

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 608
HOUSE BILL 840

AN ACT TO AMEND THE CHARTER OF THE TOWN OF GARNER TO AUTHORIZE THE TOWN TO IMPOSE DRAINAGE AND POND PROJECT FACILITY FEES, POND PROJECT MAINTENANCE FEES, AND WATER OR SEWER CAPACITY REPLACEMENT FACILITY FEES.

Whereas, rapid growth through the influx of new residents and new construction imposes increased capital costs on the Town of Garner, and the amount of federal aid to towns 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 Garner 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 Town of Garner 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 to protect water quality in accordance with the Swift Creek drainage basin management plan; 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, of Chapter 160A of the General Statutes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article V of the Charter of the Town of Garner, captioned "Public Improvements," being Chapter 333, Session Laws of 1977, is amended by adding the following new sections to read:

"Sec. 5.8. Drainage project and pond project facility fees; drainage project maintenance fee.

(a) Definitions. The following definitions apply in this section, unless a contrary meaning clearly applies from the context:

- (1) 'Capital costs' means the following costs spent for developing a new public drainage project or a new pond project: land acquisition expenses, design expenses, construction expenses, interest and other expenses incurred in connection with the issuance and debt service of bonds for the project, and no other expenses.

- (2) 'Developer' means an individual, a corporation, a partnership, an organization, an association, a firm, a political subdivision, or other legal entity constructing or creating new construction.
- (3) 'Drainage project' means public storm drainage improvements that are provided or established by the Town, or by the Town in conjunction with other units of government, and are required in addition to those required by the subdivision regulations.
- (4) 'Facility fee' means a monetary charge on development to recoup a proportionate share of the capital costs required to accommodate that development with necessary public facilities and regarding which there must be a reasonable connection between community growth generated by new development and the need for additional facilities to serve that growth.
- (5) 'New construction' means any new development, construction, or installation that results in a real property improvement that requires a Conditional Use Permit Subdivision or Conditional Use Permit site plan, but excepting installation or erection of fences or signage.
- (6) 'Pond project' means retention or detention ponds established to control or limit water runoff from developments and to protect water quality, whether established by a developer, by the Town, or by the Town in conjunction with other units of government.

(b) The Board of Aldermen may, as part of its land use ordinance, require a developer to pay facility fees to be used by the Town to pay for part of the capital costs of additional drainage projects necessitated by the developer's particular subdivision or other new construction. These facility fees may be placed in a pool of funds and used for public storm drainage improvements that serve more than one subdivision or development within the Town. All facility fees received by the Town pursuant to this section may be used only for capital costs of drainage projects and no other uses.

(c) The Board of Aldermen may, as part of its land use ordinance, require a developer to pay facility fees to be used by the Town to pay for part of the capital costs of additional pond projects necessitated by the developer's particular subdivision or other new construction. These facility fees may be placed in a pool of funds and used for detention or retention ponds that benefit more than one subdivision or development within the Town. All facility fees received by the Town pursuant to this section may be used only for capital costs of pond projects and no other uses.

(d) The Board of Aldermen may, as part of its land use ordinance, require that a developer whose new construction affects existing retention or detention ponds pay a onetime maintenance fee to be used by the Town to defray the operating costs of monitoring, inspecting, draining, dredging, repairing, or otherwise maintaining the retention or detention ponds. This fee may be imposed in lieu of or in addition to a pond project facility fee.

"Sec. 5.9. Water or sewer capacity replacement facility fee.

(a) Definitions. The following definitions apply in this section, unless a different meaning clearly applies from the context:

- (1) 'Capacity replacement facility fee' means a facility fee to recover a proportionate amount of the capital costs associated with the expansion of the Town's water or sewer treatment capacity as a result of new construction.
- (2) 'Capital costs' means the following costs spent for developing a new water or sewer project: land acquisition expenses, design expenses, construction expenses, interest and other expenses incurred in connection with the issuance and debt service of bonds for the project, and no other expenses.
- (3) 'Developer' means an individual, a corporation, a partnership, an organization, an association, a firm, a political subdivision, or other legal entity constructing or creating new construction.
- (4) 'Facility fee' means a monetary charge on development to recoup a proportionate share of the capital costs required to accommodate that development with necessary public facilities and regarding which there must be a reasonable connection between community growth generated by new development and the need for additional facilities to serve that growth.
- (5) 'New construction' means any new development, construction, or installation that results in a real property improvement that requires a Conditional Use Permit Subdivision or Conditional Use Permit site plan, but excepting installation or erection of fences or signage.
- (6) 'Water or sewer project' means public water or sewer improvements that are provided or established by the Town, or by the Town in conjunction with other units of government, and are required in addition to those required by the subdivision regulations.

(b) The Board of Aldermen may, as part of its land use ordinance, require a developer to pay capacity replacement facility fees to be used by the Town to pay for part of the capital costs of additional water or sewer projects necessitated by the developer's particular subdivision or other new construction. These facility fees may be placed in a pool of funds and used for water or sewer projects that serve more than one subdivision or development within the Town. All facility fees received by the Town pursuant to this section may be used only for capital costs of water or sewer projects and no other uses. Any formula adopted to determine the amount of fees payable by a developer shall be based on the daily water consumption or daily wastewater flow levels allocated or reasonably attributable to the developer's new construction."

Sec. 2. The Town is authorized to enact ordinances, resolutions, rules, and regulations that are necessary or expedient to implement this act.

Sec. 3. The powers conferred in this act shall be supplementary 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 are not affected by this act.

Sec. 4. This act shall apply only to the Town of Garner, and its area of extraterritorial planning jurisdiction.

Sec. 5. This act is effective upon ratification.

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