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NORTH CAROLINA

RECENT LEGISLATION AFFECTING MUNICIPAL ZONING

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Farm Bureau and Local Land Use Regulation



- Farm Bureau policy favors local control of zoning with adequate farmer input.
- Zoning issue for farmers
 - Zoning out – Generally livestock issues within incorporated limits
 - Zoning in – Large lot zoning to maintain rural character – diminished property values.

Session Law 2011-363



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Exempts “property” used for “bona fide farm purposes” from involuntary annexation and exercise of extra-territorial jurisdiction.

Definition of “Property”



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- Single Tract of Land
- Identifiable Portion of a Single Tract
- If farm and non-farm uses are combined then property does not qualify for exemption.
- Issues caused by exempting property instead of uses



"Bona Fide Farm Purposes"

- Production *and activities relating to or incidental to the production of*
 - Crops
 - Fruits
 - Vegetables
 - Ornamental and flowering plants
 - dairy
 - livestock
 - poultry

All other forms of agriculture , as defined in G.S. 106-581.1

“Bona Fide Farm Purposes” (cont’d)



- Defined in N.C.G.S. Section 106-581.1
 - The cultivation of soil for production and harvesting of crops
 - The planting and production of trees and timber
 - Dairying, livestock, poultry, bees and other animals for individual and public use, consumption and marketing
 - Aquaculture
 - Operation, management, conservation, improvement and maintenance of farm and farm buildings, including building, repair replacement and expansion
 - *When performed on the farm* Marketing, agritourism, storage, packing, processing, sorting and other value added activities.

Safe Harbors



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- *Any* of the following shall constitute *sufficient evidence* that the property is being used for bona fide farm purposes
 - A farm sales tax exemption certificate
 - A tax listing showing that the property qualifies for present use value assessment
 - An IRS Schedule F
 - A forest management plan
 - A federal farm I.D. number

Issues to be Resolved



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- Annexation
 - Trouble with getting signatures from all property owners when owners cannot be located.
 - Creation of contiguity problems

ETJ

- What constitutes “exercise of ETJ”
- Jurisdiction over swine farms

Other issues



Local Floodplain Regulations

- G.S. Section 143-215.54 empowers local governments to regulate land uses within flood hazard areas delineated by the local government
- “General farming, pasture, outdoor plant nurseries, horticulture, forestry..” are exempt from regulation
- No clarifying definition is provided