



SENATE BILL 419: Planning/Development Changes.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 27, 2017
Introduced by:	Sens. Lee, McKissick	Prepared by:	Cindy Avrette Staff Attorney
Analysis of:	Third Edition		

OVERVIEW: *Senate Bill 419 would reorganize and consolidate statutes governing the regulation of land use planning and development by cities and counties. The bill repeals current fee authority, and authorizes the same fee authority in a different statute; the fee authority remains substantively the same.*

CURRENT LAW: Counties and cities are authorized to adopt ordinances regulating land use to govern the development of property within their jurisdiction. In most instances, the authority granted to cities under Article 18 of Chapter 153A is substantially the same as that granted to counties under Article 19 of Chapter 160A, but there are some variances.

Land use regulations may involve any of the following:

- Extraterritorial jurisdiction (cities only)
- Subdivision ordinances
- Zoning ordinances
- Zoning regulation for manufactured homes
- Historical districts
- Building inspections and minimum housing codes
- Blighted areas
- Development agreements
- Cell towers
- Acquisition of open space
- Stormwater management

BILL ANALYSIS: Senate Bill 419 would repeal Article 18 of Chapter 153A and Article 19 of Chapter 160A and replace them with a new Chapter 160D governing all local planning and development regulation.

In addition to consolidating and reorganizing existing planning and development regulations, Chapter 160D would make the following substantive changes:

- G.S. 160D-1-5 would permit zoning maps to incorporate by reference floodplain rate maps and watershed boundary maps officially adopted by State and federal agencies, including updates to those maps.
- G.S. 160D-1-9 would limit participation by board members and staff in decisions when the applicant or other person affected by the decision is a person with whom the board member or staff has a close familial, business, or other associational relationship. If an objection is raised to

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Legislative Analysis
Division
919-733-2578

Senate Bill 419

Page 2

a board member's participation and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

- G.S. 160D-2-3 would permit multiple local governments sharing jurisdiction over a single parcel to agree to assign exclusive jurisdiction to one unit of government, with landowner approval.
- G.S. 160D-2-4 would provide that, when a change in local government jurisdiction has been proposed, the local government that would potentially receive jurisdiction under the proposal can receive and process an application for development approval, provided that no final decision could be made until jurisdiction is actually transferred.
- G.S. 160D-5-1 would require a local government to have a comprehensive development plan in place before adopting and applying zoning regulations. The plan would have to set forth goals, policies and programs intended to guide the jurisdiction's physical, social and economic development. (Under Section 8 of the bill, local governments without such a plan in place would have until January 1, 2019 to adopt one.)
- G.S. 160D-6-5 would limit the required board statement of reasonableness to zoning map amendments (dispensing with this requirement for zoning text amendments).
- G.S. 160D-7-3 would establish uniform terminology for zoning districts and would authorize administrative review and approval of minor modifications in conditional district standards that do not change permitted uses or the density of overall permitted development.
- G.S. 160D-10-6 would shorten the list of mandated contents in development agreements and would authorize the parties to the agreements to negotiate terms for providing public facilities and other amenities and sharing in their costs.
- G.S. 160D-10-8 would provide that any party to a development agreement may enforce it by an action for injunctive relief.

Section 9.4 declares the legislative intent that any changes enacted this session to the local land use planning and zoning laws be incorporated into the reorganization and consolidation of those laws contained in SB 419, and directs the General Statutes Commission to recommend to the 2018 General Assembly any changes needed to accomplish this intent.

Sections 9.1 through 9.3 incorporate into the reorganization and consolidation of the local land use planning and zoning laws, enacted by Section 3 of this act, the changes that have been enacted by the General Assembly this session in SL 2017-10.

EFFECTIVE DATE: This act becomes effective January 1, 2019, and applies to local government development regulation decisions made on or after that date.

BACKGROUND: Senate Bill 419 is the product of a multi-year effort of the Zoning, Planning, and Land Use Law Section of the North Carolina Bar Association.

Bill Patterson, counsel to Senate Judiciary, and David Owens, Professor of Public Law and Government at the UNC School of Government, substantially contributed to this summary.