# IMPACT FEES AND GROWTH MANAGEMENT[1]

Impact fees are an alternative financing mechanism, designed to ensure that growth pays its own way. But impact fees have also been touted as a growth management tool. It has been argued that impact fees, if properly designed to reflect the true costs associated with different locations and patterns of development, can help promote efficient, compact and contiguous development. Most impact fee systems, however, continue to be based on average, system-wide costs. There are several reasons for this, including the greater technical difficulty of justifying differential fees, the advantage of being better able to explain a simple system to a judge in the event of litigation, and the political difficulties inherent in drawing a line and charging significantly higher fees on one side of the line than the other. A couple of examples of "smart" impact fee systems are presented below to highlight some of the promises and pitfalls of this technique. A list of innovative impact fee systems is presented in the Appendix.

Some impact fee systems have been designed to encourage development in developing urban areas and to discourage development in rural areas far from urban infrastructure. The most common approach is to assess lower fees in the urban area and higher fees in the rural area. In practice, however, it has proven difficult enough to justify a significant fee differential, much less demonstrate that such a differential would have any effect on the location of development.

*Ada County Highway District, Idaho.* The Ada County Highway District has responsibility for all public roads other than state or federal highways within Ada County. Boise/Garden City is the urban core of the county, and there are several other suburban municipalities to the west, often referred to as the "western cities." In 1990, the District secured public support for an increase in vehicle registration fees in part by simultaneously imposing road impact fees. This is a clear example of impact fees doing what they do best, promoting growth by ensuring funding for capital improvements. The road impact fee system was also designed to impose differential fees based on location in order to encourage efficient development patterns. This facet of the program was secondary, and the eventual failure of this aspect of the system is instructive.

**Figure 1**
**ASSESSMENT DISTRICTS**

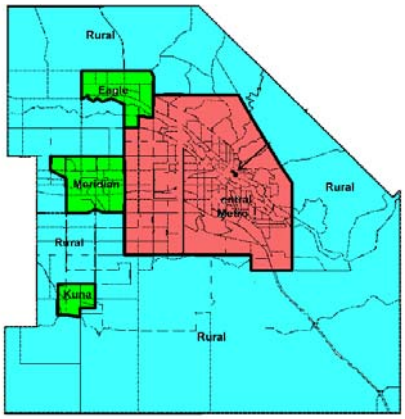
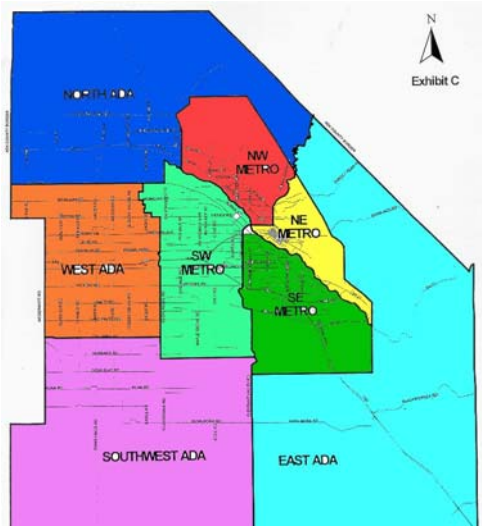



**Figure 2**
**BENEFIT DISTRICTS**




The idea was simple. The road impact fees were based on a "consumption-based" methodology, in which the fees were based on the amount of traffic generated by the development. The County was divided into four geographic areas, called assessment districts, and the regional transportation model was used to determine the average trip length in each assessment district. Since rural areas could be shown to have longer trip lengths, higher fees

[1] Presented by Clancy Mullen, Infrastructure Finance Director, Duncan Associates, at the National Conference of the American Planning Association in Chicago, IL, April 14, 2002 (13276 Research Boulevard, Suite 208, Austin, TX 78750, 512-258-7347x204, clancy@duncanplan.com).

in rural areas could be justified. The four assessment districts were the Boise/Garden City Metro Area, Western Cities, Near Rural and Far Rural (Figure 1 shows a modified version of the original assessment districts). The districts in which fees collected must be spent are shown in Figure 2.

The first problem to be encountered was that trips to and from the non-metro areas were much more likely to use state or federal highways, which are not the responsibility of ACHD. After adjusting for travel on only ACHD roads, the trip length differentials, and consequently the fee differentials, were much reduced. Most of the new development outside of the Metropolitan area was occurring in the Western Cities, where the fees were only 8 percent higher (see Table 1), a difference of only $63 per single-family unit. Still, there was a differential, and it was in the right direction.

**Table 1**
**SINGLE-FAMILY FEES BY DISTRICT**

| Assessment District | Fee/Unit | Differential |
|---|---|---|
| Boise/Garden City Metro Area | $837 | -- |
| Western Cities | $900 | 8% |
| Near Rural | $964 | 15% |
| Far Rural | $1,039 | 24% |

*Source:* Fees per single-family unit as of 1996 Road Impact Fee Update study.

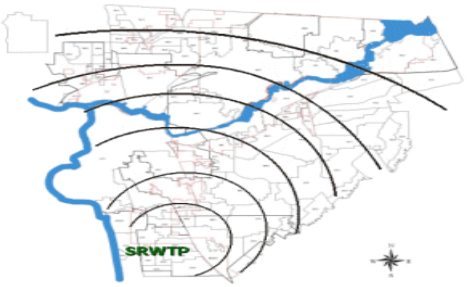
Even this modest fee differential grated on the western cities. The officials of these cities and the developers had a strong argument against the fee differential: land, and therefore road rights-of-way (ROW), was cheaper outside of the metropolitan area. The fees had been calculated based on county-wide average construction and ROW costs. This was reasonable, since development on the fringe would generate trips into the urban area, causing the need for road widenings in developed areas where ROW was expensive. Unfortunately, the fees collected in fringe areas could only be spent within the same areas, because of the design of the benefit districts (see Figure 2). If the benefit districts had been designed as wedges that included both fringe areas and nearby urban areas, this argument could have been refuted. As it was, ACHD acceded to the arguments and calculated differential ROW costs for each assessment district. The result was that the fees were higher in the urban core than in the developing western cities,[2] although this was true only for nonresidential development, since at the same time the District made nonresidential fees uniform throughout the county. ACHD is now considering moving to a single, county-wide fee schedule.

This example illustrates several important points. First, fee differentials due to location are often not as significant as might be supposed. Second, benefit districts need to be defined carefully to support differential fees. Finally, it is politically difficult to impose higher fees on areas that include separate municipalities.

*Sacramento Regional County Sanitation District.* The Sacramento Regional County Sanitation District in California provides wastewater service to the City and County of Sacramento, as well as the cities of Folsom, Citrus Heights and Elk Grove. The District's current impact fees are uniform throughout the region, but an alternative fee structure will go into effect on April 1, 2002. The two goals being pursued are to substantially increase impact fee revenues over the next five years to meet capital needs and to encourage infill development by offering reduced fees in infill areas.

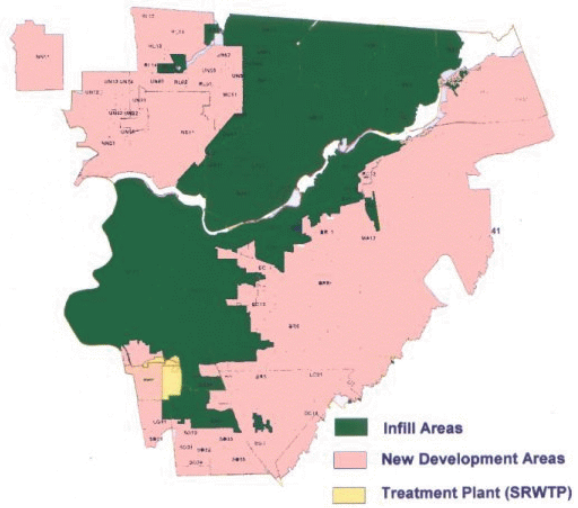
[2]For example, in Ordinance No. 193, adopted in November 1999, the fee for an office building in Boise was $2.77 per square foot, compared to between $1.55 to $2.38 in the western cities.

**Figure 3**
**DISTANCE ALTERNATIVE**




In exploring alternatives, District staff quickly concluded that the portion of the fee that covered the cost of expanding the District's single regional treatment plant would have to be uniform, since these costs did not vary by location of development. Next, the District explored using distance from the treatment plant as the basis for differential wastewater conveyance fees. However, there were two problems with this approach. First, the area closest to the regional plant did not correspond with any reasonable definition of infill. Second, the District was formed with the understanding that participating members would not be penalized for distance from the regional treatment plant.

**Figure 4**
**INFILL AREA**




Instead, the District developed differential conveyance fees between "infill" and "new growth" area. Infill areas were defined as those that were at least 70 percent built-out. Reduced fees in infill areas were justified on the argument that these areas already have most of their conveyance improvements in place. Engineering analysis of one drainage basin found that the wastewater flows at 70 percent of build-out would have required lines costing 87% of the cost of the lines actually needed to serve the area at build-out. On the basis of this analysis, it was determined that the conveyance fees in infill areas should only be about 15 percent of the fees in new growth areas. Because the fees are driven by the District's revenue needs to fund its capital improvements program, lower fees in infill areas had to be accompanied by higher fees in new growth areas. However, since relatively little growth is projected in infill areas, the fees in new growth areas were only 8.5 percent higher than they would have been had there been no fee reduction in the infill areas. The resulting fees are $3,550 higher in new growth areas per single-family or equivalent connection, as shown in Table 2.

**Table 2**
**SINGLE-FAMILY FEES BY AREA**

| Fee Component | Infill | New | Difference | Percent |
|---|---|---|---|---|
| Conveyance | $640 | $4,190 | $3,550 | 555% |
| Treatment | $1,660 | $1,660 | $0 | 0% |
| Total | $2,300 | $5,850 | $3,550 | 154% |

*Source:* Sacramento Regional County Sanitation District website (www.srcsd.com), 3/3/02; telephone call with CFO Marcia Maurer, 3/14/02.

The other innovation that has already been implemented by the District is the creation of an "Economic Development Treatment Capacity Bank" that provides credits for local jurisdictions to use to reduce fees for desired types of development. The "bank" was formed from $12.3 million of unused wastewater capacity that the District purchased from industrial users in 1999. This equated to 16,606 equivalent single-family dwellings (ESD) of capacity. At the time of the purchase, the impact fees were only $923 per ESD. Now, the fees are $3,500 per ESD (prior to the effective date

of the new fee structure). The jurisdictions can purchase the credits for only $923, and use them to pay or reduce the fees for desired types of development, including affordable housing, septic tank conversions or economic development projects.

The methodology and analysis used by the District to support lower fees in infill areas is not overly sophisticated or complex, and the logic is even a little tenuous. Nevertheless, the District did at least articulate a rationale for its differential treatment of new customers in different areas. The real strength of the District's approach lay in its extensive public outreach to all stakeholders. Marcia Mauer, SRCSD's chief financial officer and a prime mover in developing the two-tiered fee structure, says that while some member governments saw flaws in the compromise methodology that was ultimately adopted, they saw the new fee structure as a major improvement over the existing one.

*Palm Beach County, Florida.* One of the main criticisms of impact fees is that they result in higher housing costs. This is disputed by some, who argue that (1) classical economic theory suggests that at least some of the cost will be absorbed in lower land prices, and (2) impact fees increase capital funding and the resulting higher investment in infrastructure opens more land up for development and drives down land prices.[3] Regardless of the merits of these arguments, impact fee systems can be designed to mitigate the effect on housing affordability. For example, most impact fee systems charge all new dwelling units a flat rate, regardless of the size or cost of the home. While impact fees cannot legally be based on home value, the fees can be designed to reflect the increased demand for services associated with larger dwelling units. Palm Beach County, Florida was able to demonstrate that the number of residents and public school students is directly related to the size of the dwelling unit, and developed park and school fees that vary among five square footage categories that correspond to the number of bedrooms in the unit.[4]

## Conclusion

To date, impact fees have generally not lived up to their potential to promote smart growth objectives. Few such systems are based on anything other than average, system-wide costs. Even for those systems with fees that vary by location or type of development, there is no evidence that the fee differentials have had any significant effect the location or pattern of development. Nevertheless, the potential appears to be there for designing impact fees that do more to promote local growth management objectives.

---

[3] Nelson, Arthur C., "Development Impact Fees: The Next Generation," *The Urban Lawyer*, 26:3, Summer 1994.

[4] Nicholas, James C., "On the Progression of Impact Fees," *Journal of the American Planning Association*, 58:4, 1992, 517-524.

**Appendix:**
**INNOVATIVE IMPACT FEES**

| Jurisdiction | Type of Fee | Innovative or Unique Feature |
|---|---|---|
| Boulder, CO | Affordable Housing | Excise tax for affordable housing assessed on new market rate housing and nonresidential development |
| San Diego, CA | Affordable Housing | Housing "impact" fee ranges from $0.64/sq. ft. for retail/industrial to $1.06/sq. ft. for office development |
| San Francisco, CA | Affordable Housing | Nonresidential linkage fee of $11.34 per square foot |
| Santa Cruz County, CA | Alternate Transportation Modes | 50% of transportation impact fee used for alternative modes: pedestrian (39%), bikeways (10%), transit (1%) |
| Bozeman, MT | Fire | Fee based on fire flow methodology which results in higher fees per 1,000 sq. ft. for larger buildings |
| Lancaster, CA | Maintenance | Urban Structure Program: distance-based "impact fees" for higher net O/M costs based on computer model that incorporates "distance surcharge"; impact fees for capital costs do not vary by distance |
| Atlanta, GA | Parks | Assessed on nonresidential development based on Park Dept. records on company reservations of picnic areas and ballfields |
| College Station, TX | Parks | Fee-in-lieu of dedication includes park development costs (park impact fees not authorized by state impact fee enabling act) |
| Reno, NV | Parks | Residential construction tax of 1% of construction value, not to exceed $1,000/unit, per NRS 278.4983 |
| Sacramento, CA | Parks | Fee varies by single-family lot size, multi-family density and nonresidential square feet and acreage based on nexus study |
| Palm Beach County, FL | Parks/School | Residential fee varies by five size categories: 0-800, 800-1,400, 1,400-2,000, 2,000-3,600, 3,600+ sq. ft. |
| Cedarburg, WI | Police | Fee for all uses based on $1.63 per $1,000 value |
| Albuquerque/ Bernalillo County, NM | Roads | Fee for regional roads that provide county-wide mobility were calculated to be significantly higher for development in unincorporated county that for development inside Albuquerque based on model select-link analysis (fee adopted by County but not by City) |
| Atlanta, GA | Roads | Fee reduced by 50% within 1/4 mile of mass transit station based on assumed higher transit usage (no hard data) |
| Boise, ID | Roads | Fees charged by Ada County Highway District originally higher in rural areas due to higher trip lengths, but subsequently amended to have county-wide residential fee and to incorporate lower ROW costs, resulting in nonresidential fees often being higher in Boise |
| Broward County, FL | Roads | Fee for each development based on computer model of impacts of all trips generated by development |
| Cary, NC | Roads | City sets aside 25% of each year's revenues to reimburse developers for excess contributions beyond impact fee credits for their projects |
| Chandler, AZ | Roads | City subsidizes retail fee with other funds in order to keep retail fee lower and retain ability to attract sales tax generating businesses (for 100,000 sq. ft. center fee would be $748,000 but City pays $348,000 to reduce fee to $388,000) |
| Clark County, NV | Roads | Per Sec. 278.710, N.R.S., transportation development tax at maximum rate of $500 per single family dwelling unit and 50 cents per square foot of other new development |

| Jurisdiction | Type of Fee | Innovative or Unique Feature |
|---|---|---|
| Fort Collins, CO | Roads | Fee excludes developer's local road equivalent obligation based on improvements-driven methodology, and no credit given for such improvements |
| Jefferson Co., CO | Roads | Higher fee for single-family units with 3+ car garage |
| Lake Co, FL | Roads | Fees vary based on bedrooms and unit type |
| Larimer County, CO | Roads | Fee for impacts on County roads that primarily serve travel between cities of Fort Collins and Loveland are assessed within the cities and remitted to County |
| Lenexa, KS | Roads | Excise tax of 15 cents/sq. ft. of plat area |
| Loveland, CO | Roads | 25% fee reduction by-right for projects meeting criteria for mixed-use |
| Reno, NV | Roads | Consumption-based regional road impact fee for Reno, Sparks and Washoe County includes intersection component based on average turning movements added by typical intersection improvement and system-wide ratio of turning movements to vehicle-miles |
| Sacramento, CA | Roads | Construction tax based on 0.8% of value |
| Weld County, CO | Roads | Reflecting rural characteristics, fees in two growth areas based on capacity added by paving gravel roads, increasing shoulder and lane widths on substandard 2-lane roads, and improving rural to urban cross-sections, as well as new roads and projects that add lanes to existing roads |
| California | Schools | Per state law, fee up to 33 cents per sq. ft. for nonresidential based on required nexus study of students generated by employees (residential maximum is $2.05/sq. ft.) |
| Rio Rancho, NM | Trails | Fee for commuter trails assessed on nonresidential and residential based on trip generation rates |
| San Francisco, CA | Transit | $5/sq. ft. fee applies only to office development in C-3 district, can be used for operations as well as capital–fee litigated in Russ Bldg Partnership v. City and County of San Francisco (1987) |
| Scottsdale, AZ | Water | Single-family fee varies by lot size due to irrigation usage based on water consumption data |
| Orange County, NC | Water/ Wastewater | Single-family fee varies by unit size (5 categories) |
| Reno, NV | Wastewater | Nonresidential fees based on number of fixture units |
| Sacramento, CA | Wastewater | Economic Development Treatment Capacity Bank: Sacramento Regional County Sanitation District bought unused capacity allocations in 1999 from several industries before fees were increased substantially, jurisdictions can use their allocation to pay fees for desired development at considerably lower than current fees |
| Sacramento, CA | Wastewater | Sacramento Regional County Sanitation District has just implemented (effective April 1, 2002) a two-tier fee structure, where conveyance portion of fee is considerably lower in "infill" areas versus "new growth" areas. Treatment portion of fee is same in both areas. Infill areas defined as within 1975 boundary and at least 70% developed (most line infrastructure already in place). Fee differential is $3,550 per single-family connection. |