

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 409  
Committee Substitute Favorable 4/20/23  
Committee Substitute #2 Favorable 4/25/23

Short Title: Regulation of Accessory Dwelling Units.

(Public)

Sponsors:

Referred to:

March 20, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE AFFORDABLE HOUSING BY ALLOWING FOR THE  
3 CONSTRUCTION OR SITING OF ACCESSORY DWELLING UNITS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is  
6 amended by adding a new section to read:

7 "§ 160D-917. Accessory dwelling units.

8 (a) A local government shall allow the development of at least one accessory dwelling  
9 unit which conforms to the North Carolina Residential Code for One- and Two-Family  
10 Dwellings, including applicable provisions from fire prevention codes, for each single-family  
11 detached dwelling in areas zoned for residential use that allow for development of single-family  
12 detached dwellings. An accessory dwelling unit may be built or sited at any time before,  
13 concurrently, or after the primary single-family detached dwelling has been constructed or sited.  
14 Nothing in this section shall prohibit a local government from permitting accessory dwelling  
15 units in any area not otherwise required under this section.

16 (b) In permitting accessory dwelling units under this section, a local government shall  
17 not do any of the following:

18 (1) Require owner-occupancy of the accessory dwelling unit.

19 (2) Require placement in a conditional zoning district.

20 (3) Establish minimum parking requirements or other parking restrictions,  
21 including imposition of additional parking requirements where an existing  
22 structure is converted for use as an accessory dwelling unit.

23 (4) Prohibit the connection of the accessory dwelling unit to existing utilities  
24 systems serving the primary single-family detached dwelling unit, provided  
25 the utility service to that primary single-family detached dwelling unit has  
26 capacity to serve both dwellings.

27 (5) Charge any fees in excess of those charged for the permitting of a  
28 single-family detached dwelling similar in nature.

29 (c) A local government may impose a setback minimum for accessory dwelling units of  
30 10 feet or the setback minimum imposed generally upon lots in the same zoning classification,  
31 whichever is less.

32 (d) Except as otherwise provided in this section, a local government may regulate  
33 accessory dwelling units pursuant to this Chapter and nothing in this section shall be construed  
34 to impair the authority of a local government to adopt and enforce ordinances pursuant to Part 2



1 of this Article to comply with State and federal law, rules, and regulations, or permits consistent  
2 with the interpretations and directions of the State or federal agency issuing the permit.

3 (e) Nothing in this section shall apply to any of the following:

4 (1) The validity or enforceability of private covenants or other contractual  
5 agreements among property owners related to dwelling type restrictions.

6 (2) Properties located in a historic preservation district established pursuant to  
7 Part 4 of this Article.

8 (3) Properties designated as a National Historic Landmark by the United States  
9 Department of Labor.

10 (f) For the purposes of this section, the term "accessory dwelling unit" means an attached  
11 or detached residential structure that is used in connection with, or that is accessory to, a primary  
12 single-family detached dwelling and that has less total square footage than the primary  
13 single-family detached dwelling."

14 **SECTION 1.(b)** This section becomes effective October 1, 2023, and applies to  
15 applications for accessory dwelling unit permits submitted on or after that date.

16 **SECTION 2.** Local governments shall adopt development regulations and amend  
17 their comprehensive plan to implement the provisions in this act no later than October 1, 2023.

18 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
19 law.