

# The Daily Tar Heel

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## Balcony Smoking Ban Violates State Law

University housing's ban on smoking on residence hall balconies conflicts with a state law passed in 1993.

By JESSICA JONES  
Staff Writer

University resident assistants have been enforcing an unofficial no-smoking policy on South Campus balconies for years. But when University administrators made the policy official last spring, they unwittingly broke state law.

UNC officials violated a section of Article 64 under the N.C. General Assembly which indicates that the University's decision to ban balcony

smoking is an illegal amendment to its original 1993 smoking ban.

The Resident Hall Association has not officially removed the smoking ban; therefore, the illegal ban still applies to residents.

When contacted about the issue Monday, University Counsel Susan Ehringhaus said she wasn't familiar with the ban. "That policy did not go through my office; it is a housing policy."

But after conducting further research, Ehringhaus agreed Tuesday that the University was in violation. "I have reviewed it, and it is not consistent with the law. I sent it back to housing."

The General Assembly enacted Article 64 on Oct. 15, 1993. It states that any state-controlled building, such as the University, that was declared non-smok-

ing had to designate 20 percent of its interior space as a smoking area.

A statute in the article states that valid local laws, rules or ordinances enacted before Oct. 15, 1993, are not subject to Article 64.

The University imposed its smoking ban on all University facilities except residence hall rooms on Oct. 14, 1993, the day before the state law was passed.

But the University banned smoking

on residence hall balconies, even though the law states that no local ordinance or rule — even if enacted before Oct. 15, 1993 — may be amended "to impose a more stringent standard than in effect on the date of ratification of this Article."

The original smoking ban restricted smoking in all University facilities except in residence hall rooms, according to a memorandum from Chancellor Paul Hardin on Nov. 19, 1993.

Allan Calarco, associate director of University housing, said Department of University Housing officials considered the area extending a few feet past the building as the "immediate environs" of the hall. "Do students believe the balcony is a part of the building? I would



University Counsel Susan Ehringhaus said the balcony smoking ban was inconsistent with state law.

### Up in Smoke

Susan Ehringhaus said the University's policy enacted last spring banning smoking on residence hall balconies was inconsistent with a state statute passed on Oct. 15, 1993. Because the balcony smoking ban adds more restrictions to the University's existing smoking policy, it is illegal according to N.C. General Statutes, Article 64.

"This article shall not supersede nor prohibit the enactment or enforcement of any other valid local law, rule, or ordinance enacted prior to October 15, 1993, regulating the use of tobacco products. However, no local law, rule, or ordinance enacted and placed in operation prior to October 15, 1993, shall be amended to impose a more stringent standard than in effect on the date of ratification of this article."

—North Carolina General Statute 143-601(a)

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## New Chief Chosen in Carrboro

Capt. Carolyn Hutchison will become Carrboro's first female police chief when she is sworn in Tuesday.

By ROBIN CLEWOW  
Staff Writer

Capt. Carolyn Hutchison was named Carrboro police's new chief at the Carrboro Board of Aldermen meeting Tuesday.

Carrboro Town Manager Robert Morgan announced the decision to promote Hutchison, who has served as interim chief since Ben Callahan's retirement in August.

When Hutchison is sworn in Tuesday, she will become the first female chief at the department, but this was not a consideration in the decision, Morgan said.

"It's not been a factor in my decision making process," he said. "I've just been looking for the best person to fill the position, and she was it."

Carrboro Mayor Mike Nelson voiced political support for Hutchison, agreeing that she was the best candidate for the job. "I think we are very lucky to have her," he said.

Morgan said Hutchison was selected from six finalists for the position because of her experience, proactive approach to law enforcement and understanding of the community.

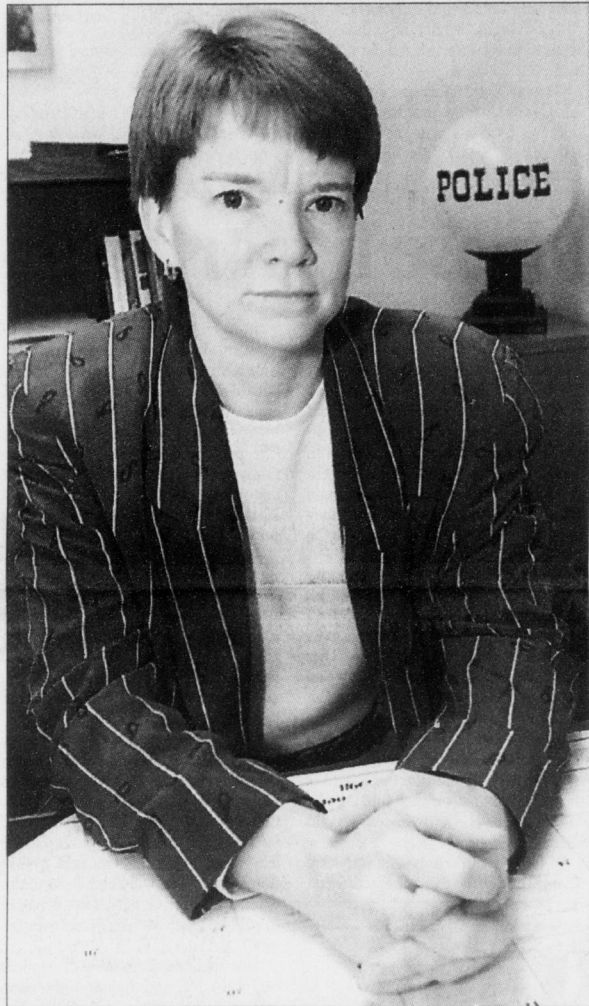
"In the three times I've done this in my career, these were the best candidates for a small town department that I've ever seen," Morgan said. "We had six very outstanding applicants for the position, and Carolyn Hutchison beat those people out."

"I think Carolyn has a good vision for the department in the future."

Hutchison said that vision included keeping good communication between citizens and the department.

"I anticipate that we will continue to enhance our participation with the community," she said.

Morgan included Hutchison's com-



DTH/DAVID SANDLER

Carolyn Hutchison, the new police chief of Carrboro, will be sworn in Tuesday morning. Hutchison previously served as a captain.

munity involvement and communication skills in his list of factors that determined his decision to promote her.

Nelson also stressed the established relationship Hutchison had with the Carrboro community.

"I don't think it can be overstated how well-respected Carolyn is in the community," Nelson said.

Out of Hutchison's 14 years at the department, she spent the past seven years as a captain. She holds a master's

degree in public administration from UNC.

But Morgan said the work Hutchison had done in and out of the department was the main basis for her good reputation, which would make her promotion easily accepted.

"I think its going to be well received by both the community and the department," Morgan said.

See CHIEF, Page 8

## Congress Resolution Calls For Stricter Parking Rules

If adopted by UNC, students without permits would have to move their cars from four lots by 11:30 p.m. Sundays.

By ANDREW MEEHAN  
Staff Writer

Student Congress passed a resolution Tuesday calling for the Department of Public Safety to start ticketing cars without permits on Sunday nights in four campus lots.

If the department enacts the policy, students who had been able to park in the lots on weekends until 7:30 a.m. Monday would have to move their cars by 11:30 p.m. Sunday.

The four affected lots would be the A lot in front of Aycock Residence Hall, K lot near Ehringhaus Residence Hall, M lot near Hinton James Residence Hall and L lot near Morrison Residence Hall.

Rep. Jason Arnold, Dist. 13, introduced the resolution. He parked in the M lot last year and parks in the K lot this

year, he said. The lots were often so full on Sunday nights that even after midnight, students with permits could not find a place to park their cars, he said.

Cars without permits for those lots are ticketed from 7:30 a.m. to 5:30 p.m., Monday through Friday. Arnold said many students without permits wait until 7:30 the next morning to move their cars, preventing students with permits from finding spaces until that time.

Speaker Brad Morrison, who lives in Ehringhaus, said some students without permits would not move their cars in the morning and received tickets. But the students with permits also got tickets because they could not find places to park, he said.

"I think this bill is very needed," he said. "I have gotten several tickets on Monday morning."

Rep. Evan Sloan, Dist. 16, objected to the resolution. He said weekends were the only time some students could park their cars on campus, and those with permits knew the times they could use them when they bought them.

Rep. Preston Smith, Dist. 16, said the resolution was an attempt by a few students who did not want to move their cars in the morning like everyone else.

"I think this is a really bad bill," he said. "The problem is that Rep. Arnold

*"I think this is a very bad bill. The problem is that Rep. Arnold did not want to have to get up at 7:30 to move his car."*

PRESTON SMITH  
Rep. Dist. 16

did not want to have to get up at 7:30 (a.m.) to move his car."

Arnold said students without permits for lots named in the resolution had other options. "For every one of these lots, there is an employee or commuter lot nearby."

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## PR Gate Woes Cause Lot to Remain Open

By BRIAN BEDSWORTH  
Staff Writer

Despite the recent break-ins of nearly 40 cars in the PR parking lot on Estes Drive, a new problem with the gates to the lot will force them to remain open indefinitely.

Randy Young, marketing specialist for the Department of Public Safety, said an alignment problem, which occurred some time last week, had caused the gates to not open or close properly.

He said work to repair the gates started on schedule last Thursday. "Until such time as the gates are functional, they have to be left open," Young said.

Security concerns were raised after nearly 40 cars parked in the PR lot were broken into after the gates were left open Oct. 10.

University Police Maj. Jeff McCracken said he was not sure how long it would take to repair the automatic gates. He said there would be a guard on duty 24 hours a day to ensure the car safety while the gates were open.

McCracken said the gates, designed to open automatically for cars, had caused problems for people leaving the lot, because they could not trigger the gates' automatic opening mechanism.

See GATES, Page 8

## Lorence: Student Fee Use Illegal

Jordan Lorence defended students arguing against mandatory student fees at the University of Wisconsin.

By COLLEEN JENKINS  
Staff Writer

Washington attorney Jordan Lorence used the words of Thomas Jefferson to argue his position against mandatory student fees Tuesday night.

"It is error alone which needs the support of government," he quoted. "Truth can stand for itself."

Lorence, who gained national recognition when he defended three students

at the University of Wisconsin in their fight against required student funds, spoke to 20 students at a speech sponsored by Students for Life and Liberty.

He said it was unconstitutional for UNC and other universities to force students to pay for a private organization's political or ideological advocacy, according to the seventh circuit court and U.S. Supreme Court.

Fee distribution debate has been so intense at UNC that it even sparked some Congress members to leave their session to hear Lorence's speech.

Lorence pointed to examples like the Student Environmental Action Coalition's newsletter endorsing Rep. Eleanor Kinnaird, D-N.C.

"There are groups to me that seem to

engage in clear advocacy that the court would object to," he said.

While he said he believed groups had a right to express their views, Lorence said the present system for student fees made distribution an arbitrary process within student government.

"Organizations should be able to generate support instead of battling to prove who's more important," he said.

"It's an impossible judgement to make, who's more worthy."

Lorence discarded the idea that the Wisconsin students' suit against the University was a right-wing plot to censor groups that they did not like.

"We only have received rights for

See LORENCE, Page 8

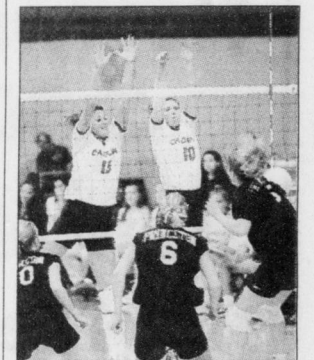


DTH/SEAN BUSH

Attorney Jordan Lorence speaks to students in Manning Hall on Tuesday evening about the allocation of student fees.

## INSIDE Wednesday

### Double Threat



A lethal combination of offense and defense, Shannon Smith (15) and Liz Feldman have helped move UNC's volleyball team to the top of the ACC standings. See Page 11.

### Botany Meets Art

Artists present their artwork in the N.C. Botanical Garden's sculpture display, running until next week. See Page 6.



### Today's Weather

Morning Showers; High 60s.  
Thursday: Mostly sunny; Lower 60s.

Liberty is the right to do what the law permits.

Montesquieu