

March 14, 2005

S 518. CITY/COUNTY PLANNING CLARIFICATION. TO CLARIFY AND MAKE TECHNICAL CHANGES TO CITY AND COUNTY PLANNING STATUTES. Amends GS 160A-363 and 153A-322 to allow cities and counties, respectively, to combine any land-use ordinances authorized by law into a single, unified ordinance. Amends GS 160A-384(b) and 153A-343(b) to simplify the alternate notice provision for large-scale rezonings (those affecting more than 50 properties) by requiring the half-page newspaper advertisement to be published twice rather than four times. Adds GS 160A-384(c) to conform the mailed notice requirement for municipalities to the existing requirements for counties by mandating mailed notices for amendments to zoning applied to a parcel but not to hearings for initial zonings.

Revises GS 160A-385 to limit the application of the protest provisions to zoning map amendments. Sets the qualifying area for a protest as 5% of the land in the 100-foot wide buffer around each separate area proposed to be rezoned (rather than 20% of any one of four sides). Provides that, in the event of a qualified protest, the three-fourths majority for voting is calculated on the basis of the number of council members eligible to vote on the matter (excluding vacancies and those who have a financial conflict of interest). Amends GS 160A-386 to clarify that a person filing a protest against a proposed zoning amendment may withdraw the protest and to provide that only those protest petitions that meet the qualifying standards in GS 160A-385 at the time of the vote trigger the supermajority voting requirement.

Makes changes to GS 160A-387 and 153A-344 to require planning board recommendations prior to initial adoption of zoning. Amendments to GS 160A-387 further (1) specify that the planning board review must include comments on the consistency of the proposed amendment with any relevant plans that have been adopted by the governing board and allow the city council to proceed with consideration of the amendment if no comments are made within 30 days of referral and (2) require referrals of proposed amendments to the planning board for review and comment (currently mandated for counties, but not for cities).

Amends GS 160A-388 and 153A-345 as follows: (1) to clarify that alternate members may serve either temporarily or to fill a vacancy, as well as serving for an absent member; (2) to limit the term "special exception" to modest, non-use related modifications and provide that this authority includes provisions for special and conditional use permits; (3) to make clear that use variances are not permissible; (4) to provide that the size of the board for purposes of calculating the requisite four-fifths vote is reduced by vacancies and members who are disqualified from voting if there are not alternate members available, and confirm that appropriate conditions can be applied to any board approvals; (5) to codify the constitutional limitation requiring impartial board members for quasi-judicial decision making; and (6) to provide that the board may subpoena witnesses and compel the production of evidence. Makes other technical changes. Effective September 1, 2005.

Intro. by Clodfelter.

Ref. to

GS 136, 153A, 160A

May 26, 2005

S 518. CITY/COUNTY PLANNING CLARIFICATION. Intro. 3/15/05. Senate committee substitute makes the following changes to 1st edition. (1) Modifies revisions to GS 160A-371 (cities) and 153A-330 (counties) to provide that decisions on preliminary or final subdivision plats may be made only on the basis of standards expressly set forth in the ordinance, and whenever the ordinance includes criteria that require application of judgment, the criteria must provide adequate guiding standards for the plat-approval entity to make its decision. (2) Modifies revision to GS 160A-384(c) and 153A-343(d) to provide that when a zoning map amendment is proposed, the local government must prominently post a notice of the public hearing on the site proposed for rezoning, and if multiple parcels are included, a posting on each individual parcel is not required, but the local government must post sufficient notices to provide reasonable notice to interested persons. (3) Modifies revisions to GS 160A-387 and 153A-344 to provide that that planning board must advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other adopted plans that are applicable (original bill, board must consider any consistency or inconsistency), but that a comment by the

planning board that a proposed amendment is inconsistent with the comprehensive plan does not preclude consideration or approval of the proposed amendment by the governing board. (4) Modifies revisions to GS 160A-388(b) and 153A-345(b) to provide that a zoning ordinance or a unified development ordinance may require the board of adjustment to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of that ordinance (original bill, board hears appeals from decisions of any administrative official charged with enforcement of any planning- or development-related ordinance). (5) Modifies revisions to GS 160A-388(c) and 153A-345(c) to allow the board of adjustment to permit minor modifications, not including variances in permitted uses (original bill, permit minor modifications to dimensional and nonuse-related regulations). (6) Amends GS 160A-388(d) and 153A-345(d) to allow board of adjustment to grant variances to a zoning ordinance (original bill, zoning or "other land development ordinance"), and to authorize appropriate conditions to be attached to a variance that are reasonably related to the condition or circumstance that gives rise to the need for the variance. (7) Amends GS 160A-360(a1), 160A-362, 160A-400.7, and 160A-400.14 to change references from "planning agency" to "planning board." (8) Changes bill's effective date from September 1, 2005, to January 1, 2006.

August 23, 2005

S 518. CITY/COUNTY PLANNING CLARIFICATION. Intro. 3/15/05. House committee substitute makes the following changes to 2nd edition. Amends proposed GS 160A-384(c) and GS 153A-343(c) (posting of public notices of proposed amendments to city and county zoning regulations) to provide that the public hearing notice may also be posted on an adjacent public street or highway right-of-way. Amends GS 160A-385(a)(2) to provide that a street-right-of-way will not be considered in computing buffer area if right-of-way is 100 feet wide or less and to clarify that property ownership will be determined by the tax listing unless there is evidence of ownership to the contrary. Amends GS 160A-386 to delete clause that provided that a person could be prohibited from deleting person's name from protest petition by ordinance. Amends GS 160A-387 and 153A-344 to delete provisions requiring that city and county planning boards advise and comment on zoning amendments. Makes technical changes.

October 5, 2005

SL 2005-418 (S 518). CITY/COUNTY PLANNING CLARIFICATION. AN ACT TO CLARIFY AND MAKE TECHNICAL CHANGES TO CITY AND COUNTY PLANNING STATUTES. Summarized in *Daily Bulletin* 3/15/05, 5/26/05, and 8/23/05. Enacted September 22, 2005. Effective January 1, 2006.