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1993

**MOUNTAIN AREA
STUDY COMMISSION**



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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NORTH CAROLINA GENERAL ASSEMBLY

January 27, 1993


TO THE MEMBERS OF THE 1990 GENERAL ASSEMBLY:

The Mountain Area Study Commission submits to you for your consideration its final report. This report was prepared by the Mountain Area Study Commission pursuant to Part XVI of Chapter 754 of the 1991 Session Laws.


Respectfully submitted,



Senator Herbert Hyde



Rep. N. J. Crawford



Cochairmen

Mountain Area Study Commission



PREFACE

The Mountain Area Study Commission (Commission) was established by Section 16 of Part XVI of Chapter 754 of the 1991 Session Laws (1991 Regular Session). The Commission was authorized to determine the future consequences of present land use practices in the mountain area and whether increased management of land resources would be advisable. The Commission was to examine whether increased land management practices should be implemented in the mountain area, and if so, how responsibility for increased land management should be allocated among levels of government. In addition, the Commission was to determine the appropriateness of creating special incentives for individuals and local governments to encourage necessary land management practices and to examine what kinds of incentives would be feasible.

Further, the Commission was authorized to evaluate land management programs of other states that are designed to coordinate provision of infrastructure, protection of environment and natural resources and efforts to accommodate growth. The Commission was directed to make efforts to meet with citizens in the mountain area to receive their comment on these matters.

The fifteen member Commission included four Senators appointed by the President Pro Tempore of the Senate, four representatives appointed by the Speaker of the House of Representatives, three members representing local government and the public sector appointed by the President Pro Tempore, three members representing local government and the public sector appointed by the Speaker, and one member chosen by the other fourteen members of the Commission. Senator Herbert Hyde and Representative Narvel Jim Crawford, both of Asheville, served as co-chairmen of the Commission. Meetings of the Commission were held in Raleigh, Cullowhee, Boone, and Asheville.

The Mountain Area Study Commission was authorized to submit a final report to the General Assembly on or before the first day of the 1993 Session of the General Assembly. Upon the filing of this Final Report, the Mountain Area Study Commission is terminated.

COMMISSION PROCEEDINGS

The Mountain Area Study Commission met in Raleigh on March 13, 1992, in Cullowhee on August 25, 1992, in Boone on September 23, 1992, in Asheville on October 9, 1992, and in Raleigh on January 14, 1993. The Commission is indebted to those persons who made presentations to or appeared to testify before the Commission and to those who regularly attended the meetings of the Commission. Appendix C lists the persons who participated in the meetings of the Commission. The official minutes of the meetings of the Commission are deposited in the Legislative Library. (Materials received or distributed by the Commission are included in the record as part of the official minutes.)

Raleigh Meeting

March 13, 1992

The first meeting of the Commission focused on budgetary, informational and organizational matters, and included after the organizational matters a joint session with the Statewide Comprehensive Planning Study Committee of the Legislative Research Commission.

Senator Herbert Hyde and Representative Narvel Jim Crawford made opening remarks and commended Commission members for their willingness to serve. After review of the Commission's authorizing legislation, Sen. Hyde stressed that local governments in the mountain area have taken different approaches to land management, with some counties having subdivision and zoning regulations and others study land use planning. Sen. Hyde noted that it would be important and useful to ascertain what local governments in the mountain area are doing currently with regard to land management.

The Commission discussed holding future meetings in the mountain area, with Sen. Plexico and Representative Beall speaking in favor of the proposal. The commission elected Rep. Liston Ramsey unanimously as its fifteenth member.

In joint session with the Statewide Comprehensive Planning LRC Study Committee, the Commission heard from Dr. David Godschalk, a Professor of City and Regional Planning at the University of North Carolina at Chapel Hill. Dr. Godschalk's presentation included a summary of the history of the State's involvement in local and regional planning and an overview of what other state's have implemented with regard to planning and land use management.

Dr. Godschalk said that the General Assembly's first planning and land use management initiative came in 1974 with enactment of the Coastal Area Management Act (CAMA) for the managed growth of the State's coastal areas. CAMA instituted required local planning for certain coastal counties. Under CAMA, localities identify their own areas of environmental concern, then integrate those community concerns into a local coastal plan that is coordinated on a regional level. The Coastal Resources Commission (CRC) which is a citizen commission, sets guidelines for local plans. The CRC issues permits for major development within areas of environmental concern while local governments issues permits for minor development activities. Dr. Godschalk noted that CAMA uses a "bottom up" approach that has served as a model for other states. Further, he noted that the "bottom up" approach could be used in the context of the work of the Mountain Area Study Commission and the Statewide Comprehensive Planning Study Committee.

Dr. Godschalk noted that the General Assembly enacted the Land Policy Act in 1974. That act established the Land Policy Council, which was an effort to examine comprehensive land use planning. But, the work of the Council was not "carried to fruition and it was abolished in 1981. It was also noted that a Mountain Area Management Act (MAMA) was considered by the General Assembly in the mid 1970s, but the legislation was not passed. The Mountain Ridge Protection Act was enacted by the General Assembly in 1983 in response to high-rise development atop mountain ridges.

Dr. Godschalk presented information pertaining to growth management initiatives in other states, saying that growth management can be defined as "a neutral instrument . . . used to . . . influence the type, the amount, the

location, the rate and/or the quality of development in order to limit its negative impacts." To date, nine states had adopted growth management legislation and a number of others were considering such legislation. Dr. Godschalk summarized the major features of land use management and planning initiatives in Florida, Georgia, Hawaii, Maine, New York, Oregon, Rhode Island, Vermont, and Washington. It was noted by Dr. Godschalk that Virginia was reviewing statewide planning, and that Georgia and Florida presented good models. He said that local planning with mandated consistency is a major element in state initiatives. Usually, the goals of these efforts concern economic development, environmental protection, affordable housing, protection of natural resources, and similar issues.

In reviewing the Georgia legislation, Dr. Godschalk indicated that Georgia took a "bottom up" approach that includes a very simple planning system in which local governments state their respective needs and goals, make an inventory of facilities, and then an inventory of needs. After preparation of local plans, the local plans are assembled as a regional plan and the state plan is assembled from the regional plans. The state qualifies localities to receive certain grants based upon the locality's preparation of a plan in compliance with procedural guidelines.

The joint session also included a presentation by Bob Chandler, Director of the Division of Community Assistance of the North Carolina Department of Economic and Community Development. Mr. Chandler discussed the current status of local and regional planning in the State. He indicated that about eighty-nine counties had developed some sort of plan in the past several years, but that some of the plans may have been completed in the 1960s and 1970s without having been updated since that time. The names of these plans vary from "Comprehensive Plans", to "Land Use Plans", to "Strategic Plans." Many of the plans have not been formally adopted by the localities and, thus, lack implementation mechanisms.

Mr. Chandler also presented information on the implementation tools currently available to local governments, e.g. enabling legislation that provides for zoning and subdivision regulation by cities and counties. Mr. Chandler

pointed out that planning and regulation are not necessarily the same. For example, zoning is a tool by which planning goals can be implemented. Mr. Chandler also told the Commission that there are 24 counties eligible to receive Appalachian Regional Commission grant funds for the purpose of initiating local planning and that his division is coordinating \$300,000 in matching grant monies toward that end.

Following discussion of information presented among the members of the two legislative studies, comments were received from representatives of the North Carolina chapter of the Sierra Club, a staff member of the Division of Coastal Management, a representative of the North Carolina Homebuilders Association, and a representative of the Triangle J Council of Governments.

Cullowhee Meeting & Public Hearing

August 25, 1992

The second Commission meeting was held at Western Carolina University in conjunction with the Statewide Comprehensive Planning LRC Study Committee. The purpose of the meeting was to receive additional information on the Georgia planning system and to hear from a panel of knowledgeable local persons as to the current status of planning and land use management in the mountain area. The Commission also held a public hearing to receive comment from area residents with regard to mountain area planning and development.

A presentation on Georgia's approach to statewide and mountain area planning was given by Mr. John Sibley, a Georgia business leader and member of the Georgia Growth Strategies Commission and Mr. Mike Gleaton, a planner with the Georgia Division of Community Affairs.

Mr. Sibley explained the background for the creation of the Growth Strategies Commission, noting that Georgia was in the midst of rapid growth at the time and was experiencing intense growth pressures. Most cities were not engaged in planning and interjurisdictional conflicts were emerging. Local governments were beginning to realize that land use management would be

needed. Communities had infrastructure and environmental problems. Mr. Sibley indicated that some areas of the state were losing population while other areas were gaining population. Growth had come to some parts of the state, but not to others. State agencies were being called upon to make land use decisions that they were not equipped to make.

Mr. Sibley stated that the commission used consensus building among various interested groups as a way to obtain solutions for the state's growth pressures. He stressed that it is important to use an open, inclusive "bottom up" approach in dealing with growth strategies. The commission ultimately developed legislation that left wide discretion to the Georgia Department of Community Affairs as to interpretation and rulemaking. The department has developed a set of standards and guidelines that the localities must use in creating their respective plans. Mr. Sibley indicated that the standards have been a good guide for local governments in identifying and correcting their local problems.

Mr. Gleaton gave an overview of the Georgia planning system. He described a three tiered planning process that starts at the local level with strong local autonomy, then goes on to the regional level, and to the state level. Mr. Gleaton described a planning sequence that calls for local governments to have their plans completed by a date selected by the local government from a set of compliance dates. If local planning is not accomplished by that date, the state is empowered to institute a process by which a noncomplying local government can be disqualified from receiving certain state grant funds.

Further, Mr. Gleaton explained that each local plan would address issues including population, economic development, natural and historic resources, housing, community facilities, and land use. Each of these issues would then be taken through an inventory and assessment phase. A statement of needs and goals as to those issues would be developed. And, implementation strategies as to those needs and goals would be outlined. Mr. Gleaton noted that the planning process produces a management tool that can be used by local officials. For example, the plan can be utilized in the budgetary process.

Mr. Gleaton stressed that the planning process assisted local governments in good decision-making.

With regard to services provided to localities in the planning process, Mr. Gleaton noted that the state provides technical assistance and information needed in the planning process, including a customized packet of information for each locality. Information is generated by the state's computer system and provided to local officials. However, the communities gather their own information as to community facilities and land use. It was noted that the state does not provide funding for the local planning process.

Mr. Gleaton said that there are five environmental areas that must be reviewed in the local planning process: wetlands, water supply watersheds, recharge areas, river corridor protection, and mountain protection criteria. Mountain protection criteria apply to certain slopes over 2,200 feet above mean sea level. Under the Georgia scheme, mountain protection is closely tied to river corridor protection.

The Commission also heard from by Tom Mallonee and Harvey Haynes of Western North Carolina Tomorrow, and viewed a video tape concerning mountain area land use management issues. According to Mr. Haynes, the video depicted all sides of the debate on land use management and planning in the mountain area.

The Commission heard from a panel of knowledgeable persons on the current status of planning and development in the mountain area. Serving on the panel were Bill Stamey, Town Manager of Canton; Tom Massie, Jackson County Planner; Linda Cable, Swain County Administrator; Steve Eller, Southwestern North Carolina Planning and Economic Development Commission; Paul Jordan, Clay County Manager; Ginny Faust, Haywood County Planner; Jerry Stewart, Macon County Commissioner, and Alan Lang, Division of Community Assistance. Professor David Owen of the Institute of Government served as moderator of the panel.

A public hearing was held in conjunction with the Commission meeting. Appearing and offering comment at the hearing were Susan Smith, Western North Carolina Tomorrow; Bob Shepard and Kim Montgomery, Land-of-Sky Regional Council of Governments; Elinor Metzger, Macon County League of Women Voters; William Green, Chair, Haywood County Planning Board; Alna Hyatt, Haywood County resident; A. J. Plemmons and Junior Rathbone, Concerned Citizens of Haywood County; Cliff Stamper, Burke County resident; and Mary Helen Duke, North Carolina Planning Association. Some persons spoke in favor of increased planning activities in the mountain area while some others did not.

Boone Meeting & Public Hearing

September 23, 1992

The third Commission meeting was held at Appalachian State University (ASU). The meeting included presentations by Dr. Garry Cooper of ASU entitled "Perspectives on Mountain Area Planning," and by Mr. Art Rex of the ASU Department of Geography concerning geographical information systems as a planning tool. Mr. David Quinn of the Winston-Salem office of the Division of Community Assistance talked to the Commission about his perspectives on working with communities in local planning. A panel discussion featuring local officials and members of the public was also part of the agenda. The presentations and panel were followed by an afternoon public hearing.

According to Dr. Cooper, the best reason for local planning is to facilitate good decision-making and the broad goal of planning is to maintain and improve the quality of life in the local community. He noted that communities experience development and have to make decisions about development regardless of whether the community engages in formalized planning or not. The issue for communities is how to accommodate growth and change. Dr. Cooper stated that he believed some sort of mandatory planning should exist, but with certain qualifications. Dr. Cooper indicated that the "key" to effective planning will be information management, especially through the use of computerized geographical information systems. He said that information

systems afford a way to manage a high volume of information in order to improve decision-making.

Mr. Rex discussed the more technical aspects of geographical information systems (GIS). He showed sample maps with overlays of demographic and other information relevant to local planning. For example, he showed how GIS maps can be used in water supply watershed plans developed in accordance with the Watershed Protection Act enacted by the General Assembly in 1989.

Mr. Quinn of the Division of Community Assistance (DCA) focused on the work on the division, noting that it had been engaged in planning for over 30 years. DCA assists communities, upon request, with local planning efforts. He noted that there is great diversity in requests for assistance based upon the amount of experience a jurisdiction may have with regard to planning activities.

In Commission discussion, Rep. Liston Ramsey expressed the view that the work of the Commission should focus on protection of the mountains and stewardship. His view was that the use of terms such as "land management" failed to go to the heart of the issues at hand when the key was mountain protection. Sen. Hyde, Rep. Crawford, and other members of the Commission agreed that the crux of the issue for the Commission's work would be facilitating mountain protection.

The Commission heard a panel of local officials speak on the current status of planning and development in the area. Members of the panel included Joe Furman, Watauga County Planning Department; Douglas Morris, Wilkes County Planning Department; and, Charles VonCanon, Mayor of Banner Elk.

The following persons made comment at the public hearing: Jerry Haire, Boone Planning Department; Jeff Boyer, Director of the Sustainable Development Program at ASU; Susan Harris, Watauga County Economic Development Commission; and, Linda Lonon, a resident of Boone. The Commission also received documentary comment.

Asheville Meeting & Public Hearing

October 10, 1992

The next Commission meeting was held at the University of North Carolina at Asheville. A panel on the present status of mountain protection and local planning included a presentation by Ms. Ann Orr of the Asheville office of the N.C. Department of Environment, Health, and Natural Resources. There was also a public hearing to receive comments from area residents and local officials.

Ms. Orr gave an overview of the responsibilities of the Department of Environment, Health, and Natural Resources, focusing her comments on aspects of the department's work that affect the mountain area and land use. She summarized the function and duties of the Division of Environmental Management relating to water quality, watershed protection, and clean air. She discussed the department's enforcement role under the Sedimentation Control Act of 1973. Ms. Orr explained the work of the Soil and Water Conservation Division. She noted that the department is not geared against industry and said that it tries to promote economic development.

Other persons who made panel presentations to the Commission included: Ann Browning, realtor and member of the Hendersonville Planning Board; Julia Cogburn, Asheville Planning Department; and, Bill Eaker, Director of Environmental Programs, Land-of-Sky Regional Council.

The cochairs stressed during the meeting, as they had previously, that the Commission was in the process of gathering information and learning about local needs and concerns regarding mountain protection and planning. The Commission had not reached any conclusions about whether increased land management would be advisable for the mountain area. And, it was stressed the Commission was not advocating any positions at that point.

The following people were heard during the public hearing segment of the meeting: Meg McLeod, Citizens for Quality Development; Ron Lambe,

Western Carolina Alliance; Robert Hyatt, A.J. Plemmons, Junior Rathbone and David Anderson, Concerned Citizens of Haywood County; Susan Ervin Western North Carolina Alliance of Macon County; Harry Weiss, Preservation Society of Asheville and Buncombe County; and, Homer Arnold, resident of Rutherford County. Some speakers indicated to the Commission that they favored increased mountain protection, while other speakers expressed their concerns about property rights. Documentary comments were received also.

Raleigh Meeting

January 14, 1993

At the final meeting of the Commission, the Cochairs called upon Commission members to express their views regarding mountain area land use planning and mountain protection given the information received by the Commission at its earlier meetings and public hearings. Commission discussion began with the distribution of a letter from Commission member Donald Bunn who was unable attend the last meeting. (A copy of Mr. Bunn's letter is included as part of Attachment D.)

In the course of discussion, Commission members agreed that increased planning in the mountain area is advisable and that it is important that the Commission take the time necessary to continue its work toward mountain protection. There was discussion of the need for the development of model planning guidelines that mountain area counties could accept or modify and that would not take the form of dictates from the State to mountain area communities. The consensus of the Commission was that forced regulation would not be workable in the mountain area.

Rep. Crawford stated that the land, water, and air of the mountain region need to be "zealously guarded", but that coercion and mandated orders are not the best course to achieve mountain protection. He stressed the importance of creating incentives for local planning and that planning decisions should be made "from the people up". Sen. Hyde stressed that planning should not be equated with zoning. He said that there is a need for extensive community education in the mountain area on the importance and value of local planning.

It was noted during the Commission's discussion that planning has already been implemented successfully by some mountain area communities. Concerns were raised about farm land preservation, and it was stated that planning guidelines developed in the future should address agriculture. Rep. Ramsey expressed the view that the feasibility of authorizing local referendums on local planning should be studied.

After a full discussion, the Commission voted unanimously to recommend to the 1993 General Assembly that the work of the Mountain Area Study Commission be continued into the next biennium. In summary, the Commission decided to recommend the following:

1. That the work of the Mountain Area Study Commission continue, either through the present membership or through such members as the Speaker of the House and the President Pro Tempore decide;
2. That sufficient funds be appropriated to continue the Commission's work; and,
3. That the continuation of the Commission's work include:
 - (a) Further review of current laws regulating land uses in the mountain region;
 - (b) Further review of planning models from other states;
 - (c) Development of voluntary planning guidelines and models geared to the special needs of the mountain region;
 - (d) Development of voluntary planning guidelines and models that include options for a locality to accept, modify, or reject the models developed;
 - (e) Review of the procedure that should be followed in adopting local planning, e.g. whether local referenda on planning should be authorized;
 - (f) Review of the kinds of technical assistance that will be needed by communities for planning, e.g. geographical information systems; and,

- (g) Development of incentives that can be used to promote and encourage local planning and to assist in local planning efforts.

The Commission received written materials from Western North Carolina Tomorrow. The Commission heard comments from Bill Holman, who was representing the North Carolina Chapter of the American Planning Association and two environmental groups, and from Jim Blackburn, who was representing the North Carolina Association of County Commissioners.

Directions were given that the Report of the Mountain Area Study Commission to the 1993 General Assembly be compiled so as to include the conclusions and recommendations expressed by the Commission as per the motions carried and summarizations of the Chair.

COMMISSION FINDINGS

The Mountain Area Study Commission makes the following findings based upon the presentations, information, and public comment received by the Commission.

The mountain area of North Carolina is a scenic region possessing a proud heritage and noble traditions. Protection of the mountain area and improvement of the quality of life of citizens residing in the mountain area are in the best interests of the State and the mountain region. In accordance with its charge, the Commission finds that increased management of land resources is necessary in the mountain area to benefit its citizens and to maintain and improve the quality of life of the people of the mountain area.

Increased planning at the local and regional levels are needed to maintain and to protect the uniqueness and strengths of the mountain area. Increased planning in the mountain region will help to preserve the natural beauty and resources of the region that, along with its fine people, are the most valuable resources.

The Commission finds that it is appropriate and advisable for the General Assembly to create special incentives for individuals and local governments to encourage management of land resources. The Commission finds that forced mandates on the State level will not be effective or beneficial. The Commission finds that an educational effort regarding the uses and benefits of planning will be necessary, and that the process of local and regional planning must include the meaningful participation of mountain area residents in order to be successful.

CONCLUSIONS & RECOMMENDATIONS

The Commission concludes that its work should continue toward the end of proposing specific planning guidelines and models for the benefit of the mountain area. Just as the coastal area of the State has benefitted from local and regional planning under an act customized to the particular needs of the

coast, so can the mountain area benefit from a local and regional planning initiative in accord with the specific needs, wants, and conditions of the mountain area.

It is recommended that voluntary planning guidelines and models be developed so that a local government may utilize the guidelines and models in order to enhance mountain area communities and protect mountain area resources, while encouraging quality growth and development. The guidelines and models should attend to mountain protection, land use management, farm preservation, infrastructure, economic development, growth strategies, and other matters appropriate for local and regional planning to improve the quality of life of citizens of this State who live in, and cherish, the beautiful uniqueness of the mountain region.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S/H

D

Legislative Proposal #1
[93-LRZ-027(1.20)]

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Mountain Area Study Continued.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CONTINUE AND EXPAND THE CHARGE OF THE MOUNTAIN AREA
3 STUDY COMMISSION.
4 The General Assembly of North Carolina enacts:
5 Section 1. The Mountain Area Study Commission is
6 created. The Commission shall consist of 15 members: four
7 Senators appointed by the President Pro Tempore of the Senate,
8 four Representatives appointed by the Speaker of the House of
9 Representatives, three members representing local government and
10 the public sector appointed by the President Pro Tempore of the
11 Senate, three members representing local government and the
12 public sector appointed by the Speaker of the House of
13 Representatives, and one member to be chosen by the other 14
14 members of the Commission.
15 Sec. 2. The President Pro Tempore of the Senate shall
16 designate one Senator as cochairman and the Speaker of the House
17 of Representatives shall designate one Representative as
18 cochairman.
19 Sec. 3. The Commission shall:
20 (1) Review current laws regulating land use in the
21 mountain area to determine whether local
22 governments need additional authority regarding
23 land use management and local planning;

- 1 (2) Evaluate planning models and programs in other
2 states that are designed to coordinate provision of
3 infrastructure, protection of the environment and
4 natural resources, and efforts to accommodate
5 growth;
- 6 (3) Develop voluntary planning guidelines and models
7 that are geared to the special needs of the
8 mountain area and that pertain to mountain
9 protection, land use management, farm preservation,
10 infrastructure, economic development, growth
11 strategies, and any other relevant subject matter
12 appropriate for local or regional planning to
13 improve the quality of life of citizens in the
14 mountain area;
- 15 (4) Develop voluntary planning guidelines and models
16 that include options for local governments to
17 accept, modify, or reject the models developed;
- 18 (5) Review the procedures that should be followed by
19 local governments in adopting local land use and
20 planning models;
- 21 (6) Review the kinds of technical assistance needed by
22 communities to implement local planning models,
23 including but not limited to the use geographical
24 information systems;
- 25 (7) Develop special incentives for individuals and
26 local governments to promote mountain protection
27 and local planning, and to encourage the management
28 of land resources in the mountain area; and,
- 29 (8) Establish a process of citizen participation and
30 education on planning issues that assures mountain
31 area citizens of the opportunity to be informed of
32 and contribute to the work of the Commission.

33 Sec. 4. The Commission shall report its findings and
34 recommendations to the 1994 Regular Session of the 1993 General
35 Assembly or the 1995 General Assembly, or both, by filing the
36 report with the President Pro Tempore of the Senate and the
37 Speaker of the House of Representatives on or before the first
38 day of the session. Upon filing its final report, the Commission
39 shall terminate.

40 Sec. 5. The Commission, while in the discharge of
41 official duties, may exercise all the powers provided for under
42 the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S.
43 120-19.4. The Commission may meet at any time upon the joint

1 call of the cochairmen. The Commission may meet in the
2 Legislative Building or the Legislative Office Building.

3 Sec. 6. Members of the Commission shall receive
4 subsistence and travel expenses at the rates set forth in G.S.
5 120-3.1.

6 Sec. 7. The Commission may contract for professional,
7 clerical, or consultant services as provided by G.S. 120-32.02.
8 The Legislative Services Commission, through the Legislative
9 Administrative Officer, shall assign professional staff to assist
10 in the work of the Commission. The House of Representatives' and
11 the Senate's Supervisors of Clerks shall assign clerical staff to
12 the Commission, upon the direction of the Legislative Services
13 Commission. The expenses relating to clerical employees shall be
14 borne by the Commission.

15 Sec. 8. When a vacancy occurs in the membership of the
16 Commission the vacancy shall be filled by the same appointing
17 officer who, or entity which, made the initial appointment.

18 Sec. 9. All State departments and agencies and local
19 governments and their subdivisions shall furnish the Commission
20 and its staff with any information in their possession or
21 available to them.

22 Sec. 10. This act is effective upon ratification.

APPENDIX A

**CHAPTER 754
1991 SESSION LAWS**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, AND TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART XVI.-----MOUNTAIN AREA STUDY COMMISSION

(H.B. 1261 - N.J. Crawford)

Sec. 16.1. The Mountain Area Study Commission is created. The Commission shall consist of 15 members: four Senators appointed by the President Pro Tempore of the Senate, four Representatives appointed by the Speaker of the House of Representatives, three members representing local government and the public sector appointed by the President Pro Tempore of the Senate, three members representing local government and the public sector appointed by the Speaker of the House of Representatives, and one member to be chosen by the other 14 members of the Commission.

Sec. 16.2. The President Pro Tempore of the Senate shall designate one Senator as cochairman and the Speaker of the House of Representatives shall designate one Representative as cochairman.

Sec. 16.3. The Commission shall:

- (1) Determine specific future consequences of present land-use practices;
- (2) Determine whether increased management of land resources is necessary and helpful to citizens, whether such management should be implemented in mountain areas in the State, and if so, how responsibility for such management should be allocated among various levels of government;
- (3) Determine whether it is appropriate to create a series of special incentives for individuals and local governments to encourage the management of land resources described herein, and if so, what types of incentives are appropriate;
- (4) Make efforts to meet with citizens in mountain areas and to receive their comments regarding the subjects to be evaluated by the Commission; and
- (5) Evaluate programs in other states that are designed to coordinate provision of infrastructure, protection of the

environment and natural resources, and efforts to accommodate growth.

Sec. 16.4. The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before the first day of the 1993 Session of the General Assembly by filing the report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Commission shall terminate.

Sec. 16.5. The Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairmen. The Commission may meet in the Legislative Building or the Legislative Office Building.

Sec. 16.6. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

Sec. 16.7. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Legislative Services Commission, through the Legislative Administrative Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, upon the direction of the Legislative Services Commission. The expenses relating to clerical employees shall be borne by the Commission.

Sec. 16.8. When a vacancy occurs in the membership of the Commission the vacancy shall be filled by the same appointing officer who, or entity which, made the initial appointment.

Sec. 16.9. All State departments and agencies and local governments and their subdivisions shall furnish the Commission and its staff with any information in their possession or available to them.

Sec. 16.10. There is allocated from the funds appropriated to the General Assembly's Legislative Services Commission to the Commission established by this Part for fiscal year 1991-92 the sum of \$20,000 and for fiscal year 1992-93 the sum of \$20,000.

APPENDIX B

ACKNOWLEDGEMENTS

The Mountain Area Study Commission would like to thank all of those persons who appeared before the Commission to present information or to be heard during the course of the Commission's work.

The Commission wishes to thank the Chancellors and staff members of the following universities for the assistance and hospitality that made the Commission's meetings in the mountain area possible: Western Carolina University, Appalachian State University, and the University of North Carolina at Asheville.

APPENDIX C

PERSONS APPEARING BEFORE THE COMMISSION

RALEIGH MEETING

March 13, 1992

Dr. David Godschalk, Department of City and Regional Planning, University of North Carolina at Chapel Hill

Bob Chandler, Director, Division of Community Assistance, N.C. Department of Economic and Community Development

Randy Shenck & Bill Holman, N.C. Chapter of the Sierra Club

John Crew, N.C. Division of Coastal Management

Mike Carpenter, N.C. Homebuilders Association

Brad Barker, Triangle J. Council of Governments

CULLOWHEE MEETING

August 25, 1992

John Sibley, Georgia Growth Strategies Commission Member

Mike Gleaton, Planner, Georgia Department of Community Affairs

Tom Mallonee, Western North Carolina Tomorrow

Bill Stamey, Town Manager of Canton

Tom Massie, Jackson County Planner

Linda Cable, Swain County Administrator

Steve Eller, Southwestern North Carolina Planning and Economic Development Commission

Paul Jordan, Clay County Manager

Ginny Faust, Haywood County Planner

Jerry Stewart, Macon County Commissioner

Alan Lang, Division of Community Assistance, Asheville Office

Professor David Owen, UNC Institute of Government

Susan Smith, Western North Carolina Tomorrow

Bob Shepard & Kim Montgomery, Land-of-Sky Regional Council of Governments
Elinor Metzger, Macon County League of Women Voters
William Green, Chair, Haywood County Planning Board
Alna Hyatt, Haywood County Resident
A. J. Plemmons & Junior Rathbone, Concerned Citizens of Haywood County
Cliff Stamper, Burke County Resident
Mary Helen Duke, North Carolina Planning Association

BOONE MEETING
September 23, 1992

Dr. Garry Cooper, Department of Geography, Appalachian State University
Art Rex, Department of Geography, Appalachian State University
David Quinn, N.C. Division of Community Assistance, Winston-Salem Office
Joe Furman, Watauga County Planning Department
Douglas Morris, Wilkes County Planning Department
Charles VonCanon, Mayor of Banner Elk.
Jerry Haire, Boone Planning Department
Jeff Boyer, Director of the Sustainable Development Program at ASU
Susan Harris, Watauga County Economic Development Commission
Linda Lonon, Boone Resident

ASHEVILLE MEETING
October 10, 1992

**Ann Orr, N.C. Department of Environment, Health, and Natural Resources,
Asheville Office**
Ann Browning, Realtor
Julia Cogburn, Asheville Planning Department
Bill Eaker, Director of Environmental Programs, Land-of-Sky Regional Council
Meg McLeod, Citizens for Quality Development

Ron Lambe, Western Carolina Alliance

**Robert Hyatt, A.J. Plemmons, Junior Rathbone & David Anderson, Concerned
Citizens of Haywood County**

Susan Ervin, Western North Carolina Alliance of Macon County

Harry Weiss, Preservation Society of Asheville and Buncombe County

Homer Arnold, Rutherford County Resident

RALEIGH MEETING

January 14, 1993

Bill Holman, North Carolina Chapter of the American Planning Association

Jim Blackburn, North Carolina Association of County Commissioners

APPENDIX D
SELECTED COUNTY PLANNING & LAND USE STATUTES
(With Comments by Counsel to the Mountain Area Study Commission)

I. PLANNING JURISDICTION & PROCEDURES

In 1973, Chapter 153A of the General Statutes (which pertains to the general powers of counties) was revised to enable, not but not mandate, counties to engage in local planning. The sections below relate to planning jurisdiction and procedure at the county level, the functions of planning agencies, the size of planning boards, notice procedures for adopting or amending ordinances, and enforcement of ordinances.

§153A-320. Territorial jurisdiction.

Each of the powers granted to counties by this Article, by Chapter 157A, and by Chapter 160A, Article 19 may be exercised throughout the county except as otherwise provided in G.S. 160A-360. (1959, c. 1006, s. 1; c. 1007; 1965, c. 194, s. 2; c. 195; 1969, c. 1066, s. 1; 1973, c. 822, s. 1.)

§153A-321. Planning agency.

A county may by ordinance create or designate one or more agencies to perform the following duties:

- (1) Make studies of the county and surrounding areas;
- (2) Determine objectives to be sought in the development of the study area;
- (3) Prepare and adopt plans for achieving these objectives;
- (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;
- (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;
- (7) Perform any other related duties that the board of commissioners may direct.

An agency created or designated pursuant to this section may include but shall not be limited to one or more of the following, with any staff that the board of commissioners considers appropriate:

- (1) A planning board or commission of any size (not less than three members) or composition considered appropriate, organized in any manner considered appropriate;

- (2) A joint planning board created by two or more local governments according to the procedures and provisions of Chapter 160A, Article 20, Part 1. (1945, c. 1040, s. 1; 1955, c. 1252; 1957, c. 947; 1959, c. 327, s. 1; c. 390; 1973, c. 822, s. 1; 1979, c. 611, s. 6.)

§153A-322. Supplemental powers.

A county or its designated planning agency may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county, or its designated planning agency with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A, Article 19 or to support, and compensate members of, any planning agency that it may create or designate pursuant to this Article. (1945, c. 1040, s. 1; 1955, c. 1252; 1957, c. 947; 1959, c. 327, s. 1; c. 390; 1973, c. 822, s. 1; 1983, c. 377, s. 8.)

§153A-323. Procedure for adopting or amending ordinances under this Article and Chapter 160A, Article 19.

Before adopting or amending any ordinance authorized by this Article or Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. (1959, c. 1006, s. 1; c. 1007; 1973, c. 822, s. 1; 1981, c. 891, ss. 2, 9.)

§153A-324. Enforcement of ordinances.

In addition to the enforcement provisions of this Article and subject to the provisions of the ordinance, any ordinance adopted pursuant to this Article, to Chapter 157A, or to Chapter 160A, Article 19 may be enforced by any remedy provided by G.S. 153A-123. (1959, c. 1006, s. 1; 1961, c. 414; 1973, c. 822, s. 1.)

§ 153A-325. Submission of statement concerning improvements.

A county may by ordinance require that when a property owner improves property at a cost of more than twenty-five hundred dollars (\$2,500) but less than five thousand dollars (\$5,000), the property owner must, within 14 days after the completion of the work, submit to the county assessor a statement setting forth the nature of the improvement and the total cost thereof. (1983, c. 614, s. 4; 1987, c. 45, s. 1.)

II. ZONING

Zoning is a tool that counties may utilize in local land use planning and regulation. The county regulations authorized by 153A-340 do not apply to bona fide farms. Under 153A-342, a county may divide its territorial jurisdiction into overlay districts and general districts, and a county may designate one or more portions of its jurisdiction into a zoning area. A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership. The county may regulate a zoning area in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated.

153A-343 sets out the method by which the county, through the county commissioners, may provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts are to be determined. Notices requirements are included. It should be noted that some counties are authorized by local legislation to use methods different from the statutory method.

It is mandatory that the county have a planning agency in order to exercise zoning powers. If the county amends its zoning scheme, those amendments must be referred to the planning agency for a recommendation on the changes. Property owners have certain vested rights with regard to amendments, modifications, supplements, repeals or any

other changes in county zoning regulations and restrictions (See 153A-344(b) and 344.1).

Boards of adjustment consisting of at least 5 members may be appointed pursuant to 153A-345. That section also provides for appeals, special exceptions, and variances.

§ 153A-340. Grant of power.

For the purpose of promoting health, safety, morals, or the general welfare, a county may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

These regulations may not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to the regulations. Bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When issuing or denying special use permits or conditional use permits, the board of commissioners shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the board of commissioners to issue such permits, and every such decision of the board of commissioners shall be subject to review by the superior court by proceedings in the nature of certiorari.

A county may regulate the development over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12, within the bounds of that county.

For the purpose of this section, the term "structures" shall include floating homes. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board of commissioners is filed in such office as the ordinance specifies, or after a

written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the board of commissioners may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested. (1959, c. 1006, s. 1; 1967, c. 1208, s. 4; 1973, c. 822, s. 1; 1981, c. 891, s. 6; 1983, c. 441; 1985, c. 442, s. 2; 1987, c. 747, s. 12; 1991, c. 69.)

§153A-341. Purposes in view.

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration as to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the county. In addition, the regulations shall be made with reasonable consideration to expansion and development of any cities within the county, so as to provide for their orderly growth and development. (1959, c. 1006, s. 1; 1973, c. 822, s. 1.)

§ 153A-341.1. Zoning regulations for manufactured homes.

The provisions of G.S. 160A-383.1 shall apply to counties. (1987, c. 805, s. 2.)

§153A-342. Districts; zoning less than entire jurisdiction.

A county may divide its territorial jurisdiction into districts of any number, shape, and area that it may consider best suited to carry out the purposes of this Part. Within these districts a county may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general standards; overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general or special use districts; and special use districts or conditional use districts, in which uses are permitted only upon the issuance of a special use permit or a conditional use permit. Property may be placed in a special use district or conditional use district only in response to a petition by the owners of all the property to be included. Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

A county may determine that the public interest does not require that the entire territorial jurisdiction of the county be zoned and may designate one or more portions of that jurisdiction as a zoning area or areas. A zoning area must originally contain at least 640 acres and at least 10 separate tracts of land in separate ownership and may thereafter be expanded by the addition of any amount of territory. A zoning area may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated. (1959, c. 1006, s. 1; 1965, c. 194, s. 2; 1973, c. 822, s. 1; 1985, c. 607, s. 3.)

§ 153A-343. Method of procedure.

The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts; provided that this sentence does not apply in the case of a total rezoning of all property within the boundaries of a county unless the rezoning involves zoning of parcels of land to less intense uses or "down zoning" in which case notification to owners of those parcels shall be made by mail in accordance with this section. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud. (1973, c. 822, s. 1; 1985, c. 595, s. 1; 1987, c. 807, s. 2; 1989 (Reg. Sess., 1990), c. 980, s. 2.)

§ 153A-344. Planning agency; zoning plan; certification to board of commissioners; amendments.

(a) To exercise the powers conferred by this Part, a county shall create or designate a planning agency under the provisions of this Article or of a local act. The planning agency shall prepare a proposed zoning ordinance, including both the full text of such ordinance and maps showing proposed district boundaries. The planning agency may hold public hearings in the course of preparing the ordinance. Upon completion, the planning agency shall certify the ordinance to the board of commissioners. The board of commissioners shall not hold the public hearing required by G.S. 153A-323 or take action until it has received a certified ordinance from the planning agency. Following its required public hearing, the board of commissioners may refer the ordinance back to the planning agency for any further recommendations

that the agency may wish to make prior to final action by the board in adopting, modifying and adopting, or rejecting the ordinance.

Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified, or repealed. Whenever territory is added to an existing designated zoning area, it shall be treated as an amendment to the zoning ordinance for that area. Before an amendment may be adopted, it must be referred to the planning agency for the agency's recommendation. The agency shall be given at least 30 days in which to make a recommendation. The board of commissioners is not bound by the recommendations, if any, of the planning agency.

(b) Amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to G.S. 153A-357 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S. 153A-362 or (ii) a vested right has been established pursuant to G.S. 153A-344.1 and such vested right remains valid and unexpired pursuant to G.S. 153A-344.1. (1959, c. 1006, s. 1; 1965, c. 194, s. 3; 1973, c. 822, s. 1; 1979, c. 611, s. 3; 1985, c. 540, s. 1; 1989 (Reg. Sess., 1990), c. 996, s. 5.)

§ 153A-344.1. Vesting rights.

(a) The General Assembly finds and declares that it is necessary and desirable, as a matter of public policy, to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land-use planning process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in the area of land-use planning. Furthermore, the General Assembly recognizes that county approval of land-use development typically follows significant landowner investment in site evaluation, planning, development costs, consultant fees, and related expenses.

The ability of a landowner to obtain a vested right after county approval of a site specific development plan or a phased development plan will preserve the prerogatives and authority of local elected officials with respect to land-use matters. There will be ample opportunities for public participation and the public interest will be served. These provisions will strike an appropriate balance between private expectations and the public interest, while scrupulously protecting the public health, safety, and welfare.

(b) Definitions.

- (1) "Landowner" means any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to

purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan under this section, in the manner allowed by ordinance.

- (2) "County" shall have the same meaning as set forth in G.S. 153A-1(3).
- (3) "Phased development plan" means a plan which has been submitted to a county by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the county to be a site specific development plan.
- (4) "Property" means all real property subject to zoning regulations and restrictions and zone boundaries by a county.
- (5) "Site specific development plan" means a plan which has been submitted to a county by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a preliminary or general development plan, a conditional or special use permit, a conditional or special use district zoning plan, or any other land-use approval designation as may be utilized by a county. Unless otherwise expressly provided by the county such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site specific development plan under this section that would trigger a vested right shall be finally determined by the county pursuant to an ordinance, and the document that triggers such vesting shall be so identified at the time of its approval. However, at a minimum, the ordinance to be adopted by the county shall designate a vesting point earlier than the issuance of a building permit. A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch

plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels or property may constitute a site specific development plan.

- (6) "Vested right" means the right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.

(c) Establishment of vested right.

A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site specific development plan or a phased development plan, following notice and public hearing by the county with jurisdiction over the property. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phased development plan including any amendments thereto. A county may approve a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. A county shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific development plan or a phased development plan shall be deemed approved upon the effective date of the county's action or ordinance relating thereto.

(d) Duration and termination of vested right.

- (1) A right which has been vested as provided for in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the county.
- (2) Notwithstanding the provisions of subsection (d)(1), a county may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the county.
- (3) Notwithstanding the provisions of (d)(1) and (d)(2), the county may provide by ordinance that approval by a county of a phased development plan shall vest the zoning classification or classifications so approved for a period not to exceed five years. The document that triggers such vesting shall be so

identified at the time of its approval. The county still may require the landowner to submit a site specific development plan for approval by the county with respect to each phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications. Nothing in this section shall be construed to require a county to adopt an ordinance providing for vesting of rights upon approval of a phased development plan.

- (4) Following approval or conditional approval of a site specific development plan or a phased development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the county to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the county from revoking the original approval for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.
 - (5) Upon issuance of a building permit, the provisions of G.S. 153A-358 and G.S. 153A-362 shall apply, except that a permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.
 - (6) A right which has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
- (e) Subsequent changes prohibited; exceptions.
- (1) A vested right, once established as provided for in this section, precludes any zoning action by a county which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan, except:
 - a. With the written consent of the affected landowner;
 - b. Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan;
 - c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited

to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the county, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

- d. Upon findings, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the county of the site specific development plan or the phased development plan; or
 - e. Upon the enactment or promulgation of a State or federal law or regulation which precludes development as contemplated in the site specific development plan or the phased development plan, in which case the county may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
- (2) The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land-use regulation by a county, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property which is subject to a site specific development plan or a phased development plan upon the expiration or termination of the vesting rights period provided for in this section.
 - (3) Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of a county to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses.
- (f) Miscellaneous provisions.
- (1) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan or a phased development plan, all successors to the original landowner shall be entitled to exercise such rights.

- (2) Nothing in this section shall preclude judicial determination, based on common-law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.
- (3) In the event a county fails to adopt an ordinance setting forth what constitutes a site specific development plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice. (1989 (Reg. Sess., 1990), c. 996, s. 6.)

§153A-345. Board of adjustment.

(a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member. If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.

A county may designate a planning agency to perform any or all of the duties of a board of adjustment in addition to its other duties.

(b) The board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing an ordinance adopted pursuant to this Part. Any person aggrieved or any officer, department, board, or bureau of the county may take an appeal. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken

certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time. The board of adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the circumstances. To this end the board has all of the powers of the officer from whom the appeal is taken.

(c) The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in the ordinance. The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under the zoning ordinance.

(d) When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment may, in passing upon appeals, vary or modify any regulation or provision of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(e) The board of adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision, or determination of an administrative officer charged with enforcing an ordinance adopted pursuant to this Part, or may decide in favor of the applicant a matter upon which the board is required to pass under the ordinance, or may grant a variance from the provisions of the ordinance. Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county policies and standards, and, to assure compliance with these requirements, the ordinance may provide for the posting of bond or any other method that will offer guarantee of compliance.

The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or the planning agency. For the authorization to reserve school sites to be effective, the board of commissioners or planning agency, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning agency shall immediately notify the board of education. That board shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning agency of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.

The ordinance may require that a plat be prepared, approved, and recorded pursuant to its provisions whenever a subdivision of land takes place. (1959, c. 1007; 1973, c. 822, s. 1; 1975, c. 231; 1987, c. 747, ss. 10, 17.)

§153A-332. Ordinance to contain procedure for plat approval; approval prerequisite to plat recordation; statement by owner.

A subdivision ordinance adopted pursuant to this Part shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat before its registration.

The ordinance shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- (1) The district highway engineer as to proposed streets, highways, and drainage systems;
- (2) The county health director as to proposed water or sewerage systems;

- (3) Any other agency or official designated by the board of commissioners.

The ordinance may provide that final approval of each individual subdivision plat is to be given by:

- (1) The board of commissioners,
- (2) The board of commissioners on recommendation of a planning agency, or
- (3) A designated planning agency.

From the time that a subdivision ordinance is filed with the register of deeds of the county, no subdivision plat of land within the county's jurisdiction may be filed or recorded until it has been submitted to and approved by the appropriate board or agency, as specified in the subdivision ordinance, and until this approval is entered in writing on the face of the plat by the chairman or head of the board or agency. The register of deeds may not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions, and the clerk of superior court may not order or direct the recording of a plat if the recording would be in conflict with this section. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether any land shown thereon is within the subdivision-regulation jurisdiction of the county. (1959, c. 1007; 1973, c. 822, s. 1.)

§153A-333. Effect of plat approval on dedications.

The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so. (1959, c. 1007; 1973, c. 822, s. 1.)

§153A-334. Penalties for transferring lots in unapproved subdivisions.

If a person who is the owner or the agent of the owner of any land located within the territorial jurisdiction of a county that has adopted a subdivision regulation ordinance subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the ordinance and recorded in the office of the appropriate register of deeds, he is guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. (1959, c. 1007; 1973, c. 822, s. 1; 1977, c. 820, s. 1.)

§153A-335. "Subdivision" defined.

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets; and
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations. (1959, c. 1007; 1973, c. 822, s. 1; 1979, c. 611, s. 2.)

TABLE 1
Planning Tools in Mountain Area
Counties and Municipalities

SELECTED PLANNING TOOLS	COUNTIES (29)*		MUNICIPALITIES (99)					
	Number	Percent	Pop. less than 5,000 (87)		Pop. 5,001 - 10,000 (7)		Pop. greater than 10,000 (5)	
			Number	Percent	Number	Percent	Number	Percent
Planning Board	24	83	67	77	7	100	5	100
Planner	18	62	7	8	5	71	5	100
Zoning Ordinance	13	45	66	76	7	100	5	100
Subdivision Regulations	12	41	49	56	7	100	5	100
Flood Insurance Program	24	83	44	51	6	86	4	80
Soil Survey	14	48	37	43	2	29	1	20
Land Records Mapping	18	62	58	67	7	100	4	80

*Alexander Buncombe Clay Haywood Madison Rutherford Transylvania Yancey
 Allegheny Burke Davie Henderson McDowell Stokes Watauga
 Ashe Caldwell Forsyth Jackson Mitchell Surry Wilkes
 Avery Cherokee Graham Macon Polk Swain Yadkin

TABLE 2
Planning Tools in Counties Without
Zoning or Subdivision Regulations

SELECTED PLANNING TOOLS	COUNTIES (23)*		MUNICIPALITIES (97)					
	Number	Percent	Pop. less than 5,000 (90)		Pop. 5,001 - 10,000 (6)		Pop. greater than 10,000 (1)	
			Number	Percent	Number	Percent	Number	Percent
Planning Board	13	57	54	60	5	83	1	100
Planner	7	30	4	4	4	67	1	100
Zoning Ordinance	0	0	54	60	6	100	1	100
Subdivision Regulations	0	0	28	31	6	100	1	100
Flood Insurance Program	20	87	48	53	5	83	1	100
Soil Survey	14	61	57	63	3	50	1	100
Land Records Mapping	11	48	41	46	2	33	0	0

*Allegheny	Bertie	Duplin	Jackson	McDowell	Swain
Ashe	Bladen	Graham	Lenoir	Mitchell	Washington
Avery	Cherokee	Greene	Macon	Richmond	Yancey
Beaufort	Clay	Haywood	Martin	Sampson	

Swain County


COUNTY COMMISSIONERS

DONALD BUNN
Chairman

DONNIE DIXON
ROLLON SMITH

CLERK TO THE BOARD
COUNTY ADMINISTRATOR
LINDA CABLE

January 5, 1993

Senator Herbert Hyde
P.O. Box 7266
Asheville, N.C. 28802

Dear Senator Hyde:

Through the past and now into the present, the citizens of western North Carolina have paid a heavy price in their lack of control over the destiny of the land and their communities. Through the acquisition of land by the federal government and the high proportion of absentee ownership, "locals" have often been left out of a formula to determine the future of the land around them.

From our hearings, I have come to the conclusion that every presentee has an idea that their position is the correct one. They cite example after example to justify that position. I respect the position of each person and each side of the issue. It comes down now to how I feel we should proceed from this point with our recommendations to the legislature as to how it should approach this whole idea of land use planning for the future with sound and orderly growth.

Now as to my position, after listening to all concerned, I feel that planning is needed, justified and essential to orderly and sound growth management in the mountains, as well as the entire state of North Carolina. As to forced planning, I am against it, but I do favor legislation that provides incentives for counties to participate in planning efforts. The incentives should be such that planning benefits outweigh the negatives of NO planning, or the status quo.

I have recently seen two examples of where advanced planning and growth directions could have helped avoid some conflicts with neighbors and adjoining business. We can no longer continue to use our land without thinking of how such use will affect our neighbors. None of us can live in a vacuum because our very

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Senator Hyde
page 2

existence depends on not only our near neighbor but county wide and world wide neighbors.

Orderly planning is needed for all counties, but should not be instituted without funding incentives. The incentives should be attractive enough to encourage local governments to complete a plan. Follow-up incentives should encourage some implementation of the planning recommendations.

You may enter this statement into the record.

Sincerely,



Donald Bunn
Chairman

ABSTRACT -- MOUNTAIN RIDGE PROTECTION ACT OF 1983

§ 113A -- ARTICLE 14

DATE PASSED	1983 with non-substantive amendments in July, 1989
LEGISLATIVE FINDINGS	5 total - including the hazards of tall buildings atop mountain ridges to the environment and the inhabitants; other hazards include inability of fire protectors to reach the area and extremes of weather endangering buildings, vehicles and persons; and hazards to air navigation and natural aesthetic beauty.
REQUIRED LOCAL PLANNING	NO -- However if counties or cities fail to adopt ordinances, general prohibitions apply
REQUIRED MEASURES (if options not taken)	Any county or city that fails to adopt an ordinance by January 1, 1984 cannot otherwise authorize the construction of a tall building on any protected mountain ridge nor provide utility services including phone, water, electricity and gas. These prohibitions also apply to buildings existing at the time of enactment. Any action taken on behalf of those buildings cannot further aggravate or intensify the already existing problem. If a city or county adopts an ordinance (see below), neither the state nor any agency can bring an action to enjoin them from not complying with this statute; rather, a citizen of the adopting jurisdiction can contest the compliance with this section.
OPTIONAL MEASURES	A jurisdiction, be it a city or a county, can adopt an ordinance to exempt itself from this legislation, however, it must have a binding referendum by May 8, 1984. In this manner, the city or county can opt out of this legislation. The jurisdiction can opt back in by May 13, 1986, but further opting out is prohibited. A city alone can also opt out, and a county's action affects all the cities therein. If a

protected ridge is part of a boundary, both jurisdictions must opt out. A city or county may adopt an ordinance that regulates construction of tall buildings. Such an ordinance must apply to protected areas and can apply to other ridges within the jurisdiction. City ordinances may apply extraterritorially in certain conditions. A copy of the ordinance must be sent to the Secretary of Environment, Health, and Natural Resources. Before the ordinance is adopted, a public hearing is required with notice given within 10 days in a paper of general circulation in the area affected by the ordinance.

GENERAL
DEADLINES

General compliance by Jan. 4, 1984; Secretary of Environment, Health and Natural Resources to provide maps of the protected areas with the register of deeds in the affected jurisdiction by Jan. 4, 1984.

OTHER

Secretary of EHNR shall provide funding upon request. Violations of this Article shall be treated with the same criminal, civil, and equitable remedies as violations of county ordinances.

ABSTRACT -- COASTAL AREA MANAGEMENT ACT OF 1974

113A- ARTICLE 7

DATE PASSED	1974 with amendments in 1987, 1989, 1991
LEGISLATIVE GOALS	Several goals including the protection of valuable coastal areas and control the area for economic, aesthetic and ecological purposes; to preserve and enhance water quality; and to guide growth and minimize damage to the natural environment while preserving private property rights
REQUIRED LOCAL PLANNING	Yes
REVIEW PERIOD	Every 5 years
PLAN REVIEW AGENCIES	Primary authority in the Coastal Resource Commission - with a number of gubernatorial appointments from the coastal area and authority also vested in the Coastal Resources Advisory Council consisting of 47 members from various state agencies
REQUIRED PLANNING MEASURES	Commission shall prepare state guidelines with a statement of objectives and standards for public and private use and send the guidelines to affected cities, counties and experts, all of whom are given 30 days to comment. Any local planning, state land policies governing acquisition, and state land classification shall be consistent with these guidelines. Within 120 days of passage, each affected county shall submit a letter of intent to develop land use plans to serve as a basis for development permits. The county has 480 days to comply. If the county submits no letter, the Commission shall prepare and submit a plan for it. Each land use plan must contain a statement and objective for public and private land use for the county with particular attention to areas of "environmental concern". Before the adoption of a land use plan, must have a public hearing with

30 day notice. The Commission must approve any plan before it can be final and give interested parties notice before approval. Final copies of the plan must be maintained for public inspection. County permits and local ordinances must be consistent with the county land use plan. The state must designate areas of environmental concern after a period of public and agency hearing and notice. The Secretary to the Commission, cities and counties shall submit a set of criteria for local implementation with 20 months of the date of this Act's enactment. "Minor developments" as defined by the Commission or otherwise provided by law must obtain a permit which will be denied if not in compliance with statutes, state guidelines or local land use plans.

OPTIONAL
MEASURES

Any person may petition the Commission for a variance. County land use planners can with lead regional organizations and can delegate a city to plan land use in accordance with city zoning jurisdiction or receive recommendations from the city, or both. State guidelines may include air and underground, as well as surface criteria.

OTHER

Any dissatisfied person can petition the Secretary of the Commission if dissatisfied with a local decision. Other administrative and judicial appeals are available. Injunctive relief is also available. The Commission must conduct studies and report recommendation to the General Assembly. Takings are not authorized. A wilful and knowing violation is a misdemeanor. Penalties vary with the degree of the abuse. The review period for designating areas of environmental concern are, at least, biennial. If the county fails to inform the Commission within two years of enactment that it will be permit-letting, the Commission shall issue permits.

ABSTRACT -- WATER SUPPLY WATERSHED PROTECTION ACT OF 1989
§143-214.5

Date Passed:	1989 amended in 1991
Number of Goals:	3
Required Local Planning:	Yes
Plan Review Agency:	Watershed Protection Advisory Council with assistance from the Environmental Management Commission
Required Measures:	<p>EMC enforcement of minimum statewide standards if the local authorities fail to administer the plan or to meet the minimum requirements. EMC must approve any variance from the minimum. Must give locals 120 days to comply. EMC must, by Jan. 1, 1992 make watershed classifications along with applicable minimum management requirements. The Department must also assist the local enforcers to develop programs to comply. This program must include implementing local ordinances and providing for maintenance, inspection and enforcement procedures. The EMC must make an approved model available to the locals with 3 minimum options. Every local jurisdiction with a watershed or a portion of a watershed must submit a local water supply watershed management and protection ordinance to the EMC. The EMC must approve this submission and to do so the ordinance must equal or exceed the state minimum standards. Mandatory civil penalties for noncompliance by local government and any person. If local or municipal requirements are more stringent further requirements apply.</p>
Optional measures:	EMC may designate areas as critical and more than the minimum statewide standards. The local government can create an agency to

enforce the adopted ordinances. The EMC can reclassify the established classification. Local governments cannot be made to conform to the reclassification for 270 days. EMC may require that a permit issued by a local government be approved prior to the issuance. EMC may make appropriate preventive or remedial action for non-compliance. Secretary may make annual grants to the local governments in order to assure compliance.

Mandatory Plan
Elements:

Every state agency shall comply with the minimum standards set by the EMC. Also applies to landfills and non-hazardous waste disposal facilities. If EMC designates another state agency to administer the statewide minimum requirements with respect to agriculture and silviculture, management requirements of local governments shall not apply.

ABSTRACT -- PLATS AND SUBDIVISIONS; MAPPING REQUIREMENTS

§ 47-30

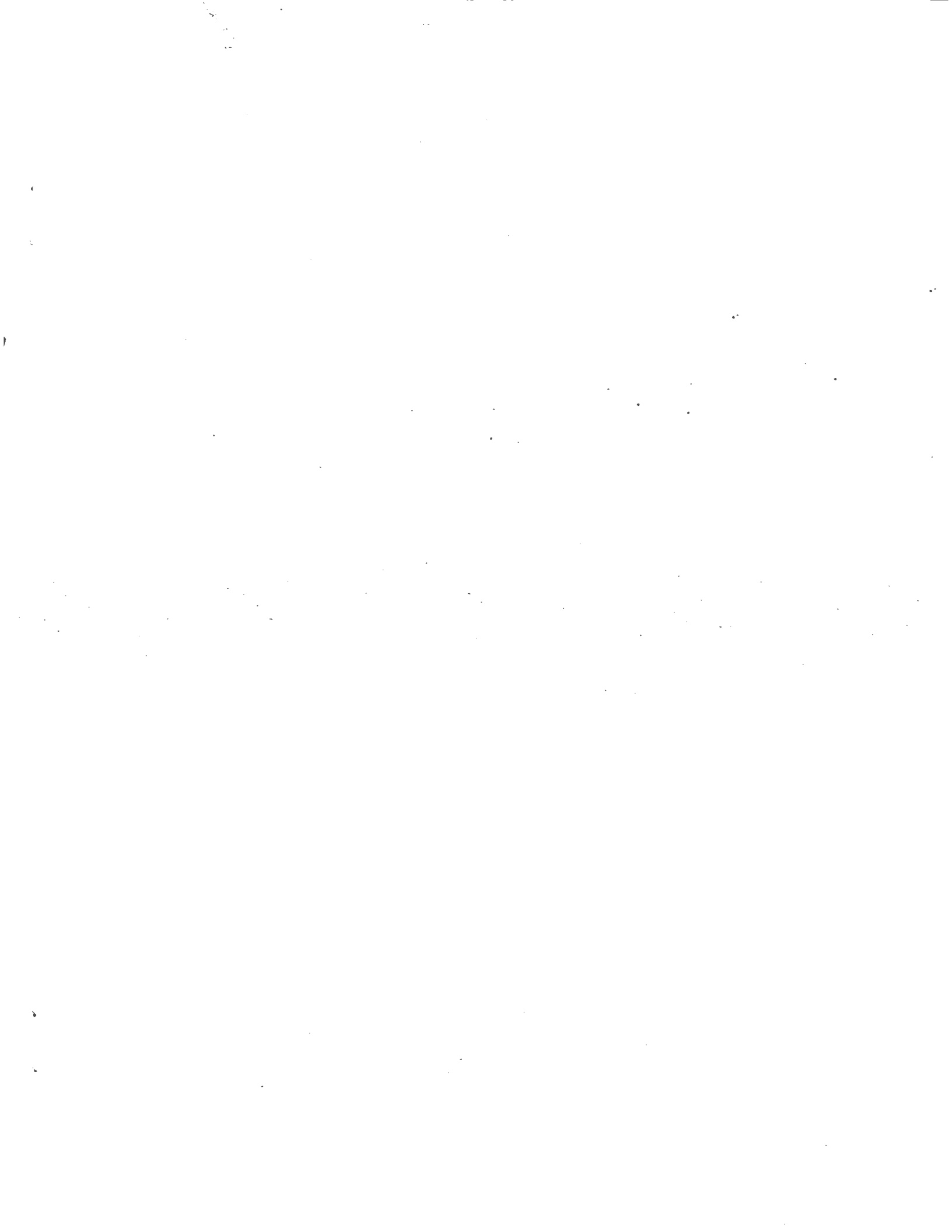
DATE PASSED	1911 -- amended several times, most recently in 1991
REQUIRED LOCAL PLANNING	NO -- Conformance - Yes
REQUIRED MEASURES	<p>This section applies to all counties. If local law conflicts, this section applies. This section does not apply to registration of highway right-of-way plans nor the registration of roadway corridor official maps. This section also does not apply to boundary plats of areas annexed by municipalities nor to plats of municipal boundaries whether or not required by law to be recorded.</p> <p>The specific requirements for a plat or map are as follows: each plat must conform with size requirements and presented to the register of deeds for recording. Each plat shall be reproducible and contain property designation, name of owner, location, name and address of surveyor and scale. Each plat shall be accompanied with an acknowledged certificate of the surveyor stating the origin of the information, data for ratio of precision survey, and the lines on the plat not actually surveyed. The surveyor must use an accurate method of computation to determine acreage and ratio of precision, not including estimation, scale, copy or planimeter unless the area is inaccessible.</p> <p>Each plat must have an accurately positioned north arrow, and the course and distance of property lines surveyed. Special rules exist for curved line boundaries. Streets and lots of subdivision must be accurately plotted, as must control corners and other corners, monuments or natural objects. Names of adjacent landowners or the adjacent lot, block or parcel must be indicated. The plat shall also contain all visible and apparent rights of way, utilities,</p>

	<p>The NCSCC must inspect and make requests to the Attorney General for the prosecution of violators.</p>
<p>LOCAL GOV'T OPTIONS</p>	<p>Submit erosion and sedimentary control plan; adopt ordinances and regulations to this end; create local enforcement agencies. 2 or more local governments can develop a joint program if documented in the minutes and filed with the Commission. The local plans, if adopted, must require approval and the plan must be submitted to the soil and water conservation district. Locals can disprove of land-disturbing activities for various reasons, including failure to comply substantially with this Article. Local government must inspect if a plan is approved and give notice to violators for non-compliance.</p>
<p>OTHER</p>	<p>The NCSCC and local governments can receive federal, state and private funding. Any person who violates this provision is subject to penalties. A violation committed knowingly and willfully is criminal. Injunctive and civil relief are also available.</p>

ABSTRACT -- OUTDOOR ADVERTISING CONTROL ACT
CHAPTER 136 -- ARTICLE 11

DATE PASSED	1967 with several amendments most recently 1991
LEGISLATIVE FINDINGS	Outdoor advertising is a legitimate commercial use, however, areas in the vicinity of the right-a-way to highways should be regulated to promote safety, health, welfare and convenience. To enjoy travel and prevent interference with the effectiveness of traffic regulation are also primary goals, as are to promote safety, to preserve and enhance natural scenic beauty and to promote reasonable, orderly and effective display
REQUIRED LOCAL PLANNING	Conformance-Yes
REQUIRED MEASURES	<p>Requires the regulation of outdoor advertising with exceptions for directional signs, advertisement for the sale or lease of property, advertisement of activity on property on which the advertisement is located, advertisements regulated by the DOT (Department of Transportation) and advertisements of fruit\vegetable growers at roadside stands within limitations. With an expiration date of June 30, 1994, a municipality, local or county authority shall provide just compensation for removal of outdoor advertising that is part of the National Highway System or DOT issued the permit. Permits to erect outdoor advertising must be obtained from DOT. Any violation of this section is a nuisance and a misdemeanor. The violator shall receive 30 day notice as reasonable time to conform.</p> <p>Zoning authorities shall give notice to the DOT of any changes, commercial or industrial, to zones within the restricted areas. Judicial review is available for grievances. The DOT can seek injunctive relief.</p>
OPTIONAL	The DOT has the authority and may promulgate

junkyard. The DOT can charge a fee for permitting. The DOT can promulgate rules and regulations in the form of ordinances with regard to administrative procedures and the operation and maintenance of junkyards. The DOT can delegate this authority to the Secretary of Transportation.



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