

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

Finance Committee Substitute #2 Adopted 5/15/91

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 Sections 17 and 17.1 of Chapter 460 of the 1987 Session 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, as applicable to Orange County because of Sections
10 18 and 18.1 of Chapter 460 of the 1987 Session Laws, is amended by adding a new
11 subsection (a1) to read:

12 "(a1) Density bonus. For the purposes of increasing the availability of housing for
13 persons of low and moderate income, and thereby promoting the public health, safety
14 and welfare, a county may grant a density bonus or provide other incentives of
15 equivalent financial value to a developer of housing within the county if the developer
16 agrees:

- 17 (1) To construct at least 40 percent (40%) of the total duplex or
18 multifamily units of a housing development for rent to persons and
19 families earning less than sixty percent (60%) of Orange County
20 median income, adjusted for family size, as determined by the U.S.
21 Department of Housing and Urban Development (hereinafter 'median
22 income');
- 23 (2) To construct at least twenty percent (20%) of the total duplex or
24 multifamily units of a housing development for rent to families earning
25 less than fifty percent (50%) of median income;
- 26 (3) To construct the greater of two or all of the bonus of the total single
27 family residential units of a housing development for sale to persons
28 and families earning less than eighty percent (80%) of the median
29 income; or
- 30 (4) To donate land to Orange County to be used for the purpose of the
31 development of affordable housing, provided that the land donated
32 must have suitable soils or access to public water and sewer and be
33 sufficient in size for the greater of two or all the bonus units.

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

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

40 "**§ 153A-342. Districts; zoning less than entire jurisdiction.**

41 A county may divide its territorial jurisdiction into districts of any number, shape,
42 and area that it may consider best suited to carry out the purposes of this Part. Within
43 these districts a county may regulate and restrict the erection, construction,
44 reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts

1 may include, but shall not be limited to, general use districts, in which a variety of uses
2 are permissible in accordance with general standards; overlay districts, in which
3 additional requirements are imposed on certain properties within one or more
4 underlying general or special use districts; and special use districts or conditional use
5 districts, in which uses are permitted only upon the issuance of a special use permit or a
6 conditional use permit. Property may be placed in a special use district or conditional
7 use district only in response to a petition by the owners of all the property to be
8 included. Except as authorized by the foregoing, and by G.S. 153A-340, all regulations
9 shall be uniform for each class or kind of building throughout each district, but the
10 regulations in one district may differ from those in other districts.

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

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

19 "**§ 160A-407. Definitions.**

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

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

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

43 "(d) A county may by ordinance require the owners and the operators of
44 community systems of sewage collection, treatment, and disposal, to provide the county

1 with performance bonds, letters of credit, or certificates of deposit in amounts sufficient
2 to cover (i) the initial design, installation, and performance of the system to design
3 standards; (ii) system component replacement; and (iii) system maintenance. A
4 community system of sewage collection, treatment, and disposal is one which serves
5 more than one user and is not owned or operated by a local government unit or a North
6 Carolina water and sewer authority."

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

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

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

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

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

1 Orange County of its withdrawal of permission. Thirty days after the date Orange
2 County receives the permission withdrawal notice, the county ordinance ceases to be
3 applicable within the city, town, or village.

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

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

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

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

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

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

16 **TITLE II. CHATHAM COUNTY.**

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

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

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

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

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

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

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

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

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

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

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