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| Topic: | State Land Use Law; Scenic Resources; Natural Resource Protection & Conservation |
| Resource Type: | Regulations |
| State: | North Carolina |
| Jurisdiction Type: | State |
| Municipality: | N/A |
| Year (adopted, written, etc.): | 2004 |
| Community Type - applicable to: | Urban; Suburban; Rural |
| Title: | State of North Carolina Scenic Resource Protection Ordinance |
| Document Last Updated in Database: | May 7, 2017 |

Abstract

At § 160A-402, the North Carolina General Assembly declares that “the rapid growth and spread of urban development in the state” is threatening many open spaces and areas that have significant “scenic or esthetic values,” and that cities and counties should have the authority to spend public funds to acquire property interests in such open spaces and areas to protect them. Open spaces and open areas are defined at § 160A-407(a) as “any space or area (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development.” The specific grant of authority to local governments to acquire property interests in open spaces is given at § 160A-403, and at § 160A-404, cities and counties are authorized to act jointly in such efforts.

Resource

§ 160A-402. Finding of necessity

The General Assembly finds that the rapid growth and spread of urban development in the State is encroaching upon, or eliminating, many open areas and spaces of varied size and character, including many having significant scenic or esthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, esthetic, or economic assets to existing and impending urban development. The General Assembly declares that it is necessary for sound and proper urban development and in the public interest of the people of this State for any county or city to expend or advance public funds for, or to accept by purchase, gift, grant, bequest, devise, lease, or otherwise, the fee or any lesser interest or right in real property so as to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas within their respective jurisdictions as defined by this Article.

The General Assembly declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced.

§ 160A-407. Definitions

(a) For the purpose of this Part an "open space" or "open area" is any space or area (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

(b) For the purposes of this Part "open space" or "open area" and the "public use and enjoyment" of interests or rights in real property shall also include open space land and open space uses. The term "open space land" means any undeveloped or predominantly undeveloped land in an urban area that has value for one or more of the following purposes: (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. The term "open space uses" means any use of open space land for (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes.

§ 160A-403. Counties or cities authorized to acquire and reconvey real property

Any county or city in the State may acquire by purchase, gift, grant, bequest, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any county or city may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale.

§ 160A-404. Joint action by governing bodies

Any county or city may enter into any agreement with any other county or city for the purpose of jointly exercising the authority granted by this Part.