



Development Impact Fees

by
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2. A Simple Example

The marginal cost of development is the sum of immediate expenditures undertaken by local government that would not have otherwise occurred.

Assume that 1,000 new homes require \$1,000,000 worth of new sewer capacity.

Assume that all 1,000 new home developers pay the impact fee on the same day or

Assume that carrying costs and inflation are zero.

Then, the sewer impact fee is \$1,000 per home.

Source: Peiser, Richard. "Calculating Equity-Neutral Water and Sewer Impact Fees" p. 324.

4. The Legal Basis for Impact Fees

Nollan v. California Coastal Commission (U.S. Supreme Court, June, 1987): Exactions must meet a "rational nexus" test, i.e., fees must relate to needs.

Source: Stroud, Nancy. "Legal Consideration of Development Impact Fees." p. 83.

Communities can receive impact fee authority from state enabling legislation that set out a general impact fee principle, as with planning and zoning, or

Communities can use "trial-and-error" ordinance writing using unclear legislation and vague judicial guidance in an exercise in legal experimentation.

Source: Lillydahl, et al. "The Need for a Standard State Impact Fee Enabling Act." pp 121-122.

6. Who Ultimately Pays Impact Fees

If the housing market is "soft," i.e. a buyer's market, then the owner of the real estate pays for impact fees through lower land prices.

If the housing market is "competitive," i.e., a seller's market, then home buyer pays for the impact fees in the form of a higher purchase price.

Source: Huffman, Forrest E., Jr., et al. "Who Bears the Burden of Development Impact Fees?" pp 320-321.

8. Mitigating the Negative Effects

Since impact fee may get bid into the price of the house, then the cost of housing increases, making it less available to the low and moderate income people. Impact fees may also increase the cost of production for business.

In the City of Loveland, CO, the city pays half the fees for low-income housing development. Further, Loveland also refunds fees on industrial projects by a factor for each new employee the firm adds to the payroll after one year. The city of Aspen, CO charges an "employee housing fee," which is used to reduce impact fees for low income housing.

10. Idaho's Experience

1. Impact Fee Authority

"Idaho Development Impact Fee Act" 67-8201 - 67-8216,

- a. covers street lighting, parks, water, sewer, roads, roads, bridges, flood control, police, fire, emergency medical.
- b. limited to local government in county with greater than 200,000 people.

2. "Trial-and-Error" Ordinance Writing

Idaho Supreme Court in *Loomis v. City of Hailey* upheld user and "connection" fees in 1991.

The Court said that connection fees are an "equity buy-in" to fund public works and are legal under the Revenue Bond Act.

Idaho Revenue Bond Act

- a. authorizes municipalities to prescribe and collect rates, fees, tolls, or charges for the public works,
- b. provides for all expenses including replacement and depreciation.

The City of Lewiston adopted water and sewer "equity buy-in" fees starting Oct. 1993.

