

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 394

Short Title: Zoning/Intensive Hog Operations.

(Public)

Sponsors: Senator Jordan.

Referred to: Agriculture/Environment/Natural Resources

March 20, 1995

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE ZONING LAWS TO CLARIFY COUNTY AUTHORITY
2 TO REGULATE BY ORDINANCE INTENSIVE HOG OPERATIONS TO
3 PROTECT THE HEALTH, SAFETY, OR WELFARE OF COUNTY CITIZENS
4 AND THE PEACE AND DIGNITY OF THE COUNTY.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 153A-340 reads as rewritten:

8 "**§ 153A-340. Grant of ~~power~~-power; immunity from governmental takings action.**

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

16 These regulations may not affect bona fide farms, ~~but any use of farm property for~~
17 ~~nonfarm purposes is subject to the regulations.~~ farms; provided, however, that the county
18 may issue regulations affecting intensive hog operations. Intensive hog operations shall
19 not be considered bona fide farms. 'Intensive hog operation' means any operation using
20 an enclosure, pen, feedlot, or building, or group of buildings intended to be used or used

1 to feed, confine, maintain, or stable swine, where the dietary needs of the swine are met
2 primarily by means other than grazing and where at any time there are at least 250 swine
3 of any size in the operation.

4 Any use of farm property for nonfarm purposes is subject to the regulations. Bona
5 fide farm purposes include the production and activities relating or incidental to the
6 production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock,
7 poultry, and all other forms of agricultural products having a domestic or foreign market.
8 The regulations may provide that a board of adjustment may determine and vary their
9 application in harmony with their general purpose and intent and in accordance with
10 general or specific rules therein contained. The regulations may also provide that the
11 board of adjustment or the board of commissioners may issue special use permits or
12 conditional use permits in the classes of cases or situations and in accordance with the
13 principles, conditions, safeguards, and procedures specified therein and may impose
14 reasonable and appropriate conditions and safeguards upon these permits. Where
15 appropriate, the conditions may include requirements that street and utility rights-of-way
16 be dedicated to the public and that recreational space be provided. When issuing or
17 denying special use permits or conditional use permits, the board of commissioners shall
18 follow the procedures for boards of adjustment except that no vote greater than a majority
19 vote shall be required for the board of commissioners to issue such permits, and every
20 such decision of the board of commissioners shall be subject to review by the superior
21 court by proceedings in the nature of certiorari.

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

25 For the purpose of this section, the term 'structures' shall include floating homes. Any
26 petition for review by the superior court shall be filed with the clerk of superior court
27 within 30 days after the decision of the board of commissioners is filed in such office as
28 the ordinance specifies, or after a written copy thereof is delivered to every aggrieved
29 party who has filed a written request for such copy with the clerk at the time of the
30 hearing of the case, whichever is later. The decision of the board of commissioners may
31 be delivered to the aggrieved party either by personal service or by registered mail or
32 certified mail return receipt requested.

33 (b) Immunity from Governmental Takings Action. – Any regulation issued by the
34 county affecting intensive hog operations, pursuant to this section or G.S. 153A-121 or
35 G.S. 130A-39 shall not be considered a governmental taking or an action of eminent
36 domain or condemnation. No person affected by any regulation issued by the county
37 affecting intensive hog operations shall be entitled to compensation pursuant to Chapter
38 40A of the General Statutes."

39 Sec. 2. This act is effective upon ratification.