



# HOUSE BILL 201: Zoning Changes/Citizen Input

2015-2016 General Assembly

**Committee:**  
**Introduced by:**  
**Analysis of:** S.L. 2015-160

**Date:**  
**Prepared by:** R. Erika Churchill  
Staff Attorney

**SUMMARY:** *S.L. 2015-160 removes the qualified protest petition process and implements a mechanism for citizen input into proposed zoning ordinance amendments, changes, modifications, repeals, or supplementations.*

*This act became effective August 1, 2015, and applies to zoning ordinance changes adopted on or after that date.*

### CURRENT LAW:

**Zoning Amendments.** The city zoning statutes allow property owners within an area around the parcel affected by a proposed zoning change to sign protest petitions. There is no corresponding county provision. If enough qualified owners sign, the zoning change is subject to a ¾ majority vote of the city council. For calculating the ¾ majority, vacant seats and members excused from voting are not counted.

The ¾ majority vote requirement after submission of a qualified protest petition statute only applies to amendments to the zoning map, except for any amendment that:

- Initially zones property added to the territorial coverage of the ordinance
- Is adopted to amend an existing (i) special use district, (ii) conditional use district, or (iii) conditional district, if that amendment does not do any of the following:
  - Change the types of uses that are permitted within the district.
  - Increase the approved density for residential development.
  - Increase the total approved size of nonresidential development.
  - Reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

To qualify as a protest under this section, the petition must meet one of the following criteria:

1. Be signed by 20% or more of owners of the area included in the proposed change. OR
2. Be signed by 5% of the owners of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel.

In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

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Director



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# House Bill 201

Page 2

**Voting by the City Council members.** The members of the city council are required to recuse themselves from voting upon:

- Matters involving the consideration of the member's own financial interest or official conduct
- Matters on which the member is prohibited from voting by statute:
  - Certain public contracts – G.S. 14-234.
  - Zoning map or text amendments here the outcome is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. – G.S. 160A-381(d).
  - Certain quasi-judicial matters – G.S. 160A-388(e)(2).

Otherwise, if the member is physically present in the council chamber, has withdrawn without being excused by a majority vote of the remaining members present, and fails to cast a vote, that member is to be recorded as an affirmative vote on the matter.

**BILL ANALYSIS:** S.L. 2015-160 (House Bill 201) removed the qualified protest petition, and the resulting  $\frac{3}{4}$  majority vote requirement, from the statutes and substitute a process for citizens to submit comments on the proposed zoning change to the board. Citizens are allowed to submit written comment to the clerk to the board, and if the clerk receives those comments at least two business days prior to the meeting in which the proposed change will be voted, the clerk is to provide all the comments to the board prior to the vote. If the proposed change is part of a quasi-judicial proceeding and written comments are submitted, the clerk is to provide only the names and address of those submitting comments. The provision of that information to the board does not disqualify any member of the board from voting on the proposed change.

S.L. 2105-160 (House Bill 201) also exempts members who are present but not voting from being recorded as "Aye" on zoning change matters.

**EFFECTIVE DATE:** August 1, 2015, and applies to zoning ordinance changes adopted on or after that date.