

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 809*

Local Government and Regional Affairs Committee Substitute Adopted 5/6/93

Short Title: Orange/Chatham Omnibus.

(Local)

Sponsors:

Referred to: Finance.

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.

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

- 3 (1) Any registered voter of the Town may make and file with the
4 Supervisor of Elections of the Board of Elections of Orange County an
5 affidavit containing the name of the official whose removal is sought
6 and a general statement of the grounds alleged for removal. The
7 supervisor of elections shall thereupon deliver to the registered voter,
8 making such affidavit copies of petitions for demanding such a
9 removal, printed forms of which the supervisor of elections shall keep
10 on hand. Such blank forms shall be issued by the supervisor of
11 elections with his or her signature thereto attached and shall be dated
12 and addressed to the Board of Elections of Orange County, indicate the
13 person to whom issued, state the name of the official whose removal is
14 sought, and shall contain the general statement of the grounds on
15 which the removal is sought as alleged in the affidavit.
- 16 (2) A copy of the petition shall be promptly delivered to the Town Clerk
17 who shall enter the copy of the petition in a record book kept for that
18 purpose in the office of the clerk. A recall petition to be effective must
19 be returned within 30 days after the filing of the affidavit, and to be
20 sufficient must bear the signatures of registered voters of the Town
21 equal in number to at least eight percent (8%) of the registered voters
22 of the Town as shown by the registration records of the last preceding
23 general municipal election. The signatures to the petition need not all
24 be appended to one paper, but each signer shall add to his signature his
25 place of residence, giving the street and number. One of the signers of
26 each such paper shall make oath before an officer competent to
27 administer oaths that each signature to the paper appended is the
28 genuine signature of the person whose name it purports to be.
- 29 (3) It is the duty of the Board of Elections of Orange County to investigate
30 the sufficiency of any such petition and to certify the results of such
31 investigation to the Town Council. The Board of Elections may
32 employ such persons as it deems necessary to undertake such
33 investigation and the reasonable cost of such investigation shall be
34 reimbursed to the Board of Elections by the Town. The Board of
35 Elections may adopt such rules and regulations as it deems necessary
36 or advisable concerning the validation of signatures appearing on the
37 recall petition.
- 38 (4) The Board of Elections shall complete its investigation and issue its
39 certification of the results of such investigation within 15 days after the
40 filing of any such petition. If, by the Board's certification, the petition
41 is shown to be insufficient, it may be amended within 10 days from the
42 date of said certificate. The Board shall, within 10 days after such
43 amendment, make like examination of the amended petition, and if its
44 certificate shall show the same to be insufficient, it shall be returned to

1 the person filing the same, without prejudice, however, to the filing of
2 a new petition to the same effect.

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

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

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

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

- 38 (6) The Orange County and Durham County Board of Elections shall
39 make, or cause to be made, publication for 10 days of notice and all
40 arrangements for holding such election, and the same shall be
41 conducted, returned, and the results thereof declared in all respects as
42 other Town elections in the Town of Chapel Hill. The reasonable
43 costs of such election shall be reimbursed to the Boards of Elections
44 by the Town.

- 1 (7) The question of recalling any number of officials may be submitted at
2 the same election, but, as to each such official, a separate petition shall
3 be filed and there shall be an entirely separate ballot.
- 4 (8) The ballots used in a recall election shall submit the following
5 propositions in the order indicated:
6 ___ For the recall of (name and title of official).
7 ___ Against the recall of (name and title of official).
- 8 (9) 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
10 the unexpired term, but, except as provided by subdivision (13) of this
11 section, subject to the recall as before. If a majority of such votes is
12 for the recall of the official designated on the ballot, the official shall,
13 regardless of any defects in the recall petition, be deemed removed
14 from office.
- 15 (10) If an official is removed from office as a result of a recall election, the
16 vacancy so caused shall be filled in the manner provided by this
17 charter for filling vacancies in such office, or if not provided by this
18 charter, in the manner provided by general law. An official removed
19 from office by the voters as a result of a recall election shall not be
20 appointed to fill the vacancy caused by his own removal or
21 resignation.
- 22 (11) The Boards of Elections of Orange County and Durham County may
23 enter into such agreements as they may deem appropriate to share or
24 transfer responsibility for determining the sufficiency of a petition for
25 a recall election and for carrying out other provisions of this act.
- 26 (12) The provisions of Section 2 of Chapter 1023, 1987 Session Laws,
27 incorporated as Section 2.4 of the Charter of the Town of Chapel Hill,
28 requiring campaign reporting in Town of Chapel Hill elections, shall
29 apply to all candidates and political committees as defined in Article
30 22A of Chapter 163 of the General Statutes in Town of Chapel Hill
31 recall elections.
- 32 (13) No recall petition shall be filed against an officer who has been
33 subjected to a recall election and not removed thereby, until at least six
34 months after that election."

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

37 "Sec. 5.7A. **'Denver Boot' or 'Wheel Lock' Devices.** The Town of Chapel Hill
38 may provide by ordinance for the use of wheel locks on illegally parked vehicles for
39 which there are outstanding, unpaid, and overdue parking tickets. The ordinance shall
40 provide for notice or warning to be affixed to the vehicle, immobilization, towing,
41 impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars
42 (\$50.00), and charges for towing or storage. The Town shall not be responsible for any
43 damage to an immobilized illegally parked vehicle resulting from unauthorized attempts
44 to free or move such vehicle."

PART II. TOWN OF CARRBORO

1 **PART II. TOWN OF CARRBORO**
2 Sec. 4. The Charter of the Town of Carrboro, being Chapter 476, Session
3 Laws of 1987, is hereby amended by adding a new section to read:

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

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

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

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

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

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

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

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

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

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

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

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

39 ___For the recall of (name and title of official)

40 ___Against the recall of (name and title of official).

41 (j) If a majority of the votes cast on the question of recalling an official be
42 against recall, the official shall continue in office for the remainder of the unexpired
43 term, but, except as provided by subsection (l) of this section, subject to the recall as
44 before. If a majority of such votes be for the recall of the official designated on the

1 ballot, the official shall, regardless of any defects in the recall petition, be deemed
2 removed from office.

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

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

11 **PART III. TOWN OF PITTSBORO**

12 Sec. 5. (a) In addition to the purposes listed under G.S. 136-41.3, a town may
13 expend funds allocated to it under the provisions of G.S. 136-41.2 for construction of
14 sidewalk cuts made necessary by the Americans with Disabilities Act. All the other
15 provisions of G.S. 136-41.3 apply as if such expenditure were authorized by that
16 section.

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

19 Sec. 6. (a) Notwithstanding G.S. 160A-384 or any other provision of law,
20 when a town is adopting a local water supply watershed protection program as required
21 by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification actions
22 to any party or other person, the town may publish once a week for four successive
23 calendar weeks in a newspaper having general circulation in the area maps showing the
24 boundaries of the area affected by the proposed watershed regulation. The map shall
25 not be less than one-half of a newspaper page in size. The notice shall only be effective
26 for property owners who reside in the area of general circulation of the newspaper
27 which publishes the notice. Property owners who reside outside of the newspaper
28 circulation area, according to the address listed on the most recent property tax listing
29 for the affected property, shall be notified by mail pursuant to G.S. 160A-384. The
30 person or persons mailing the notices shall certify to the board of commissioners that
31 fact, and the certificates shall be deemed conclusive in the absence of fraud. Further,
32 one or more signs giving notice of the proposed zoning change shall be posted adjacent
33 to the subject property that shall be reasonably calculated to give public notice of the
34 proposed change.

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

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

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

1 Sec. 7. (a) G.S. 158-7.1(a) reads as rewritten:

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

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

15 Sec. 8. (a) G.S. 158-7.1(b)(1) reads as rewritten:

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

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

35 Sec. 9. (a) G.S. 158-7.1(b) is amended by adding the following new
36 subdivision:

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

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

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

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

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

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

17 This subsection applies to the Cities of Concord, Conover, Kannapolis, Mocksville,
18 Mooresville, Mount Airy, Pittsboro, St. Pauls, Selma, Siler City, Smithfield, Statesville,
19 Troutman, and Winston-Salem, and the Counties of Alleghany, Ashe, Cabarrus,
20 Chatham, Davie, Forsyth, Franklin, Iredell, Johnston and Rockingham."

21 PART V. ORANGE COUNTY

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

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

41 (b) ~~The Board of Commissioners of Orange County may, by ordinance or~~
42 ~~otherwise, create an agency or commission (hereinafter 'agency') of Orange County to~~
43 ~~assist in the enforcement of an Orange County Civil Rights or Human Rights Ordinance~~
44 ~~and to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon~~

1 ~~complaints, to mediate alleged violations of the ordinance, to issue orders against~~
2 ~~persons it finds, after notice and hearing, to have violated the ordinance, and to seek~~
3 ~~court enforcement of its orders.~~

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

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

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

- 25 (1) Receiving and reviewing complaints that allege a violation of the
26 Ordinance has occurred, is occurring, or is about to occur;
27 (2) Conducting investigations into the basis of complaints. In this regard,
28 the Commission may issue subpoenas compelling the production of
29 documents or compelling witnesses, or both, to appear before the
30 Commission to give testimony; and to take depositions and serve
31 interrogatories in accordance with the North Carolina Rules of Civil
32 Procedure. In the event any person refuses to comply with a subpoena
33 or discovery request, the Commission may apply to the Orange County
34 Superior Court (hereafter 'the Superior Court') for an order to compel
35 compliance with the subpoena or discovery request. Information and
36 records discovered by the Commission during an investigation or
37 conciliation are not subject to the provisions of G.S. 132-6 and G.S.
38 132-9 until and unless they are offered into evidence in an
39 administrative hearing conducted by the Office of Administrative
40 Hearings or offered into evidence in a judicial proceeding authorized
41 by this section;
42 (3) Applying to the superior court for mandatory and/or prohibitory
43 injunctive relief pursuant to Rule 65 of the North Carolina Rules of
44 Civil Procedure if it determines, after a preliminary investigation, that

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

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

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

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

33 (d) The administrative law judge may recommend the imposition of mandatory
34 and prohibitory injunctive relief, compensatory damages (which, as provided by the
35 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and
36 inconvenience), punitive damages, and any other relief the administrative law judge
37 deems appropriate. Provided that:

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

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

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

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

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

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

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

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

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