



- 1                   2.     Construction of any commercial building enclosed floor  
 2                   space for which a building permit was issued or should  
 3                   have been issued after the effective date of an ordinance  
 4                   adopted under this title.  
 5                   3.     Conversion of a building that adds one or more new  
 6                   dwelling units or that creates new commercial building  
 7                   enclosed floor space.  
 8                   4.     The initial location of a manufactured home or other  
 9                   dwelling or commercial structure within Chatham  
 10                   County.  
 11                b.     For purposes of determining the impact of land development for  
 12                this title, land development does not include:  
 13                   1.     Construction of an addition to a dwelling unit.  
 14                   2.     The relocation within Chatham County of any structure  
 15                   located within the county on the effective date of an  
 16                   ordinance adopted pursuant to this title or any structure  
 17                   with respect to which an impact tax pursuant to this title  
 18                   has been paid.  
 19                   3.     Within the county, the reconstruction or replacement of  
 20                   one dwelling unit by another or the replacement or  
 21                   reconstruction of commercial building enclosed floor  
 22                   space that was in existence on the effective date of an  
 23                   ordinance adopted pursuant to this title or of any such  
 24                   floor space with respect to which an impact tax adopted  
 25                   pursuant to this title has been paid.  
 26                (4)    Net proceeds. – The gross proceeds of the tax less the cost to the  
 27                county of collecting and administering the tax.  
 28                (5)    Person. – An individual, a partnership, a corporation, or another legal  
 29                entity.  
 30                (6)    Person responsible for the impact of land development. – The owner of  
 31                any dwelling unit or commercial building enclosed floor space on the  
 32                date an occupancy permit is issued for the dwelling unit or commercial  
 33                floor space or, if no occupancy permit is issued, the date the dwelling  
 34                unit or commercial floor space is occupied.

35                "Sec. 4.1. Impact Fees Tax Authorized. – (a) The Board of Commissioners of a  
 36 countyChatham County may adopt an ordinance levying a tax on the impact of land  
 37 development within the county and provide for the administration, enforcement, and  
 38 collection of the tax. may provide by ordinance for a system of impact fees to be paid by  
 39 developers to help defray the costs to the county of constructing certain capital  
 40 improvements, the need for which is created in substantial part by the new development  
 41 that takes place within the county.

42                (b) ~~For purposes of this title, the term "capital improvements" includes capital~~  
 43 ~~improvements to schools, roads, public recreation facilities, sidewalks, bikeways, rescue~~  
 44 ~~facilities, surface water drainage systems, water or sewer systems, and fire stations.~~

1 ~~(c) An ordinance adopted pursuant to authority contained in this act may be made~~  
2 ~~applicable to all development that occurs within the county.~~

3 "Sec. 5. **Amount of Fees, Rates.** – Chatham County shall establish annually at the  
4 time of the adoption of its annual budget the tax rate to be levied per square foot of  
5 dwelling space and per square foot of commercial building enclosed floor space for the  
6 ensuing fiscal year. Different tax rates may be established for different types of  
7 dwelling units and different types of commercial building enclosed floor space.

8 ~~In establishing the amount of any impact fee, the county shall endeavor to approach~~  
9 ~~the objective of having every development contribute to a capital improvements fund an~~  
10 ~~amount of revenue that bears a reasonable relationship to that development's fair share~~  
11 ~~of the costs of the capital improvements that are needed in part because of that~~  
12 ~~development. In fulfilling this objective, the Board of Commissioners shall, among~~  
13 ~~other steps and actions:~~

14 (1) ~~Estimate the total cost of improvements by category (e.g., schools,~~  
15 ~~roads, public recreation facilities, etc.) that will be needed to provide~~  
16 ~~in a reasonable manner for the public health, safety and welfare of~~  
17 ~~persons residing within the county during a reasonable planning period~~  
18 ~~not to exceed 20 years. The Board of Commissioners may divide the~~  
19 ~~county into two or more districts and estimate the costs of needed~~  
20 ~~improvements within each district. These estimates shall be~~  
21 ~~periodically reviewed and updated, and the planning period used may~~  
22 ~~be changed from time to time.~~

23 (2) ~~Establish a percentage of the total costs of each category of~~  
24 ~~improvement that, in keeping with the objective set forth above,~~  
25 ~~should fairly be borne by those paying the impact fee.~~

26 (3) ~~Establish a formula that fairly and objectively apportions the total~~  
27 ~~costs that are to be borne by those paying impact fees among various~~  
28 ~~types of developments. By way of illustration, but without limitation:~~

29 a. ~~In the case of road improvements, the impact fee may be related~~  
30 ~~to the number of trips per day generated by different types of~~  
31 ~~uses according to recognized estimates;~~

32 b. ~~In the case of improvements to schools the impact fee may be~~  
33 ~~related to the size of the development, i.e., number of houses,~~  
34 ~~and the anticipated number of students expected from said~~  
35 ~~development according to recognized estimates, and the impact~~  
36 ~~thereof on the need for additional school facilities in the county.~~

37 "Sec. 6. **Use of Tax Proceeds.** – The purpose of the tax authorized by this title is to  
38 generate funds to partially offset the cost of constructing new school capital facilities or  
39 replacing, expanding, or improving existing school capital facilities necessitated in part  
40 by new growth within Chatham County. Accordingly, the net proceeds generated by  
41 the tax authorized by this title shall be deposited by Chatham County in its capital  
42 reserve improvements fund or funds established under Part 2 of Article 3 of Chapter 159  
43 of the General Statutes and may be expended, to the extent otherwise authorized by law,

1 only for capital improvements projects related to public schools and to retire debt  
2 incurred for this purpose.

3 ~~Sec. 7. **Credits for Improvements.** An ordinance adopted under this act shall~~  
4 ~~make provision for credits against required fees when a developer installs improvements~~  
5 ~~of a type that generally would be paid for by the county out of a capital reserve account~~  
6 ~~funded by impact fees. The ordinance may spell out the circumstances under which a~~  
7 ~~developer will be allowed to install such improvements and receive such credits.~~

8 "Sec. 8. **Liability; Administration.** – An ordinance adopted pursuant to this title  
9 shall provide that:

10 (1) A person responsible for the impact of land development shall pay an  
11 impact tax for each square foot of dwelling space and commercial  
12 building enclosed floor space for which an occupancy permit is issued  
13 or, if no occupancy permit is issued, for each square foot of dwelling  
14 space in an occupied dwelling and for each square foot of occupied  
15 enclosed floor space in a commercial building.

16 (2) The tax shall be due on or before the date an occupancy permit is  
17 initially issued for the dwelling unit or commercial building enclosed  
18 floor space in question or, if no occupancy permit is issued, the date  
19 the dwelling unit or commercial floor space is initially occupied.  
20 However, no tax due shall be considered delinquent until 60 days after  
21 the tax becomes due. There shall be added to delinquent taxes interest  
22 at the legal rate.

23 (3) Taxes authorized by this title may be collected pursuant to G.S.  
24 153A-147 or G.S. 160A-207. In addition, taxes authorized by this title  
25 may be recovered in a civil action in the nature of debt including an  
26 award of reasonable attorneys' fees as part of costs.

27 ~~Sec. 8. Appeals Procedure. An ordinance adopted under this act may provide that~~  
28 ~~any person aggrieved by a decision regarding an impact fee may appeal to the County~~  
29 ~~Board of Adjustment. If the ordinance establishes an appeal procedure, it shall spell out~~  
30 ~~the time within which the appeal must be taken to the Board of Adjustment, the possible~~  
31 ~~grounds for an appeal and the board's authority in the matter, whether the fee must be~~  
32 ~~paid prior to resolution of the appeal, and other procedural or substantive matters related~~  
33 ~~to appeals. Any decision by the Board of Adjustment shall be subject to review by the~~  
34 ~~superior court within the county by proceedings in the nature of **certiorari** in the same~~  
35 ~~manner as is provided in G.S. 153A-345(e).~~

36 "Sec. 9. **Disclosure Requirements.** – Whenever the sale of real property located in  
37 Chatham County involves new construction, the seller shall prepare and sign, and the  
38 buyer shall receive and sign, a disclosure statement. The disclosure statement shall  
39 either be included in a contract for sale or contained in a separate document executed  
40 prior to the execution of a sales contract. This disclosure statement shall fully and  
41 completely disclose that the owner of the property at the time an occupancy permit is  
42 issued for the new construction or, if no occupancy permit is issued, on the date the new  
43 construction is occupied, may be subject to a tax levied by the county on the impact of  
44 land development. If a seller fails to make this disclosure and the buyer suffers injury

1 as a result of the seller's failure to disclose, the seller is liable to the buyer to the extent  
2 of the buyer's injury.

3 ~~Sec. 9. Payment of Impact Fees. An ordinance adopted under this act shall spell out~~  
4 ~~when in the process of development approval and construction impact fees shall be paid~~  
5 ~~and by whom. By way of illustration, and without limitation, the ordinance may~~  
6 ~~provide that an applicant for a building permit shall submit the impact fee along with~~  
7 ~~the permit application and that building permits shall not be issued until the impact fee~~  
8 ~~has been paid.~~

9 "Sec. 10. **Refunds.** If this title or any ordinance adopted ~~hereunder~~ under this title  
10 is declared to be unconstitutional or otherwise invalid by any court of competent  
11 jurisdiction, then any impact fees ~~taxes~~ collected thereunder under this title shall be  
12 refunded to the person paying them together with interest at the same rate ~~paid by the~~  
13 ~~Secretary of Revenue on refunds for tax overpayments.~~ the county earned on its  
14 investments pursuant to G.S. 159-30 for the most recent 12-month period for which data  
15 are available at the time the refund is paid.

16 "Sec. 11. **Limitation on Actions.** (a) Any action contesting the validity of an  
17 ordinance adopted pursuant to this title must be commenced not later than nine months  
18 after the effective date of ~~such~~ the ordinance.

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

21 "Sec. 12. All laws and clauses of laws in conflict with this title are ~~hereby~~ repealed.

22 "Sec. 12.1. This title applies to Chatham County only."

23 **SECTION 2.** This act is effective when it becomes law.