

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 498
SENATE BILL 213

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH RELATING
TO DRIVEWAYS, SITE PLAN AND SUBDIVISION APPROVAL, ROAD OR
DRAINAGE PROJECT FEES, AND OPEN SPACE PROJECT FEES.

Whereas, rapid growth through the influx of new residents and new construction impose increased capital costs on the City of Raleigh, and the amount of federal aid to cities to accommodate growth and development is being reduced; and

Whereas, unless new regulatory authority is granted to complement other existing land use control regulations, the very community service facilities which make Raleigh and its environs a desirable place to work and live will be overburdened; and

Whereas, it is the purpose of this act to better enable the City of Raleigh to accommodate orderly growth and development within its corporate limits and extraterritorial jurisdiction by providing it with new methods of regulating development to meet increased demands for community service facilities and to provide off-site community service facilities generated by new construction; and

Whereas, it is the further purpose of this act to place an equitable share of the cost of providing new community service facilities on all new inhabitants, occupants, and construction and not just developments regulated pursuant to Part 2, Article 19, Chapter 160A of the General Statutes; and

Whereas, privately owned community service facilities do not lessen the need for public facilities, and to allow private community service facilities to be used to reduce the facility fees herein authorized would destroy the predictability of revenues generated by the fee; and Whereas, it is the intent of the General Assembly that the costs of expanded and additional community service facilities be borne by those associated with the development process or the inhabitants and occupants of new construction and development who make these additional costs necessary rather than placing the brunt of these costs on existing occupants and inhabitants; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 22(63) of the Charter of the City of Raleigh, being Chapter 1184 of the Session Laws of 1949, is amended by inserting immediately before the first semicolon the following words: "or its extraterritorial jurisdiction".

Sec. 2. That Section 22 of the Charter of the City of Raleigh, being Chapter 1184, Session Laws of 1949, captioned "Express Powers Enumerated", and relating to that subject be and the same is amended by adding new subdivisions to read:

"(80) Site Plans. The City Council may as part of its zoning regulations require that a site plan be prepared, submitted, and approved prior to the issuance of a building permit for new construction, excluding renovation and repair of existing structures, and excluding accessory uses and their structures, unless such renovations and repairs and accessory uses shall cause an increase in the off-street parking requirement or a change in occupancy as occupancy is defined by the North Carolina State Building Code. Such local law shall specify the elements to be included in site plans submitted for approval in accordance with standards of the zoning code; such elements may include, where appropriate, those relating to off-street parking, driveway access, internal circulation, screening, signs, landscaping, architectural features, locations and dimensions of buildings, topography and grading, utilities, drainage structures, street and sidewalk improvements, loading and service areas, fire hydrants, and such other elements as may reasonably be related to the health, safety and general welfare of the community. Where appropriate, approval of site plans may be conditioned to include requirements that street and utility rights-of-way be dedicated to or reserved for the public, or street and utility improvements be made to the same extent as required by the local subdivision regulations. This provision shall not apply to additions of less than five percent (5%) of gross floor area on an annual basis unless such addition causes an increase in the off-street parking requirement or a change in occupancy as occupancy is defined by the North Carolina State Building Code. The City Council shall prescribe procedures for review and approval of such site plans to insure that development of property shall conform to applicable zoning or other relevant laws or regulations, with approvals by designated city staff, or the City Council. Appeals shall lie from the staff to the City Council. The City Council may require that site plans be in conformity with previously approved subdivision plans for the same property; further, in the event of conflict between a requirement for site plan approval and requirements for previously approved subdivision plans, the latter shall control.

"(81) Road or Drainage Projects Fee.

(a) Definitions. The following words in this subdivision are defined for this subdivision as follows, unless the contrary clearly appears from the context:

- (1) Capital Costs. 'Capital costs' shall mean costs spent for developing new road or public storm drainage projects or road or public storm drainage improvements; such costs may include land acquisition, design, and construction, and no other.
- (2) Road or Drainage Project. 'Road or drainage project' shall mean road or public storm drainage improvements provided or established by the City or in conjunction with other units of government which are required in addition to those required by the subdivision regulations.
- (3) Developer. 'Developer' shall mean an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (4) Road or Drainage Project Fee. 'Road or drainage project fee' shall mean the charge imposed upon new construction pursuant to the grant of regulatory authority contained herein.

(5) New Construction. 'New Construction' shall mean any new development, construction, or installation that results in real property improvement or which requires a building permit. This term shall include the installation of a mobile home and factory built and modular housing. This term shall not include fences, billboards, poles, pipelines, transmission lines, advertising signs, or similar structures and improvements, or renovations and repairs, which do not generate the need for additional or expanded road or drainage projects upon completion of the the new construction.

(b) Subject to the conditions hereinafter set forth, the City of Raleigh, following the adoption of an ordinance or ordinances, shall have the right, power, and authority to impose and collect a regulatory fee defined herein as a road or drainage project fee on all new construction within its city limits and extraterritorial jurisdiction.

(c) Requirements and limitations.

(1) No road or drainage project fee shall be enacted until the City Council has caused to be prepared a report containing: (i) a description of the anticipated capital costs to the City of each additional or expanded road or drainage project; (ii) a description of the relevant characteristics of construction which give rise to additional or expanded road and drainage projects, such as population, trip generation, storm-water runoff, and flow characteristics; (iii) a plan for providing one or more road or drainage projects has been prepared.

(2) Before adopting or amending any road or drainage project fee ordinance authorized by this section, the City Council shall hold a public hearing. A notice of the public hearing shall be given so as to conform with G.S. 160A-364, as it may be amended from time to time. No such ordinance shall be adopted or amended without receiving the planning commission recommendation to the City Council. If the planning commission shall fail to return a recommendation within 60 days of submittal of an ordinance, the ordinance shall be returned to the City Council and deemed to have a favorable recommendation as submitted to the planning commission.

(3) The amount of each fee imposed and collected hereunder shall be based upon reasonable and uniform considerations of capital costs to be incurred by the City as a result of new construction and shall bear a reasonable relationship to such capital costs. Such fee shall be based upon reasonable classifications and rates which shall be uniformly applied to all members of a class; however, the fees may differ within zones which may be established depending on the special needs and costs of road and drainage projects in such zones. To the extent that the developer installs and dedicates road or drainage projects for which the use of the fee is designated, which immediately become the property of the City or another unit of government, and which are not

otherwise reimbursed by the City, the fee shall be reduced by an amount equal to the value of the improvements or dedications.

- (4) All monies from fees collected hereunder shall be placed in a separate trust fund. Expenditures from such trust fund for any one road or drainage project shall not exceed fifty percent (50%) of the capital costs of such individual project. No expenditures from such trust fund shall be made for any purpose other than a road or drainage project undertaken by the City, or by the City in conjunction with other units of government. Facility fees shall be spent for those community service facilities authorized by this Section 81 which the City provides within six years after its collection and within 10 years for those community service facilities authorized by this Section 81 which the City provides in conjunction with other units of government.

"(82) Open Space Projects Fee.

(a) Definitions. The following words in this subdivision are defined for this subdivision, as follows, unless the contrary clearly appears from the context:

- (1) Capital Costs. 'Capital costs' shall mean costs spent for the purchase only of land for open space but not for development thereof.
- (2) Open Space Project. 'Open space project' shall mean the acquisition of any space or area which is predominantly undeveloped land whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development.
- (3) Developer. 'Developer' shall mean an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (4) Open Space Projects Fee. 'Open space projects fee' shall mean the charge imposed upon new construction pursuant to the grant of regulatory authority contained herein.
- (5) New Construction. 'New construction' shall mean any new development, construction, or installation that results in real property improvement or which requires a building permit. This term shall include the installation of a mobile home and factory built and modular housing. This term shall not include fences, billboards, poles, pipelines, transmission lines, advertising signs, or similar structures and improvements, or renovation and repairs, which do not generate the need for additional or expanded open space projects upon completion of the new construction.

(b) Subject to the conditions hereinafter set forth, the City of Raleigh, following the adoption of an ordinance or ordinances, shall have the right, power, and authority to impose and collect a regulatory fee defined herein as an open space project fee on all new construction within its city limits and extraterritorial jurisdiction.

(c) Requirements and limitations.

- (1) No open space project fee shall be enacted until the City Council has caused to be prepared a report containing: (i) a description of the anticipated capital costs to the City of each additional or expanded open space project; (ii) a description of the relevant characteristics of construction which give rise to additional or expanded open space projects; (iii) a plan for providing one or more open space projects has been prepared.
- (2) Before adopting or amending any open space project fee ordinance authorized by this subdivision, the City Council shall hold a public hearing. A notice of the public hearing shall be given so as to conform with G.S. 160A-364, as it may be amended from time to time. No such ordinance shall be adopted or amended without receiving the planning commission's recommendation to the City Council. If the planning commission shall fail to return a recommendation within 60 days of submittal of an ordinance, the ordinance shall be returned to the City Council and deemed to have a favorable recommendation as submitted to the planning commission.
- (3) The amount of each fee imposed and collected hereunder shall be based upon reasonable and uniform considerations of capital costs to be incurred by the City as a result of new construction and shall bear a reasonable relationship to such capital costs. Such fee shall be based upon reasonable classifications and rates which shall be uniformly applied to all members of a class; however, the fees may differ within zones which may be established depending on the special needs and costs of open space projects in such zones. To the extent that the developer acquires and dedicates open space for open space projects for which the use of the fee is designated, which immediately becomes the property of the City, or another unit of government, and which are not otherwise reimbursed by the City, the fee shall be reduced by an amount equal to the value of the open space dedications.
- (4) All monies from fees collected hereunder shall be placed in a separate trust fund. Expenditures from such trust fund for any one open space project shall not exceed fifty percent (50%) of the capital costs of such individual project. No expenditures from such trust fund shall be made for any purpose other than an open space project undertaken by the City, or by the City in conjunction with other units of government. Open space project fees shall be spent for those community service facilities authorized by this Section 82 which the City provides within six years after its collection and within 10 years for those community service facilities authorized by this Section 82 which the City provides in conjunction with other units of government.

"(83) The City is authorized to enact ordinances, resolutions, rules and regulations that are reasonable, necessary or expedient to carry subdivisions (80), (81) and (82) into execution and effect.

"(84) The powers conferred in subdivisions (80), (81) and (82) shall be supplementary in addition to all other powers and procedures authorized by any other general or local law. Assessments, charges, fees, or rates authorized by any other general or local law shall not be affected by the provisions of this section."

Sec. 3. The second unnumbered paragraph of G.S. 160A- 373 is rewritten to read:

"The ordinance may provide that final approval of each individual subdivision plat is to be given by

- (1) The city council,
- (2) The city council on recommendation of a planning agency,
- (3) A designated planning agency, or
- (4) The city manager or those officials or employees to whom he may delegate such authority."

Sec. 4. This act shall apply only to the City of Raleigh.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of June, 1985.