20 (6) Where such regulations are adopted as a condition of participation in the  
21 National Flood Insurance Program.

22 Regulations prohibited by this section may not be applied in any zoning district, special use  
23 district, conditional use district, or conditional district unless specifically consented to by the  
24 owners of all of the property to which they may be applied, nor may any such regulations be  
25 applied indirectly as part of the review pursuant to G.S. 160A-383 of any proposed zoning  
26 amendment for consistency with an adopted comprehensive plan or other applicable officially  
27 adopted plan. For the purposes of this subsection, the phrase "building design elements" means  
28 exterior building color; type or style of exterior cladding material; style or materials of roof  
29 structures or porches; exterior nonstructural architectural ornamentation; location or  
30 architectural styling of windows and doors, including garage doors; the number and types of  
31 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)  
32 the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering  
33 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect  
34 the privacy of neighbors; (iii) features related to accessory buildings and parking and loading  
35 areas; and (iv) off-premises and on-premises signs."



1           **SECTION 2.** G.S. 153A-340 is amended by adding a new subsection to read:

2           "(k) Regulations relating to building design elements adopted under Parts 2 and 3 of  
3 Article 18 of this Chapter, or adopted pursuant to any recommendation made under  
4 G.S. 160A-452(6)c., may not be applied to any structures subject to regulation under the North  
5 Carolina Residential Code for One- and Two-Family Dwellings except under the following  
6 circumstances:

7           (1) Structures located in areas designated as local historic districts pursuant to  
8 Part 3C of Chapter 160A of the General Statutes.

9           (2) Structures located in areas listed on the National Registry of Historic Places.

10          (3) Structures located in individually designated local, State, or national historic  
11 landmarks.

12          (4) The regulations are directly and substantially related to the requirements of  
13 applicable safety codes adopted under G.S. 143-138.

14          (5) Where applied to manufactured or modular housing, in a manner consistent  
15 with G.S. 153A-341.1 and federal law.

16          (6) Where such regulations are adopted as a condition of participation in the  
17 National Flood Insurance Program.

18 Regulations prohibited by this section may not be applied in any zoning district, special use  
19 district, conditional use district, or conditional district unless specifically consented to by the  
20 owners of all of the property to which they may be applied, nor may any such regulations be  
21 applied indirectly as part of the review pursuant to G.S. 153A-341 of any proposed zoning  
22 amendment for consistency with an adopted comprehensive plan or other applicable officially  
23 adopted plan. For the purposes of this subsection, the phrase "building design elements" means  
24 exterior building color; type or style of exterior cladding material; style or materials of roof  
25 structures or porches; exterior nonstructural architectural ornamentation; location or  
26 architectural styling of windows and doors, including garage doors; the number and types of  
27 rooms; and the interior layout of rooms. The phrase does not include any of the following: (i)  
28 the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering  
29 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect  
30 the privacy of neighbors; (iii) features related to accessory buildings and parking and loading  
31 areas; and (iv) off-premises and on-premises signs."

32           **SECTION 3.** This act is effective when it becomes law and applies to development  
33 approvals granted on or after that date.