



SENATE BILL 675: Land Use Clarification and Changes.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 6, 2023
Introduced by:	Sens. Lee, Craven, Galey	Prepared by:	Erika Churchill and Billy Godwin, Staff Attorneys
Analysis of:	Third Edition		

OVERVIEW: *Senate Bill 675 would do all of the following:*

- *Allow public school buildings in any commercial zoning district.*
- *Clarify vesting of rights with respect to developments.*
- *Eliminate the ability to exercise extraterritorial planning jurisdiction in counties with a population of 50,000 or less, phased in over two years.*

CURRENT LAW: Chapter 160D of the North Carolina General Statutes consolidated city- and county-enabling statutes for land use development regulations (formerly in Chapters 153A and 160A) into a single, unified chapter. Provisions that affect all development regulations (such as definitions and provisions on moratoria, vested rights, and conflicts of interest) are placed together in one article, followed by articles that address geographic jurisdiction, creation and duties of boards, administration of regulations, the process for adoption and amendment of regulations, and judicial review of regulations. There are also detailed articles for major functions, including planning, zoning, subdivision, building and housing codes, environmental regulation, historic preservation, and community development.

Extraterritorial Jurisdiction (ETJ) is the power of a municipality to exercise specified regulatory functions, mainly land use planning and regulation, in an area beyond its corporate limits. However, in order to regulate the ETJ area, the municipality must be exercising the same power within its corporate limits. In addition, the municipality may not select different ETJ areas for different regulatory powers. If a municipality fails to exercise its ETJ authority, that territory is regulated by the county in which the property lies.

Generally, municipalities are authorized to exercise their ETJ powers up to the following limits:

- Up to one mile beyond its corporate limits.
- If the city's population is between 10,000 and 24,499, up to two miles beyond its corporate limits.
- If the city's population is 25,000, up to three miles beyond its corporate limits.

A limitation on this authority is that no city may extend its ETJ authority into any area for which the county at that time has done both of the following:

- Adopted and is enforcing a zoning ordinance.
- Adopted and is enforcing subdivision regulations.

If the county has undertaken both of these activities, then the municipality must get approval of the county commissioners prior to extension of the ETJ authority. G.S. 160D-202.

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BILL ANALYSIS and EFFECTIVE DATE:

Part 1. School sites in commercial zoning, effective when it becomes law.

The bill would specify that school sites would be a use in all areas zoned commercial, either by right or special use permit, for any school building that is primarily used for the instruction of students and is under the control of any of the following:

- A local school administrative unit.
- A charter school.
- A regional school.
- A school providing elementary or secondary instruction operated by The State Board of Education for hearing and visually impaired students or by The University of North Carolina as a laboratory school.

Part 2. Clarify vested rights, effective when it becomes law.

The bill would clarify that:

- A vested right obtained by permit or other local government approval does not preclude the use or extinguish the existence of any other vested right or use by right attached to the property.
- If a special use permit expires and does not vest, the current zoning classification or regulation for the property applies.

Part 3. Elimination of ETJ, effective October 1, 2024, to October 1, 2025, depending upon county population.

The bill would limit every city's authority to expand its extraterritorial jurisdiction beyond the territory that the city was exercising ETJ upon as of June 1, 2023.

The bill would eliminate a city's authority to exercise extraterritorial planning jurisdiction in certain counties and make necessary conforming changes for those counties. This change would apply based upon the county population in which the territory lies, as follows:

- For counties with a population of 25,000 or less according to the last federal decennial census, **October 1, 2024**. These are the Counties of Alleghany, Anson, Avery, Bertie, Camden, Caswell, Chowan, Clay, Gates, Graham, Greene, Hertford, Hyde, Jones, Madison, Martin, Mitchell, Northampton, Pamlico, Perquimans, Polk, Swain, Tyrrell, Warren, Washington, and Yancey.
- For counties with a population between 25,001 and 50,000 according to the last federal decennial census, **October 1, 2025**. These are the Counties of Alexander, Ashe, Beaufort, Bladen, Cherokee, Currituck, Dare, Davie, Duplin, Edgecombe, Halifax, Jackson, Macon, McDowell, Montgomery, Pasquotank, Person, Richmond, Scotland, Stokes, Transylvania, Vance, and Yadkin.
- For counties with a population greater than 50,000 according to the last federal decennial census, no elimination of the ETJ authority.