

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 720*

Short Title: Amend Carrboro Charter/Conserve Energy/Water. (Local)

Sponsors: Representatives Insko; Faison, Fisher, and Harrison.

Referred to: Local Government II, if favorable, Judiciary I.

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO AUTHORIZE THE BOARD OF ALDERMEN TO ADOPT ORDINANCES THAT PROHIBIT DEED RESTRICTIONS, COVENANTS, EQUITABLE SERVITUDES, OR ANY SIMILAR BINDING AGREEMENTS THAT WOULD PROHIBIT THE INSTALLATION OF SOLAR COLLECTORS, CLOTHESLINES, RAIN BARRELS, GARDEN FENCES, OR ANY OTHER DEVICES DESIGNED TO GENERATE OR CONSERVE ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR TO CAPTURE, STORE, OR REUSE WATER.

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. Prohibiting deed restrictions or similar binding agreements that restrict energy-generating or energy- or water-saving devices.

(a) The board of aldermen may by ordinance declare void and unenforceable any deed restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector, clothesline, rain barrel, garden fence, or any other device designed 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 where the device is proposed to be located. Such ordinance may also provide that a property owner shall not be denied permission to install any such device by any entity granted the power or right in any deed restriction, covenant, equitable servitude, or similar binding agreement to approve, forbid, control, or direct the alteration of property. 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 is designed to ensure that any such device is installed and maintained in such a manner that it does not pose a risk to the health or safety of any person. No ordinance adopted pursuant to this section shall apply to any condominium created under Chapter 47C of the General Statutes.

(b) An ordinance adopted under this section may provide for enforcement using any of the means authorized by G.S. 160A-175. In addition, any person aggrieved by a violation of an ordinance adopted under this section may apply to a court of competent jurisdiction for equitable relief against the enforcement of any deed restriction, covenant, equitable servitude, or similar binding agreement that is prohibited by such ordinance, and the court may award costs and reasonable attorneys' fees to the prevailing party in any such action."

SECTION 2. This act is effective when it becomes law.



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