

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 36  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH20011-LR-37 (01/28)

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

Sponsors: Representatives Dollar, Brawley, Jordan, and Glazier (Primary Sponsors).

Referred to:

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 new subsections to read:

6 "(h) Any zoning and development regulation ordinance relating to building design  
7 elements adopted under this Part, under Part 2 of this Article, or under any recommendation  
8 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation  
9 under the North Carolina Residential Code for One- and Two- Family Dwellings except under  
10 one or more of the following circumstances:

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

23 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any  
24 zoning district, special use district, conditional use district, or conditional district unless  
25 voluntarily consented to by the owners of all the property to which those regulations may be  
26 applied as part of and in the course of the process of seeking and obtaining a zoning  
27 amendment or a zoning, subdivision, or development approval, nor may any such regulations  
28 be applied indirectly as part of a review pursuant to G.S. 160A-383 of any proposed zoning  
29 amendment for consistency with an adopted comprehensive plan or other applicable officially  
30 adopted plan. For the purposes of this subsection, the phrase "building design elements" means  
31 exterior building color; type or style of exterior cladding material; style or materials of roof  
32 structures or porches; exterior nonstructural architectural ornamentation; location or  
33 architectural styling of windows and doors, including garage doors; the number and types of  
34 rooms; and the interior layout of rooms. The phrase "building design elements" does not  
35 include any of the following: (i) the height, bulk, orientation, or location of a structure on a  
36 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the



1 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted  
2 pursuant to this Article governing the permitted uses of land or structures subject to the North  
3 Carolina Residential Code for One- and Two- Family Dwellings.

4 (i) Nothing in subsection (h) of this section shall affect the validity or enforceability of  
5 private covenants or other contractual agreements among property owners relating to building  
6 design elements."

7 **SECTION 2.** G.S. 153A-340 is amended by adding new subsections to read:

8 "(l) Any zoning and development regulation ordinance relating to building design  
9 elements adopted under this Part, under Part 2 of this Article, or under any recommendation  
10 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation  
11 under the North Carolina Residential Code for One- and Two- Family Dwellings except under  
12 one or more of the following circumstances:

13 (1) The structures are located in an area designated as a local historic district  
14 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.

15 (2) The structures are located in an area designated as a historic district on the  
16 National Register of Historic Places.

17 (3) The structures are individually designated as local, State, or national historic  
18 landmarks.

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

21 (5) Where the regulations are applied to manufactured housing in a manner  
22 consistent with G.S. 153A-341.1 and federal law.

23 (6) Where the regulations are adopted as a condition of participation in the  
24 National Flood Insurance Program.

25 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any  
26 zoning district, special use district, conditional use district, or conditional district unless  
27 voluntarily consented to by the owners of all the property to which those regulations may be  
28 applied as part of and in the course of the process of seeking and obtaining a zoning  
29 amendment or a zoning, subdivision, or development approval, nor may any such regulations  
30 be applied indirectly as part of a review pursuant to G.S. 153A-341 of any proposed zoning  
31 amendment for consistency with an adopted comprehensive plan or other applicable officially  
32 adopted plan. For the purposes of this subsection, the phrase "building design elements" means  
33 exterior building color; type or style of exterior cladding material; style or materials of roof  
34 structures or porches; exterior nonstructural architectural ornamentation; location or  
35 architectural styling of windows and doors, including garage doors; the number and types of  
36 rooms; and the interior layout of rooms. The phrase "building design elements" does not  
37 include any of the following: (i) the height, bulk, orientation, or location of a structure on a  
38 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the  
39 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted  
40 pursuant to this Article governing the permitted uses of land or structures subject to the North  
41 Carolina Residential Code for One- and Two- Family Dwellings.

42 (m) Nothing in subsection (l) of this section shall affect the validity or enforceability of  
43 private covenants or other contractual agreements among property owners relating to building  
44 design elements."

45 **SECTION 3.** This act is effective when it becomes law. The act clarifies and  
46 restates the intent of existing law and applies to ordinances adopted before, on, and after the  
47 effective date.