

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

House Committee Substitute Favorable 7/6/93

Short Title: Orange/Chatham Omnibus.

(Local)

Sponsors:

Referred to:

April 12, 1993

A BILL TO BE ENTITLED

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.

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

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

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

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

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

32           (3) It is the duty of the Board of Elections of Orange County to investigate  
33 the sufficiency of any such petition and to certify the results of such  
34 investigation to the Town Council. The Board of Elections may  
35 employ such persons as it deems necessary to undertake such  
36 investigation and the reasonable cost of such investigation shall be  
37 reimbursed to the Board of Elections by the Town. The Board of  
38 Elections may adopt such rules and regulations as it deems necessary  
39 or advisable concerning the validation of signatures appearing on the  
40 recall petition.

41           (4) The Board of Elections shall complete its investigation and issue its  
42 certification of the results of such investigation within 15 days after the  
43 filing of any such petition. If, by the Board's certification, the petition  
44 is shown to be insufficient, it may be amended within 10 days from the

1 date of said certificate. The Board shall, within 10 days after such  
2 amendment, make like examination of the amended petition, and if its  
3 certificate shall show the same to be insufficient, it shall be returned to  
4 the person filing the same, without prejudice, however, to the filing of  
5 a new petition to the same effect.

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

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

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

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

- 41 (6) The Orange County and Durham County Board of Elections shall  
42 make, or cause to be made, publication for 10 days of notice and all  
43 arrangements for holding such election, and the same shall be  
44 conducted, returned, and the results thereof declared in all respects as

1 other Town elections in the Town of Chapel Hill. The reasonable  
2 costs of such election shall be reimbursed to the Boards of Elections  
3 by the Town.

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

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

9 \_\_\_ For the recall of (name and title of official).

10 \_\_\_ Against the recall of (name and title of official).

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

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

25 (11) The Boards of Elections of Orange County and Durham County may  
26 enter into such agreements as they may deem appropriate to share or  
27 transfer responsibility for determining the sufficiency of a petition for  
28 a recall election and for carrying out other provisions of this section.

29 (12) The provisions of Section 2 of Chapter 1023, 1987 Session Laws,  
30 incorporated as Section 2.4 of the Charter of the Town of Chapel Hill,  
31 requiring campaign reporting in Town of Chapel Hill elections, shall  
32 apply to all candidates and political committees as defined in Article  
33 22A of Chapter 163 of the General Statutes in Town of Chapel Hill  
34 recall elections.

35 (13) No recall petition shall be filed against an officer who has been  
36 subjected to a recall election and not removed thereby, until at least six  
37 months after that election."

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

40 "Sec. 5.7A. **'Denver Boot' or 'Wheel Lock' Devices.** The Town of Chapel Hill  
41 may provide by ordinance for the use of wheel locks on illegally parked vehicles for  
42 which there are outstanding, unpaid, and overdue parking tickets. The ordinance shall  
43 provide for notice or warning to be affixed to the vehicle, immobilization, towing,  
44 impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars

1 (\$50.00), and charges for towing or storage. The Town shall not be responsible for any  
2 damage to an immobilized illegally parked vehicle resulting from unauthorized attempts  
3 to free or move such vehicle."

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

9 (1) The leased right-of-way is used in connection with a development for  
10 which a special use permit has been approved by the governing board  
11 of the Town of Chapel Hill pursuant to Chapter 160A of the General  
12 Statutes.

13 (2) The Department of Transportation determines that the use authorized  
14 by the lease will not unreasonably interfere with or impair any  
15 property rights or easements of abutting owners or unreasonably  
16 interfere with or obstruct the maintenance of the highway structure  
17 located on the right-of-way.

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

## 22 PART II. TOWN OF CARRBORO

23 Sec. 5. The Charter of the Town of Carrboro, being Chapter 476, Session  
24 Laws of 1987, is hereby amended by adding a new section to read:

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

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

39 (c) A copy of the petition shall be promptly delivered to the town clerk, who  
40 shall enter the copy of the petition in a record book kept for that purpose in the office of  
41 the clerk. A recall petition to be effective must be returned within 30 days after the  
42 filing of the affidavit, and to be sufficient must bear the signatures of registered voters  
43 of the town equal in number to at least eight percent (8%) of the registered voters of the  
44 town as shown by the registration records of the last preceding general municipal

1 election. The signatures to the petition need not all be appended to one paper, but each  
2 signer shall add to his signature his place of residence, giving the street and number.  
3 One of the signers of each such paper shall take an oath before an officer competent to  
4 administer oaths that each signature to the paper appended is the genuine signature of  
5 the person whose name it purports to be.

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

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

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

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

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

41 If the 50- to 70-day time period during which an election is to be scheduled falls  
42 partially but not completely within the period from the first Monday in July to the last  
43 Monday in August, a recall election shall be scheduled during the time period either  
44 before the first Monday in July or after the last Monday in August which otherwise

1 complies with the 50- to 70-day requirement unless otherwise prohibited by general  
2 law, in which case said election shall be scheduled within 10 days after the last day of  
3 said period of time during which special elections are prohibited by general law or this  
4 charter.

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

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

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

15 \_\_\_For the recall of (name and title of official)

16 \_\_\_Against the recall of (name and title of official).

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

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

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

### 31 **PART III. TOWN OF PITTSBORO**

32 Sec. 6. (a) In addition to the purposes listed under G.S. 136-41.3, a town may  
33 expend funds allocated to it under the provisions of G.S. 136-41.2 for construction of  
34 sidewalk cuts made necessary by the Americans with Disabilities Act. All the other  
35 provisions of G.S. 136-41.3 apply as if such expenditure were authorized by that  
36 section.

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

39 Sec. 7. (a) Notwithstanding G.S. 160A-384 or any other provision of law,  
40 when a town is adopting a local water supply watershed protection program as required  
41 by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification actions  
42 to any party or other person, the town may publish once a week for four successive  
43 calendar weeks in a newspaper having general circulation in the area maps showing the  
44 boundaries of the area affected by the proposed watershed regulation. The map shall

1 not be less than one-half of a newspaper page in size. The notice shall only be effective  
2 for property owners who reside in the area of general circulation of the newspaper that  
3 publishes the notice. Property owners who reside outside of the newspaper circulation  
4 area, according to the address listed on the most recent property tax listing for the  
5 affected property, shall be notified by mail pursuant to G.S. 160A-384. The person or  
6 persons mailing the notices shall certify to the city council that fact, and the certificates  
7 shall be deemed conclusive in the absence of fraud. Further, one or more signs giving  
8 notice of the proposed zoning change shall be posted adjacent to the subject property  
9 that shall be reasonably calculated to give public notice of the proposed change.

10 (b) Notwithstanding G.S. 160A-364 or any other provision of law, when a town  
11 is adopting or amending any ordinance in order to adopt a local water supply watershed  
12 protection program as required by G.S. 143-214.5, the town shall hold a public hearing  
13 on the ordinance or amendment. Notice of the hearing shall be published along with the  
14 notice required by subsection (a) of this section. The hearing shall be held not less than  
15 10 days nor more than 25 days after the day of last publication required by subsection  
16 (a) of this act. In computing such period, the day of last publication is not to be  
17 included, but the day of hearing shall be included.

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

19 Sec. 8. (a) Notwithstanding the provisions of G.S. 105-53(a) and (m), the  
20 Town of Pittsboro may levy a license tax on peddlers who travel from place to place on  
21 foot, other than peddlers exempt from tax pursuant to G.S. 105-53(e), in an amount that  
22 does not exceed twenty-five dollars (\$25.00). Notwithstanding the provisions of G.S.  
23 105-33(c), the Town of Pittsboro may require peddlers, other than peddlers exempt from  
24 tax pursuant to G.S. 105-53(e), who begin business in the town after the expiration of  
25 seven months of the town's current license year to pay one hundred percent (100%) of  
26 the applicable license tax levied by the town.

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

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

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

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

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

43 Sec. 10. (a) G.S. 158-7.1(b)(1) reads as rewritten:



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

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

20          Sec. 11. (a) G.S. 158-7.1(b) is amended by adding the following new  
21          subdivision:

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

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

28          Sec. 12. G.S. 158-7.1(d1), as amended, reads as rewritten:

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

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

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

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

#### 11 PART V. ORANGE COUNTY

12 Sec. 13. Section 6 of Chapter 246, Session Laws of 1991, reads as rewritten:

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

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

38 (c) ~~Judicial review of agency orders shall be in accordance with Article 4 of~~  
39 ~~Chapter 150B of the General Statutes (The Administrative Procedure Act). Provided,~~  
40 ~~however, that all petitions for judicial review shall be filed in the Superior Court of~~  
41 ~~Orange County. The term 'agency,' whenever used in Article 4 of Chapter 150B of the~~  
42 ~~General Statutes, shall mean the agency as authorized or created by the Board of~~  
43 ~~Commissioners of Orange County by authority of this section. (hereafter 'Board of~~  
44 ~~Commissioners')~~ may adopt an ordinance (hereafter 'the Ordinance') to prohibit

1 discrimination in employment, housing, and public accommodations on the basis of  
2 race, color, religion, gender, national origin, age, disability, marital status, familial  
3 status, and veteran status.

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

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

15 (1) Receiving and reviewing complaints that allege a violation of the  
16 Ordinance has occurred, is occurring, or is about to occur;

17 (2) Conducting investigations into the basis of complaints. In this regard,  
18 the Commission may issue subpoenas compelling the production of  
19 documents or compelling witnesses, or both, to appear before the  
20 Commission to give testimony and to take depositions and serve  
21 interrogatories in accordance with the North Carolina Rules of Civil  
22 Procedure. In the event any person refuses to comply with a subpoena  
23 or discovery request, the Commission may apply to the Orange County  
24 Superior Court (hereafter 'the Superior Court') for an order to compel  
25 compliance with the subpoena or discovery request. Information and  
26 records discovered by the Commission during an investigation or  
27 conciliation are not subject to the provisions of G.S. 132-6 and G.S.  
28 132-9 until and unless they are offered into evidence in an  
29 administrative hearing conducted by the Office of Administrative  
30 Hearings or offered into evidence in a judicial proceeding authorized  
31 by this section;

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

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

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

42 (6) Issuing a right-to-sue letter to any complainant in such instances where  
43 the Commission has failed to make a determination on the issue of

1 reasonable cause in a timely manner; determines that a reasonable  
2 cause does not exist; or where conciliation efforts have failed;

3 (7) Attempting to conciliate a resolution of the complaint between the  
4 parties;

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

7 (9) Making application, in its discretion, to the Office of Administrative  
8 Hearings for the designation of an administrative law judge to preside  
9 over a hearing in cases involving allegedly unlawful employment  
10 practices, public accommodations, or other conduct made unlawful by  
11 subsection (a) of this section after conciliation efforts have failed; and

12 (10) Making application to the Office of Administrative Hearings for the  
13 designation of an administrative law judge to preside over a hearing in  
14 cases involving allegedly unlawful housing practices.

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

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

24 (d) The administrative law judge may recommend the imposition of mandatory  
25 and prohibitory injunctive relief, compensatory damages (which, as provided by the  
26 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and  
27 inconvenience), punitive damages, and any other relief the administrative law judge  
28 deems appropriate; provided that:

29 (1) Punitive damages may be recommended only if the administrative law  
30 judge finds that the respondent engaged in a practice made unlawful  
31 under the ordinance with malice or with reckless indifference to the  
32 protected rights of the complainant; and

33 (2) In cases involving unlawful employment practices, the administrative  
34 law judge may recommend reinstatement, hiring, and/or back pay.

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

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

42 (e) Judicial review of any final agency decision shall be in accordance with  
43 Article 4 of Chapter 150B of the General Statutes (the Administrative Procedure Act).  
44 All petitions for judicial review, however, shall be filed in the Superior Court of Orange

1 County. The term 'Agency', whenever used in Article 4 of Chapter 150B of the General  
2 Statutes, shall mean the Commission.

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

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

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

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

24 Sec. 14. (a) Notwithstanding G.S. 153A-343 or any other provision of law,  
25 when a county is adopting a local water supply watershed protection program as  
26 required by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification  
27 actions to any party or other person, the county may publish once a week for four  
28 successive calendar weeks in a newspaper having general circulation in the area maps  
29 showing the boundaries of the area affected by the proposed watershed regulation. The  
30 map shall not be less than one-half of a newspaper page in size. The notice shall only  
31 be effective for property owners who reside in the area of general circulation of the  
32 newspaper that publishes the notice. Property owners who reside outside of the  
33 newspaper circulation area, according to the address listed on the most recent property  
34 tax listing for the affected property, shall be notified by mail pursuant to G.S. 153A-  
35 343. The person or persons mailing the notices shall certify to the board of  
36 commissioners that fact, and the certificates shall be deemed conclusive in the absence  
37 of fraud. Further, one or more signs giving notice of the proposed zoning change shall  
38 be posted adjacent to the subject property that shall be reasonably calculated to give  
39 public notice of the proposed change.

40 (b) Notwithstanding G.S. 153A-343 or any other provision of law, when a county  
41 is adopting or amending any ordinance in order to adopt a local water supply watershed  
42 protection program as required by G.S. 143-214.5, the county shall hold a public  
43 hearing on the ordinance or amendment. Notice of the hearing shall be published along  
44 with the notice required by subsection (a) of this section. The hearing shall be held not

- 1 less than 10 days nor more than 25 days after the day of last publication required by  
2 subsection (a) of this section. In computing such period, the day of last publication is  
3 not to be included, but the day of hearing shall be included.
- 4 (c) This section applies to Orange County only.
- 5 Sec. 15. Except as provided otherwise, this act is effective upon ratification.