

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 523\*

Short Title: Zoning/Intensive Hog Operations.

(Public)

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Sponsors: Representatives H. Hunter, Fitch, Braswell, Shaw; Adams, Barnes, Blue, Boyd-McIntyre, Cummings, Cunningham, Earle, Hackney, Hightower, Lemmond, Linney, Luebke, McAllister, Michaux, Oldham, Preston, Wainwright, Warner, Womble, and Wright.

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Referred to: Agriculture.

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March 22, 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

1 may issue regulations affecting intensive hog operations. Intensive hog operations shall  
2 not be considered bona fide farms. 'Intensive hog operation' means any operation using  
3 an enclosure, pen, feedlot, or building, or group of buildings intended to be used or used  
4 to feed, confine, maintain, or stable swine, where the dietary needs of the swine are met  
5 primarily by means other than grazing and where at any time there are at least 250 swine  
6 of any size in the operation.

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

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

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

36 (b) Immunity from Governmental Takings Action. – Any regulation issued by the  
37 county affecting intensive hog operations, pursuant to this section or G.S. 153A-121 or  
38 G.S. 130A-39 shall not be considered a governmental taking or an action of eminent  
39 domain or condemnation. No person affected by any regulation issued by the county  
40 affecting intensive hog operations shall be entitled to compensation pursuant to Chapter  
41 40A of the General Statutes."

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