

## Meet North Carolina's revolutionary register of deeds



Posted by: Sue Sturgis  
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The county register of deeds is not the sort of elected office usually associated with radical political stances, given that its holder is charged with the low-profile job of maintaining public records and documents.

But real estate attorney Mark Chilton, the newly elected register of deeds in Orange County, NC, campaigned on a promise to defy state law by issuing marriage licenses to same-sex couples. The county's largest town is Chapel Hill, home to the University of North Carolina's flagship school.

Chilton captured just over 42 percent of the vote in the May 6 primary, defeating two Democratic opponents, including the incumbent. No Republicans filed for the office, so Chilton will run unopposed in November. The author of a book about Orange County land records, Chilton has also called for improving the office's website and hiring additional Spanish-speaking staff.

Chilton, who was [among the more than 900 people arrested](#) last year during the nonviolent Moral Monday protests against the North Carolina legislature's far-right agenda, says he believes the state's [constitutional ban on same-sex marriage](#), passed by referendum two years ago today, violates the equal-protection clause of the U.S. Constitution.

"I don't want to reach for melodrama here, but on some level there's the question of whether we have a federal government or a Confederacy," Chilton tells Facing South. "Does North Carolina get to nullify part of the Constitution it doesn't like? I thought we settled that question."

He detailed his position on marriage equality in a post to [his campaign's Facebook page](#):

Some will no doubt argue that it is somehow not within the power of a county Register of Deeds to make decisions about the constitutionality of such matters. But let me remind them that the oath of office for all elected officials in North Carolina calls upon the officials to support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of North Carolina not inconsistent therewith. This oath means three important things in this context:

1. The United States Constitution is the supreme law of the land and no act, statute, ordinance, state constitution, public school rule, city parking ordinance or any other rule or act of any level of government in this country may operate in derogation of the Constitution of the United States of America. That is, we support and maintain the state constitution but only to the extent that it is consistent with the Federal constitution.
2. Because it is a part of the oath of office for all elected officials in North Carolina, it is clear that we all understand that there will continually be moments where an elected official must interpret and apply the United States Constitution - drawing out the distinction between the state and federal constitution actually goes to the very heart of the oath of office.
3. Thus, it is not merely within the power of the Orange County Register of Deeds to interpret the constitutionality of Amendment One, it is the obligation and solemn duty of the Register of Deeds to do so.

In light of all of the above, if I am elected Register of Deeds of Orange County, I will not enforce the federally unconstitutional parts of the North Carolina state statutes and constitutional provisions which purport to prohibit the issuance of same sex marriage certificates.

Under North Carolina law, issuing marriage licenses to same-sex couples could bring misdemeanor charges and removal from office. But Chilton rejects the idea that would happen.

"There's no punishment for upholding the Constitution," he says, hinting at the legal battle that would likely ensue.

Chilton's win comes amid mounting court challenges to laws prohibiting same-sex marriage, which is now legal in 17 states and the District of Columbia. There are currently marriage equality cases before the courts in 29 states, including all of the states in the South, [according to the Human Rights Campaign](#). No Southern states currently recognize same-sex marriage.



Mark Chilton won his race for register of deeds in Orange County, NC following a campaign in which he pledged to issue marriage licenses to same-sex couples in defiance of state law. (Photo from the [Chilton for Register of Deeds Facebook page](#).)

Just last month, the United Church of Christ [sued over North Carolina's law](#), claiming it interferes with the First Amendment right to freedom of religion. The state makes it a misdemeanor crime for ministers to perform a marriage ceremony for a couple that does not have a marriage license. There are also [two other court cases](#) challenging North Carolina's constitutional amendment.

Meanwhile, the Campaign for Southern Equality's [WE DO Campaign](#) has been encouraging same-sex couples married in other states to request marriage licenses in their Southern hometowns. The effort aims to highlight that the federal government recognizes their marriages while their home states do not. Today the campaign [held a march](#) to the Wake County Register of Deeds office in North Carolina's capital city of Raleigh to register unions there.

This is not the first time Chilton has broken ground in North Carolina politics: He became the youngest elected official in the state when he won a seat on the Chapel Hill Town Council in 1991 when he was 21. He went on to serve as an alderman and mayor of the Orange County town of Carrboro before stepping down last year after four terms. Carrboro's new mayor, Lydia Lavelle, is the [state's first openly lesbian mayor](#).

Chilton is married to physician Quaker Harmon, and the couple has two children.