

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 409  
Committee Substitute Favorable 4/20/23

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 detached  
12 single-family detached dwellings. An accessory dwelling unit may be built or sited at any time  
13 before, concurrently, or after the primary dwelling has been constructed or sited. Nothing in this  
14 section shall prohibit a local government from permitting accessory dwelling units in any area  
15 not otherwise required under this section. For the purposes of this section, the term "accessory  
16 dwelling unit" means an attached or detached residential structure that is used in connection with  
17 or that is accessory to a primary single-family detached dwelling and that has less total square  
18 footage than the primary single-family detached dwelling.

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

21 (1) Require owner-occupancy of the primary single-family detached dwelling  
22 unit or its accessory dwelling unit.

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

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

27 (4) Prohibit the connection of the accessory dwelling unit to existing utilities  
28 servicing the primary single-family detached dwelling unit.

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

31 (c) A local government may impose a setback minimum for accessory dwelling units of  
32 5 feet or the setback minimum imposed generally upon lots in the same zoning classification,  
33 whichever is less.

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



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1 of Article 9 of this Chapter to comply with State and federal law, rules, and regulations, or permits  
2 consistent with the interpretations and directions of the State or federal agency issuing the permit.

3 (e) Nothing in this section shall affect the validity or enforceability of private covenants  
4 or other contractual agreements among property owners relating to dwelling type restrictions."

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

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

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