

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 682

Short Title: Orange Omnibus.

(Local)

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Sponsors: Representatives Barnes and Hackney (Co-sponsors).

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Referred to: Local and Regional Government I.

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March 30, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT MAKING FURTHER SUNDRY AMENDMENTS CONCERNING LOCAL  
3 GOVERNMENTS IN ORANGE COUNTY.

4 The General Assembly of North Carolina enacts:

5 **PART 1. ORANGE COUNTY**  
6 **COUNTY BOUNDARY PREPARATION FROM ORTHOPHOTOGRAPHY**

7 Section 1. Section 5 of Chapter 357 of the 1985 Session Laws reads as  
8 rewritten:

9 "Sec. 5. Section 4 of this act applies to ~~Orange~~ Alamance, Caswell, Person, Orange,  
10 and Chatham Counties only."

11 **NOTICE OF ZONING REGULATION**

12 Sec. 2. (a) G.S. 153A-343(b) reads as rewritten:

13 "(b) The first class mail notice required under subsection (a) of this section shall not  
14 be required in the following situations:

- 15 (1) The total rezoning of all property within the boundaries of a county or a  
16 zoning area as defined in G.S. 153A-342 unless rezoning involves  
17 zoning of parcels of land to less intense or more restrictive uses. If  
18 rezoning involves zoning of parcels of land to less intense or more  
19 restrictive uses, notification to owners of these parcels shall be made by  
20 mail in accordance with subsection (a) of this section;

- 1 (2) The zoning is an initial zoning of the entire zoning jurisdiction area;  
2 (3) The zoning reclassification action directly affects more than 50  
3 properties, owned by a total of at least 50 different property owners;  
4 (4) The reclassification is an amendment to the zoning text; or  
5 (5) The county is adopting a water supply watershed protection program as  
6 required by G.S. 143-214.5.

7 In any case where this subsection eliminates the notice required by subsection (a) of this  
8 section, a county shall publish once a week for four successive calendar weeks in a  
9 newspaper having general circulation in the area maps showing the boundaries of the area  
10 affected by the proposed ordinance or amendment. The map shall not be less than one-  
11 half of a newspaper page in size. The notice shall only be effective for property owners  
12 who reside in the area of general circulation of the newspaper which publishes the notice.  
13 Property owners who reside outside of the county's jurisdiction or outside of the  
14 newspaper circulation area, according to the address listed on the most recent property  
15 tax listing for the affected property, shall be notified by mail pursuant to this section. In  
16 any case where this subsection eliminates the notice required by subsection (a) of this  
17 section, a county need not publish one a week for four successive weeks the area maps  
18 required in this subsection if the procedures adopted pursuant to subsection (a) of this  
19 section provide for the first class mail notice required in subsection (a) of this section in  
20 all cases, including those for which first class mail is not required under this subsection.  
21 The person or persons mailing the notices shall certify to the board of commissioners that  
22 fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition  
23 to the published notice, a county shall post one or more prominent signs immediately  
24 adjacent to the subject area reasonably calculated to give public notice of the proposed  
25 rezoning."

26 (b) This section applies to Orange County only.

#### 27 **ENFORCE ORDINANCES BY ALTERNATIVE REMEDIES**

28 Sec. 3.(a) G.S. 153A-123(f) reads as rewritten:

29 "(f) Subject to the express terms of the ordinance, a county ordinance may be  
30 enforced by any one or more of the remedies authorized by this section. Each of these  
31 remedies may be pursued by a county alternatively, in the same action or in independent  
32 actions against an ordinance violator. It is not a defense to an action by a county to  
33 enforce an ordinance by one of the remedies authorized by this section that there is a  
34 separate action pending or completed involving the same subject matter and one or more  
35 of the same parties so long as a subsequent action pursuing an alternative remedy  
36 involves a different incident that is a violation of the ordinance from the incident or  
37 incidents that is or that are the violation alleged in the pending or completed action."

38 (b) This section applies to Orange County only.

#### 39 **CIVIL RIGHTS ORDINANCE**

40 Sec. 4. Section 6(a) of Chapter 246, Session Laws of 1991, as rewritten by  
41 Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

42 "(a) The Board of Commissioners of Orange County (hereafter 'Board of  
43 Commissioners') may adopt an ordinance (hereafter 'the Ordinance') to prohibit

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

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

10 **PART 2. TOWN OF CHAPEL HILL**  
11 **INCLUSIONARY ZONING**

12 Sec. 5. The Charter of the Town of Chapel Hill, being Chapter 473, Session  
13 Laws of 1975, is amended by adding the following new section:

14 "Sec. 5.19. Ordinances requiring provision of housing for persons of low and  
15 moderate income.

16 (a) Subject to the provisions of subsections (b) and (c) of this section, for the  
17 purpose of increasing the availability of housing for persons of low and moderate income,  
18 and thereby promoting the public safety and welfare, the Town of Chapel Hill may adopt  
19 ordinances which may require that subdividers of residentially-zoned land and developers  
20 of housing within the Town and its extraterritorial planning jurisdiction:

- 21 (1) Construct up to but no more than twenty-five percent (25%) of the total  
22 units of a housing development for persons and families of low or  
23 moderate income;
- 24 (2) Construct up to but no more than ten percent (10%) of the total units of  
25 a housing development for lower income persons; or
- 26 (3) Dedicate land in the immediate area of the subdivision or development  
27 for use by the Town for housing for persons of low and moderate  
28 income, or provide funds to the Town whereby the Town may acquire  
29 other lands or areas for the purpose of providing additional housing  
30 opportunities for persons of low and moderate income. Any formula  
31 enacted to determine the amount of funds that are to be provided under  
32 this subsection shall be based on the value of the development or  
33 subdivision for property tax purposes.

34 (b) The authority in subsection (a) of this section may only be exercised when a  
35 proposed development or subdivision consists of at least 10 dwelling units or is at least  
36 10 acres in size, or both.

37 (c) The Town may exercise the authority granted in subsection (a) of this section  
38 only if the Town either grants a density bonus or provides other incentives of equivalent  
39 financial value to a developer required to provide low or moderate income housing."

40 **POSSESSION OF ALCOHOL**

41 Sec. 6. (a)G.S. 18B-300(c) reads as rewritten:

42 "(c) Local Ordinance. – A city or county may by ~~ordinance regulate~~ ordinance:

- 1           (1) Regulate the consumption of malt beverages and unfortified wine on the  
2 public streets in that city or county and on property owned or occupied  
3 by that city or ~~county~~ county;  
4           (2) Regulate or prohibit the possession of open containers of malt beverages  
5 and unfortified wine on public streets in that city or county and on  
6 property owned or occupied by that city or county; and  
7           (3) Regulate or prohibit the possession of malt beverages and unfortified  
8 wine on public streets, alleys, or parking lots which are temporarily  
9 closed to regular traffic for street fairs or other special events."

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

### FILLING OF CERTAIN VACANCIES

12           Sec. 7. Section 2.4(2) (Section 2.3(2) under local revision pursuant to G.S.  
13 160A-496) of the Charter of the Town of Chapel Hill, being Chapter 473, Session Laws  
14 of 1975, as amended by Section 1(2), Chapter 693, Session Laws of 1979, and as  
15 rewritten by Chapter 1107 of the Session Laws of 1979 reads as rewritten:

16           "(2) A vacancy occurring on the council, which occurs during the period  
17 beginning with the first day of the four year term of office and ending  
18 ~~on the fortieth day prior to the next regular biennial town election~~ three days  
19 before the end of the filing period for that office as provided by the  
20 General Statutes shall be filled by appointment of the town council only  
21 until the next general municipal election at which time a member shall  
22 be elected to the remainder of said unexpired term. The candidate  
23 receiving the fifth highest number of votes (and if necessary the 6th, 7th  
24 and 8th highest number) following those elected for full four-year terms,  
25 shall be declared elected for the remainder of the unexpired term. A  
26 vacancy occurring on the council, which occurs at any other time shall  
27 be filled by appointment of the town council for the remainder of the  
28 unexpired term."

### PART 3. TOWN OF CARRBORO RESIDENTIAL DEVELOPMENT

30           Sec. 8. Section 9-2 of the Charter of the Town of Carrboro, being Chapter 476  
31 of the Session Laws of 1987, reads as rewritten:

32           "**Section 9-2. Unified Development Ordinance.** The board of aldermen may  
33 combine into a single ordinance or unified land use code any of the ordinances that it is  
34 permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the  
35 General Statutes or any local act applicable to the Town of Carrboro that deals with the  
36 subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a  
37 unified development ordinance the board may provide that subdivision preliminary plat  
38 approval be granted in the same manner as any other conditional use permit is issued,  
39 including the attachment of reasonable conditions to such approval. In this ordinance, the  
40 Town may require that subdivided or unsubdivided residential developments contain a  
41 specified percentage of housing units that are affordable to low or moderate income  
42 persons."  
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**WAIVER OF PERFORMANCE BOND**

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2           Sec. 9. The Charter of the Town of Carrboro, being Chapter 476 of the Session  
3 Laws of 1987, is amended by adding a new section to read:

4           "Section 3-5. Performance and Payment Bonds for Construction Contracts.

5           G.S. 44A-26(a) does not apply to the Town of Carrboro to the extent that it requires  
6 performance and payment bonds for construction contracts in excess of fifteen thousand  
7 dollars (\$15,000). However, the Town shall be bound by the provisions of G.S. 143-129  
8 relating to performance and payment bonds or equivalent security for construction  
9 contracts, and the Town may require such bonds or equivalent security for construction  
10 contracts of any amount."

11           Sec. 10. This act is effective upon ratification.