



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
From: Michael Zehner, Director of Planning & Development
Date: June 10, 2021
Subject: Consideration of resolution opposing HB 496 re: authority to limit tree removal (*Attachment E-4*)

Attached for the Board's consideration is a resolution voicing the Town's opposition to House Bill 496, *An Act Providing that Counties and Cities Shall Not Adopt Ordinances Regulating the Removal of Trees from Private Property Without the Express Authorization of the General Assembly*; the status and current version of the Bill may be accessed at the following link: <https://www.ncleg.gov/BillLookup/2021/h496>

Essentially there are two principal effects of the Bill: 1) the requirement that authorization from the General Assembly be sought and received for new local government tree protection ordinances, and 2) the voiding of existing local laws which have not previously received special authorization from the General Assembly. While the Town does have session laws and local acts that provide authorization for some aspects of the various regulations concerning tree removal, as follows, these authorizations do not address all aspects of the Town's regulations:

- This act <https://www.ncleg.gov/enactedlegislation/sessionlaws/pdf/1987-1988/sl1987-187.pdf> provides that the Town "may by ordinance define, prohibit, or regulate acts, omissions, or conditions that damage, destroy, or remove any maritime forest or kill, destroy, or remove any vegetation growing in any maritime forest." This likely ensures that regulations in the SED-80 district remain intact, but may not extend authorization beyond that district; and
- This act <https://www.ncleg.gov/Sessions/1997/Bills/House/PDF/H437v3.pdf> allows the Town to "adopt ordinances to regulate the planting, removal, and preservation of trees on public and private property within the municipality. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses;" while this act likely ensures that our regulations pertaining to commercial property remain intact, it does bring into question numerous other provisions, perhaps most notably the Town's protection of the Live Oak as the Town Tree.

Given these potential impacts on the Town's regulatory authority, as well as the potential impacts to character-defining and environmental conditions in the Town, the Board may wish to share any concerns with the General Assembly in the form of the attached resolution.