

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1191

Short Title: Authority to Adopt Local Ordinances. (Public)

Sponsors: Representatives Dixon and Langdon (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Agriculture, if favorable, Government.

May 22, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS TO ADOPT
3 CERTAIN AGRICULTURAL AND ENVIRONMENTAL ORDINANCES, AS
4 RECOMMENDED BY THE AGRICULTURE AND FORESTRY AWARENESS STUDY
5 COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 56 of Chapter 106 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 106-678. Authority of local governments to regulate fertilizers.**

10 No county or city shall adopt or continue in effect any ordinance, rule, regulation, or
11 resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation,
12 labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall
13 prohibit a county, city, or other political subdivision of the State from exercising its planning
14 and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of
15 Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection
16 authority. Nothing in this section shall limit the authority of the Department of Environment
17 and Natural Resources to enforce water quality standards."

18 **SECTION 2.** G.S. 153A-452 reads as rewritten:

19 **"§ 153A-452. Restriction of certain forestry activities prohibited.**

20 ...

21 (b) A county shall not adopt or enforce any ordinance, rule, regulation, or resolution
22 that ~~regulates either~~ regulates any of the following:

23 (1) Forestry activity on forestland that is taxed on the basis of its present-use
24 value as forestland under Article 12 of Chapter 105 of the General Statutes.

25 (2) Forestry activity that is conducted in accordance with a forest management
26 plan.

27 (3) The removal, replacement, and preservation of trees on private property
28 within its jurisdiction.

29 (c) This section shall not be construed to limit, expand, or otherwise alter the authority
30 of a county to:

31 (1) Regulate activity associated with development. A county may deny a
32 building permit or refuse to approve a site or subdivision plan for either a
33 period of up to:

34 a. Three years after the completion of a timber harvest if the harvest
35 results in the removal of all or substantially all of the trees that were



protected under county regulations governing development from the tract of land for which the permit or approval is sought.

- b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under county regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the county regulations.

~~(2) Regulate trees pursuant to any local act of the General Assembly.~~

(3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.

(4) Exercise its planning or zoning authority under Article 18 of this Chapter."

SECTION 3. G.S. 160A-458.5 reads as rewritten:

"§ 160A-458.5. Restriction of certain forestry activities prohibited.

...

(b) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that ~~regulates either:~~ regulates any of the following:

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

(3) The removal, replacement, and preservation of trees on private property within its jurisdiction.

(c) This section shall not be construed to limit, expand, or otherwise alter the authority of a city to:

(1) Regulate activity associated with development. A city may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:

- a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought.

- b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the city regulations.

~~(2) Regulate trees pursuant to any local act of the General Assembly.~~

(3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.

(4) Exercise its planning or zoning authority under this Article.

(5) Regulate and protect streets under Article 15 of this Chapter."

SECTION 4. This act is effective when it becomes law.