

Restaurants, Bars Find Complying With Smoking Ordinance Difficult

BY LYNN HOUSER
CITY EDITOR

Restaurant and bar patrons who hoped the smoke would clear July 1 when the second stage of the county's smoking ordinance went into effect may be disappointed.

Orange County restaurants were required to set aside at least half of their seating for nonsmokers by July 1, but many restaurants have been slow to put the measures into effect.

The logistics of separating the tables creates a problem, said Sharon Powell, a manager at Ham's. "We have a nonsmoking section, but it's not half," she said.

Ham's nonsmoking section is in a separate area of the restaurant, Powell said. To divide the restaurant in half would mean that some smokers would be sitting at tables beside nonsmokers. "That defeats the purpose," she said.

The expense of erecting walls and adding ventilation is too much to expect from small business owners, said Kevin Clyde, owner of Henderson Street Bar and Grill.

"Unless you already have two separate rooms, it's impossible to do — unless you spend thousands of dollars," Clyde said.

The Orange County Board of Health passed the smoking ordinance Oct. 7.

One section of the ordinance requires all eating establishments with a seating capacity of 30 or more to designate nonsmoking areas with a conspicuous sign.

The ordinance excludes private clubs,

but only if those clubs are operated by the membership instead of by an owner and are not profit-oriented, said Geoffrey Gledhill, a Hillsborough attorney who advised the board of health on the smoking ordinance.

In October of last year, establishments were required to set aside at least one-third of their seating capacity for nonsmokers. The second step, which went into effect July 1, increased that area to half of the seating capacity.

The third step of the ordinance will take place July 1, 1995, when smoking will be allowed only in an area of the establishment with a separate ventilation system.

Eating establishments with seating for fewer than 30 patrons must designate the entire place as either smoking or nonsmoking and must post a sign to that effect at the patron entrance. But by next July, even those places must have an area with separate ventilation for smokers.

"We don't have enough seating capacity for it to apply to us," said Mike Stout, owner of Bub O'Malley's. He said when the stricter law went into effect next July, he would deal with the problem then.

The question of whether bars that don't sell food, such as He's Not Here, are covered by the smoking ordinance is not spelled out, but Gledhill said it appeared they would be covered under the rules for "places of employment."

Because the health department rules are new and both Chapel Hill and Carrboro

have their own smoking rules, health department officials will meet with representatives from both towns to explain the rules and coordinate enforcement.

"There won't be draconian police out in the street because it is confusing," Gledhill said.

The health department is also planning an educational campaign by writing letters to business owners and then following them up with a visit to answer any questions about the rules.

Some bar owners said it would be more reasonable to allow them to post signs to notify patrons that smoking was allowed in the restaurant.

"Chatham County requires a note on the door stating whether or not you permit smoking and that secondhand smoke is hazardous to health," said Stout, who owns a restaurant in Chatham County called Michael's. "I can see (restrictions) being required at a hospital or a place someone has to go to, but the public doesn't have to come in here," Stout said.

Clyde agreed. "Not being able to smoke in a bar is ludicrous," he said. "I wouldn't have a problem with putting up a sign saying there's not a nonsmoking section available. If that's a problem, then they can go someplace else."

Larry Eldridge, owner of Linda's Bar and Grill, said he hadn't set aside half of his seating, either. "Most people who come into the bar are smokers," he said. "We haven't had any complaints."



Richard Bradley smokes a cigarette Tuesday while he eats his lunch at Pantana Bob's. Bradley thinks the town's smoking ordinance is fair to both smokers and nonsmokers.

POLICE

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ing of two white outside candidates over in-house black candidates.

Ennis reversed her original hiring decisions for three positions — two security guard supervisors and a security guard commander — after several participants complained that the candidate assessment process was inconsistent.

Ennis then decided to uphold the three original appointments while a second assessment process was completed.

University Police decided not to reappoint Crawford after the second and most recent assessment process was completed, leading him to file a Step 4 grievance, which bypasses the University appeals process and goes right to the State Personnel Commission. He claims the University Police discriminated against him by denying him the veteran's preference due him

under a state law which, holding other factors equal, gives a veteran priority.

"Even if I did score legitimately lower on the second assessment center, I still should have been afforded the veteran's preference," Crawford said.

However, Carolyn Elfland, associate vice chancellor for business and the overseer of University Police, said not every veteran was eligible.

In Crawford's termination letter, Ennis encouraged him to apply for an open police officer position that was at the same salary grade but had less responsibility.

Although Crawford said he believed this position would not be a wise career move, he decided to apply because he had a family to feed. "You go from supervising 17 people to being supervised."

Elfland would not comment on Crawford's situation. She said, "Any conversation him and I would have is an employer-employee conversation."

BURNETTE

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ment Wednesday.

Ken Touw, school board chairman, estimated that a hearing would cost at least \$10,000 if the board paid for Burnette's attorney. Touw said a hearing decision could be appealed but a recall could not.

A recall election would cost between \$3,000 and \$4,000, said Bobbie Strickland, supervisor of the Board of Elections.

Mitchell said the petition had to be started by Wednesday for it to be completed in time to schedule the recall vote at the Nov. 8 election.

Mitchell must collect the signatures of 10 percent of the registered voters in the school district, or 4,250 signatures, within 30 days, which would be Aug. 16. The Board of Elections must then verify that the petition signatures are indeed from registered voters.

TEP

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"TEP has not followed the judge's order," Weinstein said. "We are attempting to collect judgment. This is only a first step. We've been investigating TEP and looking at all of their assets in all forms."

Weinstein and his associates had the ruling in their favor sent to Orange County Superior Court because of the Chapel Hill TEP house.

According to Orange County records, Chapel Hill's TEP house is valued at \$329,336. The deed to the house lists that ownership went to TEP Fraternity Inc. in Haddon Heights, N.J., in November 1990.

Charlotte attorney Robert Bernhardt, who started representing Weinstein, Marston and Levy earlier this month to file the case in North Carolina, said his clients also were looking at other TEP properties for payment.

"The national fraternity owns houses in Chapel Hill, (in) Maryland and several other places," Bernhardt said. "If it weren't owned by nationals, we wouldn't be bothering with it."

Pinsky said that of TEP's 50 chapters nationwide, nationals only owned about nine of the houses.

TEP National President Leo Gordon said Tuesday that a copy of the Orange County papers was faxed to the fraternity early in July.

The fraternity has until Aug. 1 — 30 days after the complaint was filed in North Carolina — to respond to the judgment.

After TEP officials file papers in Washington, D.C., requesting that the case be litigated, lawyers also plan to file a court order to suspend the case in North Carolina. Gordon said the lawsuit was complicated because it involved a property the investors no longer owned. He said the house had been sold to George Washing-

ton University one month after the contract had been breached.

Gordon added that the nearly \$200,000 the investors were seeking in damages primarily accounted for the difference between the value of the house and what George Washington University had paid for it.

Weinstein would not go into details Tuesday on the way he arrived at the amount of damages or what had happened to the house since the lawsuit was filed.

"We did what was required of us," he said. "We know that they received the lawsuit. We have proof."

But Michael Brown, executive director of TEP Fraternity Inc., said Tuesday that he didn't have proof that someone had tried to deliver a copy of the suit. "We probably owe them a couple of bucks on the time they owned the property. I don't know how they could say there's a cause of action on a property they don't own."

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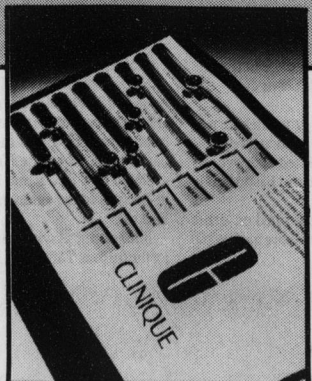


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