

- 1 (4) Land development.
- 2 a. Land development means:
- 3 1. Construction of any dwelling unit (other than one
- 4 excluded under subsections (b) and (c) of this section)
- 5 for which a building permit was issued or should have
- 6 been issued after the effective date of an ordinance
- 7 adopted under this Title;
- 8 2. Construction of any commercial building enclosed floor
- 9 space for which a building permit was issued or should
- 10 have been issued after the effective date of an ordinance
- 11 adopted under this Title;
- 12 3. Conversion of a building that adds one or more new
- 13 dwelling units or that creates new commercial building
- 14 enclosed floor space; or
- 15 4. The initial location of a manufactured home or other
- 16 dwelling or commercial structure within Orange County
- 17 for the school capital impact tax or within the District for
- 18 the District impact tax.
- 19 b. For purposes of determining the impact of land development for
- 20 Part 2 of this Title, land development does not include:
- 21 1. Construction of an addition to a dwelling unit;
- 22 2. The relocation within the District of any structure that
- 23 was located within the District on the effective date of an
- 24 ordinance adopted pursuant to Part 2 of this Title or any
- 25 structure with respect to which an impact tax adopted
- 26 pursuant to Part 2 of this Title has been paid;
- 27 3. Within the District, the reconstruction or replacement of
- 28 one dwelling unit by another or the replacement or
- 29 reconstruction of commercial building enclosed floor
- 30 space that was in existence on the effective date of an
- 31 ordinance adopted pursuant to Part 2 of this Title or of
- 32 any such floor space with respect to which an impact tax
- 33 pursuant to Part 2 of this Title has been paid.
- 34 c. For purposes of determining the impact of land development for
- 35 Part 3 of this Title, land development does not include:
- 36 1. Construction of an addition to a dwelling unit;
- 37 2. The relocation within Orange County of any structure
- 38 that was located within the County on the effective date
- 39 of an ordinance adopted pursuant to Part 3 of this Title or
- 40 any structure with respect to which an impact tax
- 41 pursuant to Part 3 of this Title has been paid;
- 42 3. Within the County, the reconstruction or replacement of
- 43 one dwelling unit by another or the replacement or
- 44 reconstruction of commercial building enclosed floor

1 space that was in existence on the effective date of an
2 ordinance adopted pursuant to Part 3 or of this Title or of
3 any such floor space with respect to which an impact tax
4 adopted pursuant to Part 3 of this Title has been paid.

5 (5) Person. An individual, partnership, corporation, or other legal entity.

6 (6) Person responsible for the impact of land development. The owner of
7 any dwelling unit or commercial building enclosed floor space on the
8 date an occupancy permit is issued for such dwelling unit or
9 commercial floor space or, if no such permit is issued, the date the
10 dwelling unit or commercial floor space is occupied.

11 **PART 2. ORANGE COUNTY IMPACT TAX DISTRICT.**

12 Sec. 2. An Orange County Impact Tax District is created which includes all
13 of Orange County outside the corporate limits (i) of the Town of Hillsborough, (ii) the
14 Town of Mebane, and (iii) the City of Durham.

15 Sec. 3. The District is a body politic and corporate. The District may:

16 (1) Adopt an official seal and alter the seal at will.

17 (2) Sue and be sued in its own name.

18 (3) Contract and be contracted with.

19 (4) Levy and collect a tax on the impact of land development within the
20 District.

21 The District is required to keep its accounts on the basis of a fiscal year commencing on
22 the first day of July and ending on the thirtieth day of June of the following year.

23 Sec. 4. The Board of Commissioners of Orange County is the governing
24 body of the District.

25 Sec. 5. (a) Except as provided in subsection (b), the governing body of the
26 District may adopt an ordinance levying a tax on the impact of land development within
27 the District (hereinafter referred to as "impact tax"). Orange County shall, on behalf of
28 the District, provide for the administration, enforcement, and collection of the tax.

29 (b) The District may not adopt an ordinance pursuant to this Part if any
30 ordinance, other than an ordinance relating only to water and sewer facilities, adopted
31 pursuant to Section 1 of Chapter 476 of the 1987 Session Laws (Carrboro), Section 1 of
32 Chapter 936 of the 1985 Session Laws (Chapel Hill), or Sections 17 through 18.1 of
33 Chapter 460 of the 1987 Session Laws (Orange County) is in effect.

34 Sec. 6. The purpose of the tax authorized by this Part is to generate funds to
35 partially offset the cost of constructing new capital facilities or replacing, expanding, or
36 improving existing capital facilities necessitated in part by new growth within the
37 District. Accordingly, the net proceeds generated by the tax authorized by this Part and
38 distributed pursuant to Section 8 to Orange County, Chapel Hill, and Carrboro,
39 respectively, shall be deposited by each local government in its capital reserve
40 improvements fund or funds established under Part 2 of Article 3 of Chapter 159 of the
41 General Statutes and may be expended only as follows:

42 (1) Orange County may expend these funds to the extent otherwise
43 authorized by law (i) on capital improvements projects related to

1 libraries, stormwater drainage, open space, and recreation, and (ii) on
2 emergency and public safety facilities, including jails.

- 3 (2) The Town of Chapel Hill and the Town of Carrboro may expend these
4 funds (i) on capital improvements related to roads and other
5 transportation systems, stormwater drainage, open space, and
6 recreation, and (ii) on police and fire stations. The funds may be spent
7 by each municipality only for improvements that are located within the
8 corporate limits of that municipality or within its extraterritorial
9 planning jurisdiction or transition area(s) as established under a joint
10 planning agreement with Orange County, except that Chapel Hill and
11 Carrboro may by agreement expend funds on joint projects that
12 transcend each other's jurisdictional boundaries, such as road or
13 drainage improvement projects.

14 Sec. 7. An ordinance adopted under this Part shall provide that:

- 15 (1) A person responsible for the impact of land development shall pay an
16 impact tax for each square foot of dwelling space and commercial
17 building enclosed floor space for which an occupancy permit is issued
18 or, if no such permit is issued, for each square foot of dwelling space
19 in an occupied dwelling and for each square foot of occupied enclosed
20 floor space in a commercial building.
- 21 (2) The tax shall be due on or before the date an occupancy permit is
22 initially issued for the dwelling unit or commercial building enclosed
23 floor space in question or, if no such permit is issued, the date such
24 dwelling unit or commercial floor space is initially occupied.
25 However, no tax due shall be considered delinquent until 60 days after
26 the tax becomes due. There shall be added to delinquent taxes interest
27 at the legal rate.
- 28 (3) Taxes authorized by this Part may be collected pursuant to G.S. 153A-
29 147 or G.S. 160A-207. In addition, taxes authorized by this Part may
30 be recovered in a civil action in the nature of debt including an award
31 of reasonable attorneys' fees as part of costs.

32 Sec. 8. The governing body of the District, after consultation with Orange
33 County, the Town of Carrboro, and the Town of Chapel Hill, shall establish annually at
34 the time of the adoption of the annual budget of Orange County the tax rate to be levied
35 per square foot of dwelling space and per square foot of commercial building enclosed
36 floor space for the ensuing fiscal year. Different tax rates may be established for
37 different types of commercial construction.

38 Sec. 9. As soon as reasonably practicable after the close of each quarter of
39 the fiscal year, the District shall distribute to Chapel Hill and Carrboro the net proceeds
40 of the tax received by the District based upon development that has taken place within
41 each respective municipality's corporate limits, extraterritorial planning jurisdiction and
42 transition area(s), as established in joint planning agreements. The remainder of the net
43 proceeds, plus the cost incurred by Orange County in collecting and administering the
44 tax, shall be remitted to Orange County. As used in this Part, the term "net

1 proceeds”means the gross proceeds of the tax less the cost to the county of collecting
2 and administering the tax.

3 Sec. 10. The boundaries of the District may be expanded to include portions
4 of Orange County within the corporate limits of the Town of Hillsborough, the Town of
5 Mebane, or the City of Durham in accordance with the provisions of this section.

6 (a) Upon a favorable vote of the majority of the membership of the governing
7 body of any of the municipalities listed in this section, the entire area of that
8 municipality that is located within Orange County shall be annexed (the "annexed area"
9) to the District on the first day of the next quarterly period that follows the month in
10 which the vote took place.

11 (b) Consistent with Section 6 of this Part, if any of the municipalities listed in
12 this section vote to be in the District, the net proceeds generated by the tax authorized
13 by this Part and distributed to that municipality shall be deposited in a capital reserve
14 improvements fund and may be expended only for the purposes authorized in Section 6
15 of this Part.

16 (c) When the District is expanded to include an annexed area, the consultation
17 required under Section 8 of this Part shall include consultation with the governing body
18 of the municipality within whose corporate limits the annexed area lies.

19 (d) When the District is expanded to include an annexed area, the District shall
20 distribute to the governing body of the municipality within whose corporate limits the
21 annexed area lies the net proceeds of the tax received by the District due to development
22 that has taken place within that municipality's corporate limits, extraterritorial planning
23 jurisdiction, and transition area(s) as established in joint planning agreements.

24 (e) The governing body of a municipality covered under this section may not
25 vote to become part of the District if an impact fee ordinance authorized under special
26 legislation comparable to that listed in Section 5(b) of this Part is in effect within that
27 municipality and may not adopt such an impact fee ordinance applicable to the area
28 within the District while it remains within the District.

29 Sec. 11. The provisions in this Part apply only to the District created in this
30 Part.

31 **PART 3. THE ORANGE COUNTY SCHOOL CAPITAL IMPACT TAX.**

32 Sec. 12. (a) Except as provided in subsection (b), Orange County may adopt an
33 ordinance levying a tax on the impact of land development within the County and
34 provide for the administration, enforcement, and collection of the tax.

35 (b) Orange County may not adopt an ordinance pursuant to this Part if any
36 ordinance, other than an ordinance that pertains only to water and sewer facilities,
37 adopted pursuant to Section 1 of Chapter 476 of the 1987 Session Laws (Carrboro),
38 Section 1 of Chapter 936 of the 1985 Session Laws (Chapel Hill), or Sections 17
39 through 18.1 of Chapter 460 of the 1987 Session Laws (Orange County) is in effect.

40 Sec. 13. The purpose of the tax authorized by this Part is to generate funds to
41 partially offset the cost of constructing new school capital facilities or replacing,
42 expanding, or improving existing school capital facilities necessitated in part by new
43 growth within Orange County. Accordingly, the net proceeds generated by the tax
44 authorized by this Part shall be deposited by Orange County in its capital reserve

1 improvements fund or funds established under Part 2 of Article 3 of Chapter 159 of the
2 General Statutes and may be expended, to the extent otherwise authorized by law, only
3 for capital improvements projects related to schools.

4 Sec. 14. A person responsible for the impact of land development shall pay
5 an impact tax for each square foot of dwelling space and commercial building enclosed
6 floor space for which an occupancy permit is issued or, if no such permit is issued, for
7 each square foot of dwelling space in an occupied dwelling and for each square foot of
8 occupied enclosed floor space in a commercial building.

9 The tax shall be due on or before the date an occupancy permit is initially
10 issued for the dwelling unit or commercial building enclosed floor space in question or,
11 if no such permit is issued, the date the dwelling unit or commercial floor space is
12 initially occupied. However, no tax due shall be considered delinquent until 60 days
13 after the tax becomes due. There shall be added to delinquent taxes interest at the legal
14 rate.

15 Taxes authorized by this Part may be collected pursuant to G.S. 153A-147 or
16 G.S. 160A-207. In addition, taxes authorized by this Part may be recovered in a civil
17 action in the nature of debt including an award of reasonable attorneys' fees as part of
18 costs.

19 Sec. 15. Orange County shall establish annually at the time of the adoption of
20 its annual budget the tax rate to be levied per square foot of dwelling space and per
21 square foot of commercial building enclosed floor space for the ensuing fiscal year.
22 Different tax rates may be established for different types of commercial construction.

23 Sec. 16. As used in this Part, the term "net proceeds" means the gross
24 proceeds of the tax less the cost to the County of collecting and administering the tax.

25 Sec. 17. This Part applies only to Orange County.

26 **PART 4. PROVISIONS FOR REPEAL OF OTHER LOCAL ACTS,**
27 **DISCLOSURE REQUIREMENTS, AND EFFECTIVE DATE.**

28 Sec. 18. Orange County may repeal all or part of an ordinance adopted
29 pursuant to Sections 17 through 18.1 of Chapter 460 of the 1987 Session Laws. Except
30 as it may pertain to water and sewer facilities, Orange County may not adopt an
31 ordinance pursuant to Sections 17 through 18.1 of Chapter 460 of the 1987 Session
32 Laws while an ordinance adopted pursuant to this Title is in effect. Chapel Hill may
33 repeal all or part of an ordinance adopted pursuant to Section 1 of Chapter 936 of the
34 1985 Session Laws. Except as it may pertain to water and sewer facilities, Chapel Hill
35 may not adopt an ordinance pursuant to Section 1 of Chapter 936 of the 1985 Session
36 Laws while an ordinance adopted pursuant to this Title is in effect. Carrboro may
37 repeal all or part of an ordinance adopted pursuant to Section 1 of Chapter 476 of the
38 1987 Session Laws. Except as it may pertain to water and sewer facilities, Carrboro
39 may not adopt an ordinance pursuant to Section 1 of Chapter 476 of the 1987 Session
40 Laws while an ordinance adopted pursuant to this Title is in effect.

41 Sec. 19. Whenever the sale of real property located in Orange County
42 involves new construction, the seller shall prepare and sign, and the buyer shall receive
43 and sign, a disclosure statement. The disclosure statement shall either be included in a
44 contract of sale or contained in a separate document executed prior to the execution of a

1 sales contract. This disclosure statement shall fully and completely disclose that the
2 owner of the property at the time an occupancy permit is issued for the new construction
3 or, if no occupancy permit is issued, the date the new construction is occupied, may be
4 subject to a tax levied by the County, the District, or both on the impact of land
5 development. If a seller fails to make such a disclosure and the buyer suffers injury as a
6 result of the seller's failure to disclose, the seller shall be liable to the buyer to the extent
7 of the buyer's injury.

8 **TITLE II. IMPACT FEES.**

9 Sec. 20. Section 17.1 of Chapter 460 of the 1987 Session Laws reads as
10 rewritten:

11 "Sec. 17.1. Section 17 of this act shall apply only to Orange County, and applies
12 only within the planning jurisdiction of Orange County. Provided, however, any
13 portion of an Orange County ordinance that contains a system of impact fees to provide
14 for capital improvements to public schools within Orange County, applies everywhere
15 in Orange County, including within the corporate limits and the extraterritorial planning
16 jurisdiction of any city, town, or municipal corporation within Orange County."

17 Sec. 21. Section 18.1 of Chapter 460 of the 1987 Session Laws reads as
18 rewritten:

19 "Sec. 18.1. Section 18 of this act shall apply only to Orange County, and applies
20 only within the planning jurisdiction of Orange County. Provided, however, any
21 portion of an Orange County ordinance that contains a system of impact fees to provide
22 for capital improvements to public schools within Orange County, applies everywhere
23 in Orange County, including within the corporate limits and the extraterritorial planning
24 jurisdiction of any municipal corporation within Orange County."

25 Sec. 22. This Title applies only to Orange County.

26 Sec. 23. This act is effective upon ratification.