

**A RESOLUTION CALLING A PUBLIC HEARING ON A LAND USE
ORDINANCE TEXT AMENDMENT REGARDING SUBDIVISION
COVENANTS AND ENERGY AND WATER CONSERVATION
Draft Resolution No. 92/2010-11**

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on April 26, 2011 to consider adopting "AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO PROVIDE THAT SUBDIVISION RESTRICTIVE COVENANTS MAY NOT PROHIBIT THE ORDERLY INSTALLATION OF DEVICES THAT GENERATE OR CONSERVE ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR THAT CAPTURE, STORE, OR REUSE WATER."

BE IT FURTHER RESOLVED that the draft ordinance is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

BE IT FURTHER RESOLVED that the draft ordinance is also referred to the following advisory boards and commissions for consideration and recommendation prior to the specified public hearing date:

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| <input checked="" type="checkbox"/> Appearance Commission | <input type="checkbox"/> Recreation and Parks Commission |
| <input type="checkbox"/> Transportation Advisory Board | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input checked="" type="checkbox"/> Environmental Advisory Board | <input type="checkbox"/> _____ |
| <input checked="" type="checkbox"/> Economic Sustainability Commission | <input type="checkbox"/> _____ |

This is Tuesday, the 15th day of March in the year 2011.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-427
SENATE BILL 475**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO AUTHORIZE THE BOARD OF ALDERMEN TO ADOPT ORDINANCES FOR THE ORDERLY INSTALLATION OF ENERGY-SAVING AND WATER-SAVING DEVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, is amended by adding a new section to read:

"Section 10-2. Providing for the Orderly Installation of Energy-Generating or Energy- or Water-Saving Devices.

(a) The board of aldermen may by ordinance provide for the orderly installation of solar collectors, clotheslines, rain barrels, garden fences, or any further technology designed specifically to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device. The ordinance may provide for review and approval or denial of homeowners association legal documents, including restrictive covenants, for compliance with the ordinance as a part of granting or denying approval of a subdivision. An ordinance adopted pursuant to this section shall not prohibit the adoption or enforcement of any deed restriction, covenant, equitable servitude, similar binding agreement, or any rule or regulation adopted by a property owners association that does any of the following:

- (1) Affects a common area.
- (2) That is designed to ensure that any device described in subsection (a) of this section is installed and maintained in such a manner that it does not pose a risk to the safety of any person.
- (3) Regulates the location or screening of any device described in subsection (a) of this section, provided the deed restriction, covenant, equitable servitude, or similar binding agreement or rule or regulation adopted by a homeowners association does not have the effect of preventing the reasonable use of such device.

No ordinance adopted pursuant to this section shall apply to any condominium created under Chapter 47A or 47C of the General Statutes.

(b) If any provision of this section conflicts with the provisions of G.S. 160A-201 or G.S. 22B-20, the provisions of this section shall control.

(c) An ordinance adopted under this section may provide for enforcement using any of the means authorized by G.S. 160A-175."

SECTION 2. This act becomes effective October 1, 2009, and applies to deed restrictions, covenants, or similar binding agreements that run with the land recorded on or after that date.

In the General Assembly read three times and ratified this the 5th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

**AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO
PROVIDE THAT SUBDIVISION RESTRICTIVE COVENANTS MAY NOT PROHIBIT
THE ORDERLY INSTALLATION OF DEVICES THAT GENERATE OR CONSERVE
ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR THAT
CAPTURE, STORE, OR REUSE WATER**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. Article IV, Part II of the Carrboro Land Use Ordinance is amended by adding a new Section 15-83.3 to read as follows:

Section 15-83.3 Covenants May Not Prohibit Devices that Generate or Conserve Energy or Water.

(a) This section is authorized by Chapter 447 of the 2009 Session Laws, codified as Section 10-2 of the Carrboro Town Charter.

(b) Subject to the provisions of subsections (c) and (d) of this section, lots within a residential subdivision may not be conveyed subject to covenants or restrictions that run with the land unless, prior to approval of the final plat creating such lots, the final plat approval authority (planning director for minor subdivisions and town manager for major subdivisions) has determined that such covenants or restrictions are consistent with the requirements of this section. The developer shall submit any such proposed covenants to the town along with or subsequent to the proposed final plat. Final plat approval for such subdivision may not be granted if the covenants or restrictions prohibit, or have the effect of prohibiting, or allow a property owners association to prohibit, the orderly installation of solar collectors, clotheslines, rain barrels, garden fences, or any further technology or device designed specifically to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device.

(c) The provisions of subsection (b) of this section do not apply to any condominium created under Chapter 47A or 47C of the General Statutes. Nor are such provisions intended to prohibit the adoption or enforcement of any covenant or restriction, or any rule or regulation adopted by a property owners association, that does any of the following:

- (1) Affects a common area.
- (2) Is designed to ensure that any device described in subsection (b) is installed and maintained in such a manner that it does not pose a risk to the safety of any person.
- (3) Regulates the location or screening of any device described in subsection (b), provided the covenant or restriction, or rule or regulation adopted by a property

owners association, does not have the effect of preventing the reasonable use of such device.

(d) The provisions of this section apply only to covenants or restrictions recorded after the effective date of this section.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.