

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 357
HOUSE BILL 690

AN ACT CONCERNING LOCAL MATTERS IN ORANGE AND CHATHAM
COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 660 of the Session Laws of 1969 (the Carrboro Town Charter) is amended by adding a new section to read:

"Sec. 5.05. Off-Street Parking Fund. The Board of Aldermen may establish a fund into which payments from individual firms, persons, corporations, or property owners shall be deposited for the purpose of providing off-street parking facilities, and from which appropriations shall be made exclusively for the purpose of organizing, establishing, developing, or enlarging off-street parking facilities within the Town. The Board of Aldermen may provide in its land use ordinance that all developers must either provide adequate off-street parking (on site or off site) to serve their developments, or pay a fee to the Town's off-street parking facilities fund based on the number of required parking spaces not provided."

Sec. 2. Chapter 660 of the Session Laws of 1969 (the Carrboro Town Charter) is amended by adding a new Article to Chapter V, Subchapter E, to read:

"ARTICLE 4. IMPACT FEES.

"Sec. 5.131. Impact Fees Authorized. (a) The Board of Aldermen may provide by ordinance for a system of impact fees to be paid by developers to help defray the costs to the town of constructing certain capital improvements, the need for which is created in substantial part by the new development that takes place within the town and its extraterritorial planning area.

(b) For purposes of this Article, the term capital improvements includes capital improvements to public streets, bridges, sidewalks, bikeways, and on and off street surface water drainage ditches, pipes, culverts, and other drainage facilities.

(c) An ordinance adopted under this Article may be made applicable to all development that occurs within the town and its extraterritorial planning area, as established by local act or pursuant to the procedures set forth in G.S. 160A-360.

(d) The town may, with the approval of the Orange County Board of Commissioners, construct capital improvements outside the town limits but within the town's extraterritorial planning area and may cooperate with the State in the construction of capital improvements to State highway system streets within this area as well as within the town.

"Sec. 5.132. Amount of Fees. (a) In establishing the amount of any impact fee, the town shall endeavor to approach the objective of having every development contribute

to a capital improvements fund an amount of revenue that bears a reasonable relationship to that development's fair share of the costs of the capital improvements that are needed in part because of that development. In fulfilling this objective, the Board of Aldermen shall, among other steps and actions:

- (1) Estimate the total cost of improvements by category (e.g., streets, sidewalks, drainage ways, etc.) that will be needed to provide in a reasonable manner for the public health, safety and welfare of persons residing within the town and its extraterritorial planning area during a reasonable planning period not to exceed 20 years. The Board may divide the town and its extraterritorial area into two or more districts and estimate the costs of needed improvements within each district. These estimates shall be periodically reviewed and updated, and the planning period used may be changed from time to time.
- (2) Establish a percentage of the total costs of each category of improvement that, in keeping with the objective set forth above, should fairly be borne by those paying the impact fee.
- (3) Establish a formula that fairly and objectively apportions the total costs that are to be borne by those paying impact fees among various types of developments. By way of illustration without limitation:
 - a. In the case of street improvements, the impact fee may be related to the number of trips per day generated by different types of uses according to recognized estimates;
 - b. In the case of drainage improvements, the impact fee may be related to the size of a development, the amount of impervious surface the development has, or other factors that bear upon the degree to which a development contributes to the need for drainage improvements made at public expense.

"Sec. 5.133. Capital Improvements Reserve Funds; Expenditures.

(a) Impact fees received by the town shall be deposited in a capital improvements reserve fund or funds established under Chapter 159 of the General Statutes, Article 3, Part 2. Such funds may be expended only on the type of capital improvements for which such impact fees were established, and then only in accordance with the provision of subsection (b) of this section.

(b) In order to ensure that impact fees paid by a particular development are expended on capital improvements that benefit that development, the town shall establish for each category of capital improvement for which it collects an impact fee at least two geographical districts or zones, and impact fees generated by developments within those districts or zones must be spent on improvements that are located within or that benefit property located within those districts or zones.

"Sec. 5.134. Credits for Improvements. An ordinance adopted under this Article shall make provision for credits against required fees when a developer installs improvements of a type that generally would be paid for by the town out of a capital reserve account funded by impact fees. The ordinance may spell out the circumstances

under which a developer will be allowed to install such improvements and receive such credits.

"Sec. 5.135. Appeals Procedure. An ordinance adopted under this Article may provide that any person aggrieved by a decision regarding an impact fee may appeal to the Carrboro Board of Adjustment. If the ordinance establishes an appeals procedure, it shall spell out the time within which the appeal must be taken to the board of adjustment, the possible grounds for an appeal and the board's authority in the matter, whether the fee must be paid prior to resolution of the appeal, and other procedural or substantive matters related to appeals. Any decision by the board of adjustment shall be subject to review by the superior court by proceedings in the nature of certiorari in the same manner as is provided in G.S. 160A-388(e).

"Sec. 5.136. Payment of Impact Fees. An ordinance adopted under this Article shall spell out when in the process of development approval and construction impact fees shall be paid and by whom. By way of illustration without limitation, the ordinance may provide that an applicant for a building permit shall submit the impact fee along with the permit application and that building permits shall not be issued until the impact fee has been paid.

"Sec. 5.137. Refunds. If this Article or any ordinance adopted thereunder is declared to be unconstitutional or otherwise invalid, then any impact fees collected shall be refunded to the person paying them together with interest at the rate established under G.S. 105-241.1, being the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

"Sec. 5.138. Limitations on Actions. (a) Any action contesting the validity of an ordinance adopted under this Article must be commenced not later than nine months after the effective date of such ordinance.

(b) Any action seeking to recover an impact fee must be commenced not later than nine months after the impact fee is paid."

Sec. 3. Chapter 660 of the Session Laws of 1969 (the Carrboro Town Charter) is amended by adding a new section to Chapter VII to read:

"Sec. 8.02. Recreation Fees in Lieu of Facilities. The Board of Aldermen may establish a fund into which payments from developers or property owners may be deposited for the purpose of providing open space areas or recreational facilities and from which appropriations shall be made exclusively for the purpose of acquiring or improving open space areas or recreational facilities that are reasonably expected to benefit or serve the residents of the development generating such funds. The Board of Aldermen may provide in its land use ordinance that all developers or developers of certain types of projects shall either provide open space and recreational facilities according to standards set forth in the ordinance or pay a fee in accordance with a town-established schedule to the town's open space and recreational facilities fund. The town may also provide in the land use ordinance that under specified circumstances such fee shall be required in lieu of the reservation or dedication of open space or recreational facilities."

Sec. 4. G.S. 153A-18 is amended by adding a new subsection (c) to read:

"(c) Two or more counties may establish the boundary between them pursuant to subsection (a), above, by the use of base maps prepared from orthophotography, which base maps show the monuments of the United States Geological Survey and North Carolina State Plane Coordinate System established pursuant to Chapter 102 of the General Statutes. Upon ratification of the location of the boundary determined from orthophotography by the board of commissioners of each county, the map showing the boundary and the monuments of the United States Geological Survey and North Carolina State Plane Coordinate System shall be recorded in the Office of the Register of Deeds of each county and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary."

Sec. 5. Section 4 of this act applies to Orange and Chatham Counties only.

Sec. 6. Chapter 660 of the Session Laws of 1969, (the Carrboro Town Charter) is amended by adding a new Section 5.90 to read:

"Sec. 5.90. Sprinkler Systems. Notwithstanding any provision of the North Carolina State Building Code or any general or local law to the contrary, the Board of Aldermen may adopt an ordinance requiring that sprinkler systems be installed in all of the following types of buildings constructed within the town or its extraterritorial planning jurisdiction: (i) buildings in excess of 50 feet in height; (ii) nonresidential buildings containing at least 5,000 square feet of floor surface area; or (iii) buildings designed for assembly occupancy (as defined in the North Carolina State Building Code) that accommodate more than 25 people. This ordinance applies to existing buildings only to the extent and under the circumstances that the provisions of the North Carolina State Building Code apply to preexisting buildings."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of June, 1985.