

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 375
HOUSE BILL 635

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO
PERMIT PAYMENTS IN LIEU OF DEDICATION OF LAND OR ACTUAL
CONSTRUCTION OF REQUIRED IMPROVEMENTS IN THE APPROVAL OF
SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by adding the following new section to Article XXIII:

"Sec. 23.7. Payments in lieu of dedication or reservation of property for recreation purposes or in lieu of actual construction or installation of required community service facilities. (a) In adopting any subdivision control ordinance pursuant to provisions of this Charter of G.S. 160A-372, the City Council is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Council may determine to be the equivalent in value of any such recreation area.

(b) In addition to any of the foregoing powers, the City Council may in adopting any subdivision control ordinance allow a subdivider to pay funds to the City in lieu of the actual installation or construction of required community service facilities. Such facilities may include (without limitation) streets, public utility lines, drainage systems, and other property (real or personal) or improvements proposed or intended to eventually be dedicated to one or more public purposes where it is in the best public interest to delay or otherwise defer their actual installation or completion until a later date and it will not cause undue hardship upon either the residents of the proposed development or the surrounding neighborhood to postpone their actual construction or installation until some future date which may or may not be specified or to even subsequently abandon such improvements altogether whenever appropriate and for good cause. Under no circumstances, however, shall a developer be allowed to avoid installing required improvements or community facilities which are found by the approving bodies to be essential at the time the subdivision is approved.

(c) The City Council may use any monies received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies. City Council may also use funds received in lieu of required improvements for the original intended purpose or for any other lawful public purpose whether or not such funds are used exclusively, in part or in whole, to serve, improve, enhance or otherwise benefit the approved subdivision, it

being the express intent of this section to allow such monies to be used to serve the neighborhood or immediate area in which the subdivision lies and not necessarily restrict the use of such funds to use totally within the subdivision itself so long as the use serves some legitimate public purpose in the surrounding community."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.