

By: Representatives Johnson (87th), Dixon,
Walker

To: Agriculture

HOUSE BILL NO. 1122
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 17-1-1, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE TERMS "AGRICULTURAL OPERATION," "FORESTRY ACTIVITY" AND
3 "TRADITIONAL FARM PRACTICES" FOR PURPOSES OF LOCAL LAND USE
4 REGULATIONS; TO AMEND SECTION 17-1-3, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE THAT LOCAL LAND USE REGULATIONS RELATED TO CERTAIN
6 ACTIVITIES SHALL BE PREEMPTED BY REGULATIONS PROMULGATED BY THE
7 MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, THE MISSISSIPPI
8 DEPARTMENT OF AGRICULTURE AND COMMERCE AND THE MISSISSIPPI
9 FORESTRY COMMISSION; TO AMEND SECTION 17-1-21, MISSISSIPPI CODE OF
10 1972, TO PROVIDE THAT THE GOVERNING AUTHORITY OF A MUNICIPALITY OR
11 COUNTY SHALL NOT RESTRICT OR PROHIBIT ANY AGRICULTURAL OPERATION,
12 FORESTRY ACTIVITY OR TRADITIONAL FARM PRACTICES BEING CONDUCTED ON
13 LAND; AND FOR RELATED PURPOSES.

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

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

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

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

22 (b) "Governing authority" or "governing authorities,"
23 in the case of counties, means the board of supervisors of the



24 county, and, in the case of municipalities, means the council,
25 board, commissioners or other legislative body charged by law with
26 governing the municipality.

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

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

37 (ii) A land use plan which designates in map or
38 policy form the proposed general distribution and extent of the
39 uses of land for residences, commerce, industry, recreation and
40 open space, public/quasi-public facilities and lands. Background
41 information shall be provided concerning the specific meaning of
42 land use categories depicted in the plan in terms of the
43 following: residential densities; intensity of commercial uses;
44 industrial and public/quasi-public uses; and any other information
45 needed to adequately define the meaning of such land use codes.
46 Projections of population and economic growth for the area
47 encompassed by the plan may be the basis for quantitative
48 recommendations for each land use category.



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

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

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

69 (e) "Agricultural operation" means the facilities,
70 sites and uses defined in Section 95-3-29(2)(a).

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



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

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

77 17-1-3. (1) Except as otherwise provided in Section
78 17-1-21(2) and in Article VII of the Chickasaw Trail Economic
79 Development Compact described in Section 57-36-1, for the purpose
80 of promoting health, safety, morals, or the general welfare of the
81 community, the governing authority of any municipality, and, with
82 respect to the unincorporated part of any county, the governing
83 authority of any county, in its discretion, are empowered to
84 regulate the height, number of stories and size of building and
85 other structures, the percentage of lot that may be occupied, the
86 size of the yards, courts and other open spaces, the density of
87 population, and the location and use of buildings, structures and
88 land for trade, industry, residence or other purposes, but no
89 permits shall be required with reference to land used for
90 agricultural purposes, including forestry activities as defined in
91 Section 95-3-29(2) (* * *b), or for the erection, maintenance,
92 repair or extension of farm buildings or farm structures,
93 including forestry buildings and structures, outside the corporate
94 limits of municipalities. The governing authority of each county
95 and municipality may create playgrounds and public parks, and for
96 these purposes, each of such governing authorities shall possess
97 the power, where requisite, of eminent domain and the right to



98 apply public money thereto, and may issue bonds therefor as
99 otherwise permitted by law.

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

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

114 17-1-21. (1) Except as otherwise provided in subsection (2)
115 of this section and in Article VII of the Chickasaw Trail Economic
116 Development Compact described in Section 57-36-1, whenever the
117 provisions of any other statute or local ordinance or regulation
118 require a greater width or size of yards, courts or other open
119 spaces, or require a lower height of building, or a less number of
120 stories, or a greater percentage of lot to be left unoccupied, or
121 impose other standards higher than are required by the regulations
122 made under the authority of Sections 17-1-1 through 17-1-27,



123 inclusive, the provisions of such other statute, or local
124 ordinance or regulation shall govern; otherwise the provisions of
125 the regulations made under the authority of Sections 17-1-1
126 through 17-1-27, inclusive, shall be controlling.

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

139 (b) However, a governing authority of any municipality
140 or of any county may enact or impose ordinances, regulations,
141 rules or policies that prohibit or restrict agricultural, forestry
142 or traditional farm practices or the erection of any building,
143 structure or improvement upon land with such agricultural,
144 forestry or traditional farm practices or lands governed by the
145 Mississippi Department of Environmental Quality, the Mississippi
146 Department of Agriculture and Commerce or the Mississippi Forestry
147 Commission if such land is under Federal Aviation Administration



148 Part 77 restrictions or if such activity, building, structure or
149 improvement creates obstruction to navigable airspace.

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

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

