

Zoning and Agriculture: Resources for Municipalities and Counties

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EXTENSION**

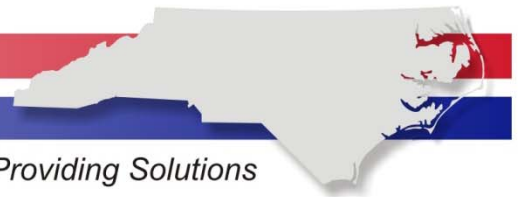
Empowering People • Providing Solutions

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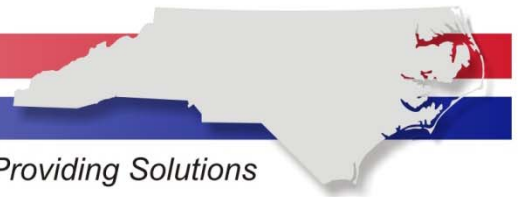
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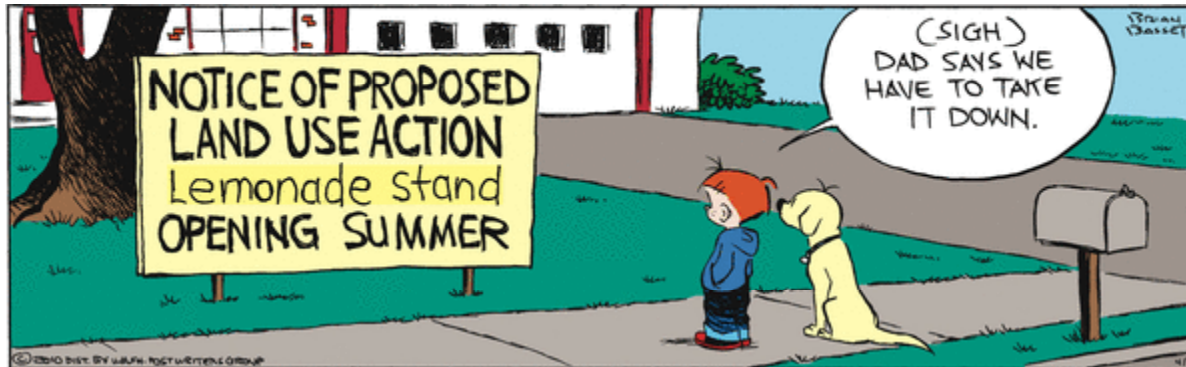
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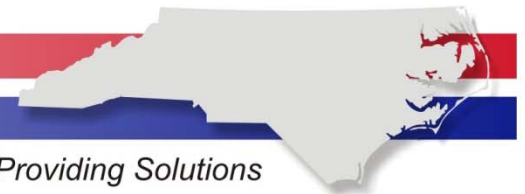
A BIG Picture

- Agriculture brings ~\$70 Billion dollars into North Carolina's economy
 - www.ag-econ.ncsu.edu/faculty/walden/ncagsz2011.pdf
 - www.ncagr.gov/stats/2010AgStat/index.htm
- Military is ranked second and tourism third
- Data does not capture small scale production





Red and Rover, Brian Basset,
<http://www.gocomics.com/redandrover/2010/04/09>



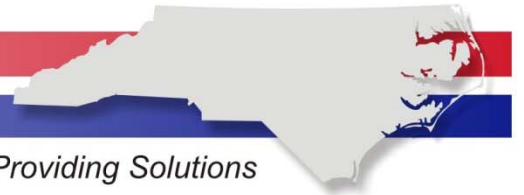
Objectives Related to Scale of Agriculture

- What does your community support?
 - Farmers' markets/Local foods
 - Agritourism
 - Grow your own
 - Agribusiness and related support
- How and where is it willing to support these objectives?



Statutes

- Counties
 - Grant of Power (Bona fide farm purposes defined)
 - N.C.G.S. § 153A-340(b)(2)
 - Exemption added in 1959 for all counties
 - Modified by Session Law 2011-363



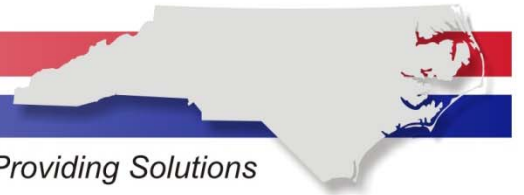
Statutes

- County zoning and exemptions
 - Exemptions often not listed
 - Do not track the statute
 - May incorporate N.C.G.S. 153A-340(b)(2) by reference (good idea)
 - Terms sometimes listed, but not defined
 - Term sometimes defined, but exemption not listed



Statutes

- Municipalities
 - Zoning exemption for bona fide farms in ETJs removed in 1971
 - ~60 municipalities exempt bona fide farms in either the ETJ or entire planning jurisdiction



Statutes

- Municipalities
 - “Farms Exempt from Annexation and City ETJ”
 - Session Law 2011-363
 - Consider flexibility for operations that:
 - Do not have 1 of the 5 forms of evidence
 - Are in the corporate boundaries



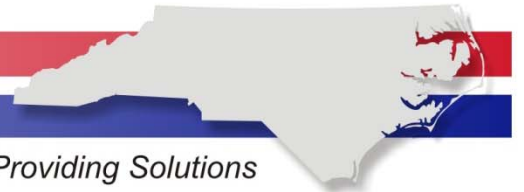
Statutes

- Municipalities
 - Voluntary and Enhanced Voluntary Agricultural Districts
 - N.C.G.S. § 160A-383.2
 - On-farm sales; Pick-your-own, road signs
 - Important for corporate boundaries



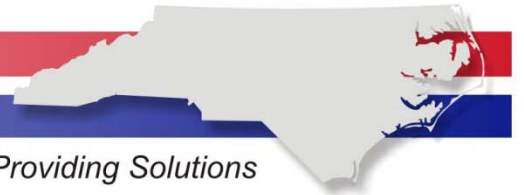
Statutes

- Municipalities and Counties
 - Nuisance Liability of Agricultural and Forestry Operations - “Right-To-Farm Law,”
 - N.C.G.S. §§ 106-700 to 705
 - Clarify Regulation of Forestry
 - N.C.G.S. § 153A-451, Restriction of certain forestry activities prohibited
 - N.C.G.S. § 160A-458.5, Restriction of certain forestry activities prohibited (Registered forester)



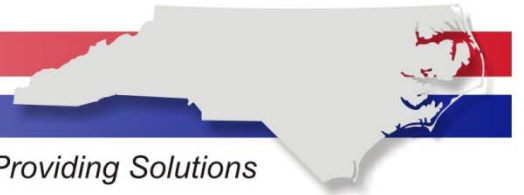
Statutes

- Agriculture defined
 - N.C.G.S. § 106-581.1
- Aquaculture defined
 - N.C.G.S. § 106-758 (1)



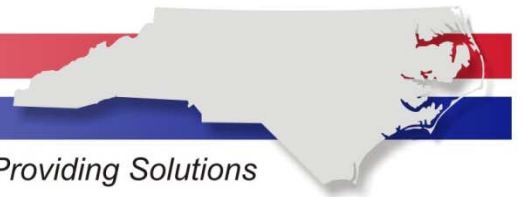
Statutes

- Floodway Regulation
 - Regulation of flood hazard areas; prohibited uses
 - N.C.G.S. § 143-215.54
 - Farming, forestry, other activities may be allowed without permit



Statutes

- Stormwater Management
 - N.C.G.S. § 143-215.1(d)
 - Agricultural and silvicultural activities may be exempt



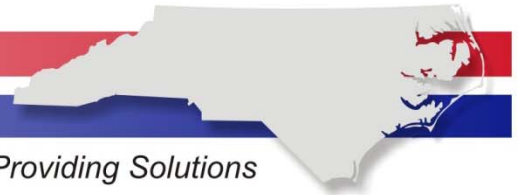
Statutes and Code

- Water supply watershed protection
 - N.C.G.S. § 143-214.5
 - Can be no more restrictive than those adopted by the NCEMC
 - Agriculture - 15A NCAC 02B .0104 (p)
 - Silviculture - 15A NCAC 02B .0104 (v))



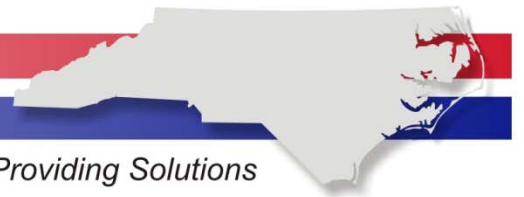
Statutes and Code

- Water supply watershed protection
 - Agriculture, 15A NCAC 2H .0217 (15A NCAC 2H .0200 repealed; see other provisions noted)
 - 10 foot vegetated buffer
 - Silviculture, 15A NCAC 1I .0101 - .0209
 - Forest Practices Guidelines Related to Water Quality



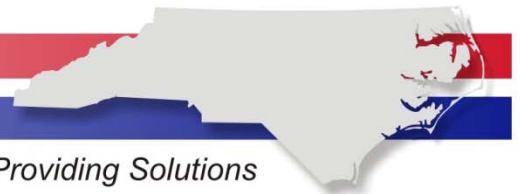
Statutes and Code

- Sedimentation and Pollution Control Act of 1973
 - N.C.G.S. § 113A-50 et al.
 - Agriculture and forestry activities may be exempt
 - North Carolina Forest Practices Guidelines Related To Water Quality
 - <http://www.dfr.state.nc.us/publications/Forestry%20Leaflets/WQ01.pdf>



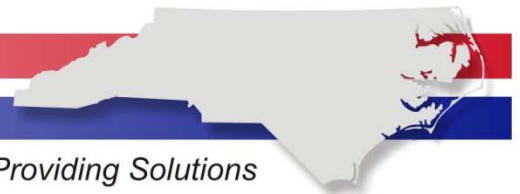
Ordinance Considerations

- Form of the ordinance
 - Are terms properly defined?
 - Exemptions noted where necessary, or included by reference?
- Conflicts between ordinance provisions
 - E.g., allowed under zoning, but not animal control ordinances



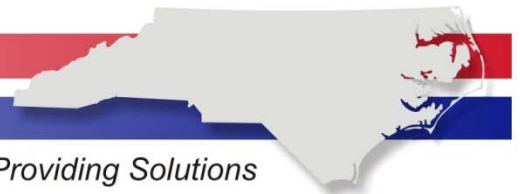
Ordinance Considerations

- Findings from research:
 - Exemptions not properly spelled out (E.g. county bona fide farm purpose exemption)
 - Uses listed without being defined
 - Uses defined but not listed
 - Exemption and definition different
- Corrections now may allow more consistent enforcement later



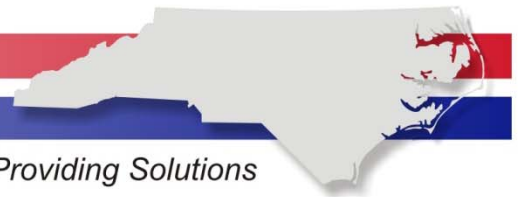
Figuring It Out

- Is it a _____ use? (farm, forestry, or other defined use)?
- What statutes/ordinances apply — and how?
- Could it be exempt?
- How are other local governments handling these issues? (fit solution to your community's needs)
- Look at other resources
 - Cooperative Extension, UNC School of Government



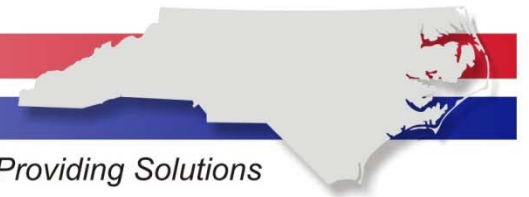
Common Issues

- Agritourism
- Bees
- Backyard chickens
- Building Code
- Community Gardens
- Farmer's markets
- Fencing
- Nuisance vegetation
- Pole barns/Shelters
- Roadside stands
- Tree clearing



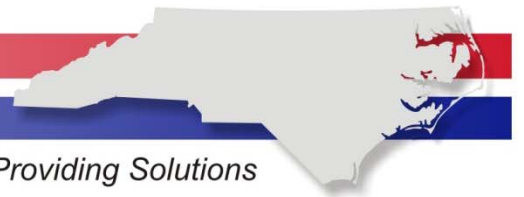
Common Issues

- Building Code
 - N.C.G.S. § 143-138 (b4)
 - Exemptions from municipal enforcement for farm buildings: greenhouses and equine activities
 - Horse exemption expanded to include shows (Session Law 2011-364)
 - N.C.G.S. 153A-340 (j) added
 - Single family residential allowed on lots greater than 10 acres + > 50% agricultural or forestry (S.L. 2011-384)
 - Flexibility may have to be sought via local legislation (e.g., Session Law 2011-34)



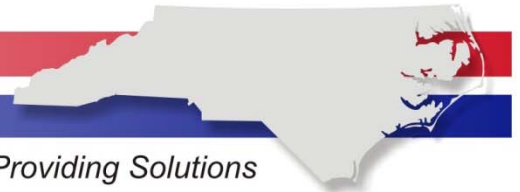
Backyard Chickens

- Backyard Chickens
 - Roosters in Asheville?
 - Automatically allowed on bona fide farm
 - City roosters grandfathered in for the life of the rooster
 - Chapel Hill, Durham, Louisburg, Raleigh allow on smaller lot sizes



Bees

- Asheville –
 - Chapter 3, Article 1, Section 3-16, Keeping of bees
- Graham
 - Chapter 4, Article 3, Sections 4-62 through 4-65
- Pinehurst
 - Section 10.2.1.3 Special Requirements to the Table of Permitted and Special Uses, SR-18, Accessory Uses and Structures, Fences, Section 18 (p)



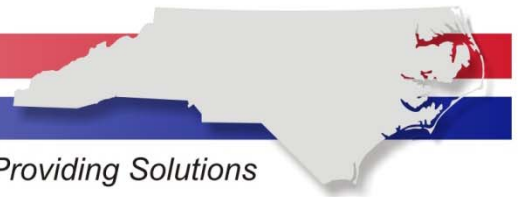
Community Gardens

- There are many across the state
<http://nccommunitygarden.ncsu.edu>, *but...*
- Not commonly addressed in N.C. zoning and other ordinances where not an accessory use
- Raleigh will be modifying its ordinances
 - www.raleighnc.gov/business/content/PlanCurrent/Articles/CommunityGardens.html



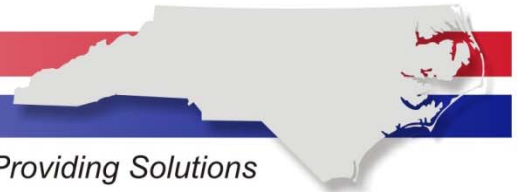
Large Scale - Working Open Space

- Farm and forestlands – and horticultural operations
- Often enrolled in present use value
- Acreage and income requirements
- Management plan also required for forestry—must follow management plan
- Aesthetics, smell, or noise can be issues



Allowing for Agriculture

- Look at, and visit, other communities that support various scales
 - Identify what your community wants/needs
 - Challenges and obstacles
 - Types of ordinances, which allow
 - Support and incentives like inclusion in land use plans and flexible zoning



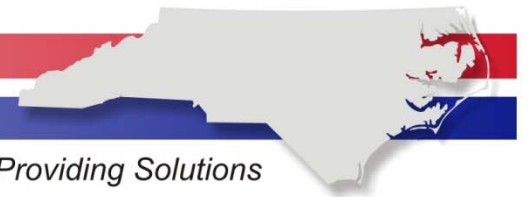
Suggestions

- Communication
 - Include necessary details and authorities so that citizens understand concerns and applicable regulations
- Check outside resources for information
 - E.g., UNC School of Government, Soil and Water Conservation Districts, Farm Service Agency
- Work internally with other departments
 - Tax office, Attorney, Cooperative Extension



Resources for Assistance

- **North Carolina Cooperative Extension**
 - Offices in all 100 counties and the Cherokee Reservation
 - Extension publications
 - www.ces.ncsu.edu/index.php?page=countycenters
- **North Carolina Soil and Water Conservation**
 - www.ncaswcd.org/?page_id=113
- **North Carolina Department of Agriculture and Consumer Services (NCDA&CS)**
 - www.ncagr.gov
 - www.ncagr.gov/markets/agritourism/



Resources for Assistance

- **Trees and Local Regulations in North Carolina**
 - ww.ces.ncsu.edu/nreos/forest/ordinance
- **North Carolina Forest Service**
 - www.dfr.state.nc.us/
 - Find your County Ranger:
 - www.dfr.state.nc.us/contacts/contacts_main.htm
- **UNC School of Government**
 - NC Planning Listserv, Publications
 - www.sog.unc.edu/node/934

