

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 623

Local Government and Regional Affairs Committee Substitute Adopted 5/2/91

Short Title: Orange/Chatham Omnibus.

(Local)

Sponsors:

Referred to:

April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS AMENDMENTS TO LAWS APPLICABLE IN ORANGE AND CHATHAM COUNTIES.

The General Assembly of North Carolina enacts:

TITLE I. ORANGE COUNTY.

PART 1. ORANGE COUNTY LAND USE AND DEVELOPMENT.

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

"A subdivision control ordinance may provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and residents of the immediate area within which the subdivision is located and of rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. The ordinance may include requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for

1 curved property lines, to an appropriate accuracy and in conformity with good
2 surveying practice. A subdivision control ordinance may provide that a developer may
3 be required to provide funds to the county whereby the county may acquire and develop
4 recreational land or areas to serve the development or subdivision, including the
5 purchase of land which may be used to serve more than one subdivision or development
6 within the immediate area. A subdivision control ordinance may define immediate area
7 by reference to a comprehensive system of parks and recreation areas within the
8 county."

9 Sec. 2. G.S. 153A-340 is amended by adding a new paragraph at the end of
10 the section to read:

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

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

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

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

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

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

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

38 **"§ 153A-342. Districts; zoning less than entire jurisdiction.**

39 A county may divide its territorial jurisdiction into districts of any number, shape,
40 and area that it may consider best suited to carry out the purposes of this Part. Within
41 these districts a county may regulate and restrict the erection, construction,
42 reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts
43 may include, but shall not be limited to, general use districts, in which a variety of uses
44 are permissible in accordance with general standards; overlay districts, in which

1 additional requirements are imposed on certain properties within one or more
2 underlying general or special use districts; and special use districts or conditional use
3 districts, in which uses are permitted only upon the issuance of a special use permit or a
4 conditional use permit. Property may be placed in a special use district or conditional
5 use district only in response to a petition by the owners of all the property to be
6 included. Except as authorized by the foregoing, and by G.S. 153A-340, all regulations
7 shall be uniform for each class or kind of building throughout each district, but the
8 regulations in one district may differ from those in other districts.

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

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

17 "**§ 160A-407. Definitions.**

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

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

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

41 "(d) A county may by ordinance require the owners and the operators of systems
42 of sewage collection, treatment, and disposal, to provide the county with performance
43 bonds, letters of credit, or certificates of deposit in amounts sufficient to cover (i) the
44 initial design, installation, and performance of the system to design standards; (ii)

1 system component replacement; and (iii) system maintenance. A community system of
2 sewage collection, treatment, and disposal is one which serves more than one user and is
3 not owned or operated by a North Carolina water and sewer authority."

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

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

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

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

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

1 (e) This section applies only to Orange County.

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

3 Sec. 7. Section 2 of Chapter 651 of the 1989 Session Laws reads as
4 rewritten:

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

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

8 Sec. 8. Notwithstanding G.S. 115C-302(a) and G.S. 115C-316(a), the Orange
9 County Board of Education may pay its academic teachers, occupational education
10 teachers, guidance counselors, assistant principals, and other instructional personnel
11 employed for less than 12 months of the school year on the fifteenth day of each month
12 during which they are employed.

13 **TITLE II. CHATHAM COUNTY.**

14 Sec. 9. Possession and Use of Firearms in Chatham County. (a) It is unlawful for
15 any person to hunt with a firearm or bow and arrow while on the land of another unless
16 he has, on his person, a paper writing dated and signed by the owner or lessee of the
17 land granting the person permission to hunt or possess a firearm or bow and arrow while
18 on the land. If the land is owned by or leased to a club, the permission must be signed
19 by the club president or other chief executive, by whatever name known. If the land is
20 owned by or leased to a corporation or their authorized designee, the permission must
21 be signed by the president or vice-president of the corporation. Permission shall not be
22 valid for a period in excess of one year, but may be valid for any shorter period stated in
23 the permission. The written permission shall be displayed upon request to any law
24 enforcement officer authorized to enforce this section.

25 (b) Definitions. The following definitions apply to this section:

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

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

31 (c) It is unlawful for any person to possess a loaded firearm on the land of
32 another while under the influence of an impairing substance. For purposes of this
33 section, a person is under the influence of an impairing substance when he has
34 consumed a sufficient quantity of any impairing substance to cause him to lose the
35 normal control of his bodily or mental faculties, or both, to such an extent that there is
36 an appreciable impairment of either or both of these faculties.

37 (d) It is unlawful for any parent, guardian, or person standing **in loco parentis**, to
38 knowingly permit his child under the age of 16 years to have the possession, custody, or
39 use in any manner whatever, of a firearm, whether such weapon is loaded or unloaded,
40 except when the child is under the supervision of the parent, guardian, or person
41 standing **in loco parentis**.

42 (e) Violation of any provision of this section is a misdemeanor punishable by
43 a fine of not less than two hundred fifty dollars (\$250.00), by imprisonment for a period
44 not to exceed two years in the discretion of the court, or by both.

1 (f) Any person convicted of violating this section shall be ordered by the
2 presiding judge to complete a hunter safety course as prescribed by G.S. 113-270.1A.

3 (g) This section is enforceable by law enforcement officers of the Wildlife
4 Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement
5 officers with general subject matter jurisdiction.

6 (h) This section applies to Chatham County only.

7 Sec. 10. Sections 1 through 6 and Section 8 of this act apply to Orange
8 County only. Section 8 of this act becomes effective August 1, 1991. Section 9 of this
9 act becomes effective October 1, 1991. The remainder of this act is effective upon
10 ratification.