3/16/18 11:33 A.M.

Chapter No. 377
18/HR26/R1567SG
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HOUSE BILL NO. 1122

Originated in House _____ Clerk

HOUSE BILL NO. 1122

AN ACT TO AMEND SECTION 17-1-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "AGRICULTURAL OPERATION," "FORESTRY ACTIVITY" AND "TRADITIONAL FARM PRACTICES" FOR PURPOSES OF LOCAL LAND USE REGULATIONS; TO AMEND SECTION 17-1-3, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT LOCAL LAND USE REGULATIONS RELATED TO CERTAIN ACTIVITIES SHALL BE PREEMPTED BY REGULATIONS PROMULGATED BY THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE AND THE MISSISSIPPI FORESTRY COMMISSION; TO AMEND SECTION 17-1-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GOVERNING AUTHORITY OF A MUNICIPALITY OR COUNTY SHALL NOT RESTRICT OR PROHIBIT ANY AGRICULTURAL OPERATION, FORESTRY ACTIVITY OR TRADITIONAL FARM PRACTICES BEING CONDUCTED ON LAND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 17-1-1, Mississippi Code of 1972, is amended as follows:

17-1-1. The following words, whenever used in this chapter, shall, unless a different meaning clearly appears from the context, have the following meanings:

(a) "Municipality" means any incorporated city, town or village within the state.

(b) "Governing authority" or "governing authorities," in the case of counties, means the board of supervisors of the county, and, in the case of municipalities, means the council, board, commissioners or other legislative body charged by law with governing the municipality.

(c) "Comprehensive plan" means a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body, consisting of the following elements at a minimum:

(i) Goals and objectives for the long-range (twenty (20) to twenty-five (25) years) development of the county or municipality. Required goals and objectives shall address, at a minimum, residential, commercial and industrial development; parks, open space and recreation; street or road improvements; public schools and community facilities.

(ii) A land use plan which designates in map or policy form the proposed general distribution and extent of the uses of land for residences, commerce, industry, recreation and open space, public/quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following: residential densities; intensity of commercial uses; industrial and public/quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area

encompassed by the plan may be the basis for quantitative recommendations for each land use category.

(iii) A transportation plan depicting in map form the proposed functional classifications for all existing and proposed streets, roads and highways for the area encompassed by the land use plan and for the same time period as that covered by the land use plan. Functional classifications shall consist of arterial, collector and local streets, roads and highways, and these classifications shall be defined on the plan as to minimum right-of-way and surface width requirements; these requirements shall be based upon traffic projections. All other forms of transportation pertinent to the local jurisdiction shall be addressed as appropriate. The transportation plan shall be a basis for a capital improvements program.

(iv) A community facilities plan as a basis for a capital improvements program including, but not limited to, the following: housing; schools; parks and recreation; public buildings and facilities; and utilities and drainage.

(d) "Amateur radio service" means those individuals and stations licensed by the Federal Communications Commission to broadcast amateur radio signals regardless of the transmission mode.

<u>(e) "Agricultural operation" means the facilities, sites and uses defined in Section 95-3-29(2)(a).</u>

(f) "Forestry activity" means the activity defined in Section 95-3-29(2)(b).

(g) "Traditional farm practices" means the customs and standards defined in Section 95-3-29(2)(c).

SECTION 2. Section 17-1-3, Mississippi Code of 1972, is amended as follows:

17-1-3. (1) Except as otherwise provided in Section 17-1-21(2) and in Article VII of the Chickasaw Trail Economic Development Compact described in Section 57-36-1, for the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, are empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required with reference to land used for agricultural purposes, including forestry activities as defined in Section 95-3-29(2)(* * *b), or for the erection, maintenance, repair or extension of farm buildings or farm structures, including forestry buildings and structures, outside the corporate limits of municipalities. The governing authority of each county and municipality may create playgrounds and public parks, and for

these purposes, each of such governing authorities shall possess the power, where requisite, of eminent domain and the right to apply public money thereto, and may issue bonds therefor as otherwise permitted by law.

(2) Local land use regulation ordinances involving the placement, screening, or height of amateur radio antenna structures must reasonably accommodate amateur communications and must constitute the minimum practicable regulation to accomplish local authorities' legitimate purposes of addressing health, safety, welfare and aesthetic considerations. Judgments as to the types of reasonable accommodation to be made and the minimum practicable regulation necessary to address these purposes will be determined by local governing authorities within the parameters of the law. This legislation supports the amateur radio service in preparing for and providing emergency communications for the State of Mississippi and local emergency management agencies.

SECTION 3. Section 17-1-21, Mississippi Code of 1972, is amended as follows:

17-1-21. (1) Except as otherwise provided in subsection (2) of this section and in Article VII of the Chickasaw Trail Economic Development Compact described in Section 57-36-1, whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building, or a less number of stories, or a greater percentage of lot to be left unoccupied, or

impose other standards higher than are required by the regulations made under the authority of Sections 17-1-1 through 17-1-27, inclusive, the provisions of such other statute, or local ordinance or regulation shall govern; otherwise the provisions of the regulations made under the authority of Sections 17-1-1 through 17-1-27, inclusive, shall be controlling.

(2) (a) No governing authority of any municipality or of any county shall adopt or impose any ordinance, regulation, rule or policy that prohibits or restricts agricultural operation, forestry activity or traditional farm practices on agricultural land or land that is otherwise unclassified if the land is used for an agricultural operation, forestry activity or traditional farm practices. Additionally, if the activities being conducted on the land are regulated by the Mississippi Department of Environmental Quality, the Mississippi Department of Agriculture and Commerce or the Mississippi Forestry Commission, the provisions of those agencies' statutes or the regulations promulgated by those agencies shall govern.

(b) However, a governing authority of any municipality or of any county may enact or impose ordinances, regulations, rules or policies that prohibit or restrict agricultural, forestry or traditional farm practices or the erection of any building, structure or improvement upon land with such agricultural, forestry or traditional farm practices or lands governed by the Mississippi Department of Environmental Quality, the Mississippi

Department of Agriculture and Commerce or the Mississippi Forestry Commission if such land is under Federal Aviation Administration Part 77 restrictions or if such activity, building, structure or improvement creates obstruction to navigable airspace.

(c) Paragraph (a) of this subsection shall not affect any ordinance, regulation, rule, or policy that is in effect, adopted, or amended prior to the effective date of this act. Additionally, paragraph (a) of this subsection shall not be construed to affect the discretion of a county or municipal governing authority to reclassify property from one zone to another as otherwise permitted by law.

SECTION 4. This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 6, 2018

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 28, 2018

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/16/18
11:33am