

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1245

Short Title: Airspace Intrusion Protection.

(Public)

Sponsors: Representatives Abernethy; Barbee, Creech, Diggs, Duncan, Grimmer, S. Hunt, R. Hunter, Kerr, Lilley, Payne, and Robinson.

Referred to: Infrastructure.

April 12, 1989

A BILL TO BE ENTITLED
AN ACT TO PROTECT AGAINST AIRSPACE INTRUSIONS AT PUBLICLY OWNED AIRPORTS BY UPDATING THE MODEL AIRPORT ZONING ACT AND BY ADDING THE PUBLIC AIRPORT AIRSPACE INTRUSION PROTECTION ACT OF 1989.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 63 of the General Statutes reads as rewritten:

"ARTICLE 4.

"MODEL AIRPORT ZONING ACT.

"PART 1. GENERAL PROVISIONS.

"§ 63-30. Airport ~~hazards~~-obstructions not in public interest.

It is hereby found and declared that an airport ~~hazard~~-obstruction endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein, and is therefore not in the interest of the public health, public safety, or general welfare.

"§ 63-31. Adoption of airport zoning regulations.

(a) Every political subdivision may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations, which regulations shall divide the area surrounding any airport within the jurisdiction of said political subdivision into zones, and, within such zones, specify the land uses permitted, and regulate and restrict the height to which structures

1 and trees may be erected or allowed to grow. In adopting or revising any such zoning
2 regulations, the political subdivision shall consider, among other things, the character of
3 the flying operations expected to be conducted at the airport, the nature of the terrain,
4 the height of existing structures and trees above the level of the airport, the possibility of
5 lowering or removing existing obstructions, and the views of the agency of the federal
6 government charged with the fostering of civil aeronautics, as to the aerial approaches
7 necessary to safe flying operations at the airport.

8 (b) In the event that a political subdivision has adopted, or hereafter adopts, a
9 general zoning ordinance regulating, among other things, the height of buildings, any
10 airport zoning regulations adopted for the same area or portion thereof under this Article
11 may be incorporated in and made a part of such general zoning regulations, and be
12 administered and enforced in connection therewith, but such general zoning regulations
13 shall not limit the effectiveness or scope of the regulations adopted under this Article.

14 (c) Any two or more political subdivisions may agree, by ordinance duly
15 adopted, to create a joint board and delegate to said board the powers herein conferred
16 to promulgate, administer and enforce airport zoning regulations to protect the aerial
17 approaches of any airport located within the corporate limits of any one or more of said
18 political subdivisions. Such joint board shall have as members two representatives
19 appointed by the chief ~~executive~~–elected officer of each political subdivision
20 participating in the creation of said board and a chairman elected by a majority of the
21 members so appointed.

22 (d) The jurisdiction of each political subdivision is hereby extended to the
23 promulgating, adopting, administering and enforcement of airport zoning regulations to
24 protect the approaches of any airport or landing field which is owned by said political
25 subdivision, or which is owned by an airport authority or joint agency of which that
26 subdivision is a member or appoints members, although the area affected by the zoning
27 regulations may be located outside the corporate limits or extraterritorial planning
28 jurisdiction of said political subdivision. In the case of a joint agency, or an airport
29 authority where more than one political subdivision appoints members, in order to
30 exercise any power under this subsection outside the zoning jurisdiction, all the political
31 subdivisions of the joint agency or all the political subdivisions appointing members of
32 the authority must adopt the zoning regulations. In case of conflict with any airport
33 zoning or other regulations promulgated by any political subdivision, the regulations
34 adopted pursuant to this section shall prevail.

35 (e) All airport zoning regulations adopted under this Article shall be reasonable,
36 and none shall require the removal, lowering, or other change or alteration of any
37 structure or tree not conforming to the regulations when adopted or amended, or
38 otherwise interfere with the continuance of any nonconforming use, except as provided
39 in G.S. ~~63-32, subsection (a)~~63-32(a).

40 **"§ 63-32. Permits, new structures, etc., and variances.**

41 (a) Permits. – Where advisable to facilitate the enforcement of zoning regulations
42 adopted pursuant to this Article, a system may be established by any political
43 subdivision for the granting of permits to establish or construct new structures and other
44 uses and to replace existing structures and other uses or make substantial changes

1 therein or substantial repairs thereof. In any event, before any nonconforming structure
2 or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow
3 higher, or replanted, a permit must be secured from the administrative agency
4 authorized to administer and enforce the regulations, authorizing such replacement,
5 change or repair. No such permit shall be granted that would allow the structure or tree
6 in question to be made higher or become a greater ~~hazard-obstruction~~ to air navigation
7 than it was when the applicable regulation was adopted; and whenever the
8 administrative agency determines that a nonconforming structure or tree has been
9 abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or
10 decayed: (i) no permit shall be granted that would allow said structure or tree to exceed
11 the applicable height limit or otherwise deviate from the zoning regulations; and (ii)
12 whether application is made for a permit under this paragraph or not, the said agency
13 may by appropriate action compel the owner of the nonconforming structure or tree, at
14 his own expense, to lower, remove, reconstruct, or equip such object as may be
15 necessary to conform to the regulations or, if the owner of the nonconforming structure
16 or tree shall neglect or refuse to comply with such order for 10 days after notice thereof,
17 the said agency may proceed to have the object so lowered, removed, reconstructed, or
18 equipped. Except as indicated, all applications for permits for replacement, change or
19 repair of nonconforming uses shall be granted.

20 (b) Variances. – Any person desiring to erect any structures, or increase the
21 height of any structure, or permit the growth of any tree, or otherwise use his property,
22 in violation of airport zoning regulations adopted under this Article, may apply to the
23 board of appeals, as provided in G.S. ~~63-33, subsection (e)~~63-33(c), for a variance from
24 the zoning regulations in question. Such variances shall be allowed where a literal
25 application or enforcement of the regulations would result in practical difficulty or
26 unnecessary hardship and the relief granted would not be contrary to the public interest
27 but do substantial justice and be in accordance with the spirit of the regulations and this
28 Article.

29 (c) Obstruction Marking and Lighting. – In granting any permit or variance under
30 this section, the administrative agency or board of appeals may, if it deems such action
31 advisable to effectuate the purposes of this Article and reasonable in the circumstances,
32 so condition such permit or variance as to require the owner of the structure or tree in
33 question to permit the political subdivision, at its own expense, to install, operate, and
34 maintain suitable obstruction markers and obstruction lights thereon.

35 **"§ 63-33. Procedure.**

36 (a) Adoption of Zoning Regulations. – No airport zoning regulations shall be
37 adopted, amended, or changed under this Article except by action of the legislative body
38 of the political subdivision in question, or the joint board provided for in G.S. ~~63-31,~~
39 ~~subsection (e)~~63-31(c), after a public hearing in relation thereto, at which parties in
40 interest and citizens shall have an opportunity to be heard. ~~At least 10 days' notice of the~~
41 ~~hearing shall be published in an official paper, or a paper of general circulation, in the political~~
42 ~~subdivision or subdivisions in which the airport is located.~~ A notice of the public hearing
43 shall be given once a week for two successive calendar weeks in a newspaper having
44 general circulation in the area of the airport. The notice shall be published the first time

1 not less than 10 days nor more than 25 days before the date fixed for the hearing. In
2 computing such period, the day of publication is not to be included but the day of the
3 hearing shall be included.

4 (b) Administration of Zoning Regulations – Administrative Agency. – The
5 legislative body of any political subdivision adopting airport zoning regulations under
6 this Article may delegate the duty of administering and enforcing such regulations to
7 any administrative agency under its jurisdiction, or may create a new administrative
8 agency to perform such duty, but such administrative agency shall not be or include any
9 member of the board of appeals. The duties of such administrative agency shall include
10 that of hearing and deciding all permits under G.S. ~~63-32, subsection (a)~~63-32(a), but
11 such agency shall not have or exercise any of the powers delegated to the board of
12 appeals.

13 (c) Administration of Airport Zoning Regulations – Board of Appeals. – Airport
14 zoning regulations adopted under this Article shall provide for a board of appeals to
15 have and exercise the following powers:

- 16 (1) To hear and decide appeals from any order, requirement, decision, or
17 determination made by the administrative agency in the enforcement
18 of this Article or of any ordinance adopted pursuant thereto;
- 19 (2) To hear and decide special exceptions to the terms of the ordinance
20 upon which such board may be required to pass under such ordinance;
- 21 (3) To hear and decide specific variances under G.S. ~~63-32, subsection~~
22 ~~(a)~~63-32(b).

23 (d) Where a zoning board of appeals or adjustment already exists, it may be
24 ~~appointed~~ designated as the board of appeals. Otherwise, the board of appeals shall
25 consist of five members, each to be appointed for a term of three years and to be
26 removable for cause by the appointing authority upon written charges and after public
27 hearing.

28 The board shall adopt rules in accordance with the provisions of any ordinance
29 adopted under this Article. Meetings of the board shall be held at the call of the
30 chairman and at such other times as the board may determine. The chairman, or in his
31 absence the acting chairman, may administer oaths and compel the attendance of
32 witnesses. All meetings of the board shall be public. The board shall keep minutes of its
33 proceedings, showing the vote of each member upon each question, or, if absent or
34 failing to vote, indicating such fact, and shall keep records of its examinations and other
35 official actions, all of which shall immediately be filed in the office of the board and
36 shall be a public record.

37 Appeals to the board may be taken by any person aggrieved, or by any officer,
38 department, board, or bureau of the political subdivision affected, by any decision of the
39 administrative agency. An appeal must be taken within a ~~reasonable~~ time, as provided by
40 the ~~rules~~ general rule of the board, by filing with the agency from which the appeal is
41 taken and with the board, a notice of appeal specifying the grounds thereof. The agency
42 from which the appeal is taken shall forthwith transmit to the board all the papers
43 constituting the record upon which the action appealed from was taken.

1 An appeal shall stay all proceedings in furtherance of the action appealed from,
2 unless the agency from which the appeal is taken certifies to the board, after the notice
3 of appeal has been filed with it, that by reason of the facts stated in the certificate a stay
4 would, in its opinion, cause imminent peril to life or property or that because the
5 violation charged is transitory in nature a stay would seriously interfere with
6 enforcement of the ordinance. In such case proceedings shall not be stayed otherwise
7 than by a restraining order which may be granted by the board or by a court of record on
8 application on notice to the agency from which the appeal is taken and on due cause
9 shown.

10 The board shall fix a reasonable time for the hearing of the appeal, give ~~public notice~~
11 ~~and due notice~~ to the parties in interest, and decide the same within a reasonable time.
12 ~~Upon the hearing any party may appear in person or by agent or by attorney.~~

13 The board may, in conformity with the provisions of this Article, reverse or affirm,
14 wholly or partly, or modify, the order, requirement, decision or determination appealed
15 from and may make such order, requirement, decision or determination as ought to be
16 made, and to that end shall have all the powers of the administrative agency from which
17 the appeal is taken.

18 The concurring vote of a majority of the members of the board shall be sufficient to
19 reverse any order, requirement, decision, or determination of the administrative agency,
20 or to decide in favor of the applicant on any matter upon which it is required to pass
21 under any such ordinance, or to effect any variation in such ordinance.

22 **"§ 63-34. Judicial review.**

23 ~~(a) Any person aggrieved by any decision of the board of appeals, or any~~
24 ~~taxpayer, or any officer, department, board, or bureau of the political subdivision, may~~
25 ~~present to the superior court a verified petition setting forth that the decision is illegal, in~~
26 ~~whole or in part, and specifying the grounds of the illegality. Such petition shall be~~
27 ~~presented to the court within 30 days after the decision is filed in the office of the board.~~

28 ~~(b) Upon presentation of such petition the court may allow a writ of certiorari~~
29 ~~directed to the board of appeals to review such decision of the board. The allowance of~~
30 ~~the writ shall not stay proceedings upon the decision appealed from, but the court may,~~
31 ~~on application, on notice to the board and on due cause shown, grant a restraining order.~~

32 ~~(c) The board of appeals shall not be required to return the original papers acted~~
33 ~~upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such~~
34 ~~portions thereof as may be called for by the writ. The return shall concisely set forth~~
35 ~~such other facts as may be pertinent and material to show the grounds of the decision~~
36 ~~appealed from and shall be verified.~~

37 ~~(d) The court shall have exclusive jurisdiction to affirm, modify, or set aside the~~
38 ~~decision brought up for review, in whole or in part, and if need be, to order further~~
39 ~~proceedings by the board of appeals. The findings of fact by the board, if supported by~~
40 ~~substantial evidence, shall be accepted by the court as conclusive, and no objection to a~~
41 ~~decision of the board shall be considered by the court unless such objection shall have~~
42 ~~been urged before the board, or if it was not so urged, unless there were reasonable~~
43 ~~grounds for failure to do so.~~

1 (a) Every decision of the board shall be subject to review by the superior court by
2 proceedings in the nature of certiorari. Any petition for review by the superior court
3 shall be filed with the clerk of superior court within 30 days after the decision of the
4 board is filed in such office as the ordinance specifies, or after a written copy thereof is
5 delivered to every aggrieved party who has filed a written request for such copy with
6 the secretary or chairman of the board at the time of its hearing of the case, whichever is
7 later. The decision of the board may be delivered to the aggrieved party either by
8 personal service or by registered mail or certified mail return receipt requested.

9 (e) Costs shall not be allowed against the board of appeals unless it appears to the
10 court that it acted with gross negligence, in bad faith, or with malice, in making the
11 decision appealed from.

12 **"§ 63-35. Enforcement and remedies.**

13 ~~Each violation of this Article or of any regulations, order, or ruling promulgated or~~
14 ~~made pursuant to this Article, shall constitute a misdemeanor and shall be punishable by~~
15 ~~a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days~~
16 ~~or by both such fine and imprisonment, and each day a violation continues to exist shall~~
17 ~~constitute a separate offense. In addition, the political subdivision within which the~~
18 ~~property is located may institute in any court of competent jurisdiction, an action to~~
19 ~~prevent, restrain, correct or abate any violation of this Article, or of airport zoning~~
20 ~~regulations adopted under this Article, or of any order or ruling made in connection with~~
21 ~~their administration or enforcement, and the court shall adjudge to the plaintiff such~~
22 ~~relief, by way of injunction (which may be mandatory) or otherwise, as may be proper~~
23 ~~under all the facts and circumstances of the case, in order fully to effectuate the~~
24 ~~purposes of this Article and of the regulations adopted and orders and rulings made~~
25 ~~pursuant thereto. Subject to the limitations of the ordinance, any ordinance adopted~~
26 pursuant to authority conferred by this Article may be enforced by any remedy provided
27 by G.S. 160A-175 in the case of city ordinances, and by any remedy provided by G.S.
28 153A-123 in the case of county ordinances.

29 **"§ 63-36. Acquisition of air rights.**

30 In any case in which:

- 31 (1) It is desired to remove, lower, or otherwise terminate a nonconforming
32 use; or
- 33 (2) The approach protection necessary cannot, because of constitutional
34 limitations, be provided by airport zoning regulations under this
35 Article; or
- 36 (3) It appears advisable that the necessary approach protection be provided
37 by acquisition of property rights rather than by airport zoning
38 regulations,

39 the political subdivision within which the property or nonconforming use is located or
40 the political subdivision owning the airport or served by it may acquire, in the manner
41 provided by the law under which municipalities are authorized to acquire real property
42 for public purposes, such an air right, easement, or other estate or interest in the
43 property or nonconforming use in question as may be necessary to effectuate the
44 purposes of this Article.

1 ~~If any political subdivision, or if any board or administrative agency appointed or~~
2 ~~selected by a political subdivision, shall adopt, administer or enforce any airport zoning~~
3 ~~regulations which results in the taking of, or in any other injury or damage to any~~
4 ~~existing structure, such political subdivision shall be liable therefor in damages to the~~
5 ~~owner or owners of any such property and the liability of the political subdivision shall~~
6 ~~include any expense which the owners of such property are required to incur in~~
7 ~~complying with any such zoning regulations.~~

8 "**§ 63-37. Short title.**

9 This Article shall be known and may be cited as the 'Model Airport Zoning Act.'

10 "**PART 2. PROTECTION OF PUBLICLY OWNED AIRPORTS.**

11 "**§ 63-37.1. Short title.**

12 This Part shall be known and may be cited as the 'Public Airport Airspace Intrusion
13 Protection Act of 1989'.

14 "**§ 63-37.2. Findings of fact.**

15 The General Assembly finds that:

- 16 (1) Obstructions to air navigation may endanger the life and property of
17 users of the airport and of occupants of land in the vicinity, and if an
18 obstruction, in effect reducing the size of the area available for the
19 taking off or landing of aircraft and reducing the value of the property
20 whose use is obstructed;
- 21 (2) Obstructions to air navigation are continuing to be built in North
22 Carolina, as evidenced by continuing applications to the Federal
23 Aviation Administration for hazard studies of proposed obstructions;
- 24 (3) Surveys have shown that despite the existence of this Article since
25 1943 and of modern city and county zoning enabling acts since 1971
26 and 1973 respectively, some localities have not attempted to insure
27 conformity of land uses by adopting zoning ordinances to regulate
28 height of structures near public airports;
- 29 (4) The State of North Carolina has continued to appropriate substantial
30 sums of money to local governments and airport authorities for land
31 acquisition at, and improvements, expansions, and safety protection of
32 existing public airports, and for planning and land acquisition for new
33 public airports; and
- 34 (5) The lack of zoning protection for many of these public airports has
35 unnecessarily diminished their usefulness, as obstructions to air
36 navigation have been built.

37 "**§ 63-37.3. Statement of purpose.**

38 In light of the findings made in G.S. 63-37.1, it is necessary to require regulation of
39 obstructions to air navigation around public airports as a condition of further State
40 funding.

41 "**§ 63-37.4. Definitions.**

42 Unless the context requires otherwise, as used in this Article:

- 43 (1) 'Approach' also includes departure;
- 44 (2) 'Publicly owned airport' means an airport that is owned or operated by:

- a. The State of North Carolina;
- b. A city or county;
- c. The United States of America or any department or subdivision of it;
- d. An airport authority, board or commission created under Chapter 63, Chapter 153A, or Chapter 160A of the General Statutes; or
- e. An airport authority, board or commission created by or under a local act.

(3) 'Structure' means any object, constructed or installed by man, including buildings, towers, smokestacks, utility poles, and overhead transmission lines.

"§ 63-37.5. Department of Transportation to define approach zones.

(a) Not later than January 1, 1991, the Board of Transportation shall, by resolution, adopt an individual plan for each publicly owned airport, which shall define the airspace which constitutes the approaches to the airport. The plan shall take into consideration visual and instrument approaches, any federal policies concerning terminal airspace and obstruction standards, and any airport master plan on file with the Department of Transportation or the Federal Aviation Administration.

(b) The Board of Transportation must hold a public hearing before adopting such resolution. The Board shall give written notice of the hearing to each airport and to each city and county with zoning jurisdiction over the approaches.

"§ 63-37.6. Board of Transportation shall promulgate model ordinance and standards for special use or conditional use permits.

(a) The Board of Transportation shall by resolution promulgate a model ordinance, which shall set minimum standards for prohibition or regulation of obstructions in the approach zone of a publicly owned airport.

(b) The model ordinance shall provide for standards to be used by local government in granting or denying special use or conditional use permits for construction, erection, or substantial repair of structures within approach zones of publicly owned airports. Such standards shall recognize the public safety interests in protecting air navigation near publicly owned airports and the public interest in regulating or prohibiting incompatible uses near publicly owned airports.

"§ 63-37.7. Local zoning to be implemented.

(a) Not later than October 1, 1991, each city and county, within the jurisdiction that city or county could adopt a zoning ordinance under Article 18 of Chapter 153A of the General Statutes, Article 19 of Chapter 160A of the General Statutes, local act, or G.S. 63-31(d), shall adopt or amend a zoning ordinance so as to adequately protect the approach airspace of a publicly owned airport from intrusions which reduce the utility of the airport or diminish the public investment in the airport, and shall enforce such ordinance.

(b) Such scheme of regulation may prohibit the construction, erection, or substantial repair of any structure within such approach zone, but shall at least require

1 the issuance of a special use or conditional use permit for the construction, erection, or
2 substantial repair of any structure within such approach zone.

3 (c) If the local government elects to require a special use or conditional use
4 permit for the construction, erection, or substantial repair of such structure, the
5 standards for granting or denying such permit shall be those promulgated by the Board
6 of Transportation.

7 (d) This section applies to publicly owned airports owned or operated by:

8 (1) A city or county

9 (2) An airport authority, board or commission created under Chapter 63,
10 Chapter 153A, or Chapter 160A of the General Statutes; or

11 (3) An airport authority, board or commission created by or under a local
12 act.

13 **"§ 63-37.8. Sanctions.**

14 If all of the units of government required to adopt ordinances under G.S. 63-37.8
15 to cover the approaches to a particular airport do not do so, then the Secretary of
16 Transportation may withhold from expenditure within the jurisdiction of any city or
17 county which has failed to so adopt such an ordinance any transportation funding,
18 including but not limited to funding for highways, public transportation, airports, rail, or
19 ferries, but may not withhold funds under G.S. 136-41.1 and may refuse to approve any
20 federal transportation funds for which his approval was required.

21 **"§ 63-37.9. Board of Transportation to regulate structures in approach zones of**
22 **State or federal airports.**

23 (a) At the request of the State agency owning or operating the airport, the Board
24 of Transportation shall adopt and enforce ordinances to protect the approach zones of
25 airports owned by the State of North Carolina. In the exercise of such power, the Board
26 of Transportation shall have all the powers of a city or county which would otherwise
27 have zoning jurisdiction over the territory to be regulated. In the case of any conflict
28 between ordinances of the Board of Transportation under this section and an ordinance
29 adopted by a city or county, the more stringent regulations as to any particular situation
30 shall prevail.

31 (b) At the request of the United States, the Board of Transportation shall adopt
32 and enforce ordinances to protect the approach zones of airports owned by the United
33 States of America or any department or subdivision of it. In the exercise of such power,
34 the Board of Transportation shall have all the powers of a city or county which would
35 otherwise have zoning jurisdiction over the territory to be regulated. In the case of any
36 conflict between ordinances of the Board of Transportation under this section and an
37 ordinance adopted by a city or county, the more stringent regulations as to any
38 particular situation shall prevail.

39 (c) In the exercise of power under this section, the Board of Transportation shall
40 adopt and enforce such an ordinance in that jurisdiction as if it were the governing
41 board of the jurisdiction which has general authority to adopt zoning regulations for an
42 area, except that any public hearings which may be required by law may be held at any
43 place within the State designated by the Board of Transportation. The Board of
44 Transportation may delegate to a subcommittee of the Board the duty to hold any such

1 public hearings and the duty of any appeals board or board of adjustment which may be
2 required by law.

3 **"§ 63-37.10. Cooperative programs for enforcement.**

4 Any city or county, or the Board of Transportation, adopting an ordinance under this
5 Part may contract with any other city or county, airport authority, regional council of
6 government, regional planning agency, or with the Department of Transportation or the
7 Department of Natural Resources and Community Development for the enforcement of
8 the ordinance.

9 **"§ 63-37.11. Filing of ordinances.**

10 Each city or county, or the Board of Transportation, adopting an ordinance
11 regulating or prohibiting structures within the approach zone of a publicly owned airport
12 shall keep on file with the Secretary of Transportation a current copy of that ordinance,
13 along with procedures for permit application and an appeal, a schedule for any
14 application fees, and copies of any required forms to be used by applicants or persons
15 bringing an appeal.

16 **"§ 63-37.12. Enforcement and penalties.**

17 Ordinances adopted under this Part shall be enforced as provided by G.S. 63-35.

18 **"§ 63-37.13. Assistance to counties and cities.**

19 The Department of Natural Resources and Community Development and the
20 Department of Transportation shall provide assistance upon request to the counties and
21 cities in carrying out their functions pursuant to this Part, such as by providing model
22 studies, plans, and ordinances for their consideration.

23 **"§ 63-37.14. Part is supplemental.**

24 This Part provides a supplemental source of authority in addition to other present
25 or future legislation and shall not be construed as prescribing an exclusive procedure or
26 as granting exclusive powers.

27 **"§ 63-37.15. Statute of limitations. A cause of action as to the validity of any zoning**
28 **ordinance, or amendment thereto, adopted under this Article shall**
29 **accrue upon adoption of the ordinance, or amendment thereto, and shall**
30 **be brought within nine months as provided in G.S. 1-54.1."**

31 Sec. 2. This act shall become effective July 1, 1989.