

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 358
SENATE BILL 809

AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL
GOVERNMENTS IN ORANGE AND CHATHAM COUNTIES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF CHAPEL HILL

Section 1. (a) Section 4 of Chapter 911 of the 1981 Session Laws reads as rewritten:

"Sec. 4. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including, but not limited to, Chapter 143 of the General Statutes, a town is authorized to require by ordinance the inclusion of ~~sprinklers~~ sprinkler systems in all buildings in excess of 50 feet in height constructed within the corporate limits of the town or within the town's extraterritorial planning jurisdiction after the effective date of said ordinance.

In addition, a town may require by ordinance the inclusion of sprinkler systems in:

- (1) All nonresidential buildings regardless of height; and
- (2) Residential buildings having three or more dwelling units regardless of height

if such buildings are constructed within the corporate limits of the town or within the town's extraterritorial planning jurisdiction after the effective date of the ordinance."

(b) This section applies to the Town of Chapel Hill only.

Sec. 2. The Charter of the Town of Chapel Hill, being Chapter 473, Session Laws of 1975, is amended by adding a new section to read:

"Sec. 2.5. Recall of Mayor and Council Members by the People.

The mayor and any member of the Town Council may be removed from office in the following manner:

- (1) Any registered voter of the Town may make and file with the Supervisor of Elections of the Board of Elections of Orange County an affidavit containing the name of the official whose removal is sought and a general statement of the grounds alleged for removal. The supervisor of elections shall thereupon deliver to the registered voter making such affidavit copies of petitions for demanding such a removal, printed forms of which the supervisor of elections shall keep on hand. Such blank forms shall be issued by the supervisor of elections with his or her signature thereto attached and shall be dated and addressed to the Board of Elections of Orange County, indicate the person to whom issued, state the name of the official whose removal is

- sought, and shall contain the general statement of the grounds on which the removal is sought as alleged in the affidavit.
- (2) A copy of the petition shall be promptly delivered to the Town Clerk who shall enter the copy of the petition in a record book kept for that purpose in the office of the clerk. A recall petition to be effective must be returned within 30 days after the filing of the affidavit, and to be sufficient must bear the signatures of registered voters of the Town equal in number to at least eight percent (8%) of the registered voters of the Town as shown by the registration records of the last preceding general municipal election. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that each signature to the paper appended is the genuine signature of the person whose name it purports to be.
 - (3) It is the duty of the Board of Elections of Orange County to investigate the sufficiency of any such petition and to certify the results of such investigation to the Town Council. The Board of Elections may employ such persons as it deems necessary to undertake such investigation and the reasonable cost of such investigation shall be reimbursed to the Board of Elections by the Town. The Board of Elections may adopt such rules and regulations as it deems necessary or advisable concerning the validation of signatures appearing on the recall petition.
 - (4) The Board of Elections shall complete its investigation and issue its certification of the results of such investigation within 15 days after the filing of any such petition. If, by the Board's certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of said certificate. The Board shall, within 10 days after such amendment, make like examination of the amended petition, and if its certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect.
 - (5) Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall order and fix a date for holding a recall election. Any such election shall be held not less than 50 nor more than 70 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within such period, the Board shall schedule the special election at the same time. If the provisions of general law prohibit the holding of special elections during the time aforesaid, and no general or special election is otherwise scheduled during said period of time, then the Board shall schedule said special recall election for some date within 10 days after

the last day of said period of time during which special elections are prohibited by general law.

Notwithstanding the requirements of the first paragraph of this subdivision requiring an election to be held within 50 to 70 days after a petition has been certified as being sufficient, no recall election shall be scheduled during the time period beginning on the first Monday in July and ending on the last Monday in August in any calendar year.

If the 50- to 70-day time period during which an election is to be scheduled falls completely within the time period beginning on the first Monday in July and ending on the last Monday in August, the recall election shall be postponed and shall be scheduled within 10 days after the last Monday in August, unless otherwise prohibited by general law, in which case said election shall be scheduled within 10 days after the last day of said period of time during which special elections are prohibited by general law.

If the 50- to 70-day time period during which an election is to be scheduled falls partially but not completely within the period from the first Monday in July to the last Monday in August, a recall election shall be scheduled during the time period either before the first Monday in July or after the last Monday in August which otherwise complies with the 50- to 70-day requirement unless otherwise prohibited by general law, in which case the election shall be scheduled within 10 days after the last day of said period of time during which special elections are prohibited by general law or this charter.

- (6) The Orange County and Durham County Board of Elections shall make, or cause to be made, publication for 10 days of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the results thereof declared in all respects as other Town elections in the Town of Chapel Hill. The reasonable costs of such election shall be reimbursed to the Boards of Elections by the Town.
- (7) The question of recalling any number of officials may be submitted at the same election, but, as to each such official, a separate petition shall be filed and there shall be an entirely separate ballot.
- (8) The ballots used in a recall election shall submit the following propositions in the order indicated:
 - For the recall of (name and title of official).
 - Against the recall of (name and title of official).
- (9) If a majority of the votes cast on the question of recalling an official be against recall, the official shall continue in office for the remainder of the unexpired term, but, except as provided by subdivision (13) of this section, subject to the recall as before. If a majority of such votes is for the recall of the official designated on the ballot, the official shall,

regardless of any defects in the recall petition, be deemed removed from office.

- (10) If an official is removed from office as a result of a recall election, the vacancy so caused shall be filled in the manner provided by this charter for filling vacancies in such office, or if not provided by this charter, in the manner provided by general law. An official removed from office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused by his own removal or resignation.
- (11) The Boards of Elections of Orange County and Durham County may enter into such agreements as they may deem appropriate to share or transfer responsibility for determining the sufficiency of a petition for a recall election and for carrying out other provisions of this section.
- (12) The provisions of Section 2 of Chapter 1023, 1987 Session Laws, incorporated as Section 2.4 of the Charter of the Town of Chapel Hill, requiring campaign reporting in Town of Chapel Hill elections, shall apply to all candidates and political committees as defined in Article 22A of Chapter 163 of the General Statutes in Town of Chapel Hill recall elections.
- (13) No recall petition shall be filed against an officer who has been subjected to a recall election and not removed thereby, until at least six months after that election."

Sec. 3. The Charter of the Town of Chapel Hill, being Chapter 473, Session Laws of 1975, is amended by adding the following new section to read:

"Sec. 5.7A. **'Denver Boot' or 'Wheel Lock' Devices.** The Town of Chapel Hill may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are outstanding, unpaid, and overdue parking tickets. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing or storage. The Town shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move such vehicle."

Sec. 4. The North Carolina Department of Transportation may lease a portion of the "air rights" area of the right-of-way on the east side of U.S. 15-501 Business (Columbia Street) between Franklin Street and Cameron Avenue in Chapel Hill to a development company owning property adjacent to the right-of-way if all of the following conditions are met:

- (1) The leased right-of-way is used in connection with a development for which a special use permit has been approved by the governing board of the Town of Chapel Hill pursuant to Chapter 160A of the General Statutes.
- (2) The Department of Transportation determines that the use authorized by the lease will not unreasonably interfere with or impair any property rights or easements of abutting owners or unreasonably

interfere with or obstruct the maintenance of the highway structure located on the right-of-way.

- (3) The State is held harmless for any injury occurring on the leased property; and the lease agreement contains any other reasonable terms and conditions the Department of Transportation considers appropriate.

Sec. 5. Section 1 of Chapter 478 of the 1989 Session Laws reads as rewritten:

"Section 1. The Charter of the Town of Chapel Hill, being Chapter 473, Session Laws of 1975, is hereby amended by adding a new Section 5.20 to read as follows:

'Sec. 5.20. Ordinances permitting low and moderate housing and providing density bonuses.

(a) For the purpose of increasing the availability of housing for persons of low and moderate income, and thereby promoting the public health, safety and welfare, the Town of Chapel Hill may grant a density bonus or provide other incentives of equivalent financial value to a developer of housing within the Town and its extraterritorial planning jurisdiction, if the developer agrees:

- (1) To construct ~~at least~~ up to but no more than twenty-five percent (25%) of the total units of a housing development for persons and families of low or moderate income; ~~or, or~~
- (2) To construct ~~at least~~ up to but no more than ten percent (10%) of the total units of a housing development for lower income households.

(b) For the purposes of this Article, "density bonus" means a density increase of ~~at least~~ up to but no more than twenty-five percent (25%) ~~over~~ of the otherwise maximum allowable residential density under the applicable zoning classification. The density bonus shall not be included when determining the number of housing units which is ~~equal to~~ up to but no more than ten percent (10%) or twenty-five percent (25%) of the total. The Town may apply the density bonus to housing developments consisting of five or more dwelling units."

PART II. TOWN OF CARRBORO

Sec. 6. The Charter of the Town of Carrboro, being Chapter 476, Session Laws of 1987, is hereby amended by adding a new section to read:

"Sec. 2-6. **Recall of Mayor and Members of the Board of Aldermen.** (a) The Mayor and any member of the Board of Aldermen may be removed from office in the manner provided for in this section.

(b) Any registered voter of the Town of Carrboro may make and file with the Supervisor of Elections of the Board of Elections of Orange County an affidavit containing the name of the official whose removal is sought and a general statement of the grounds alleged for removal. The supervisor of elections shall thereupon deliver to the registered voter, making such affidavit copies of petitions for demanding such a removal, printed forms of which the supervisor of elections shall keep on hand. Such blank forms shall be issued by the supervisor of elections with his or her signature thereto attached and shall be dated and addressed to the Board of Elections of Orange County, indicate the person to whom issued, state the name of the official whose

removal is sought, and shall contain the general statement of the grounds on which the removal is sought as alleged in the affidavit.

(c) A copy of the petition shall be promptly delivered to the town clerk, who shall enter the copy of the petition in a record book kept for that purpose in the office of the clerk. A recall petition to be effective must be returned within 30 days after the filing of the affidavit, and to be sufficient must bear the signatures of registered voters of the town equal in number to at least eight percent (8%) of the registered voters of the town as shown by the registration records of the last preceding general municipal election. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall take an oath before an officer competent to administer oaths that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(d) It is the duty of the Board of Elections of Orange County to investigate the sufficiency of any such petition and to certify the results of such investigation to the Board of Aldermen. The Board of Elections may employ such persons as it deems necessary to undertake such investigations, and the reasonable cost of such investigation shall be reimbursed to the Board of Elections by the Town. The Board of Elections may adopt such rules and regulations as it deems necessary or advisable concerning the validation of signatures appearing on the recall petition.

(e) The Board of Elections shall complete its investigation and issue its certification of the results of such investigation within 15 days after the filing of any such petition. If, by the Board of Elections' certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of said certificate. The Board shall, within 10 days after such amendment, make like examination of the amended petition, and if its certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect.

(f) Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall order and fix a date for holding a recall election. Subject to the remaining provisions of this subsection, any such election shall be held not less than 50 nor more than 70 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within such period, the Board of Elections shall schedule the special election at the same time. If the provisions of general law prohibit the holding of special elections during the time aforesaid, and no general or special election is otherwise scheduled during said period of time, then the Board of Elections shall schedule said special recall election for some date within 10 days after the last day of said period of time during which special elections are prohibited by general law.

Notwithstanding the other provisions of this subsection, no recall election shall be scheduled during the time period beginning on the first Monday in July and ending on the last Monday in August in any calendar year.

If the 50- to 70-day time period during which an election is to be scheduled falls completely within the time period beginning on the first Monday in July and ending on

the last Monday in August, the recall election shall be postponed and shall be scheduled within 10 days after the last Monday in August, unless otherwise prohibited by general law, in which case said election shall be scheduled within 10 days after the last day of said period of time during which special elections are prohibited by general law.

If the 50- to 70-day time period during which an election is to be scheduled falls partially but not completely within the period from the first Monday in July to the last Monday in August, a recall election shall be scheduled during the time period either before the first Monday in July or after the last Monday in August which otherwise complies with the 50- to 70-day requirement unless otherwise prohibited by general law, in which case said election shall be scheduled within 10 days after the last day of said period of time during which special elections are prohibited by general law or this charter.

(g) The Orange County Board of Elections shall cause legal notice of the election to be published and shall make all arrangements for holding such election in accordance with general law, and the same shall be conducted, returned, and the results thereof declared in all respects as other town elections in the Town of Carrboro. The reasonable costs of such election shall be reimbursed to the Board of Elections by the town.

(h) The question of recalling any number of officials may be submitted at the same election, but, as to each such official, a separate petition shall be filed and there shall be an entirely separate ballot.

(i) The ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name and title of official)

Against the recall of (name and title of official).

(j) If a majority of the votes cast on the question of recalling an official be against recall, the official shall continue in office for the remainder of the unexpired term, but, except as provided by subsection (l) of this section, subject to the recall as before. If a majority of such votes be for the recall of the official designated on the ballot, the official shall, regardless of any defects in the recall petition, be deemed removed from office.

(k) If an official is removed from office as a result of a recall election, the vacancy so caused shall be filled in the manner provided by this charter for filling vacancies in such office, or if not provided by this charter, in the manner provided by general law. An official removed from office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused by his own removal or resignation.

(l) No recall petition shall be filed against an officer who has been subjected to a recall election, and not removed thereby, until at least one year after that election."

PART III. TOWN OF PITTSBORO

Sec. 7. (a) In addition to the purposes listed under G.S. 136-41.3, a town may expend funds allocated to it under the provisions of G.S. 136-41.2 for construction of sidewalk cuts made necessary by the Americans with Disabilities Act. All the other provisions of G.S. 136-41.3 apply as if such expenditure were authorized by that section.

(b) This section applies only to contracts entered into, or construction begun, by the Town of Pittsboro within one year of the date of ratification of this act.

Sec. 8. (a) Notwithstanding G.S. 160A-384 or any other provision of law, when a town is adopting a local water supply watershed protection program as required by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification actions to any party or other person, the town may publish once a week for four successive calendar weeks in a newspaper having general circulation in the area maps showing the boundaries of the area affected by the proposed watershed regulation. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to G.S. 160A-384. The person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud. Further, one or more signs giving notice of the proposed zoning change shall be posted adjacent to the subject property that shall be reasonably calculated to give public notice of the proposed change.

(b) Notwithstanding G.S. 160A-364 or any other provision of law, when a town is adopting or amending any ordinance in order to adopt a local water supply watershed protection program as required by G.S. 143-214.5, the town shall hold a public hearing on the ordinance or amendment. Notice of the hearing shall be published along with the notice required by subsection (a) of this section. The hearing shall be held not less than 10 days nor more than 25 days after the day of last publication required by subsection (a) of this act. In computing such period, the day of last publication is not to be included, but the day of hearing shall be included.

(c) This section applies to the Town of Pittsboro only.

Sec. 9. (a) Notwithstanding the provisions of G.S. 105-53(a) and (m), the Town of Pittsboro may levy a license tax on peddlers who travel from place to place on foot, other than peddlers exempt from tax pursuant to G.S. 105-53(e), in an amount that does not exceed twenty-five dollars (\$25.00). Notwithstanding the provisions of G.S. 105-33(c), the Town of Pittsboro may require peddlers, other than peddlers exempt from tax pursuant to G.S. 105-53(e), who begin business in the town after the expiration of seven months of the town's current license year to pay one hundred percent (100%) of the applicable license tax levied by the town.

(b) This section applies to the Town of Pittsboro only.

PART IV. CHATHAM COUNTY/TOWNS OF PITTSBORO/SILER CITY

Sec. 10. (a) G.S. 158-7.1(a) reads as rewritten:

"(a) Each county and city in this State is authorized to make appropriations for the purposes of aiding and encouraging the location of manufacturing enterprises, making industrial surveys and locating industrial and commercial plants in or near such city or in the county; encouraging the building of railroads or other purposes which, in the discretion of the governing body of the city or of the county commissioners of the county, will increase the population, taxable property, agricultural industries and

business prospects of any city or county. These appropriations may be funded by levy of property taxes pursuant to G.S. 153A-149 and ~~160A-209~~ G.S. 160A-209, by the allocation of general fund and utility fund revenues, and by the allocation of other revenues unless the use of the other revenues for local development purposes has been expressly prohibited whose use is not otherwise restricted by law."

(b) This section applies to Chatham County and the Towns of Pittsboro and Siler City.

Sec. 11. (a) G.S. 158-7.1(b)(1) reads as rewritten:

"(1) A county or city may acquire and develop land for an industrial park, to be used for manufacturing, assembly, fabrication, processing, warehousing, research and development, office use, or similar industrial or commercial purposes. A county may acquire land anywhere in the county, including inside of cities, for an industrial park, while a city may acquire land anywhere in the county or counties in which it is located. A county or city may develop the land by installing utilities, drainage facilities, street and transportation facilities, street lighting, and similar facilities; may demolish or rehabilitate existing structures; and may prepare the site for industrial or commercial uses. A county or city may engage in site preparation including installation of utilities, grading, and paving for industrial properties or facilities, whether the industrial property is publicly or privately owned. Site preparation includes, but is not limited to, grading, clearing, installation of utilities, and construction and paving of roads. A county or city may convey property located in an industrial park pursuant to subsection (d) of this section."

(b) This section applies only to Chatham County and the Towns of Pittsboro and Siler City.

Sec. 12. (a) G.S. 158-7.1(b) is amended by adding the following new subdivision:

"(6) The county or city may expend funds for or may provide for or assist in the extension of water and sewer lines to industrial properties or facilities whether the industrial property or facility is publicly or privately owned."

(b) This section applies only to Chatham County and the Towns of Pittsboro and Siler City.

Sec. 13. G.S. 158-7.1(d1), as amended, reads as rewritten:

"(d1) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

(1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote

business, and result in the creation of a substantial number of jobs in the county or city.

- (2) The governing board of the county or city shall contractually bind the purchaser of the property to construct improvements on the property within a specified period of time, not to exceed 10 years, which improvements are sufficient to generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.

This subsection applies to the Cities of Angier, Broadway, Burnsville, Charlotte, Clinton, Coats, Concord, Connelly Springs, Conover, Drexel, Dunn, Erwin, Glen Alpine, Granite Falls, Greensboro, High Point, Hildebran, Hot Springs, Kannapolis, Lillington, Marion, Mars Hill, Marshall, Monroe, Mocksville, Mooresville, Morganton, Mount Airy, Old Fort, Pittsboro, Rhodhiss, Rocky Mount, St. Pauls, Sanford, Selma, Siler City, Smithfield, Statesville, Troutman, Valdese, and Winston-Salem, and the Counties of Alleghany, Ashe, Burke, Cabarrus, Chatham, Cleveland, Davie, Forsyth, Franklin, Guilford, Harnett, Iredell, Johnston, Lee, McDowell, Madison, Mecklenburg, Nash, Polk, Richmond, Rockingham, Sampson, Wayne, and Yancey. This subsection also applies to Columbus County and all incorporated municipalities located therein."

PART V. ORANGE COUNTY

Sec. 14. Section 6 of Chapter 246, Session Laws of 1991, reads as rewritten:

"Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of Commissioners of Orange County ~~may adopt an ordinance (hereinafter 'Civil Rights Ordinance' or 'Human Rights Ordinance')~~ designed: ~~to promote equal treatment of all individuals; to discourage discrimination based on religion, age, sex, race, disability, or marital status; to help residents find ways to meet and solve problems arising from discrimination by use of public meetings, counseling, mediation where appropriate, and the civil and criminal courts as necessary; to continue to protect the lawful interests of residents and to recognize the dignity of each person so as to make available to the county the full productive and creative capacities of its citizens; to prevent public and domestic strife, crime and unrest; to preserve the public health, safety and general welfare; to promote the policy within Orange County that all individuals, child and adult, female and male, shall have equal rights throughout Orange County and every place subject to its jurisdiction; to carry out in Orange County the policies provided for in various federal rules, regulations, and laws prohibiting discrimination in housing, employment, places of public accommodation, public transportation, voting and education; and to address the deprivation of the free exercise or enjoyment of any right, privilege, or immunity secured by the Constitution of North Carolina, not inconsistent with the Constitution of the United States.~~

(b) ~~The Board of Commissioners of Orange County may, by ordinance or otherwise, create an agency or commission (hereinafter 'agency') of Orange County to assist in the enforcement of an Orange County Civil Rights or Human Rights Ordinance and to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints, to mediate alleged violations of the ordinance, to issue orders against~~

persons it finds, after notice and hearing, to have violated the ordinance, and to seek court enforcement of its orders.

(e) ~~Judicial review of agency orders shall be in accordance with Article 4 of Chapter 150B of the General Statutes (The Administrative Procedure Act). Provided, however, that all petitions for judicial review shall be filed in the Superior Court of Orange County. The term 'agency,' whenever used in Article 4 of Chapter 150B of the General Statutes, shall mean the agency as authorized or created by the Board of Commissioners of Orange County by authority of this section. (hereafter 'Board of Commissioners')~~ may adopt an ordinance (hereafter 'the Ordinance') to prohibit discrimination in employment, housing, and public accommodations on the basis of race, color, religion, gender, national origin, age, disability, marital status, familial status, and veteran status.

The Board of Commissioners may include in the Ordinance a prohibition of language or conduct or both directed at an individual or at a group of individuals because of that individual's or group of individuals' actual or perceived race, color, religion, gender, national origin, age, disability, marital status, familial status, or veteran status which communicates in a threatening manner words that incite imminent lawless action or which tend to incite an immediate breach of the peace.

(b) The Board of Commissioners may, in the Ordinance, adopt procedures and delegate powers to the Orange County Human Relations Commission (hereafter 'the Commission') which are necessary and proper for carrying out and enforcing the Ordinance. To assist in the enforcement of the Ordinance, the Commission has, but is not limited to, the following powers:

- (1) Receiving and reviewing complaints that allege a violation of the Ordinance has occurred, is occurring, or is about to occur;
- (2) Conducting investigations into the basis of complaints. In this regard, the Commission may issue subpoenas compelling the production of documents or compelling witnesses, or both, to appear before the Commission to give testimony and to take depositions and serve interrogatories in accordance with the North Carolina Rules of Civil Procedure. In the event any person refuses to comply with a subpoena or discovery request, the Commission may apply to the Orange County Superior Court (hereafter 'the Superior Court') for an order to compel compliance with the subpoena or discovery request. Information and records discovered by the Commission during an investigation or conciliation are not subject to the provisions of G.S. 132-6 and G.S. 132-9 until and unless they are offered into evidence in an administrative hearing conducted by the Office of Administrative Hearings or offered into evidence in a judicial proceeding authorized by this section;
- (3) Applying to the superior court for mandatory and/or prohibitory injunctive relief pursuant to Rule 65 of the North Carolina Rules of Civil Procedure if it determines, after a preliminary investigation, that

prompt judicial action is necessary to carry out the purposes of the Ordinance;

- (4) Making a determination of whether or not there is reasonable cause to believe that an unlawful discriminatory practice has occurred, is occurring, or is about to occur;
- (5) Dismissing complaints in such cases as the Commission determines that reasonable cause does not exist;
- (6) Issuing a right-to-sue letter to any complainant in such instances where the Commission has failed to make a determination on the issue of reasonable cause in a timely manner; determines that a reasonable cause does not exist; or where conciliation efforts have failed;
- (7) Attempting to conciliate a resolution of the complaint between the parties;
- (8) Entering into conciliation agreements in such instances where conciliation efforts have been successful;
- (9) Making application, in its discretion, to the Office of Administrative Hearings for the designation of an administrative law judge to preside over a hearing in cases involving allegedly unlawful employment practices, public accommodations, or other conduct made unlawful by subsection (a) of this section after conciliation efforts have failed; and
- (10) Making application to the Office of Administrative Hearings for the designation of an administrative law judge to preside over a hearing in cases involving allegedly unlawful housing practices.

(c) The Ordinance may provide that in any case that is referred to the Office of Administrative Hearings, the administrative law judge shall make written findings of fact and conclusions of law, and shall issue a recommended decision to the Commission, which decision shall become final and binding unless the Commission acts within 30 days of the date of the recommended decision to modify or reverse it.

The Ordinance may also provide, in cases where the Commission has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred, is occurring, or is about to occur, that the complainant or the respondent may elect to have the issues decided in a civil action in lieu of an administrative hearing.

(d) The administrative law judge may recommend the imposition of mandatory and prohibitory injunctive relief, compensatory damages (which, as provided by the 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and inconvenience), punitive damages, and any other relief the administrative law judge deems appropriate; provided that:

- (1) Punitive damages may be recommended only if the administrative law judge finds that the respondent engaged in a practice made unlawful under the ordinance with malice or with reckless indifference to the protected rights of the complainant; and
- (2) In cases involving unlawful employment practices, the administrative law judge may recommend reinstatement, hiring, and/or back pay.

In all cases wherein the Commission applies to the Office of Administrative Hearings for the designation of an administrative law judge, the Commission shall be the complainant and the case in support of the Commission shall be presented by the Commission's attorney.

The administrative law judge may, in his or her discretion, recommend that the respondent be awarded reasonable costs and attorneys' fees in the event the respondent prevails.

(e) Judicial review of any final agency decision shall be in accordance with Article 4 of Chapter 150B of the General Statutes (the Administrative Procedure Act). All petitions for judicial review, however, shall be filed in the Superior Court of Orange County. The term 'Agency', whenever used in Article 4 of Chapter 150B of the General Statutes, shall mean the Commission.

(f) The Ordinance may provide that complainants who receive a right-to-sue letter from the Commission may file an action in superior court against the respondent. In such actions the superior court shall be authorized to impose mandatory and prohibitory injunctive relief, compensatory damages, and punitive damages, and any other appropriate relief to the same extent and subject to the same limitations as applies to any recommended decision made by an administrative law judge.

In any action brought in the superior court pursuant to the Ordinance, the court may allow the prevailing party reasonable costs and attorneys' fees from the other party or parties. Attorneys' fees, however, may not be awarded to the Commission, and a prevailing respondent may be awarded court costs and reasonable attorneys' fees only upon a showing that the case is frivolous, unreasonable, or without foundation.

~~(d)(g) An~~ The ordinance adopted pursuant to this section applies to any part of Orange County not within a municipally incorporated city, town, or village. The governing board of a city, town, or village within Orange County may, by resolution, permit an Orange County ordinance adopted pursuant to this section to be applicable within its corporate boundaries. A city, town, or village may, by resolution, withdraw its permission to enforce such an ordinance. If it does so, it shall give written notice to Orange County of its withdrawal of permission. Thirty days after the date Orange County receives the permission withdrawal notice, the county ordinance ceases to be applicable within the city, town, or village.

~~(e)(h)~~ This section applies only to Orange County."

Sec. 15. (a) Notwithstanding G.S. 153A-343 or any other provision of law, when a county is adopting a local water supply watershed protection program as required by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification actions to any party or other person, the county may publish once a week for four successive calendar weeks in a newspaper having general circulation in the area maps showing the boundaries of the area affected by the proposed watershed regulation. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to G.S. 153A-

343. The person or persons mailing the notices shall certify to the board of commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud. Further, one or more signs giving notice of the proposed zoning change shall be posted adjacent to the subject property that shall be reasonably calculated to give public notice of the proposed change.

(b) Notwithstanding G.S. 153A-343 or any other provision of law, when a county is adopting or amending any ordinance in order to adopt a local water supply watershed protection program as required by G.S. 143-214.5, the county shall hold a public hearing on the ordinance or amendment. Notice of the hearing shall be published along with the notice required by subsection (a) of this section. The hearing shall be held not less than 10 days nor more than 25 days after the day of last publication required by subsection (a) of this section. In computing such period, the day of last publication is not to be included, but the day of hearing shall be included.

(c) This section applies to Orange County only.

Sec. 16. Except as provided otherwise, this act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives