



HOUSE BILL 496: Property Owners' Rights/Tree Ordinances.

2021-2022 General Assembly

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| Committee: | House Local Government - Land Use, Planning and Development. If favorable, re-refer to Rules, Calendar, and Operations of the House | Date: | May 6, 2021 |
| Introduced by: | Reps. Boles, Hunter, Brody, Moffitt | Prepared by: | Jonathan Zator |
| Analysis of: | PCS to First Edition H496-CSBV-17 | | Committee Counsel |

OVERVIEW: *House Bill 496 would prohibit local governments from adopting ordinances regulating the removal of trees from private property without the General Assembly's express authorization.*

The Proposed Committee Substitute (PCS) would make conforming changes relating to delaying development following timber harvesting in violation of local government regulations.

CURRENT LAW: The general police power of local governments is governed by Article 6 of Chapter 153A (counties) and Article 8 of Chapter 160A (cities) of the General Statutes. Local governments may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the locality; and may define and abate nuisances (G.S. 153A-121(a) and G.S. 160A-174(a)).

Chapter 160D of the General Statutes governs local planning and development regulation. Notwithstanding any authority under Articles 153A and 160A or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority (G.S. 153A-123(h) and G.S. 160A-175(h)). Local governments cannot regulate activities associated with growing, managing, and harvesting trees on lands subject to forestry use-value property taxation or activity being conducted under a forest-management plan (G.S. 160D-921). Local governments may deny a building permit or refuse to approve a site or subdivision plan for up to three years (five years for a willful violation) if a completed timber harvest removed trees protected under local government regulations (G.S. 160D-921(c)(1)).

BILL ANALYSIS: The PCS to House Bill 496 would prohibit local governments from adopting ordinances regulating the removal of trees from private property within the local government's regulatory jurisdiction. To do so, the local government would need express authority from a general or local law.

Local acts would remain in effect that authorize ordinances regulating removal of trees from private property. Ordinances regulating the removal of trees from private property would be repealed if they are not already authorized by a local act or an express authorization of the General Assembly.

The PCS would make a conforming change that, only under local development regulations authorized by local act of the General Assembly, may local governments deny a building permit or refuse to approve a site or subdivision plan for up to three years (five years for a willful violation) when a completed timber harvest removed trees protected under the regulations.

EFFECTIVE DATE: This act would be effective when it becomes law.

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Director



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BACKGROUND: Below is a list of local acts since 1975 that expressly provide certain local governments some form of authority to regulate tree removal:

| Cities/Counties | Session Law | Subject Matter |
|--|--------------------|--|
| Greenville, Wilson | 1977-328 | Allow ordinances on tree removal, replacement, and preservation |
| Greensboro | 1979-288 | Allow ordinances on tree removal, replacement, and preservation |
| Asheville, Raleigh | 1985-556 | Allow ordinances on tree removal, replacement, and preservation |
| Highlands | 1985-828 | Allow ordinances on tree removal, replacement, and preservation |
| Southport | 1987-242 | Allow ordinances on tree removal, replacement, and preservation |
| New Hanover County and its municipalities | 1987-786 | Allow ordinances on tree removal, replacement, and preservation |
| Pine Knoll Shores | 1987-921 | Allow ordinances on tree removal, replacement, and preservation |
| Chapel Hill | 1989-478 | Allow ordinances on tree removal, replacement, and planting |
| Wrightsville Beach | 1989-611 | Allow ordinances on tree removal, replacement, and preservation |
| Highlands | 1991-519 | Allow ordinances on tree removal, replacement, and preservation |
| Cornelius, Davidson, Huntersville, Nags Head | 1997-420 | Allow ordinances on tree removal, replacement, and preservation |
| Charlotte | 2000-26 | Allow ordinances on tree removal, replacement, and preservation |
| Kinston, Apex, Cary, Garner, Morrisville | 2000-108 | Regulate planting, removal, and preservation of trees; excepts single-family and duplex lots and for certain forestry activity |
| Cary, Garner, Morrisville, Knightdale, Fuquay, Spencer, (Raleigh added by S.L. 2003-128) | 2001-191 | Regulate clear-cutting of trees in buffer zones before development |
| Holly Springs | 2003-73 | Regulate clear-cutting of trees in buffer zones before development |
| Wake County, Rutherfordton | 2003-128 (amended) | Regulate clear-cutting of trees in buffer zones before development |
| Rockingham, Statesville, Smithfield | 2003-246 | Regulate clear-cutting of trees in buffer zones before development |
| Mount Airy | 2003-281 | Allow ordinances on tree removal, replacement, and preservation |
| Greenville | 2006-102 | Regulate clear-cutting of trees in buffer zones before development |
| Clayton, Reidsville | 2006-115 | Regulate clear-cutting of trees in buffer zones before development |
| Matthews | 2006-264 | Allow ordinances to remove trees on private/public property |
| Pinebluff | 2011-133 | Limits removing trees on specified parcels of park land |