

**A RESOLUTION ADOPTING A  
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR  
ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND  
USE ORDINANCE  
Draft Ordinance No. 107/2010-11**

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows:

**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.**

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with authority granted by the charter amendment ratified in North Carolina Session Law 2009-427 and adopted Carrboro Vision2020 policy 5.51.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to promote every available means of energy conservation.

Section 3. This resolution becomes effective upon adoption.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Ayes:

Noes:

Abstentions:

**A RESOLUTION ADOPTING A  
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR  
REJECTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND  
USE ORDINANCE  
Draft Ordinance No. 107/2010-11**

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows:

**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.**

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Town policies and regulations.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing regulations are appropriate.

Section 3. This resolution becomes effective upon adoption.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Ayes:

Noes:

Abstentions:

**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

**ATTACHMENT B - 2**

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.

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 5<sup>th</sup> day of August, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

**5.40 Construction**

- 5.41 The town should encourage the reduction of waste materials in the course of new construction or renovation. The town should promote, be a leader in, and require, where practical, the use of recycled building materials, recycling plans for construction and demolition materials, and the extent to which “green building” techniques are being employed.

**5.50 Energy**

- 5.51 The town should publicly promote every available means of energy conservation. The town’s own alternative and renewable energy targets should include passive and active solar, and composted waste co-generation to fuel public vehicles and the heating of town facilities
- 5.52 The town should set a goal of reduced energy costs in all town buildings and increased fleet mileage for all town vehicles.

**5.6 Farmland Preservation**

- 5.61 The town should adopt incentives to help limit the conversion of farmland to developed uses that bridge the transition areas. These incentives should be designed to preserve small farms, farm co-ops, and organic farming within new conservation subdivisions and elsewhere.

**5.7 Toxic Use**

The town will work to reduce its use of hazardous and toxic products in town operations and will expand, promote, and provide public education on such efforts as with its least toxic integrated pest management policy.

**6.0 HOUSING**

The town should develop a comprehensive housing policy that seeks to provide housing for all of Carrboro’s citizens.

**6.1 Housing for a Diverse Population**

- 6.11 Town policy should accomodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.
- 6.12 The variety of strategies to be considered should include the investigation of alternative public and private funding for construction and renovation of low and moderate income housing. A low interest loan pool for individuals and nonprofits that wish to buy and rehabilitate housing is desired.





# Memo

**To:** Mayor and Board of Aldermen  
**From:** Bill Soeters, Chair, Economic Sustainability Commission *BS*  
**Date:** 4/14/2011  
**Re:** Land Use Ordinance Amendment Regarding Subdivision Covenants and Energy and Water Conservation

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On April 13<sup>th</sup>, 2011, the Economic Sustainability Commission reviewed 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.

A motion was made by Bob Saunders and seconded by David Jessee that the ESC recommends the Board of Aldermen adopt the draft ordinance.

The ESC further recommended that there be a clearer definition of "garden fences."

Vote: all present voted, Bill Soeters, Terri Turner, David Jessee, Brian Russell, Bob Saunders, Chris Stephenson, Jennifer McMillan

Ayes: 6

Nays: 1

By a unanimous show of hands, the ESC membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.