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

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	**Date:**	May 10, 2021
Introduced by:	Reps. Boles, Hunter, Brody, Moffitt	**Prepared by:**	Jonathan Zator Staff Attorney
Analysis of:	PCS to Second Edition H496-CSBV-25		

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 clarifying changes, consolidate provisions, and change the effective date to June 30, 2022.

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 do the following:

- Clarify that local governments, absent express statutory or local act authority, cannot adopt or enforce ordinances regulating the removal of trees from private property.
- Consolidate a provision on regulating trees on public airport authority land.
- Clarify a conforming change that, absent a local act, local government regulations regulating the removal of trees from private property cannot be the basis for denying a building permit or refusing to approve a site/subdivision plan due to a completed a timber harvest.
- Provide that ordinances, if passed under a local act authorizing a local government to regulate the removal of trees from private property, would continue to be enforceable. Ordinances not passed under such local acts would be unenforceable. No local acts would be repealed.

EFFECTIVE DATE: This act would be effective June 30, 2022.

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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