

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS35367-NKf-130A

Short Title: Garner/Community Facilities Impact Fees. (Local)

Sponsors: Senator Blue (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE CHARTER OF THE TOWN OF GARNER TO ALLOW THE
TOWN TO IMPOSE FACILITY IMPACT FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article VI of the Charter of the Town of Garner, being Chapter 333 of the Session Laws of 1977, as amended, is amended by adding a new section to read:

"Sec. 6.8. Community facilities impact fees. (a) Purpose. It is the purpose of this section to place an equitable share of the cost of providing new community service facilities in the Town of Garner upon all new inhabitants and upon those associated with the development process.

(b) Definitions. – The following definitions apply in this section:

(1) Capital costs. – Costs spent for developing community service facilities. These costs are limited to capital outlay items approved by the North Carolina Local Government Commission.

(2) Community service facilities. – Only the public facilities or improvements listed in this subdivision that are provided or established by the town or by the town in conjunction with other units of government:

a. Fire stations.

b. Police stations.

c. Cultural facilities other than libraries.

d. Solid waste collection.

e. Solid waste handling, disposal, and recycling.

(3) Developer. – An individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.

(4) Facility fee. – The charge imposed on new development in relation to the impact placed on town facilities.

(5) New construction. – Any new development, construction, or installation that requires any building or zoning permit, certification, or other action permitting real property improvements. The term "new construction" includes the installation of a mobile home or factory built or modular housing, but excludes the renovation and repair of existing structures and accessory uses and their structures, unless the renovations and repairs and accessory uses cause an increase in the off-street parking requirement or a change in occupancy as the term "occupancy" is defined in the North Carolina State Building Code. The term also excludes additions unless the addition causes an increase in the off-street parking requirement or a change in occupancy as "occupancy" is



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defined in the North Carolina State Building Code. Further, the term does not include fences, billboards, poles, pipelines, transmission lines, advertising signs or similar structures, and improvements that do not generate the need for additional or expanded community facilities upon completion of the additions or improvements.

(c) An ordinance adopted under this section may be made applicable to all development that occurs within the town and its extraterritorial planning jurisdiction provided that facility fees within the extraterritorial planning jurisdiction shall be limited to those attributable to services to be provided by the town.

(d) No facility fee shall be imposed until the town has caused to be prepared a report containing the following:

(1) A description of the anticipated capital cost to the town of each additional or expanded community service facility generated by new construction.

(2) A description of the relevant characteristics of construction that give rise to additional or expanded community service facilities such as population, trip generation, stormwater runoff, and flow characteristics.

(3) A plan for providing one or more of the community service facilities.

(e) The amount of each facility fee imposed and collected shall be based upon reasonable and uniform considerations of capital costs to be incurred by the town as the result of new construction. In establishing the facilities fees to be imposed, the town council may divide the town into two or more zones in order to determine the estimated costs of providing any or all of the facilities described herein. The division shall be done only after a public hearing and after the matter has been studied and reported on to the town council by the town's planning commission. The facilities fees may be different in different zones, depending upon whether each zone already has certain facilities available and whether or not the capital costs thereof have been paid or are yet to be paid. The facility must bear a direct relationship to additional or expended public capital costs of community service facilities to be rendered for the inhabitants of the area, occupants of the new construction, or those persons, firms, or corporations responsible for developing any new development, whether commercial, industrial, residential, or otherwise, or any other developer.

(f) The amount of each facility fee shall be based upon qualified needs and specific classifications and rates, which shall be uniformly applied to all members. However, the classification shall be based upon the amount, the cost, and the extent of the additional burden being placed upon the public facilities by particular types and sizes of development.

(g) Monies for each particular facility for which a facility fee is collected shall be placed in a separate trust fund. All such revenues shall be spent for the capital facilities for which they were collected and such benefits shall not be exclusive, that is, persons or developers who pay a facility fee hereunder shall not thereby obtain any rights to use public facilities greater than any other member of the public in a similar classification and situation. Separate service areas and zones with separate trust funds may be established.

(h) The town is authorized to enact ordinances, resolutions, rules, and regulations that are necessary or expedient for the execution and effectiveness of this section.

(i) The powers conferred in this section shall be supplementary to all other powers and procedures authorized by any other general or local law. Assessments, charges, fees, or rates authorized by any other general or local law are not affected by this section.

(j) Any person who feels aggrieved by any action by the town pursuant to this section must first pay the amount of the facilities fee charged, with the amount clearly marked as paid under protest, and thereafter give notice of appeal to the town within 30 days after the payment. The notice of appeal shall be delivered by personal service or registered or certified mail, return receipt requested, and directed to the town manager. A public hearing shall be held to review the matter within a period of 35 days following receipt of the notice of appeal. The decision upon the appeal shall be subject to review by the Superior Court of Wake County by proceedings in

1 the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk
2 of Superior Court of Wake County within a period of 30 days following the date the decision of
3 the town council is delivered in writing to the appealing party. The delivery of the decision shall
4 be either by personal service or by registered mail or certified mail, return receipt requested."

5 **SECTION 2.** This act is effective when it becomes law and applies to new
6 development initiated on or after that date.