

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 936  
HOUSE BILL 1562

AN ACT TO MAKE OMNIBUS AMENDMENTS CONCERNING LOCAL  
GOVERNMENTS IN ORANGE AND CHATHAM COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473, Session Laws of 1975, as amended is amended by adding a new Article to read:

"Article 7. Impact Fees.

"Sec. 5.34. Impact Fees Authorized.

(a) The Town Council 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, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, and public recreation 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. 5.35. 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 Town Council 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 Council 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. 5.36. 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 provisions 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 may 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. 5.37. 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. 5.38. 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 Chapel Hill Board of Adjustment. If the ordinance establishes an appeal 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. 5.39. 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. 5.40. 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 thereunder to the person paying them together with interest at the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

"Sec. 5.41. 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. 2. (a) There is hereby established the Orange County Hazardous Materials Response Team, whose duties may include responding to a hazardous materials accident or emergency anywhere within Orange County.

(b) Members of the response team may be selected from city, county, State or other law enforcement agencies, fire departments, and rescue squads now located or serving in any part of Orange County. The manner of selecting the members shall be approved by the county emergency management coordinator or other county official designated by the board of county commissioners. A current membership roster shall be maintained at all times by the county manager.

(c) Members of the response team, when responding to a hazardous materials accident or emergency anywhere within the county, shall have all authority, rights, privileges and immunities as they have when responding to a law violation, accident or emergency inside the city, district, or territorial limits in which they normally serve. This shall include, but is not limited to, coverage under workmen's compensation laws, pension or relief fund laws, death benefit acts, and the same insurance coverage as in the city, district, or territory where the member normally serves or is employed.

(d) Members of the response team shall have authority to do all acts reasonably necessary to protect life and property at the scene of a hazardous materials accident or emergency. Any person who shall willfully interfere in any manner with a response team member engaged in the performance of his duties shall be guilty of a misdemeanor punishable by a fine of five hundred dollars (\$500.00), imprisonment for no more than 60 days, or both.

(e) A response team member who is performing his duties as such anywhere in the county shall not be liable for damages to persons or property proximately resulting from any negligent act or omission when the act or omission relates to a hazardous materials accident or emergency, unless it is established that the damage occurred

because of the gross negligence or intentional wrongdoing of the response team member.

(f) This section applies to Orange County only.

Sec. 3. (a) Article 7 of Chapter 20 of the North Carolina General Statutes is amended by adding a new section to read:

**"§ 20-219.4. Removal of unauthorized vehicles from private property.** – (a) Subject to subsection (b) of this section, any motor vehicle left on private property for more than 24 hours without permission of the person or party having possession (actual or constructive) of such property may be removed by or at the direction of such party to a place of storage, and the registered owner of such motor vehicle shall become liable for removal and storage charges. No person shall be held to answer in any civil or criminal action to any owner, lien holder or other person legally entitled to the possession of any motor vehicle removed under this section except where the person or party against whom liability is asserted acted maliciously in directing the removal of the vehicle or negligently in towing or storing the vehicle.

(b) The provisions of subsection (a) shall apply only to the following areas:

- (1) Private roads, including shoulders, sidewalks, and medians, that are adjacent to such, so long as at every entrance to such private road or at every entrance to a subdivision or development containing private roads, there is prominently displayed a sign that contains the following message or any equally explicit message, printed in letters at least three inches high: 'Private Road, No Parking In Or Along Road, Violators Towed At Their Expense.' Such sign shall also display a telephone number to be called for information about a towed vehicle.
- (2) Privately owned parking lots or areas, regardless of whether such lots or areas fall within the definition of 'public vehicular areas' contained in G.S. 20-4.01(32), so long as there is prominently displayed at every entrance to such lots or areas a sign that clearly informs, in letters at least three inches in height, any person driving a motor vehicle onto such lot or areas:
  - a. Either that (i) parking within such lot is restricted in a manner indicated in such entrance sign, or (ii) parking within such lot is restricted in a manner indicated in signs placed throughout the lot, (and such signs are placed in such a manner and location as reasonably to inform persons seeking to park in specific spaces what limitations apply to such spaces); and
  - b. That violators may be towed at their expense; and
  - c. The telephone number to be called for information about a towed vehicle.
- (3) Any driveway or parking space that is manifestly designed to serve a single family or two-family private residence, as well as any other private property that is manifestly not designed or intended for the parking of motor vehicles.

(c) A property owner or possessor who removes a vehicle or has a vehicle removed pursuant to this section shall immediately thereafter contact the local law enforcement agency (municipal police department or, if the property from which the vehicle is removed is located outside the corporate limits of a municipality, the county sheriff's department) and inform such agency that the vehicle has been removed, who removed it, why it was removed, and where it can be reclaimed, and shall provide such agency with the registration plate number or other identification of such vehicle.

(d) This section shall apply only to the Town of Carrboro, and applies only within the corporate limits of that Town."

Sec. 4. (a) Effective July 1, 1986, Chapter 595, Session Laws of 1985, is repealed. Effective January 1, 1987, Chapter 595, Session Laws of 1985, is reenacted.

(b) This section applies only to Chatham County and incorporated municipalities located therein.

Sec. 5. Chapter 351 of the Session Laws of 1985 (the Charter of the Town of Hillsborough) is amended by adding a new Article to read:

"Article 5. Impact Fees.

"Sec. 5.1. Impact Fees Authorized.

(a) The Board of Commissioners 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, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, and public recreation 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. 2. 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 Commissioners 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 Council 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. 5.3. 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 provisions 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 may 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. 5.4. 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. 5.5. 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 Hillsborough Board of Adjustment. If the ordinance establishes an appeal 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. 5.6. Payment of Impact Fees. An ordinance adopted under this Article shall spell out when 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. 5.7. 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 thereunder to the person paying them together with interest at the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

"Sec. 5.8. 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. 5.9. Recreation Fees in Lieu of Facilities. The Board of Commissioners 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 Commissioners may provide in its zoning and subdivision ordinances 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 ordinances 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 zoning and subdivision ordinances that under specified circumstances such fee shall be required in lieu of the reservation or dedication of open space or recreational facilities."

Sec. 6. G.S. 44-51.8 is amended by inserting the word and punctuation "Chatham," immediately preceding the word "Catawba" in the third line of said section. All laws and clauses of laws in conflict with this section are hereby repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.