



SENATE BILL 25: Zoning/Design and Aesthetic Controls

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-86

Date:

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Staff Attorney

SUMMARY: *S.L. 2015-86 prohibits cities and counties from adopting zoning ordinances that regulate building design elements of structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.*

This act became effective June 19, 2015, and as the act clarifies and restates the intent of existing law, it applies to ordinances adopted before, on, or after that date.

CURRENT LAW: Cities and counties may adopt zoning ordinances and subdivision regulation ordinances. Subdivision regulation ordinances may be as part of a unified development ordinance or as a separate subdivision ordinance to regulate the subdivision of land within the territorial jurisdiction of the county or city. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

Cities and counties may also create a "special appearance commission" pursuant to G.S. 160A-451, and confer upon that commission the authority to formulate and recommend the adoption of ordinances that will enhance the appearance of the city or county.

BILL ANALYSIS: S.L. 2015-85 prohibits cities and counties from adopting regulations controlling "building design elements" for one- and two-family dwellings. Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district, special use district, conditional use district, or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval. Neither may any such regulations be applied indirectly as part of a review of any proposed zoning amendment for consistency with an adopted comprehensive plan.

The phrase "building design elements" means any of the following:

- Exterior building color.
- Type or style of exterior cladding material.
- Style or materials of roof structures or porches.
- Exterior nonstructural architectural ornamentation.
- Location or architectural styling of windows and doors, including garage doors.
- Number and types of rooms.

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- Interior layout of rooms.

The phrase "building design elements" specifically excludes setback provisions, use of buffering or screening to minimize visual impacts or impact of light and noise, or regulations governing permitted uses of land, and counties and cities would not be prohibited by S.L. 2015-86 from regulating those elements.

Cities and counties may continue to adopt and enforce ordinances regulating building design elements in any of the following circumstances:

- If the structures are located in local historic districts or part of a historic district on the National Register of Historic Places.
- If the structures are individually designated as local, State, or national historic landmarks.
- If regulation is directly and substantially related to applicable safety codes.
- Where regulations apply to manufactured housing, consistent with State and federal law.
- Where regulations are a condition of participation in the National Flood Insurance Program.

The provisions do not impact the enforcement or validity of restrictive covenants.

EFFECTIVE DATE: June 10, 2015. As the act clarified and restated the intent of existing law, it specifically applies to ordinances adopted before, on, and after that date.

Wendy Graf Ray substantially contributed to this summary.