

Topic:	State Land Use Law; Overlay District; Zoning
Resource Type:	Regulations
State:	North Carolina
Jurisdiction Type:	State
Municipality:	N/A
Year (adopted, written, etc.):	2004
Community Type – applicable to:	Urban; Suburban
Title:	State of North Carolina Overlay Zoning Ordinances – Cities
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Abstract

North Carolina affirmatively grants cities the authority to employ overlay zoning at § 160A-382, the general statute that authorizes the creation of districts for zoning. Two specific types of overlay districts are explicitly authorized in other provisions. Section 160A-383.1 allows cities to create manufactured home overlay districts within defined areas of residential districts, and § 160A-400.4 allows their use for the designation of historic districts. Cities may not include in an overlay district land owned by the State of North Carolina without the approval of the Council of State. § 160A-392.

Resource

§ 160A-382. Districts

For any or all these purposes, the city may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this Part; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general standards; **overlay** districts, in which additional requirements are imposed on certain properties within one or more underlying general or special use districts; and special use districts or conditional use districts, in which uses are permitted only upon the issuance of a special use permit or a conditional use permit. Property may be placed in a special use district or conditional use district only in response to a petition by the owners of all the property to be included. Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

§ 160A-383.1. Zoning regulations for manufactured homes

(a) The General Assembly finds and declares that manufactured housing offers affordable housing opportunities for low and moderate income residents of this State who could not otherwise afford to own their own home. The General Assembly further finds that some local governments have adopted zoning regulations which severely restrict the placement of manufactured homes. It is the intent of the General Assembly in enacting this section that cities reexamine their land use practices to assure compliance with applicable statutes and case law, and consider allocating more residential land area for manufactured homes based upon local housing needs.

(b) For purposes of this section, the term "manufactured home" is defined as provided in G.S. 143-145(7).

(c) A city may not adopt or enforce zoning regulations or other provisions which have the effect of excluding manufactured homes from the entire zoning jurisdiction.

(d) A city may adopt and enforce appearance and dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhoods within the community, and to promote the health, safety and welfare of area residents. The criteria shall be adopted by ordinance.

(e) In accordance with the city's comprehensive plan and based on local housing needs, a city may designate a manufactured home **overlay** district within a residential district. Such **overlay** district may not consist of an individual lot or scattered lots, but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes.

(f) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land. The terms "mobile home" and "trailer" in any valid restrictive covenants running with the land shall include the term "manufactured home" as defined in this section.

§ 160A-400.4. Designation of historic districts

Any municipal governing board may, as part of a zoning or other ordinance enacted or amended pursuant to this Article, designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such ordinance may treat historic districts either as a separate use district classification or as districts which **overlay** other zoning districts. Where historic districts are designated as separate use districts, the zoning ordinance may include as uses by right or as conditional uses those uses found by the Preservation Commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district.

No historic district or districts shall be designated until:

(1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared, and

(2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the municipal governing board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis, and said board may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The municipal governing board may also, in its discretion, refer the report and proposed boundaries to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of this section shall be prepared by the preservation commission, and shall be referred to the local planning agency for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of this section.

On receipt of these reports and recommendations, the municipality may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

§ 160A-392. Part applicable to buildings constructed by State and its subdivisions; exception

All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings and land by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within a conditional use district without approval of the Council of State or its designate.