

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1492

Short Title: Orange Density Bonuses.

(Local)

Sponsors: Senators Lee, Walker; and Hunt.

Referred to: Finance.

June 4, 1990

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ZONING ENABLING ACT TO AUTHORIZE ORANGE COUNTY TO GRANT DENSITY BONUSES AND OTHER INCENTIVES FOR DEVELOPERS OF HOUSING FOR PERSONS OF LOW OR MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-340(a), as so designated in its application to Orange County by Chapter 460, Session Laws of 1987, reads as rewritten:

"§ 153A-340. Grant of power.

For the purpose of promoting health, safety, morals, or the general welfare, a county may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

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

- (1) To construct at least forty percent (40%) of the total duplex or multifamily units of a housing development for rent to persons and families earning less than sixty percent (60%) of Orange County

1 median income, adjusted for family size, as determined by the U.S.
2 Department of Housing and Urban Development (hereinafter 'median
3 income'); or

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

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

11 (4) To donate land to Orange County for the purpose of the development
12 of affordable housing which land must have suitable soils or access to
13 public water and sewer and be sufficient in size for the greater of two
14 or all of the bonus units.

15 For the purposes of this paragraph, 'density bonus' means a density increase of at
16 least twenty-five percent (25%) over the otherwise maximum allowable residential
17 density under the applicable zoning classification. The density bonus shall not be
18 included when determining the number of housing units which is equal to the minimum
19 required to be made available to low and moderate income housing.

20 These regulations may not affect bona fide farms, but any use of farm property for
21 nonfarm purposes is subject to the regulations. The regulations may provide that a
22 board of adjustment may determine and vary their application in harmony with their
23 general purpose and intent and in accordance with general or specific rules therein
24 contained. The regulations may also provide that the board of adjustment or the board
25 of commissioners may issue special use permits or conditional use permits in the classes
26 of cases or situations and in accordance with the principles, conditions, safeguards, and
27 procedures specified therein and may impose reasonable and appropriate conditions and
28 safeguards upon these permits. Where appropriate, the conditions may include
29 requirements that street and utility rights-of-way be dedicated to the public and that
30 recreational space be provided. When issuing or denying special use permits or
31 conditional use permits, the board of commissioners shall follow the procedures for
32 boards of adjustment except that no vote greater than a majority vote shall be required
33 for the board of commissioners to issue such permits, and every such decision of the
34 board of commissioners shall be subject to review by the superior court by proceedings
35 in the nature of **certiorari**.

36 A county may regulate the development over estuarine waters and over lands
37 covered by navigable waters owned by the State pursuant to G.S. 146-12, within the
38 bounds of that county.

39 For the purpose of this section, the term 'structures' shall include floating homes.
40 Any petition for review by the superior court shall be filed with the clerk of superior
41 court within 30 days after the decision of the board of commissioners is filed in such
42 office as the ordinance specifies, or after a written copy thereof is delivered to every
43 aggrieved party who has filed a written request for such copy with the clerk at the time
44 of the hearing of the case, whichever is later. The decision of the board of

1 commissioners may be delivered to the aggrieved party either by personal service or by
2 registered mail or certified mail return receipt requested."

3 Sec. 2. G.S. 153A-342 reads as rewritten:

4 **"§ 153A-342. Districts; zoning less than entire jurisdiction.**

5 A county may divide its territorial jurisdiction into districts of any number, shape,
6 and area that it may consider best suited to carry out the purposes of this Part. Within
7 these districts a county may regulate and restrict the erection, construction,
8 reconstruction, alteration, repair, or use of buildings, structures, or land. Such districts
9 may include, but shall not be limited to, general use districts, in which a variety of uses
10 are permissible in accordance with general standards; overlay districts, in which
11 additional requirements are imposed on certain properties within one or more
12 underlying general or special use districts; and special use districts or conditional use
13 districts, in which uses are permitted only upon the issuance of a special use permit or a
14 conditional use permit. Property may be placed in a special use district or conditional
15 use district only in response to a petition by the owners of all the property to be
16 included. Except as authorized by the foregoing and by by G.S. 153A-340, all
17 regulations shall be uniform for each class or kind of building throughout each district,
18 but the regulations in one district may differ from those in other districts.

19 A county may determine that the public interest does not require that the entire
20 territorial jurisdiction of the county be zoned and may designate one or more portions of
21 that jurisdiction as a zoning area or areas. A zoning area must originally contain at least
22 640 acres and at least 10 separate tracts of land in separate ownership and may
23 thereafter be expanded by the addition of any amount of territory. A zoning area may be
24 regulated in the same manner as if the entire county were zoned, and the remainder of
25 the county need not be regulated."

26 Sec. 3. This act applies to Orange County only.

27 Sec. 4. This act is effective upon ratification.