

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 809*

Short Title: Orange/Chatham Omnibus.

(Local)

Sponsors: Senators Lee and Walker.

Referred to: Local Government and Regional Affairs.

April 12, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL
3 GOVERNMENTS IN ORANGE AND CHATHAM COUNTIES.

4 The General Assembly of North Carolina enacts:

5 **PART I. TOWN OF CHAPEL HILL**

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

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

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

15 (1) All nonresidential buildings regardless of height; and

16 (2) Residential buildings having three or more dwelling units regardless of
17 height

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

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

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

23 "Sec. 2.5. **Recall of Mayor and Council Members by the People.** The mayor and
24 any member of the Town Council may be removed from office in the following manner:

- 1 (1) Any registered voter of the Town may make and file with the
2 Supervisor of Elections of the Board of Elections of Orange County an
3 affidavit containing the name of the official whose removal is sought
4 and a general statement of the grounds alleged for removal. The
5 supervisor of elections shall thereupon deliver to the registered voter
6 making such affidavit copies of petitions for demanding such a
7 removal, printed forms of which the supervisor of elections shall keep
8 on hand. Such blanks shall be issued by the supervisor of elections
9 with his or her signature thereto attached and shall be dated and
10 addressed to the Board of Elections of Orange County, indicate the
11 person to whom issued, state the name of the official whose removal is
12 sought and shall contain the general statement of the grounds on which
13 the removal is sought as alleged in the affidavit.
- 14 (2) A copy of the petition shall be promptly delivered to the Town Clerk
15 who shall enter the copy of the petition in a record book kept for that
16 purpose in the office of the clerk. A recall petition to be effective must
17 be returned within 30 days after the filing of the affidavit, and to be
18 sufficient must bear the signatures of registered voters of the Town
19 equal in number to at least eight percent (8%) of the registered voters
20 of the Town as shown by the registration records of the last preceding
21 general municipal election. The signatures to the petition need not all
22 be appended to one paper, but each signer shall add to his signature his
23 place of residence, giving the street and number. One of the signers of
24 each such paper shall make oath before an officer competent to
25 administer oaths that each signature to the paper appended is the
26 genuine signature of the person whose name it purports to be.
- 27 (3) It is the duty of the Board of Elections of Orange County to investigate
28 the sufficiency of any such petition and to certify the results of such
29 investigation to the Town Council. The Board of Elections may
30 employ such persons as it deems necessary to undertake such
31 investigation and the reasonable cost of such investigation shall be
32 reimbursed to the Board of Elections by the town. The Board of
33 Elections may adopt such rules and regulations as it deems necessary
34 or advisable concerning the validation of signatures appearing on the
35 recall petition.
- 36 (4) The Board of Elections shall complete its investigation and issue its
37 certification of the results of such investigation within 15 days after the
38 filing of any such petition. If, by the Board's certification, the petition
39 is shown to be insufficient, it may be amended within 10 days from
40 the date of said certificate. The Board shall, within 10 days after such
41 amendment, make like examination of the amended petition, and if its
42 certificate shall show the same to be insufficient, it shall be returned to
43 the person filing the same, without prejudice, however, to the filing of
44 a new petition to the same effect.

- 1 (5) Upon a determination that a sufficient recall petition has been
2 submitted, the Board of Elections shall order and fix a date for holding
3 a recall election. Any such election shall be held not less than 50 nor
4 more than 70 days after the petition has been certified as being
5 sufficient. If any other general or special election is scheduled within
6 such period, the Board shall schedule the special election at the same
7 time. If the provisions of general law prohibit the holding of special
8 election during the time aforesaid, and no general or special election is
9 otherwise scheduled during said period of time, then the Board shall
10 schedule said special recall election for some date within 10 days after
11 the last day of said period of time during which special elections are
12 prohibited by general law.

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

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

23 If the 50 to 70 day time period during which an election is to be scheduled falls partially
24 but not completely within the period from the first Monday in July to the last Monday in
25 August, a recall election shall be scheduled during the time period either before the first
26 Monday in July or after the last Monday in August which otherwise complies with the
27 50 to 70 day requirement unless otherwise prohibited by general law, in which case the
28 election shall be scheduled within 10 days after the last day of said period of time
29 during which special elections are prohibited by general law or this charter.

- 30 (6) The Orange County and Durham County Board of Elections shall
31 make, or cause to be made, publication for 10 days of notice and all
32 arrangements for holding such election, and the same shall be
33 conducted, returned, and the results thereof declared in all respects as
34 other Town elections in the Town of Chapel Hill. The reasonable
35 costs of such election shall be reimbursed to the Boards of Election by
36 the Town.

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

- 40 (8) The ballots used in a recall election shall submit the following
41 propositions in the order indicated:

42 ___ For the recall of (name and title of official).

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

- 1 (9) If a majority of the votes cast on the question of recalling an official be
2 against recall, the official shall continue in office for the remainder of
3 the unexpired term, but, except as provided by subdivision (13) of this
4 section, subject to the recall as before. If a majority of such votes is
5 for the recall of the official designated on the ballot, the official shall,
6 regardless of any defects in the recall petition, be deemed removed
7 from office.
- 8 (10) If an official is removed from office as a result of a recall election, the
9 vacancy so caused shall be filled in the manner provided by this
10 charter for filling vacancies in such office, or if not provided by this
11 charter, in the manner provided by general law. An official removed
12 from office by the voters as a result of a recall election shall not be
13 appointed to fill the vacancy caused by his own removal or
14 resignation.
- 15 (11) The Boards of Elections of Orange County and Durham County may
16 enter into such agreements as they may deem appropriate to share or
17 transfer responsibility for determining the sufficiency of a petition for
18 a recall election and for carrying out other provisions of this act.
- 19 (12) The provisions of Section 2 of Chapter 1023, 1987 Session Laws,
20 incorporated as Section 2.4 of the Charter of the Town of Chapel Hill,
21 requiring campaign reporting in Town of Chapel Hill elections, shall
22 apply to all candidates and political committees as defined in Article
23 22A of Chapter 163 of the General Statutes in Town of Chapel Hill
24 recall elections.
- 25 (13) No recall petition shall be filed against an officer who has been
26 subjected to a recall election and not removed thereby, until at least six
27 months after that election."

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

30 "Sec. 3.13. **Nondiscrimination Policy.** The Town of Chapel Hill shall administer
31 all Town functions without discrimination because of race, creed or religion, gender,
32 national origin, or affectional orientation."

33 Sec. 4. (a) Subject to the provisions of subsection (b) of this section, for the
34 purpose of increasing the availability of housing for persons of low and moderate
35 income and thereby promoting the public health, safety, and welfare, a town has the
36 authority to enact ordinances which may require that developers of housing within the
37 town and its extraterritorial planning jurisdiction:

- 38 (1) Construct up to but no more than twenty-five percent (25%) of the
39 total dwelling units of a housing development for persons of low or
40 moderate income; or
- 41 (2) Construct up to but no more than ten percent (10%) of the total units of
42 a housing development for lower income persons.

1 (b) A town may exercise the authority granted in subsection (a) of this section
2 only if the town either grants a density bonus or provides other incentives of equivalent
3 financial value to a developer required to provide low or moderate income housing.

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

5 Sec. 5. (a) "Denver boot" or "Wheel lock" devices. A town may provide by
6 ordinance for the use of wheel locks on illegally parked vehicles for which there are
7 outstanding, unpaid, and overdue parking tickets. The ordinance shall provide for
8 notice or warning, immobilization, towing, impoundment, appeal hearing, an
9 immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing or
10 storage. The town shall not be responsible for any damage to an immobilized illegally
11 parked vehicle resulting from unauthorized attempts to free or move such vehicle.

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

13 PART II. TOWN OF CARRBORO

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

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

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

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

41 (d) It is the duty of the Board of Elections of Orange County to investigate the
42 sufficiency of any such petition and to certify the results of such investigation to the
43 Board of Aldermen. The Board of Elections may employ such persons as it deems
44 necessary to undertake such investigations, and the reasonable cost of such investigation

1 shall be reimbursed to the Board of Elections by the town. The Board of Elections may
2 adopt such rules and regulations as it deems necessary or advisable concerning the
3 validation of signatures appearing on the recall petition.

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

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

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

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

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

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

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

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

6 ___ For the recall of (name and title of official)

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

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

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

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

22 **PART III. TOWN OF PITTSBORO**

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

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

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

31 Sec. 8. (a) Notwithstanding G.S. 160A-384 or any other provision of law,
32 when a town is adopting a local water supply watershed protection program as required
33 by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification actions
34 to any party or other person, the town may publish once a week for four successive
35 calendar weeks in a newspaper having general circulation in the area maps showing the
36 boundaries of the area affected by the proposed watershed regulation. The map shall
37 not be less than one-half of a newspaper page in size. The notice shall only be effective
38 for property owners who reside in the area of general circulation of the newspaper
39 which publishes the notice. Property owners who reside outside of the newspaper
40 circulation area, according to the address listed on the most recent property tax listing
41 for the affected property, shall be notified by mail pursuant to G.S. 160A-384. The
42 person or persons mailing the notices shall certify to the board of commissioners that
43 fact, and the certificates shall be deemed conclusive in the absence of fraud.

1 (b) Notwithstanding G.S. 160A-364 or any other provision of law, when a town
2 is adopting or amending any ordinance in order to adopt a local water supply watershed
3 protection program as required by G.S. 143-214.5, the town shall hold a public hearing
4 on the ordinance or amendment. Notice of the hearing shall be published along with the
5 notice required by Section 1 of this act. The hearing shall be held not less than 10 days
6 nor more than 25 days after the day of last publication required by Section 1 of this act.
7 In computing such period, the day of last publication is not to be included but the day of
8 hearing shall be included.

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

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

11 Sec. 9. (a) G.S. 158-7.1(a) reads as rewritten:

12 "(a) Each county and city in this State is authorized to make appropriations for the
13 purposes of aiding and encouraging the location of manufacturing enterprises, making
14 industrial surveys and locating industrial and commercial plants in or near such city or
15 in the county; encouraging the building of railroads or other purposes which, in the
16 discretion of the governing body of the city or of the county commissioners of the
17 county, will increase the population, taxable property, agricultural industries and
18 business prospects of any city or county. These appropriations may be funded by levy
19 of property taxes pursuant to G.S. 153A-149 and ~~160A-209~~ G.S. 160A-209, by the
20 allocation of general fund and utility fund revenues, and by the allocation of other
21 revenues unless the use of the other revenues for local development purposes has been
22 expressly prohibited whose use is not otherwise restricted by law."

23 (b) G.S. 158-7.1(b)(1) reads as rewritten:

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

41 (c) G.S. 158-7.1(b) is amended by adding the following new subdivision:

42 "(6) The county or city may expend funds for or may provide for or assist
43 in the extension of water and sewer lines to industrial properties or

1 facilities whether the industrial property or facility is publicly or
 2 privately owned."

3 (d) This section applies only to Chatham County and the towns of Pittsboro and
 4 Siler City.

5 Sec. 10. G.S. 158-7.1(d1) reads as rewritten:

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

11 (1) The governing board of the county or city shall determine that the
 12 conveyance of the property will stimulate the local economy, promote
 13 business, and result in the creation of a substantial number of jobs in
 14 the county or city.

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

22 This subsection applies to the Cities of Concord, Conover, Kannapolis, Mooresville,
 23 Mount Airy, Pittsboro, St. Pauls, Selma, Siler City, Smithfield, Statesville, Troutman,
 24 and Winston-Salem, and the Counties of Ashe, Cabarrus, Chatham, Forsyth, Franklin,
 25 Iredell, and Johnston."

26 **PART V. ORANGE COUNTY**

27 Sec. 11. Section 6 of Chapter 246, Session Laws of 1991, reads as rewritten:

28 "Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of
 29 Commissioners of Orange County ~~may adopt an ordinance (hereinafter 'Civil Rights~~
 30 ~~Ordinance' or 'Human Rights Ordinance')~~ ~~designed: to promote equal treatment of all~~
 31 ~~individuals; to discourage discrimination based on religion, age, sex, race, disability, or~~
 32 ~~marital status; to help residents find ways to meet and solve problems arising from~~
 33 ~~discrimination by use of public meetings, counseling, mediation where appropriate, and~~
 34 ~~the civil and criminal courts as necessary; to continue to protect the lawful interests of~~
 35 ~~residents and to recognize the dignity of each person so as to make available to the~~
 36 ~~county the full productive and creative capacities of its citizens; to prevent public and~~
 37 ~~domestic strife, crime and unrest; to preserve the public health, safety and general~~
 38 ~~welfare; to promote the policy within Orange County that all individuals, child and~~
 39 ~~adult, female and male, shall have equal rights throughout Orange County and every~~
 40 ~~place subject to its jurisdiction; to carry out in Orange County the policies provided for~~
 41 ~~in various federal rules, regulations, and laws prohibiting discrimination in housing,~~
 42 ~~employment, places of public accommodation, public transportation, voting and~~
 43 ~~education; and to address the deprivation of the free exercise or enjoyment of any right,~~

1 ~~privilege, or immunity secured by the Constitution of North Carolina, not inconsistent~~
2 ~~with the Constitution of the United States.~~

3 ~~(b) The Board of Commissioners of Orange County may, by ordinance or~~
4 ~~otherwise, create an agency or commission (hereinafter 'agency') of Orange County to~~
5 ~~assist in the enforcement of an Orange County Civil Rights or Human Rights Ordinance~~
6 ~~and to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon~~
7 ~~complaints, to mediate alleged violations of the ordinance, to issue orders against~~
8 ~~persons it finds, after notice and hearing, to have violated the ordinance, and to seek~~
9 ~~court enforcement of its orders.~~

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

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

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

- 31 (1) Receiving and reviewing complaints that allege a violation of the
32 Ordinance has occurred, is occurring, or is about to occur;
33 (2) Conducting investigations into the bases of complaints. In this regard,
34 the Commission may issue subpoenas compelling the production of
35 documents or compelling witnesses, or both, to appear before the
36 Commission to give testimony; and to take depositions and serve
37 interrogatories in accordance with the North Carolina Rules of Civil
38 Procedure. In the event any person refuses to comply with a subpoena
39 or discovery request, the Commission may apply to the Orange County
40 Superior Court (hereafter 'the Superior Court') for an order to compel
41 compliance with the subpoena or discovery request. Information and
42 records discovered by the Commission during an investigation or
43 conciliation are not subject to the provisions of G.S. 132-6 and G.S.
44 132-9 until and unless they are offered into evidence in an

1 administrative hearing conducted by the Office of Administrative
2 Hearings or offered into evidence in a judicial proceeding authorized
3 by this section;

4 (3) Applying to the superior court for mandatory and/or prohibitory
5 injunctive relief pursuant to Rule 65 of the North Carolina Rules of
6 Civil Procedure if it determines, after a preliminary investigation that
7 prompt judicial action is necessary to carry out the purposes of the
8 Ordinance;

9 (4) Making a determination of whether or not there is reasonable cause to
10 believe that an unlawful discriminatory practice has occurred, is
11 occurring, or is about to occur;

12 (5) Dismissing complaints in such cases as the Commission determines
13 that reasonable cause does not exist;

14 (6) Issuing a right-to-sue letter to any complainant in such instances where
15 the Commission has failed to make a determination on the issue of
16 reasonable cause in a timely manner; determines that a reasonable
17 cause does not exist; or where conciliation efforts have failed;

18 (7) Attempting to conciliate a resolution of the complaint between the
19 parties;

20 (8) Entering into conciliation agreements in such instances where
21 conciliation efforts have been successful;

22 (9) Making application, in its discretion, to the North Carolina Office of
23 Administrative Hearings for the designation of an Administrative Law
24 Judge to preside over a hearing in cases involving allegedly unlawful
25 employment practices, public accommodations, or other conduct made
26 unlawful by paragraph (a) of this act after conciliation efforts have
27 failed;

28 (10) Making application to the North Carolina Office of Administrative
29 Hearings for the designation of an Administrative Law Judge to
30 preside over a hearing in cases involving allegedly unlawful housing
31 practices.

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

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

41 (d) The Administrative Law Judge may recommend the imposition of mandatory
42 and prohibitory injunctive relief, compensatory damages (which, as provided by the
43 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and

1 inconvenience), punitive damages, and any other relief the Administrative Law Judge
2 deems appropriate. Provided that:

3 (1) Punitive damages may be recommended only if the Administrative
4 Law Judge finds that the respondent engaged in a practice made
5 unlawful under the ordinance with malice or with reckless indifference
6 to the protected rights of the complainant;

7 (2) In cases involving unlawful employment practices the Administrative
8 Law Judge may recommend reinstatement, hiring, and/or back pay.

9 In all cases wherein the Commission applies to the Office of Administrative
10 Hearings for the designation of an Administrative Law Judge, the Commission shall be
11 the Complainant and the case in support of the Commission shall be presented by the
12 Commission's attorney.

13 The Administrative Law Judge may, in his or her discretion, recommend that the
14 Respondent be awarded reasonable costs and attorneys' fees in the event the Respondent
15 prevails.

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

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

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

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

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

42 Sec. 12. Except as provided otherwise, this act is effective upon ratification.