



CITY OF DURHAM | NORTH CAROLINA

DATE: February 19, 2008
Corrected March 10, 2008

TO: Patrick Baker, City Manager

FROM: Julie Brenman, Director of Strategic Initiatives
Bertha T. Johnson, Interim Director of Budget & Management Services

SUBJECT: Update to the Impact Fee Ordinance

EXECUTIVE SUMMARY

The City of Durham currently imposes impact fees for Transportation, Parks and Recreation and Open Space. The Impact Fee Ordinance (Durham City Code-Chapter 25) requires the City Staff to conduct a periodic review and update of the existing impact fee ordinance including revised cost estimates for such city systems. The City retained Kimley-Horn and Associates to review and update the methodology and fee structure in its current Impact Fee Ordinance. *The Parks and Recreation Impact Fee Study Update* and the *Transportation Impact Fee Study Update* prepared by Kimley-Horn and Associates were previously provided to the City Council and are available on the internet at: http://www.durhamnc.gov/departments/bms/impact_fees.cfm. In addition, Kimley-Horn presented its findings to City Council at the April 5, 2007 City Council Work Session. Subsequent to the Work Session, staff conducted a public information session and several other information sessions with interested parties. Based on the feedback from those sessions, Kimley-Horn made minor modifications to its methodology and updated its report on the street impact fees. No changes were made to the parks and recreation and open space report. A summary of the changes made to the street impact fee report is included as **Attachment 1**.

The Administration recommends accepting the Kimley-Horn reports and revising the impact fee schedules in two phases on July 1, 2008 and July 1, 2009. By the second year, the change in the impact fee schedule would generate approximately \$3.4 million more in impact fee collections than the City currently receives.

The City continues to grow and transportation and parks and recreation and open space impact fees will continue to be needed to cover a portion of the construction costs for implementing future improvements necessitated by anticipated growth. The City's FY 2008-2013 CIP shows \$221 million in unfunded

needs for transportation projects over the next 6 years and \$69 million in unfunded needs for Culture and Recreation projects for the same period. The impact fees collected will pay for a small portion of the anticipated needs for this type of infrastructure. New development and population growth will continue to impact the capacity of our streets, open space and parks and recreation.

RECOMMENDATION

The Administration recommends that the City Council hold a public hearing on March 17, 2008 to receive citizen's comments and adopt amendments to the Street, Parks and Recreation and Open Space Ordinance (Durham City Code – Chapter 25) by deleting the current section and replacing it with the revised section (**Attachment 2**). The Administration further recommends a phased implementation of the new street and parks, recreation and open space impact fee schedule of July 1, 2008 and July 1, 2009.

BACKGROUND

IMPACT FEES

Impact fees represent financial payments made to a local government by a developer to fund certain off-site capital improvements needed to accommodate future growth. According to a recent study nearly 60% of all cities in the United States with over 25,000 residents use some form of impact fees to offset the costs of accommodating new development (results summarized on www.impactfees.com). Two factors control the legality for collecting impact fees. First, local governments must have authority to impose the fees as a condition of development approval. Second, the design and implementation of impact fee requirements must not be unfair, arbitrary, unreasonable or without rational basis.

THE NEED FOR IMPACT FEES

The City of Durham is the fourth most populous city in North Carolina, and is anticipated to grow significantly in the next ten years as part of the Triangle Region– including Raleigh, Durham, Cary, and Chapel Hill. The presence of research hospitals, major universities, and Research Triangle Park makes the city an attractive location for new development and continued long-term future growth. Between 1990 and 2004, the population of the City of Durham rose from 149,194 to 201,726 – an increase of approximately 35%.

While recent growth has been felt primarily in the southern portion of the county surrounding Research Triangle Park, future development patterns indicate that the entire planning jurisdiction will experience significant growth. Additional growth will necessitate major roadway improvements and improvements to the parks and recreational facilities throughout the city's planning jurisdiction. Federal, state, and local funds traditionally earmarked for infrastructure improvements are not expected to cover the costs of these improvements.

Transportation and parks and recreation and open space impact fees will continue to be needed to cover a portion of the construction costs for implementing future improvements necessitated by anticipated growth. The City's FY 2008-2013 CIP shows \$221 million in unfunded needs for transportation

projects over the next 6 years and \$69 million in unfunded needs for Culture and Recreation projects for the same period.

ENABLING LEGISLATION

The City of Durham has enabling legislation (August 1987) allowing the City to establish impact fees for new development to recoup some or all of the cost of the roads, recreation facilities, and open space needed by such development. The City of Durham adopted its original Impact Fee Ordinance in 1989. The previous major update to the transportation impact fee study was completed in May 2000. An interim Transportation update to the May 2000 transportation study which resulted in revisions to the impact fee schedule was completed in May 2004. The parks, recreation, and open space impact fee study report was completed in 1989 and has not been updated.

USE OF IMPACT FEES

Street/Transportation

Development impact fees for streets are used for new streets and sidewalks, paving, grading, resurfacing and widening of existing streets, traffic control, signals, and markers, lighting, grade crossing or the elimination thereof and grade separations. Impact fees may only represent the percentage of total project costs attributable to new development.

Parks and Recreation and Open Space

Development impact fees for open space land and parks and recreation facilities are used for the acquisition of open space land and the provision of facilities, including athletic fields, parks, playgrounds, courts, recreation centers, shelters, stadiums, arenas, permanent and temporary stands, golf courses, swimming pools, wading pools, marinas, lighting, trail construction, and bike paths. Historically the parks and recreation and open space impact fees have been used together for implementing new improvements on a single site-open space fees fund the purchase of property while parks and recreation facility fees fund the purchase of buildings and new equipment.

SERVICE ZONES

For the purpose of ensuring that those paying the impact fee would benefit from the capital improvements the City established service zones for street, parks and recreation and open space impact fees. The street service zones are shown on the map labeled "Durham Transportation Impact Fee Update Figure 1-Service Zones" (*Transportation Impact Fee Update*, p. 6). The Parks and Recreation and Open Space Zones are shown on the map labeled "Durham Parks, Recreation and Open Space Impact Fee Study update Figure 1-Study Area and Benefit Zones" (*Parks and Recreation, and Open Space Impact Fee Study Update*, p. 6.)

MAXIMUM ALLOWABLE RATE

Maximum allowable impact fee schedules were developed for each service zone to quantify the fair share costs for all land uses creating an impact on major roadway facilities. Maximum allowable impact fee schedules for open space and parks and recreation were developed for the entire study area to quantify the fair share cost for residential development creating an impact on the existing system of open space, parks and recreational facilities.

The impact fees may be adopted at less than 100% of the maximum allowable rate. Typically, an elected body will apply a discount rate to the maximum allowable impact fee to provide a reasonable fee for continued residential, commercial and industrial investment and to ensure the impact fees collected do not exceed the cost of providing capital facilities required to accommodate new development. The maximum allowable fees for streets and parks and recreation and open space are included in the studies.

The City of Durham currently charges 30% of the maximum allowable for impact fees for open space and parks and recreation recommended in the previous parks, recreation and open space impact fee study (1989). For comparison the City of Raleigh charges 25% of their maximum fees for comprehensive parks and recreation impact fee.

The City of Durham currently charges 25% of the maximum allowable impact fees recommended in the previous interim update to the transportation impact fee study report (May 2004). For comparison, the surrounding cities charge varying recovery rates to their recommended maximum allowable impact fees – Raleigh (25%) and Cary (32%). Raleigh is currently considering an increase in its impact fees and Cary has plans to increase its “Base Zone” impact fees by 25% effective July 2008.

PUBLIC HEARING

The City’s enabling legislation for impact fees requires the City Council to hold a public hearing and that notice must be given of such public hearing consistent with Section 94 of the City Charter prior to establishing or amending any impact fee.

ISSUES/ANALYSIS

Methodology

For Transportation, Kimley-Horn first reviewed the maximum allowable fee calculation. The update to the transportation maximum allowable fee was based on the improvements necessary to maintain the thoroughfare network at the desired level of service. The *improvements-driven* approach identifies both existing and future year deficiencies within the transportation system, since it is based on maintaining a desired level of service throughout the planning horizon.

For Parks and Recreation and Open Space the study assumes a *consumption-driven* approach. This approach charges new residential development the cost of replacing existing capacity on a one-for-one basis, assuming constant current service delivery standards. For both the Transportation and Parks, Recreation and Open Space updates the detailed methodology is included in the reports prepared by Kimley-Horn.

Street Zonal Boundaries

Based on discussions with the development community, the Administration requested Kimley-Horn review the zonal boundaries for the street impact fees. The request was driven in part because the maximum allowable rate for the northern zone decreased significantly more than the maximum allowable rate for

the southern and downtown zones increased. The Administration and the developers were concerned about having such different fee schedules in the zone. The request was also partially driven by a suggestion to eliminate fees in the downtown zone as there are minimal road improvements on the planning horizon in the downtown zone that are eligible to be funded by impact fees. Alternative zones discussed included:

- Removal of the downtown zone (so only a northern and southern zone remained).
- Expanded downtown zone (to include the City's designated community development zone)
- Combine all zones (so there is a single zone for calculation of fees, but there would still be multiple benefit zones)
- Create two new zones: East and West

The Administration found the review useful in understanding the impact the potential zones would have on the fee schedules; however we ultimately recommend maintaining the current zones. The current zones most accurately reflect differences in the development and transportation patterns in Durham. Additionally, it was determined that development in downtown impacts the need for road improvements and therefore the fees for downtown should not be waived.

Fees for Each Zone

Under the current street impact fee schedule, the citywide street impact fee is set as 25% of the maximum allowable rate for all zones. The Administration recommends the recovery rate be set at 35% of the maximum allowable fee for all zones effective July 1, 2008 and then increase to 50% of the maximum allowable fee for all zones effective July 1, 2009.

Under the current parks and recreation impact fee schedule, the citywide fee is set at 30% of the maximum allowable rate for all zones. The recommended parks and recreation impact fee is 20% of the maximum allowable fee for all zones effective July 1, 2008 and then increased to 30% of the maximum allowable fee for all zones effective July 1, 2009.

Under the open space impact fee schedule, the citywide fee is set at 30% of the maximum allowable rate for all zones. The recommended open space impact fee is 25% of the maximum allowable fee for all zones effective July 1, 2008 and then increased to 30% of the maximum allowable fee for all zones effective July 1, 2009.

Impact Fee Comparisons

The following table shows the comparison of selected transportation/street impact fees charged for typical development between Durham, Raleigh and Cary. The full range of proposed impact fees is included on [Attachments 3A, 3B and 3C](#). Note Raleigh is currently considering an increase to its fee schedule and Cary also has plans to increase its fee schedule as of July 2008.

Land Use	Durham									Cary				Raleigh
	North Zone			South Zone			Downtown Zone			Central	South East	Base	Base	Citywide
	Current	Proposed 7/08	Proposed 7/09	Current	Proposed 7/08	Proposed 7/09	Current	Proposed 7/08	Proposed 7/09	Current	Current	Current	Proposed 7/08	2007 Rates
Single Family (per dwelling unit)	\$817	\$372	\$531	\$795	\$983	\$1,405	\$157	\$205	\$293	\$715	\$1,324	\$1,243	\$1,554	\$568
Multifamily (per dwelling unit)	\$501	\$228	\$326	\$488	\$604	\$862	\$96	\$126	\$180	\$439	\$813	\$762	\$953	\$345
Hotel/Motel (per room)	\$574	\$257	\$368	\$559	\$682	\$974	\$110	\$142	\$203	\$382	\$708	\$664	\$830	\$579
General Retail < 50,000 sq. ft. (per 1,000 s.f.)	\$2,571	\$1,170	\$1,671	\$2,504	\$3,096	\$4,423	\$494	\$647	\$924	\$ 1,054	\$ 1,954	\$ 1,833	\$2,291	\$1,004
General Office 150,000-199,999 SF (per 1,000 SF)	\$1,286	\$581	\$830	\$1,252	\$1,538	\$2,198	\$247	\$321	\$459	\$1,054	\$1,954	\$1,833	\$2,291	\$272
Place of Worship (per 1,000 s.f.)	\$582	\$265	\$378	\$567	\$701	\$1,002	\$112	\$146	\$209	\$328	\$607	\$569	\$711	\$250

The following table shows the comparison of parks and recreation and open space fees charged for typical development between Durham and Raleigh (Cary does not have authority to charge parks and recreation and open space fees).

Open Space Land Impact Fee Schedule				
Residential	Current	Proposed 7/08	Proposed 7/09	
Single Family Home	\$51.57	\$148	\$222	
Multifamily Home	\$32.92	\$118	\$176	
Mobile Home	\$51.57	\$156	\$233	
Recovery Rate	30%	20%	30%	
Parks and Recreation Facility Impact Fee Schedule				
Residential	Current	Proposed 7/08	Proposed 7/09	
Single Family Home	\$296.99	\$354	\$425	
Multifamily Home	\$183.38	\$281	\$337	
Mobile Home	\$296.99	\$372	\$446	
Recovery Rate	30%	25%	30%	
Combined Parks, Recreation and Open Space Impact Fee				
Residential	Current	Proposed 7/08	Proposed 7/09	Raleigh 2006 Update
Single Family Home	\$348.56	\$502	\$647	613.75
Multifamily Home	\$216.30	\$399	\$514	460.25
Mobile Home	\$348.56	\$528	\$680	**
Recovery Rate	30%	20%/25%	30%	25%

Transition Period

At the time that the City Council adopts a new Transportation (Street) and Parks and Recreation and Open Space impact fee schedule it must also determine the effective date of the new fee schedule. The Administration recommends that the current schedule apply to all new developments that have a valid building permit application filed by June 30, 2008. The new ordinance would be implemented in two stages, with the first increase effective July 1, 2008 and the second increase

effective July 1, 2009. The purpose of the staged implementation is to allow for developers to plan for the changes in the fee schedule.

Communication

The Administration held a public information session on impact fees in April 2007. The meeting was advertised and the Administration also invited members of the development community including the Home Builders Association, The National Association of Industrial and Office Parks, The Chamber of Commerce, The Durham Business & Professional Chain, Downtown Durham, Inc., The Durham Affordable Housing Coalition and Duke University. The Administration has also met with these groups individually upon request over the past year, as well as the Citizen's Capital Improvement Panel, The Inter Neighborhood Council and the Durham Open Space and Trails Commission. We have notified these same parties that the Public Hearing on impact fees will be held on March 17, 2008.

ALTERNATIVES

The Council could elect to keep the current Impact Fee Schedule. However; the City will continue to collect insufficient street, parks & recreation and open space impact fees to undertake capacity driven capital projects.

The Council could select a different recovery rate. The City Council could choose a different recovery rate up to the maximum for street and parks and recreation and open space impact fees. The Staff recommendation of 30% for parks and recreation and open space and 35% and 50% for streets will begin to allow the City to undertake necessary capacity driven capital projects.

The Council could reject the study and retain another firm to conduct a study. However; the Staff does not believe this approach would yield different results.

FINANCIAL IMPACT

With the recommended recovery rates being phased in on July 1, 2008, the City would generate roughly \$1.7 million more overall than it currently receives in impact fees, for a total of \$5.1 million. Upon the implementation of the second phase of impact fees on and July 1, 2009, the City would generate roughly \$3.4 million more overall than it currently receives in impact fees, for a total of \$6.8 million. Note that all zones would receive increased fees with the exception of the northern street zone, which will receive less impact fees. The table below shows the anticipated revenue by zone.

Overall financial benefit to the City is driven by the type of building activities that require the payment of impact fees. For comparison purposes, the City collected \$3.4 million in impact fees on average each year from 2002-2006.

SAMPLE COLLECTIONS UNDER RECOMMENDED IMPACT FEE RECOVERY RATES

Impact Fee Zone Description	Average	July 1, 2008 / Percent		July 1, 2009 / Percent	
	Annual Collection 2002-2006	Change in Average Impact Fee		Change (from current) in Average Impact Fee	
Street-Southwest-Zone 1*	\$ 176,067	N/A*	\$ -	N/A*	\$ -
Street-East-Zone 2*	\$ 81,183	N/A*	\$ -	N/A*	\$ -
Street-North-Zone 3*	\$ 117,574	N/A*	\$ -	N/A*	\$ -
Street-Southwest-Zone 4	\$ 1,483,217	33%	\$ 1,978,611	91%	\$ 2,827,011
Street-North/East-Zone 5	\$ 754,436	-51%	\$ 370,428	-30%	\$ 528,859
Street-Downtown-Zone 6	\$ 14,816	42%	\$ 20,965	102%	\$ 29,943
Recreation-Southwest-Zone 1	\$ 331,146	275%	\$ 1,241,796	373%	\$ 1,566,319
Recreation-East-Zone 2	\$ 223,827	275%	\$ 839,350	373%	\$ 1,058,701
Recreation-North-Zone 3	\$ 133,589	275%	\$ 500,961	373%	\$ 631,878
Open Space-Southwest-Zone 1	\$ 57,907	33%	\$ 77,017	59%	\$ 92,073
Open Space-East-Zone 2	\$ 41,845	33%	\$ 55,654	59%	\$ 66,534
Open Space-North-Zone 3	\$ 25,317	33%	\$ 33,671	59%	\$ 40,254
TOTAL	\$ 3,440,924		\$ 5,118,454		\$ 6,841,572
Change in Revenue			\$ 1,677,529		\$ 3,400,648

Current: Recovery Rates:

(25% for streets; 30% for recreation; 30% for open space)

July 1, 2008: Phase 1 Recovery Rates:

(35% for streets; 25% for recreation; 20% for open space)

July 1, 2009: Phase 2 Recovery Rates

(50% for streets; 30% for recreation; 30% for open space)

* Street Zones 1, 2 and 3 were replaced with Zones 4, 5 and 6 in 2002.

Buildings with existing permits at the time of the change still pay into these impact fee zones.

The City continues to grow and transportation and parks and recreation and open space impact fees will continue to be needed to cover a portion of the construction costs for implementing future improvements necessitated by anticipated growth. The City's FY 2008-2013 CIP shows \$221 million in unfunded needs for transportation projects over the next 6 years and \$69 million in unfunded needs for Culture and Recreation projects for the same period. The impact fees collected will pay for a small portion of the anticipated needs for this type of infrastructure. New development and population growth will continue to impact the capacity of our streets, open space and parks and recreation.

SDBE

Due to the nature of this item, SDBE review is not applicable.

ATTACHMENTS

- Attachment 1: Summary of changes to final street impact fee report
- Attachment 2: Proposed impact fee ordinance
- Attachment 3a: Street Impact Fee Schedule effective July 1, 2008
- Attachment 3b: Street Impact Fee Schedule effective July 1, 2009
- Attachment 3c: Parks & Recreation and Open Space Impact Fee Schedules effective July 1, 2008 and July 1, 2009