TREBIC
Triad Real Estate and Building Industry Coalition

# Impact Fees

Impact fees are a local government tax on new construction to fund new or expanded off-site public capital facilities.

- **New development already pays for all on-site infrastructure and at-site infrastructure** (such as turn lanes).

- **Impact "fees" are really taxes. Fees should only cover administrative costs not capital improvements, thus impact "fees" are merely a politically convenient tax.**
    - Impact fees are a tax on one small segment of the community: consumers of new construction.

- **Newcomers do not pay the fee!** A study in Guilford County in 1999 suggests that existing county residents or businesses purchase 68% of new homes, 65% of new apartments, and 84% of new office space.

- **Developers do not pay the impact fee, the consumer does.** Much like any other business, any additional costs in production add to the end price of the product.

- **Impact fees are a significant deterrent to affordable and entry level housing.** Because fees cannot be scaled based on house size or price, impact fees place a disproportionate burden on lower-income households.

- **Small projects or affordable housing projects cannot be exempted.** An impact is an impact, and everyone must pay. If a government wants to exempt any particular group from paying the fee, it must pay the fees from the General Fund into the Impact Fee Fund.

- **A $1,000 impact fee adds $1,300 to the sales price of a home, and results in $3,272 over a 30yr. 7.5% mortgages.**

- **Impact Fees increase down payment requirements and closing costs**, because sales commissions, points, insurance, property taxes, and mortgage interest are based on a percentage of the sale price.

- **Existing home prices eventually increase** to mirror higher new home prices due to impact fees, as the market seeks to equalize prices.

- **Impact Fees are an expensive tax.** Homeowners pay market mortgage rate for impact fees. In contrast, a municipal bond rate is far cheaper.

- **Impact fees can hurt economic development efforts and can actually exacerbate "sprawl"**, as rising real estate prices sends consumers to the next jurisdiction for lower prices.

- **Impact Fees must be collected by the jurisdiction that approves plans.** If collected during the development approval or building permit process, impact fees can only be charged by the local government issuing the approvals. Therefore, for county-wide issues, such as schools, all local jurisdictions must agree to enforce the fee and then forward it to the county. (While we know of no one who does it this way, it may be possible to avoid getting cooperation from all municipalities by collecting the fee at closing.)

- **It is probably not legal to charge impact fees only on fringe, greenfield development as a growth restriction tool.** It is not reasonable to expect infill development and redevelopment to meet all growth demand.

- In order for an impact fee to be legally defensible, the **governments must first show that it is willing and planning to fund the construction, operation, and maintenance of existing and planned facilities to the same level of service that new development is being asked to fund.**
    - Impact fees cannot be used to address these plans or existing deficiencies, and they cannot be used to rehabilitate, retrofit, replace, operate, or maintain existing capital facilities.

- **Impact fees will not negate the need for higher taxes because the fees will not pay for all new capital facilities or any maintenance or operational costs**.

- **Impact fees are not bondable** like sales or property taxes, and the cyclical nature of construction makes impact fees an **unreliable revenue source**.

## Impact Fees – Methodology.

- In order to adopt any fee program, local governments require statutory authority from the North Carolina State Legislature

- Impact fees cannot be held in the general fund, they must be set-aside in specific restricted accounts and there must be a plan for how and where the fees are to be spent. Spending must be accounted for and fees must be spent in a reasonable amount of time (usually the length of a CIP is 5 years) or be refunded.

- Impact fees may only be collected by "permitting" governments and only for capital facilities provided by or through the government.

- Impact fees require a very complicated methodology that must provide for credits; variance procedures; vesting; allocation of interest; establishment of levels of service, including CIP and existing deficiencies; establishment of zones within which fees collected must be spent; an examination of the use of all other funding sources available to the local government; and credits for all other taxes paid, including future payments to cover bonded debt, in order to avoid illegal double taxation.

Marlene Sanford, President
336-855-1453 – GSO, 336-882-2049 – HP, 336-855-9488 fax, msanford@trebic.org