

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 996
SENATE BILL 1576

AN ACT TO ALLOW THE TOWN OF ROLESVILLE TO IMPOSE IMPACT FEES.

The General Assembly of North Carolina enacts:

Section 1. Impact Fees Authorized. (a) The Town Board of Commissioners may provide by ordinance for a system of impact fees to be paid by developers to help defray the costs to the Town of constructing certain capital improvements, the need for which is created in substantial part by the new development that takes place within the town and its extraterritorial planning area.

(b) For purposes of this act, the term capital improvements includes capital improvements to public streets, bridges, sidewalks, greenways, water treatment facilities, wastewater treatment facilities, bikeways, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, public schools, and public recreation facilities.

(c) An ordinance adopted under this act may be made applicable to all development that occurs within the town and its extraterritorial planning area, as established by local act or pursuant to the procedures set forth in G.S. 160A-360.

(d) The Town may, with the approval of the Wake County Board of Commissioners, construct capital improvements outside the Town limits but within the Town's extraterritorial planning area.

Sec. 2. Amount of Fees. In establishing the amount of any impact fee, the Town shall endeavor to approach the objective of having every development contribute to a capital improvements fund an amount of revenue that bears a reasonable relationship to that development's fair share of the costs of the capital improvements that are needed in part because of that development. In fulfilling this objective, the Town Board of Commissioners shall, among other steps and actions:

- (1) Estimate the total cost of improvements by category (e.g., streets, water, sewer, etc.) that will be needed to provide in a reasonable manner for the public health, safety and welfare of persons residing within the Town and its extraterritorial planning area during a reasonable planning period not to exceed 20 years. The Council may divide the Town and its extraterritorial area into two or more districts and estimate the costs of needed improvements within each district. These estimates shall be periodically reviewed and updated, and the planning period used may be changed from time to time.

- (2) Establish a percentage of the total costs of each category of improvement that, in keeping with the objective set forth above, should fairly be borne by those paying the impact fee.
- (3) Establish a formula that fairly and objectively apportions the total costs that are to be borne by those paying impact fees among various types of developments. By way of illustration without limitation:
 - a. In the case of street improvements, the impact fee may be related to the number of trips per day generated by different types of uses according to recognized estimates;
 - b. In the case of drainage improvements, the impact fee may be related to the size of a development, the amount of impervious surface the development has, or other factors that bear upon the degree to which a development contributes to the need for drainage improvements made at public expense.

Sec. 3. Capital Improvements Reserve Funds; Expenditures. (a) Impact fees received by the Town shall be deposited in a capital improvements reserve fund or funds established under Chapter 159 of the General Statutes, Article 3, Part 2. Such funds may be expended only on the type of capital improvements for which such impact fees were established, and then only in accordance with the provisions of subsection (b) of this section.

(b) In order to ensure that impact fees paid by a particular development are expended on capital improvements that benefit that development, the Town may establish for each category of capital improvement for which it collects an impact fee at least two geographical districts or zones, and impact fees generated by developments within those districts or zones must be spent on improvements that are located within or that benefit property located within those districts or zones.

Sec. 4. Credits for Improvements. An ordinance adopted under this act shall make provision for credits against required fees when a developer installs improvements of a type that generally would be paid for by the Town out of a capital reserve account funded by impact fees. The ordinance may spell out the circumstances under which a developer will be allowed to install such improvements and receive such credits.

Sec. 5. Appeals Procedure. An ordinance adopted under this Article may provide that any person aggrieved by a decision regarding an impact fee may appeal to the Rolesville Board of Adjustment. If the ordinance establishes an appeal procedure, it shall spell out the time within which the appeal must be taken to the Board of Adjustment, the possible grounds for an appeal and the board's authority in the matter, whether the fee must be paid prior to resolution of the appeal, and other procedural or substantive matters related to appeals. Any decision by the Board of Adjustment shall be subject to review by the superior court by proceedings in the nature of **certiorari** in the same manner as is provided in G.S. 160A-388(e).

Sec. 6. Payment of Impact Fees. An ordinance adopted under this act shall spell out when in the process of development approval and construction impact fees shall be paid and by whom. By way of illustration without limitation, the ordinance may provide that an applicant for a building permit shall submit the impact fee along

with the permit application and that building permits shall not be issued until the impact fee has been paid.

Sec. 7. Refunds. If this act or any ordinance adopted thereunder is declared to be unconstitutional or otherwise invalid, then any impact fees collected shall be refunded thereunder to the person paying them together with interest at the same rate paid by the Secretary of Revenue on refunds for tax overpayments.

Sec. 8. Limitations on Actions. (a) Any action contesting the validity of an ordinance adopted under this act must be commenced not later than nine months after the effective date of such ordinance.

(b) Any action seeking to recover an impact fee must be commenced not later than nine months after the impact fee is paid.

Sec. 9. Supplemental Power. The powers conferred in this act 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 act.

Sec. 10. This act applies to the Town of Rolesville only.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 1988.