

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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PRINCIPAL CLERK

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SENATE BILL DRS35367-NKf-130A

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

Sponsors: Senator Blue (Primary Sponsor).

Referred to:

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

4 The General Assembly of North Carolina enacts:

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

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

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

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

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

17 a. Fire stations.

18 b. Police stations.

19 c. Cultural facilities other than libraries.

20 d. Solid waste collection.

21 e. Solid waste handling, disposal, and recycling.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

45 (j) Any person who feels aggrieved by any action by the town pursuant to this section
46 must first pay the amount of the facilities fee charged, with the amount clearly marked as paid
47 under protest, and thereafter give notice of appeal to the town within 30 days after the payment.
48 The notice of appeal shall be delivered by personal service or registered or certified mail, return
49 receipt requested, and directed to the town manager. A public hearing shall be held to review the
50 matter within a period of 35 days following receipt of the notice of appeal. The decision upon
51 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.