

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 606
HOUSE BILL 802

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

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Zebulon being Chapter 386, Session Laws of 1973, is amended by adding new sections to read:

"Sec. 8.29. Site Plan Approval.

(a) Site Plans. The Town Council may as part of its zoning regulations require that a site plan be 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 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 by 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 requirements or a change in occupancy as occupancy is defined by the North Carolina State Building Code. The Town 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 Town staff, or the Town Council. Appeals shall lie from the staff to the Town Council. The Town 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.

"Sec. 8.30. Road or Drainage Projects Fees.

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

- (1) 'Capital costs' means 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' means road or public storm drainage improvements provided or established by the Town or in conjunction with other units of government which are required in addition to those required by the subdivision regulations.
- (3) 'Developer' means an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (4) 'Road or drainage project fee' means the charge imposed upon new construction pursuant to the grant of regulatory authority contained herein.
- (5) 'New construction' means 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 new construction.

(b) Subject to the conditions hereinafter set forth, the Town of Zebulon, following the adoption of an ordinance or ordinances, may impose and collect a regulatory fee defined herein as a road or drainage project fee on all new construction within its Town limits and extraterritorial jurisdiction.

(c) Requirements and limitations.

- (1) No road or drainage project fee shall be enacted until the Town Council has caused to be prepared a report containing: (i) a description of the anticipated capital costs to the Town 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, stormwater runoff, and flow characteristics; (iii) a plan for providing one or more road or drainage projects.
- (2) Before adopting or amending any road or drainage project fee ordinance authorized by this section, the Town 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 Town 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 Town 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 Town 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 public storm drainage improvements for which the use of the fee is designated, which immediately become the property of the Town or another unit of government, and which are not otherwise reimbursed by the Town, 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 Town, or by the Town in conjunction with other units of government. Road or drainage project fees shall be spent for those community service facilities authorized by this Section 8.30 which the Town provides within six years after its collection and within 10 years for those community service facilities authorized by this Section 8.30 which the Town provides in conjunction with other units of government.

"Sec. 8.31. Open Space Project Fees.

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

- (1) 'Capital costs' means costs spent for the purchase only of land for open space but not for development thereof.
- (2) 'Open space project' means 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' means an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.

- (4) 'Open space project fee' means the charge imposed upon new construction pursuant to the grant of regulatory authority contained herein.
- (5) 'New construction' means 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 open space projects upon completion of the new construction.

(b) Subject to the conditions hereinafter set forth, the Town of Zebulon, following the adoption of an ordinance or ordinances, may impose and collect a regulatory fee defined herein as an open space project fee on all new construction within its Town limits and extraterritorial jurisdiction.

(c) Requirements and limitations.

- (1) No open space project fee shall be enacted until the Town Council has caused to be prepared a report containing: (i) a description of the anticipated capital costs to the Town 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.
- (2) Before adopting or amending any open space project fee ordinance authorized by this section, the Town 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 Town 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 Town 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 Town 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 Town, or another unit of government, and which is

not otherwise reimbursed by the Town, 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 Town, or by the Town in conjunction with other units of government. Open space project fees shall be spent for those community service facilities authorized by this Section 8.31 which the Town provides within six years after its collection and within 10 years for those community service facilities authorized by this Section 8.31 which the Town provides in conjunction with other units of government.

"Sec. 8.32. Recreation Project Fees.

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

- (1) 'Capital costs' means costs spent for the purchase of land and development of such land for the recreational needs of the citizens.
- (2) 'Recreation project' means the acquisition of land and development of the same in those areas needed as a result of new construction and development in order to enhance the present and potential value of abutting or accessible property surrounding such urban development and provide a more wholesome place to live.
- (3) 'Developer' means an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (4) 'Recreation project fee' means the charge imposed upon new construction pursuant to the grant of regulatory authority contained herein.
- (5) 'New construction' means 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 recreational projects upon completion of the new construction.

(b) Subject to the conditions hereinafter set forth, the Town of Zebulon, following the adoption of an ordinance or ordinances, may impose and collect a regulatory fee defined herein as recreational project fee on all new construction within its Town limits and extraterritorial jurisdiction.

(c) Requirements and limitations.

- (1) No recreational project fee shall be enacted until the Town Council has caused to be prepared a report containing: (i) a description of the anticipated capital costs to the Town of each additional or expanded recreational project; (ii) a description of the relevant characteristics of construction which give rise to additional or expanded recreational projects; (iii) a plan for providing one or more recreational projects.
- (2) Before adopting or amending any recreational project fee ordinance authorized by this section, the Town 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 Town 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 Town 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 Town 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 recreational projects in such zones. To the extent that the developer acquires and dedicates recreational land or recreational facilities for which the use of the fee is designated, which immediately become the property of the Town, or another unit of government, and which are not otherwise reimbursed by the Town, the fee shall be reduced by an amount equal to the value of the land and recreational facilities so dedicated.
- (4) All monies from fees collected hereunder shall be placed in a separate trust fund. Expenditures from such trust fund for any one recreational 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 recreation projects undertaken by the Town, or by the Town in conjunction with other units of government. Recreation project fees shall be spent for those community service facilities authorized by this Section 8.32 which the Town provides within six years after its collection and within 10 years for those community service facilities authorized by this Section 8.32 which the Town provides in conjunction with other units of government.

"Sec. 8.33. **Implementing.**

(a) The Town is authorized to enact ordinances, regulations, and rules that are reasonable, necessary or expedient to carry into execution and effect the authority given by Sections 8.29 through 8.32 of this Charter.

(b) The powers conferred by Sections 8.29 through 8.32 of this Charter shall be 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 and Sections 8.29 through 8.32 of this Charter.

(c) The powers conferred by this section and Sections 8.29 through 8.32 of this Charter shall apply to the areas within the Zebulon Town Limits and the said Town's extraterritorial jurisdiction."

Sec. 2. (a) G.S. 160A-373 reads as rewritten:

"§ 160A-373. Ordinance to contain procedure for plat approval; approval prerequisite to plat recordation; statement by owner.

Any subdivision ordinance adopted pursuant to this Part shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat prior to its registration.

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, ~~or~~
- (2a) The city manager or those officials or employees to whom he may delegate such authority; or
- (3) A designated planning agency.

From and after the time that a subdivision ordinance is filed with the register of deeds of the county, no subdivision plat of land within the city's jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the appropriate agency, as specified in the subdivision ordinance, and until this approval shall have been entered on the face of the plat in writing by the chairman or head of the agency. The register of deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of a city that has not been approved in accordance with these provisions, nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section. The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of any city."

(b) This section applies only to the Town of Zebulon.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1989.