

GENERAL ASSEMBLY OF NORTH CAROLINA

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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

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Short Title: Orange/Chatham Omnibus.

(Public)

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. The North Carolina Department of Transportation may lease a portion
 5 of the "air rights" area of the right-of-way on the east side of U.S. 15-501 Business
 6 (Columbia Street) between Franklin Street and Cameron Avenue in Chapel Hill to a
 7 development company owning property adjacent to the right-of-way if all of the
 8 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 Sec. 5. Section 1 of Chapter 478 of the 1989 Session Laws reads as
 23 rewritten:

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

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

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

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

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

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
26 law, in which case said election shall be scheduled within 10 days after the last day of
27 said 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. 7. (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, by
18 the Town of Pittsboro within one year of the date of ratification of this act.

19 Sec. 8. (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 that
27 publishes the notice. Property owners who reside outside of the newspaper circulation
28 area, according to the address listed on the most recent property tax listing for the
29 affected property, shall be notified by mail pursuant to G.S. 160A-384. The person or
30 persons mailing the notices shall certify to the city council that fact, and the certificates
31 shall be deemed conclusive in the absence of fraud. Further, one or more signs giving
32 notice of the proposed zoning change shall be posted adjacent to the subject property
33 that shall be reasonably calculated to give public notice of the proposed change.

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

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

43 Sec. 9. (a) Notwithstanding the provisions of G.S. 105-53(a) and (m), the
44 Town of Pittsboro may levy a license tax on peddlers who travel from place to place on

1 foot, other than peddlers exempt from tax pursuant to G.S. 105-53(e), in an amount that
2 does not exceed twenty-five dollars (\$25.00). Notwithstanding the provisions of G.S.
3 105-33(c), the Town of Pittsboro may require peddlers, other than peddlers exempt from
4 tax pursuant to G.S. 105-53(e), who begin business in the town after the expiration of
5 seven months of the town's current license year to pay one hundred percent (100%) of
6 the applicable license tax levied by the town.

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

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

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

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

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

23 Sec. 11. (a) 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 (b) This section applies only to Chatham County and the Towns of Pittsboro and
42 Siler City.

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

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

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

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

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

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

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

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

34 **PART V. ORANGE COUNTY**

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

36 "Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of
37 Commissioners of Orange County ~~may adopt an ordinance (hereinafter 'Civil Rights~~
38 ~~Ordinance' or 'Human Rights Ordinance')~~ ~~designed: to promote equal treatment of all~~
39 ~~individuals; to discourage discrimination based on religion, age, sex, race, disability, or~~
40 ~~marital status; to help residents find ways to meet and solve problems arising from~~
41 ~~discrimination by use of public meetings, counseling, mediation where appropriate, and~~
42 ~~the civil and criminal courts as necessary; to continue to protect the lawful interests of~~
43 ~~residents and to recognize the dignity of each person so as to make available to the~~
44 ~~county the full productive and creative capacities of its citizens; to prevent public and~~

1 domestic strife, crime and unrest; to preserve the public health, safety and general
2 welfare; to promote the policy within Orange County that all individuals, child and
3 adult, female and male, shall have equal rights throughout Orange County and every
4 place subject to its jurisdiction; to carry out in Orange County the policies provided for
5 in various federal rules, regulations, and laws prohibiting discrimination in housing,
6 employment, places of public accommodation, public transportation, voting and
7 education; and to address the deprivation of the free exercise or enjoyment of any right,
8 privilege, or immunity secured by the Constitution of North Carolina, not inconsistent
9 with the Constitution of the United States.

10 (b) The Board of Commissioners of Orange County may, by ordinance or
11 otherwise, create an agency or commission (hereinafter 'agency') of Orange County to
12 assist in the enforcement of an Orange County Civil Rights or Human Rights Ordinance
13 and to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon
14 complaints, to mediate alleged violations of the ordinance, to issue orders against
15 persons it finds, after notice and hearing, to have violated the ordinance, and to seek
16 court enforcement of its orders.

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

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

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

- 38 (1) Receiving and reviewing complaints that allege a violation of the
39 Ordinance has occurred, is occurring, or is about to occur;
- 40 (2) Conducting investigations into the basis of complaints. In this regard,
41 the Commission may issue subpoenas compelling the production of
42 documents or compelling witnesses, or both, to appear before the
43 Commission to give testimony and to take depositions and serve
44 interrogatories in accordance with the North Carolina Rules of Civil

1 Procedure. In the event any person refuses to comply with a subpoena
2 or discovery request, the Commission may apply to the Orange County
3 Superior Court (hereafter 'the Superior Court') for an order to compel
4 compliance with the subpoena or discovery request. Information and
5 records discovered by the Commission during an investigation or
6 conciliation are not subject to the provisions of G.S. 132-6 and G.S.
7 132-9 until and unless they are offered into evidence in an
8 administrative hearing conducted by the Office of Administrative
9 Hearings or offered into evidence in a judicial proceeding authorized
10 by this section;

- 11 (3) Applying to the superior court for mandatory and/or prohibitory
12 injunctive relief pursuant to Rule 65 of the North Carolina Rules of
13 Civil Procedure if it determines, after a preliminary investigation, that
14 prompt judicial action is necessary to carry out the purposes of the
15 Ordinance;
- 16 (4) Making a determination of whether or not there is reasonable cause to
17 believe that an unlawful discriminatory practice has occurred, is
18 occurring, or is about to occur;
- 19 (5) Dismissing complaints in such cases as the Commission determines
20 that reasonable cause does not exist;
- 21 (6) Issuing a right-to-sue letter to any complainant in such instances where
22 the Commission has failed to make a determination on the issue of
23 reasonable cause in a timely manner; determines that a reasonable
24 cause does not exist; or where conciliation efforts have failed;
- 25 (7) Attempting to conciliate a resolution of the complaint between the
26 parties;
- 27 (8) Entering into conciliation agreements in such instances where
28 conciliation efforts have been successful;
- 29 (9) Making application, in its discretion, to the Office of Administrative
30 Hearings for the designation of an administrative law judge to preside
31 over a hearing in cases involving allegedly unlawful employment
32 practices, public accommodations, or other conduct made unlawful by
33 subsection (a) of this section after conciliation efforts have failed; and
- 34 (10) Making application to the Office of Administrative Hearings for the
35 designation of an administrative law judge to preside over a hearing in
36 cases involving allegedly unlawful housing practices.

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

42 The Ordinance may also provide, in cases where the Commission has determined
43 that reasonable cause exists to believe that a discriminatory housing practice has

1 occurred, is occurring, or is about to occur, that the complainant or the respondent may
2 elect to have the issues decided in a civil action in lieu of an administrative hearing.

3 (d) The administrative law judge may recommend the imposition of mandatory
4 and prohibitory injunctive relief, compensatory damages (which, as provided by the
5 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and
6 inconvenience), punitive damages, and any other relief the administrative law judge
7 deems appropriate; provided that:

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

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

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

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

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

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

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

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

1 County receives the permission withdrawal notice, the county ordinance ceases to be
2 applicable within the city, town, or village.

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

4 Sec. 15. (a) Notwithstanding G.S. 153A-343 or any other provision of law,
5 when a county is adopting a local water supply watershed protection program as
6 required by G.S. 143-214.5, in lieu of mailing a notice of proposed zoning classification
7 actions to any party or other person, the county may publish once a week for four
8 successive calendar weeks in a newspaper having general circulation in the area maps
9 showing the boundaries of the area affected by the proposed watershed regulation. The
10 map shall not be less than one-half of a newspaper page in size. The notice shall only
11 be effective for property owners who reside in the area of general circulation of the
12 newspaper that publishes the notice. Property owners who reside outside of the
13 newspaper circulation area, according to the address listed on the most recent property
14 tax listing for the affected property, shall be notified by mail pursuant to G.S. 153A-
15 343. The person or persons mailing the notices shall certify to the board of
16 commissioners that fact, and the certificates shall be deemed conclusive in the absence
17 of fraud. Further, one or more signs giving notice of the proposed zoning change shall
18 be posted adjacent to the subject property that shall be reasonably calculated to give
19 public notice of the proposed change.

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

28 (c) This section applies to Orange County only.

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