

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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HOUSE BILL 569  
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Short Title: Knightdale Facilities Fees.

(Local )

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Sponsors: Representatives Stam and Fussell.

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Referred to: Government.

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March 14, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CHARTER OF THE TOWN OF KNIGHTDALE  
2 RELATING TO DRIVEWAYS, SITE PLAN AND SUBDIVISION APPROVAL,  
3 ROAD OR DRAINAGE PROJECT FEES, AND OPEN SPACE PROJECT FEES,  
4 RECREATIONAL FEES.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. The Charter of the Town of Knightdale, being Chapter 155,  
8 Private Laws of 1927, is amended by adding new sections to read:

9 "Sec. 6.2. Site Plans. The Town Council may as part of its zoning regulations  
10 require that a site plan be submitted, and approved prior to the issuance of a building  
11 permit for new construction, excluding renovation and repair of existing structures, and  
12 excluding accessory uses and their structures, unless such renovations and repairs and  
13 accessory uses shall cause an increase in the off-street parking requirement or a change  
14 in occupancy as occupancy is defined by the North Carolina Building Code. Such local  
15 law shall specify the elements to be included in site plans submitted for approval in  
16 accordance with standards of zoning code; such elements may include, where  
17 appropriate, those relating to off-street parking, driveway access, internal circulation,  
18 screening, signs, landscaping, architectural features, locations and dimensions of  
19 buildings, topography and grading, utilities, drainage structures, street and sidewalk  
20 improvements, loading and service areas, fire hydrants, and such other elements as may  
21 reasonably be related to the health, safety, and general welfare of the community.  
22 Where appropriate, approval of site plans may be conditioned to include requirements  
23 that street and utility rights-of-way be dedicated to or be reserved by the public, or street

1 and utility improvements be made to the same extent as required by the local  
2 subdivision regulations. This provision shall not apply to additions of less than five  
3 percent (5%) of gross floor area on an annual basis unless such addition causes an  
4 increase in the off-street parking requirements or a change in occupancy as occupancy is  
5 defined by the North Carolina State Building Code. The Town Council shall prescribe  
6 procedures for review and approval of such site plans to ensure that development of  
7 property shall conform to applicable zoning or other relevant laws or regulations, with  
8 approvals by designated Town staff, or the Town Council. Appeals shall lie from the  
9 staff to the Town Council. The Town Council may require that site plans be in  
10 conformity with previously approved subdivision plans for the same property; further,  
11 in the event of conflict between a requirement for site plan approval and requirements  
12 for previously approved subdivision plans, the latter shall control.

13 "Sec. 6.3. Road or Drainage Projects Fees.

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

- 16 (1) Capital Costs. 'Capital costs' shall mean costs spent for developing  
17 new road or public storm drainage projects or road or public storm  
18 drainage improvements; such costs may include land acquisition,  
19 design, and construction, and no other.
- 20 (2) Road or Drainage Project. 'Road or drainage project' shall mean road  
21 or public storm drainage improvements provided or established by the  
22 Town or in conjunction with other units of government which are  
23 required in addition to those required by the subdivision regulations.
- 24 (3) Developer. 'Developer' shall mean an individual, corporation,  
25 partnership, organization, association, firm, political subdivision, or  
26 other legal entity constructing or creating new construction.
- 27 (4) Road or Drainage Project Fee. 'Road or drainage project fee' shall  
28 mean the charge imposed upon new construction pursuant to the grant  
29 of regulatory authority contained herein.
- 30 (5) New Construction. 'New construction' shall mean any new  
31 development, construction, or installation that results in real property  
32 improvement or which requires a building permit. This term shall  
33 include the installation of a mobile home and factory built and modular  
34 housing. This term shall not include fences, billboards, poles,  
35 pipelines, transmission lines, advertising signs, or similar structures  
36 and improvements, or renovations and repairs, which do not generate  
37 the need for additional or expanded road or drainage projects upon  
38 completion of the new construction.

39 (b) Subject to the conditions hereinafter set forth, the Town of Knightdale,  
40 following the adoption of an ordinance or ordinances, shall have the right, power, and  
41 authority to impose and collect a regulatory fee defined herein as a road or drainage  
42 project fee on all new construction within its Town limits and extraterritorial  
43 jurisdiction.

44 (c) Requirements and limitations.

- 1 (1) No road or drainage project fee shall be enacted until the Town  
2 Council has caused to be prepared a report containing: (i) a  
3 description of the anticipated capital costs to the Town of each  
4 additional or expanded road or drainage project; (ii) a description of  
5 the relevant characteristics of construction which gave rise to  
6 additional or expanded road and drainage projects, such as population,  
7 trip generation, storm-water runoff, and flow characteristics; (iii) a  
8 plan for providing one or more road or drainage projects has been  
9 prepared.
- 10 (2) Before adopting or amending any road or drainage project fee  
11 ordinance authorized by this section, the Town Council shall hold a  
12 public hearing. A notice of the public hearing shall be given so as to  
13 conform with G.S. 160A-364, as it may be amended from time to time.  
14 No such ordinance shall be adopted or amended without receiving the  
15 planning commission recommendation to the Town Council. If the  
16 planning commission shall fail to return a recommendation within 60  
17 days of submittal of an ordinance, the ordinance shall be returned to  
18 the Town Council and deemed to have a favorable recommendation as  
19 submitted to the planning commission.
- 20 (3) The amount of each fee imposed and collection hereunder shall be  
21 based upon reasonable and uniform considerations of capital costs to  
22 be incurred by the Town as a result of new construction and shall bear  
23 a reasonable relationship to such capital costs. Such fee shall be based  
24 upon reasonable classifications and rates which shall be uniformly  
25 applied to all members of a class; however, the fees may differ within  
26 zones which may be established depending on the special needs and  
27 costs of road and drainage projects in such zones. To the extent that  
28 the developer installs and dedicates road or drainage projects for which  
29 the use of the fee is designated, which immediately become the  
30 property of the Town or another unit of government, and which are not  
31 otherwise reimbursed by the Town, the fee shall be reduced by an  
32 amount equal to the value of the improvements or dedications.
- 33 (4) All monies from fees collected hereunder shall be placed in a separate  
34 trust fund. Expenditures from such trust fund for any one road or  
35 drainage project shall not exceed fifty percent (50%) of the capital  
36 costs of such individual project. No expenditures from such trust fund  
37 shall be made for any purpose other than a road or drainage project  
38 undertaken by the Town, or by the Town in conjunction with other  
39 units of government. Facility fees shall be spent for those community  
40 service facilities authorized by this Section 6.3 which the Town  
41 provides within six years after its collection and within 10 years for  
42 those community service facilities authorized by this Section 6.3  
43 which the Town provides in conjunction with other units of  
44 government.

1 "Sec. 6.4. Open Space Project Fees.

2 (a) Definitions. The following words in this subdivision are defined by this  
3 Section, as follows, unless the contrary clearly appears from the context:

- 4 (1) Capital Costs. 'Capital costs' shall mean costs spent for the purchase  
5 only of land for open space but not for development thereof.
- 6 (2) Open Space Project. 'Open space project' shall mean the acquisition  
7 of any space or area which is predominantly undeveloped land whose  
8 existing openness, natural condition, or present state of use, if retained,  
9 would enhance the present or potential value of abutting or  
10 surrounding urban development.
- 11 (3) Developer. 'Developer' shall mean an individual, corporation,  
12 partnership, organization, association, firm, political subdivision, or  
13 other legal entity constructing or creating new construction.
- 14 (4) Open Space Projects Fee. 'Open space project fee' shall mean the  
15 charge imposed upon new construction pursuant to the grant of  
16 regulatory authority contained herein.
- 17 (5) New Construction. 'New construction' shall mean any new  
18 development, construction, or installation that results in real property  
19 improvement or which requires a building permit. This term shall  
20 include the installation of a mobile home and factory built and modular  
21 housing. This term shall not include fences, billboards, poles,  
22 pipelines, transmission lines, advertising signs, or similar structures  
23 and improvements, or renovation and repairs, which do not generate  
24 the need for additional or expanded open space projects upon  
25 completion of the new construction.

26 (b) Subject to the conditions hereinafter set forth, the Town of Knightdale,  
27 following the adoption of an ordinance or ordinances, shall have the right, power, and  
28 authority to impose and collect a regulatory fee defined herein as an open space project  
29 fee on all new construction within its Town limits and extraterritorial jurisdiction.

30 (c) Requirements and limitations.

- 31 (1) No open space project fee shall be enacted until the Town Council has  
32 caused to be prepared a report containing: (i) a description of the  
33 anticipated capital costs to the Town of each additional or expanded  
34 open space project; (ii) a description of the relevant characteristics of  
35 construction which give rise to additional or expanded open space  
36 projects; (iii) a plan for providing one or more open space projects has  
37 been prepared.
- 38 (2) Before adopting or amending any open space project fee ordinance  
39 authorized by this subdivision, the Town Council shall hold a public  
40 hearing. A notice of the public hearing shall be given so as to conform  
41 with G.S. 160A-364, as it may be amended from time to time. No  
42 such ordinance shall be adopted or amended without receiving the  
43 planning commission's recommendation to the Town Council. If the  
44 planning commission shall fail to return a recommendation within 60

1 days of submittal of an ordinance, the ordinance shall be returned to  
2 the Town Council and deemed to have a favorable recommendation as  
3 submitted to the planning commission.

4 (3) The amount of each fee imposed and collected hereunder shall be  
5 based upon reasonable and uniform considerations of capital costs to  
6 be incurred by the Town as a result of new construction and shall bear  
7 a reasonable relationship to such capital costs. Such fee shall be based  
8 upon reasonable classifications and rates which shall be uniformly  
9 applied to all members of a class; however, the fees may differ within  
10 zones which may be established depending on the special needs and  
11 costs of open space projects in such zones. To the extent that the  
12 developer acquires and dedicates open space for open space projects  
13 for which the use of the fee is designated, which immediately becomes  
14 the property of the Town, or another unit of government, and which  
15 are not otherwise reimbursed by the Town, the fee shall be reduced by  
16 an amount equal to the value of the open space dedications.

17 (4) All monies from fees collected hereunder shall be placed in a separate  
18 trust fund. Expenditures from such trust fund for any one open space  
19 project shall not exceed fifty percent (50%) of the capital costs of such  
20 individual project. No expenditures from such trust fund shall be  
21 made for any purpose other than an open space project undertaken by  
22 the Town, or by the Town in conjunction with other units of  
23 government. Open space project fees shall be spent for those  
24 community service facilities authorized by this Section 6.4 which the  
25 Town provides within six years after its collection and within 10 years  
26 for those community service facilities authorized by this Section 6.4  
27 which the Town provides in conjunction with other units of  
28 government.

29 "Sec. 6.5. Recreation Project Fees.

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

32 (1) Capital Costs. 'Capital costs' shall mean costs spent for the purchase  
33 of land and development of such land for the recreational needs of the  
34 the citizens.

35 (2) Recreation Project. 'Recreation project' shall mean the acquisition of  
36 land and development of the same in those areas needed as a result of  
37 new construction and development in order to enhance the present and  
38 potential value of abutting or accessible property surrounding such  
39 urban development and provide a more wholesome place to live.

40 (3) Developer. 'Developer' shall mean an individual, corporation,  
41 partnership, organization, association, firm, political subdivision, or  
42 other legal entity constructing or creating new construction.

1 (4) Recreation Project Fees. 'Recreation project fees' shall mean the  
2 charge imposed upon new construction pursuant to the grant of a  
3 regulatory authority contained herein.

4 (5) New Construction. 'New construction' shall mean any new  
5 development, construction, or installation that results in real property  
6 improvement or which requires a building permit. This term shall  
7 include the installation of a mobile home and factory built and modular  
8 housing. This term shall not include fences, billboards, poles,  
9 pipelines, transmission lines, advertising signs, or similar structures  
10 and improvements, or renovation and repairs, which do not generate  
11 the need for additional or expanded recreational projects upon  
12 completion of the new construction.

13 (b) Subject to the conditions hereinafter set forth, the Town of Knightdale,  
14 following the adoption of an ordinance or ordinances, shall have the right, power, and  
15 authority to impose and collect a regulatory fee defined herein as recreational project  
16 fee on all new construction within its Town limits and extraterritorial jurisdiction.

17 (c) Requirements and limitations.

18 (1) No recreational project fee shall be enacted until the Town Council has  
19 caused to be prepared a report containing: (i) a description of the  
20 anticipated capital costs to the Town of each additional or expanded  
21 recreational project; (ii) a description of the relevant characteristics of  
22 construction which give rise to additional or expanded recreational  
23 projects; (iii) a plan for providing one or more recreational projects has  
24 been prepared.

25 (2) Before adopting or amending any recreational project fee ordinance  
26 authorized by this subdivision, the Town Council shall hold a public  
27 hearing. A notice of the public hearing shall be given so as to conform  
28 with G.S. 160A-364, as it may be amended from time to time. No  
29 such ordinance shall be adopted or amended without receiving the  
30 planning commission's recommendation to the Town Council. If the  
31 planning commission shall fail to return a recommendation within 60  
32 days or submittal of an ordinance, the ordinance shall be returned to  
33 the Town Council and deemed to have a favorable recommendation as  
34 submitted to the planning commission.

35 (3) The amount of each fee imposed and collected hereunder shall be  
36 based upon reasonable and uniform considerations of capital costs to  
37 be incurred by the Town as a result of new construction and shall bear  
38 a reasonable relationship to such capital costs. Such fee shall be based  
39 upon reasonable classifications and rates which shall be uniformly  
40 applied to all members of a class; however, the fees may differ within  
41 zones which may be established depending on the special needs and  
42 costs of recreational projects in such zones. To the extent that the  
43 developer acquires and dedicates recreational land or recreational  
44 facilities for which the use of the fee is designated, which immediately

1 becomes the property of the Town, or another unit of government, and  
 2 which are not otherwise reimbursed by the Town, the fee shall be  
 3 reduced by an amount equal to the value of the land and recreational  
 4 facilities so dedicated.

- 5 (4) All monies from fees collected hereunder shall be placed in a separate  
 6 trust fund. Expenditures from such trust fund for any one recreational  
 7 project shall not exceed fifty percent (50%) of the capital costs of such  
 8 individual project. No expenditures from such trust fund shall be  
 9 made for any purpose other than recreational facilities projects  
 10 undertaken by the Town, or by the Town in conjunction with other  
 11 units of government. Recreational project fees shall be spent for those  
 12 community service facilities authorized by this Section 6.5 which the  
 13 Town provides within six years after its collection and within 10 years  
 14 for those community service facilities authorized by this Section 6.5  
 15 which the Town provides in conjunction with other units of  
 16 government.

17 "Sec. 6.6. The Town is authorized to enact ordinances, regulations, rules and  
 18 regulations that are reasonable, necessary or expedient to carry Sections 6.2, 6.3, 6.4,  
 19 and 6.5 of this act into execution and effect.

20 "Sec. 6.7. The powers conferred in Sections 6.2, 6.3, 6.4, and 6.5 of this act shall be  
 21 supplementary in addition to all other powers and procedures authorized by any other  
 22 general or local law and shall apply to the areas within the Knightdale Town Limits and  
 23 the extraterritorial jurisdiction of the Town. Assessments, charges, fees, or rates  
 24 authorized by any other general or local law shall not be affected by the provisions of  
 25 this section."

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

27 "**§ 160A-373. Ordinance to contain procedure for plat approval; approval**  
 28 **prerequisite to plat recordation; statement by owner.**

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

32 The ordinance may provide that final approval of each individual subdivision plat is  
 33 to be given by

- 34 (1) The city council,  
 35 (2) The city council on recommendation of a planning agency, or  
 36 (2a) The city manager or those officials or employees to whom he may  
 37 delegate such authority; or  
 38 (3) A designated planning agency.

39 From and after the time that a subdivision ordinance is filed with the register of  
 40 deeds of the county, no subdivision plat of land within the city's jurisdiction shall be  
 41 filed or recorded until it shall have been submitted to and approved by the appropriate  
 42 agency, as specified in the subdivision ordinance, and until this approval shall have  
 43 been entered on the face of the plat in writing by the chairman or head of the agency.  
 44 The register of deeds shall not file or record a plat of a subdivision of land located

1 within the territorial jurisdiction of a city that has not been approved in accordance with  
2 these provisions, nor shall the clerk of superior court order or direct the recording of a  
3 plat if the recording would be in conflict with this section. The owner of land shown on  
4 a subdivision plat submitted for recording, or his authorized agent, shall sign a  
5 statement on the plat stating whether or not any land shown thereon is within the  
6 subdivision-regulation jurisdiction of any city."

7 (b) This section applies only to the Town of Knightdale.  
8 Sec. 3. This act is effective upon ratification.