

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE BILL 623

Short Title: Orange/Chatham Omnibus.

(Local)

Sponsors: Senators Lee; and Walker.

Referred to: Local Government and Regional Affairs.

April 15, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS AMENDMENTS TO LAWS APPLICABLE IN
3 ORANGE AND CHATHAM COUNTIES.

4 The General Assembly of North Carolina enacts:

5 **TITLE I. ORANGE COUNTY.**

6 **PART 1. ORANGE COUNTY LAND USE AND DEVELOPMENT.**

7 Section 1. The first paragraph of G.S. 153A-331(a), as applicable to Orange
8 County because of Section 18 of Chapter 460 of the 1987 Sessions Laws, reads as
9 rewritten:

10 "A subdivision control ordinance may provide for the orderly growth and
11 development of the county; for the coordination of streets and highways within
12 proposed subdivisions with existing or planned streets and highways and with other
13 public facilities; for the dedication or reservation of recreation areas serving residents of
14 the ~~immediate neighborhood within the subdivision~~ and residents of the immediate area
15 within which the subdivision is located and of rights-of-way or easements for street and
16 utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or
17 G.S. 136-66.11; and for the distribution of population and traffic in a manner that will
18 avoid congestion and overcrowding and will create conditions essential to public health,
19 safety, and the general welfare. The ordinance may include requirements that the final
20 plat show sufficient data to determine readily and reproduce accurately on the ground
21 the location, bearing, and length of every street and alley line, lot line, easement
22 boundary line, and other property boundaries, including the radius and other data for
23 curved property lines, to an appropriate accuracy and in conformity with good
24 surveying practice. A subdivision control ordinance may provide that a developer may

1 be required to provide funds to the county whereby the county may acquire and develop
2 recreational land or areas to serve the development or subdivision, including the
3 purchase of land which may be used to serve more than one subdivision or development
4 within the immediate area. A subdivision control ordinance may define immediate area
5 by reference to a comprehensive system of parks and recreation areas within the
6 county."

7 Sec. 2. G.S. 153A-340 is amended by adding a new paragraph to read:

8 "For the purpose of increasing the availability of housing for persons of low and
9 moderate income, and thereby promoting the public health, safety and welfare, a county
10 may grant a density bonus or provide other incentives of equivalent financial value to a
11 developer of housing within the county if the developer agrees:

12 (1) To construct at least 40 percent (40%) of the total duplex or
13 multifamily units of a housing development for rent to persons and
14 families earning less than sixty percent (60%) of Orange County
15 median income, adjusted for family size, as determined by the U.S.
16 Department of Housing and Urban Development (hereinafter 'median
17 income');

18 (2) To construct at least twenty percent (20%) of the total duplex or
19 multifamily units of a housing development for rent to families earning
20 less than fifty percent (50%) of median income;

21 (3) To construct the greater of two or all of the bonus of the total single
22 family residential units of a housing development for sale to persons
23 and families earning less than eighty percent (80%) of the median
24 income; or

25 (4) To donate land to Orange County to be used for the purpose of the
26 development of affordable housing, provided that the land donated
27 must have suitable soils or access to public water and sewer and be
28 sufficient in size for the greater of two or all the bonus units.

29 For the purposes of this paragraph, 'density bonus' means a density increase of at least
30 twenty-five percent (25%) over the otherwise maximum allowable residential density
31 under the applicable zoning classification. The density bonus shall not be included
32 when determining the number of housing units that constitutes the minimum required to
33 be made available to low and moderate income housing."

34 Sec. 3. G.S. 153A-342 reads as rewritten:

35 **"§ 153A-342. Districts; zoning less than entire jurisdiction.**

36 A county may divide its territorial jurisdiction into districts of any number, shape,
37 and area that it may consider best suited to carry out the purposes of this Part. Within
38 these districts a county may regulate and restrict the erection, construction,
39 reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts
40 may include, but shall not be limited to, general use districts, in which a variety of uses
41 are permissible in accordance with general standards; overlay districts, in which
42 additional requirements are imposed on certain properties within one or more
43 underlying general or special use districts; and special use districts or conditional use
44 districts, in which uses are permitted only upon the issuance of a special use permit or a

1 conditional use permit. Property may be placed in a special use district or conditional
2 use district only in response to a petition by the owners of all the property to be
3 included. Except as authorized by the foregoing, and by G.S. 153A-340, all regulations
4 shall be uniform for each class or kind of building throughout each district, but the
5 regulations in one district may differ from those in other districts.

6 A county may determine that the public interest does not require that the entire
7 territorial jurisdiction of the county be zoned and may designate one or more portions of
8 that jurisdiction as a zoning area or areas. A zoning area must originally contain at least
9 640 acres and at least 10 separate tracts of land in separate ownership and may
10 thereafter be expanded by the addition of any amount of territory. A zoning area may be
11 regulated in the same manner as if the entire county were zoned, and the remainder of
12 the county need not be regulated."

13 Sec. 4. G.S. 160A-407 reads as rewritten:

14 **"§ 160A-407. Definitions.**

15 (a) For the purpose of this Part an 'open space' or 'open area' is any space or area
16 (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural
17 condition, or present state of use, if retained, would enhance the present or potential
18 value of abutting or surrounding urban development, or would maintain or enhance the
19 conservation of natural or scenic ~~resources.~~ resources, or (iii) that would assure, preserve
20 and protect watershed areas as a basic asset and natural resource so as to prevent the
21 impairment of drinking water supplies, or (iv) that would assure, preserve, protect and
22 maintain the purity and the quality of reservoir waters and would promote the health,
23 safety, and welfare of the people of the State.

24 (b) For the purposes of this Part 'open space' or 'open area' and the 'public use
25 and enjoyment' of interests or rights in real property shall also include open space land
26 and open space uses. The term 'open space land' means any undeveloped or
27 predominantly undeveloped land in an urban area that has value for one or more of the
28 following purposes: (i) park and recreational purposes, (ii) conservation of land and
29 other natural resources, ~~or (iii) historic or scenic purposes.~~ (iv) farmland, or (v)
30 conservation of watershed areas and drinking water supplies to prevent the impairment
31 thereof and assure, preserve, protect, and maintain the purity and quality of reservoir
32 waters. The term 'open space uses' means any use of open space land for (i) park and
33 recreational purposes, (ii) conservation of land and other natural resources, or (iii)
34 historic or scenic ~~purposes.~~ purposes, (iv) farmland, or (v) conservation of watershed
35 areas and drinking water supplies to prevent the impairment thereof and assure,
36 preserve, protect, and maintain the purity and quality of reservoir waters."

37 Sec. 5. G.S. 153A-121 is amended by adding a new subsection to read:

38 "(d) A county may by ordinance require the owners and the operators of systems
39 of sewage collection, treatment, and disposal, to provide the county with performance
40 bonds, letters of credit, or certificates of deposit in amounts sufficient to cover (i) the
41 initial design, installation, and performance of the system to design standards; (ii)
42 system component replacement; and (iii) system maintenance. A community system of
43 sewage collection, treatment, and disposal is one which serves more than one user and is
44 not owned or operated by a North Carolina water and sewer authority."

1 Sec. 6. This Part applies only to Orange County.

2 **PART 2. ORANGE COUNTY CIVIL RIGHTS ORDINANCE.**

3 Sec. 7. The Board of Commissioners of Orange County may adopt an
4 ordinance (hereinafter "Civil Rights Ordinance" or "Human Rights Ordinance")
5 designed: to promote equal treatment of all individuals; to discourage arbitrary
6 discrimination based on religion, age, sex, affectional preference, race, disability, or
7 marital status; to help residents find ways to meet and solve problems arising from
8 discrimination by use of public meetings, counseling, mediation where appropriate, and
9 the civil and criminal courts as necessary; to continue to protect the lawful interests of
10 residents and to recognize the dignity of each person so as to make available to the
11 county the full productive and creative capacities of its citizens; to prevent public and
12 domestic strife, crime and unrest; to preserve the public health, safety and general
13 welfare; to promote the policy within Orange County that all individuals, child and
14 adult, female and male, shall have equal rights throughout Orange County and every
15 place subject to its jurisdiction; to carry out in Orange County the policies provided for
16 in various federal rules, regulations, and laws prohibiting discrimination in housing,
17 employment, places of public accommodation, public transportation, voting and
18 education; and to address the deprivation of the free exercise or enjoyment of any right,
19 privilege or immunity secured by the Constitution of North Carolina, not inconsistent
20 with the Constitution of the United States.

21 Sec. 8. The Board of Commissioners of Orange County may, by ordinance or
22 otherwise, create an agency or commission (hereinafter "agency") of Orange County to
23 assist in the enforcement of an Orange County Civil Rights or Human Rights Ordinance
24 and to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon
25 complaints, to mediate alleged violations of the ordinance, to issue orders against
26 persons it finds, after notice and hearing, to have violated the ordinance, and to seek
27 court enforcement of its orders.

28 Sec. 9. Judicial Review of agency orders shall be in accordance with Article
29 4 of Chapter 150B of the General Statutes (The Administrative Procedure Act).
30 Provided, however, that all petitions for judicial review shall be filed in the Superior
31 Court of Orange County. The term "Agency," whenever used in Article 4 of Chapter
32 150B of the General Statutes, shall mean the agency as authorized or created by the
33 Board of Commissioners of Orange County by authority of this Part.

34 Sec. 10. [Reserved for remedies and procedures for the enforcement by the
35 agency of its orders.]

36 Sec. 11. [Reserved for remedies and procedures available to a complainant
37 dissatisfied with the agency's final disposition of a complaint filed with the agency.]

38 Sec. 12. [Reserved for provisions relating to access by the agency to records
39 and the release of records of the agency under provisions of the Public Records Law,
40 G.S. 132-6 through 132-9.]

41 Sec. 13. An ordinance adopted pursuant to this Part applies to any part of
42 Orange County not within a municipally incorporated city, town or village. The
43 governing board of a city, town or village within Orange County may, by resolution,
44 permit an Orange County ordinance adopted pursuant to this Part to be applicable

1 within its corporate boundaries . A city, town or village may, by resolution, withdraw
2 its permission to enforce such an ordinance. If it does so, it shall give written notice to
3 Orange County of its withdrawal of permission. Thirty days after the date Orange
4 County receives the permission withdrawal notice, the county ordinance ceases to be
5 applicable within the city, town or village.

6 Sec. 14. This Part applies only to Orange County.

7 **PART 3. ORANGE COUNTY HUNTING AND FISHING REGULATION.**

8 Sec. 15. Section 2 of Chapter 651 of the 1989 Session Laws reads as
9 rewritten:

10 "Sec. 2. This act applies only to ~~Alamance~~Alamance, Orange, and Rockingham
11 Counties."

12 **PART 4. ORANGE COUNTY SCHOOL PAYDAY.**

13 Sec. 16. Notwithstanding G.S. 115C-302(a) and G.S. 115C-316(a), the
14 Orange County Board of Education may pay its academic teachers, occupational
15 education teachers, guidance counselors, assistant principals, and other instructional
16 personnel employed for less than 12 months of the school year on the fifteenth day of
17 each month during which they are employed.

18 **TITLE II. CHATHAM COUNTY.**

19 **PART 1. POSSESSION AND USE OF FIREARMS IN CHATHAM COUNTY.**

20 Sec. 17. (a) It is unlawful for any person to hunt with a firearm or bow and
21 arrow or possess a firearm or bow and arrow while on the land of another unless he has,
22 on his person, a paper writing dated and signed by the owner or lessee of the land
23 granting the person permission to hunt or possess a firearm or bow and arrow while on
24 the land. If the land is owned by or leased to a club, the permission must be signed by
25 the club president or other chief executive, by whatever name known. If the land is
26 owned by or leased to a corporation, the permission must be signed by the president or
27 vice-president of the corporation. Permission shall not be valid for a period in excess of
28 one year, but may be valid for any shorter period stated in the permission. The written
29 permission shall be displayed upon request to any law enforcement officer authorized to
30 enforce this Part.

31 (b) Definitions. The following definitions apply to this Part:

32 (1) To hunt - To take wild animals or wild birds.

33 (2) To take - All operations during, immediately preparatory, and
34 immediately subsequent to an attempt, whether successful or not, to
35 capture, kill, pursue, hunt, or otherwise harm or reduce to possession
36 any wild animal or wild bird.

37 Sec. 18. It is unlawful for any person to possess a loaded firearm on the land
38 of another while under the influence of an impairing substance. For purposes of this
39 section, a person is under the influence of an impairing substance when he has
40 consumed a sufficient quantity of any impairing substance to cause him to lose the
41 normal control of his bodily or mental faculties, or both, to such an extent that there is
42 an appreciable impairment of either or both of these faculties.

43 Sec. 19. It is unlawful for any parent, guardian, or person standing **in loco**
44 **parentis**, to knowingly permit his child under the age of 16 years to have the

1 possession, custody, or use in any manner whatever, of a firearm, whether such weapon
2 is loaded or unloaded, except when the child is under the supervision of the parent,
3 guardian, or person standing **in loco parentis**. It is unlawful for any person to
4 knowingly furnish a child under the age of 16 years with a firearm or bow and arrow.

5 Sec. 20. Violation of any provision of this Part is a misdemeanor punishable
6 by a fine of not less than two hundred fifty dollars (\$250.00), by imprisonment for a
7 period not to exceed two years in the discretion of the court, or by both.

8 Sec. 21. Any person convicted of violating this Part shall be ordered by the
9 presiding judge to complete a hunter safety course as prescribed by G.S. 113-270.1A.

10 Sec. 22. This Part is enforceable by law enforcement officers of the Wildlife
11 Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement
12 officers with general subject matter jurisdiction.

13 Sec. 23. This Part applies to Chatham County only.

14 Sec. 24. Title I, Part 4 of this act becomes effective August 1, 1991. Title II,
15 Part 1 of this act becomes effective October 1, 1991. The remainder of this act is
16 effective upon ratification.