

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 836*

Short Title: Durham Zoning/Capital Facilities Fees. (Local)

Sponsors: Representatives Miller; Luebke and Weiss.

Referred to: Finance.

March 28, 2001

A BILL TO BE ENTITLED

1 AN ACT AMENDING PROVISIONS OF THE CHARTER OF THE CITY OF
2 DURHAM RELATED TO DEVELOPMENT AND SITE PLANS, ZONING
3 AUTHORITY, AND CAPITAL FACILITIES FEES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 92 of the Charter of the City of Durham, being
6 Chapter 671 of the 1975 Session Laws, as amended, reads as rewritten:

7 "Sec. 92. **Development Plans and Site Plans.** – (a) In exercising the zoning power
8 granted to municipalities by G.S. 160A-381, the City Council may require that a
9 development plan showing the proposed development of property be submitted with any
10 request for rezoning of such property. The City Council may consider such development
11 plan in its deliberations and may require that any site plan subsequently submitted be in
12 conformity with any such approved development plan. The City Council may also
13 consider any limitations an applicant who submits a development plan may propose on
14 the number, range, or type of uses to be made of the property and may limit its
15 consideration of uses to those proposed uses. Such use proposals, where approved, shall
16 be binding as part of the zoning of the property. In considering development plans and
17 developer-proposed use limitations, the City Council shall use the legislative public
18 hearing procedures applicable to general use district rezonings. In addition, the Council
19 is authorized to require that a site plan be submitted and approved prior to the issuance
20 of any building permit. The Council may specify the information to be set forth in a site
21 plan and may require that such site plan be prepared by a professional engineer,
22 architect, or land surveyor licensed to practice in North Carolina. The Council may
23 prescribe procedures for the review of such site plans to insure ensure that development
24 of property shall conform to applicable zoning and building laws and regulations or any
25 other relevant law or regulation. The Council may require that site plans be in
26 conformity with previously approved development plans for the same property.
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1 (b) In approving development plans, site plans, ~~and~~ subdivision plats, and other
2 development requests, the City may ~~require that on-site and off-site~~ require, on-site and
3 off-site, that street and utility rights-of-way be dedicated to the public, that necessary
4 street and utility improvements be constructed, and that provision be made for
5 recreational and educational space and facilities and other necessary public facilities,
6 where appropriate."

7 **SECTION 2.** Article 9 of the Charter of the City of Durham, being Chapter
8 671 of the 1975 Session Laws, as amended, is further amended by adding a new section
9 to read:

10 "**Sec. 94.8. Provision of Public Facilities in New Developments and Expansion of**
11 **Existing Developments.** – With regard to the provision of public facilities, the City
12 Council is authorized to impose the requirements set forth in G.S. 160A-372 and
13 Section 98 of this Charter on all new development in the City and on all expansions of
14 existing development, however denominated. The City Council is also authorized to
15 impose conditions on certain use permits as provided in G.S. 160A-381(c) for all new
16 development and all expansions of existing development, however denominated."

17 **SECTION 3.** Section 115.3 of the Charter of the City of Durham, being
18 Chapter 671 of the 1975 Session Laws, as amended, reads as rewritten:

19 "**Sec. 115.3. Purposes; Limitation on Use of Facilities Fees Hereunder.** (a)
20 Facilities fees may be imposed for the following purposes:

- 21 (1) Providing streets and sidewalks, including without limitation bridges,
22 viaducts, causeways, overpasses, underpasses, and alleys; paving,
23 grading, resurfacing and widening streets; sidewalks, curbs and
24 gutters, culverts and drains; traffic controls, signals, and markers;
25 lighting; and grade crossings and the elimination thereof and grade
26 separations.
- 27 (2) Providing parks and recreation facilities, including without limitation
28 land, athletic fields, parks, playgrounds, recreation centers, shelters,
29 stadiums, arenas, permanent and temporary stands, golf courses,
30 swimming pools, wading pools, marinas, lighting, and bikepaths.
- 31 (3) Providing drainage projects in accordance with Chapter 156 or 160A
32 of the General Statutes of North Carolina or in accordance with this
33 Charter.
- 34 (4) Providing or acquiring open space land in accordance with Article 19,
35 Part 4, Chapter 160A of the General Statutes of North Carolina or of
36 this Charter.
- 37 (5) Providing education facilities, including, without limitation, land,
38 buildings, and associated structures and facilities. Fees may only be
39 imposed under this subdivision if the City and the Durham County
40 Board of Education have entered into a written agreement regarding
41 the transfer of fees collected for education facilities to the Board of
42 Education, and the Board has adopted plans assuring that the fees will
43 be used for the provision of education facilities in accordance with
44 subsection (b) of this section.

1 (b) Facilities fees collected for each purpose listed in ~~subsection~~ subdivision
2 (a)(1) through ~~(a)(4)-(a)(5)~~ above, shall be kept in separate funds in a manner consistent
3 with the Local Government Budget and Fiscal Control Act and the revenues so
4 collected shall be used only for the purpose of paying the capital costs of the facilities
5 described in each ~~said subsection~~. subdivision."

6 **SECTION 4.** Section 115.4 of the Charter of the City of Durham, being
7 Chapter 671 of the 1975 Session Laws, reads as rewritten:

8 "Sec. 115.4. **Setting of Fees.** (a) In establishing facilities fees to be imposed
9 pursuant to this Article, the City Council shall consider the following:

10 (1) The estimated cost of providing the facilities and land described in
11 Section 115.3(a)(1) through ~~(4)(5)~~ for the area within the City and its
12 extraterritorial jurisdiction during a reasonably foreseeable period of
13 time (not exceeding 20 years), and

14 (2) The percentage of ~~such costs (determined under (1) above)~~ the costs,
15 determined under subdivision (1) of this subsection, which is estimated
16 to be attributable to the need for ~~such~~ the facilities and land caused by
17 the new construction upon which the facilities fees are to be imposed.

18 (b) The amount of each facilities fee imposed and collected hereunder may be
19 based upon schedules of fees, formulae for determining ~~such~~ the fees or any other
20 similar method prescribed by the City Council. Without limiting any other distinctions
21 the City Council may make, the fees imposed and collected may vary according to the
22 adequacy of the public facilities available or projected to be available to serve new
23 development.

24 (c) In establishing the facilities fees to be imposed under this Article, the City
25 Council may divide the City and its extraterritorial jurisdiction area into two or more
26 zones in order to determine the estimated costs of providing any or all of the facilities
27 and/or land described in Section 115.3 of this Charter.

28 (d) The City Council may establish reasonable classifications of facilities fees
29 and such fees shall be uniformly applied within each class, provided, however, said fees
30 may vary between zones established under subsection (c) of this section. Facilities fees
31 collected within any zone created pursuant to subsection (c) of this section, shall be
32 spent for the capital costs of providing facilities or projects authorized under Section
33 115.3 which serve such zone."

34 **SECTION 5.** The authority granted by this act is in addition to, and not in
35 derogation of, any authority granted by the Charter of the City of Durham or any other
36 law.

37 **SECTION 6.** This act is effective when it becomes law.