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U.S. Department of  
Transportation  
Office of the Secretary  
of Transportation

# Growth Management and Transportation



June 1982

An Urban Consortium Information Bulletin



# Urban Consortium for Technology Initiatives

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The Urban Consortium for Technology Initiatives was formed to pursue technological solutions to pressing urban problems. The Urban Consortium is a coalition of 37 major urban governments, 28 cities and 9 counties, with populations over 500,000. These 37 governments represent over 20% of the nation's population and have a combined purchasing power of over \$25 billion.

Formed in 1974, the Urban Consortium represents a unified local government market for new technologies. The Consortium is organized to encourage public and private investment to develop new products or systems which will improve delivery of local public services and provide cost-effective solutions to urban problems. The Consortium also serves as a clearinghouse in the coordination and application of existing technology and information.

To achieve its goal, the Urban Consortium identifies the common needs of its members, establishes priorities, stimulates investment from Federal, private and other sources and then provides on-site technical assistance to assure that solutions will be applied. The work of the Consortium is focused through 10 task forces: Community and Economic Development; Criminal Justice; Environmental Services; Energy; Fire Safety and Disaster Preparedness; Health; Human Resources; Management, Finance and Personnel; Public Works and Public Utilities; and Transportation.

Public Technology, Inc. is the applied science and technology organization of the National League of Cities and the International City Management Association. It is a nonprofit, tax-exempt, public interest organization established in December 1971 by local governments and their public interest groups. Its purpose is to help local governments improve services and cut costs through practical use of applied science and technology. PTI sponsors the nation's local government cooperative research development, and technology transfer program.

PTI's Board of Directors consists of the executive directors of the International City Management Association and the National League of Cities, plus managers and elected officials from across the United States.



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Prepared by  
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Washington, D.C. 20004

Secretariat to the  
**URBAN CONSORTIUM  
FOR TECHNOLOGY  
INITIATIVES**

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## PREFACE

This is one of ten bulletins in the fifth series of Information Bulletins produced by the Transportation Task Force of the Urban Consortium for Technology Initiatives. Each bulletin in this series addresses a priority transportation need identified by member jurisdictions of the Urban Consortium. The bulletins are prepared for the Transportation Task Force by the staff of Public Technology, Inc. and its consultants.

Ten newly identified transportation needs are covered in this fifth series of Information Bulletins. In priority order they are:

- Growth Management and Transportation
- Intercepting Downtown-Bound Traffic
- Inflation Responsive Transit Financing
- Impact of Traffic on Residential Areas
- Coordination of Parking with Public Transportation and Ridesharing
- Improved Railroad Grade Crossings
- Flexible Federal Design Standards for Highway Improvements
- Traffic Signal Maintenance
- Inflation Responsive Financing for Streets and Highways
- Flexible Parking Requirements

The needs highlighted by Information Bulletins are selected in an annual process of needs identification used by the Urban Consortium. By focusing on the priority needs of member jurisdictions, the Consortium assures that resultant research and development efforts are responsive to local government problems.

Each bulletin provides a nontechnical overview, from the local government perspective, of issues and problems associated with each need. Current research efforts and approaches to the problem are identified. The bulletins are not an in-depth review of the state-of-the-art or the state-of-the-practice. Rather, they serve to identify and raise issues and as an information base from which the Transportation Task Force selects topics that require a more substantial research effort.

The Information Bulletins are also useful to those, such as elected officials, for whom transportation is but one of many areas of concern.

The needs selection process used by the Urban Consortium is effective. Priority needs selections have been addressed by subsequent Transportation Task Force projects:

- To facilitate the provision of transportation services for elderly and handicapped people, five products have been developed: Elderly and Handicapped Transportation: Chief Executive's Summary, Elderly and Handicapped Transportation: Planning Checklist, Elderly and Handicapped Transportation: Information Sourcebook, Elderly and Handicapped Transportation: Eight Case Studies.
- To help improve center city circulation (with the objectives of downtown revitalization and economic development) several projects have been completed. A summary report on Center City Environment and Transportation: Local Government Solutions shows how 7 cities use transportation and pedestrian improvements as tools in downtown revitalization. A report titled Center City Environment and Transportation: Transportation Innovations in Five European Cities discusses exemplary approaches to resolving traffic management problems common to cities with large numbers of automobiles. Another project, addressing the coordination of public transportation investment with real estate development, has culminated in two major national conferences--the Joint Development Marketplaces I and II. The second Marketplace, held in Washington, DC, in July 1980, was attended by a total of over 500 people, including exhibitors from 32 cities and counties and representatives of private development and financial organizations.
- A series of documents relating to the need for Transportation Planning and Impact Forecasting Tools has been prepared: (1) a management-level document for local officials describing manual and computer transportation planning tools available from the U.S. Department of Transportation, (2) a series of case studies of local government and transit agency applications of these tools, and (3) a guide describing ways local governments can gain access to these tools.
- To meet the need to promote the use of Transportation System Management (TSM) measures, a series of five regional meetings was held in 1980 to provide local, State, and Federal officials, and representatives of transit agencies and the business community with the opportunity to exchange information about low-cost TSM projects to improve existing transportation systems.
- To facilitate the dissemination of information on local experiences in Parking Management, a technical report describing the state-of-the-art has been prepared.

- To address the need for information on transit productivity, a seminar on International Transit Performance Measurement was held in September 1980. The seminar included presentations on the state-of-the-art in France, Germany, and the United States. The seminar was co-sponsored by the German Marshall Fund of the United States.
- To encourage improved design in transportation facilities, PTI organized Design for Moving People, the first national conference to bring together leading design professionals--architects, artists, arts administrators--and those responsible for operating and managing many of the nation's largest public mass transportation systems. The meeting was held in May 1981 in New York. Cosponsored by the American Public Transit Association (APTA), the New York Chapter of the American Institute of Architects, AMTRAK, and the Municipal Art Society of New York, the two day conference featured keynote addresses by two of the country's leading architects, case studies, and practical workshops on topics such as financing design excellence, promoting better collaboration between architects and artists, and materials selection--vandalism and maintenance.
- To address the issue of adequate financing for transit and the difficult policy decisions facing operating authorities regarding fare setting and the role fares should play in meeting financial needs, the Urban Mass Transportation Administration (UMTA) and the American Public Transit Association (APTA) sponsored a fare policy seminar, with the help of PTI, for general managers and board members in Region III. The seminar was held in Washington, D.C. in September 1981, at APTA's offices. Consulting experts presented the results of relevant research sponsored by UMTA's Office of Service and Methods Demonstrations.
- To test the effectiveness of the video teleconference as a means of communicating information to local officials quickly and efficiently and to address the need to find less costly alternatives to fixed route transit, PTI organized and staffed a successful teleconference under UMTA sponsorship in 1982. Entitled "Adjusting to Reduced Transportation Budgets: Operational Strategies," the teleconference provided local officials in five cities with information about alternative transportation services suitable for areas where conventional transit service is either impractical or unduly expensive.

Task Force information dissemination and technology sharing concerns are currently addressed by three products--SMD Briefs, Transit Actions and Transit Technology Briefs. SMD Briefs are short reports that provide up-to-date information about specific aspects of on-going projects of UMTA's Office of Service and Methods Demonstrations (SMD). In addition, the SMD HOST Program allows transportation officials from selected jurisdictions to visit one of these projects for on-site training. Transit

Actions cover the on-going projects of UMTA's Office of Transportation Management. Each Action provides timely information that will be especially useful to transit managers concerned with improving their transit systems' efficiency and effectiveness. Transit Technology Briefs report on projects sponsored by UMTA's Office of Technology Development and Deployment. These timely documents provide information that should be of direct benefit in the improvement and productivity of transit system operations.

Additional Technology Sharing occurs through the National Cooperative Transit Research Program (NCTRP) which was organized jointly by Public Technology, Inc., the American Public Transit Association, the Urban Mass Transportation Administration, and the Transportation Research Board to address problems relating to public transportation identified by local and State government and transit administrators.

The support of the U.S. Department of Transportation's Technology Sharing Division in the Office of the Secretary, Federal Highway Administration, National Highway Traffic Safety Administration, and Urban Mass Transportation Administration has been invaluable in the work of the Transportation Task Force of the Urban Consortium and the Public Technology, Inc. staff. The guidance offered by the Task Force members will continue to ensure that the work of the staff will meet the urgent needs identified by members of the Urban Consortium for Technology Initiatives.

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- Gerald R. Cichy  
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Montgomery County  
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## Chapter 1

### PROBLEMS, APPROACHES, AND ISSUES

#### THE PROBLEM

Local government officials are looking for ways to manage the impacts of both residential and non-residential growth and development. This is particularly true in rapidly growing communities where new development can place a strain on already tight local capital and operating budgets, but it is also true in less rapidly growing, mature communities where demands for the rehabilitation and maintenance of facilities may also be considerable.

Local officials have used a variety of tools--assessments, exactions, and fees, as well as planning controls--to reduce the impact of new development on a variety of public services and facilities and the local budgets that finance these improvements and service. For the purposes of this Information Bulletin, the phrase "growth management tools" is used to describe these tools. Although growth management tools have many uses, their role in the provision of transportation services was identified in 1981 as a priority need by the Transportation Task Force of the Urban Consortium.

In the area of transportation, there are a number of factors that have increased the need for growth management tools, including:

- The impact of inflation on local budgets.
- Voters and State legislatures that have set limits on local governments' ability to raise taxes and on the rates at which local budgets can grow. As of January 1, 1981, tax limitations were in effect on the following:
  - Property tax rates in 14 States.
  - Specific property tax rates in 31 States.
  - Property tax levies in 20 States.
  - General revenues in 3 States.
  - General expenditures in 6 States.
  - Assessment increases in 4 States.

Approximately 27% of these limitations were enacted after 1978, including 35% of the overall property tax limitations, 40% of the property levies limitations, 100% of the general revenues limitations, and 75% of the assessment increase limitations.<sup>1</sup>

- Decreasing revenue from fixed-rate motor fuel taxes and autoweight registration fees that in the past have been an important source of financing for State and local transportation projects.
- Decreasing Federal funds.
- Transportation systems that are already operating at, near, or above capacity.
- Transportation systems that are in need of extensive maintenance and rehabilitation.
- Highway construction and maintenance costs that have increased twice as fast as the general rate of inflation.<sup>2</sup>

The cost for provision of transportation services can represent a major portion of the costs of providing public improvements necessitated by new development. In San Diego, city officials report that transportation projects make up half or more of the cost of all needed public facilities for new communities. These factors affect both rapidly growing communities and communities with large scale redevelopment and slower growing, mature communities.

To manage growth and its impacts, local officials are looking for ways to:

- Encourage high-density cluster development for which it generally may be less expensive to provide public facilities such as streets and water and sewer services.
- Influence the location and timing of growth to encourage infill development and development in other areas already adequately served by public facilities and discourage development in areas where such services are not available.
- Shift the cost of providing the services and facilities necessitated by growth from the public sector and the community as a whole to the developer and, in turn, to the purchaser of a property.

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<sup>1</sup> John Shannon. "The Great Slowdown in State and Local Government Spending in the U.S.: 1976-1984." Paper presented to the Organization for Economic Co-Operation and Development Conference, Stockholm, Sweden, June 1981.

<sup>2</sup>

Edward M. Whitlack, "Current Issues Facing Transportation Policy Makers," Traffic Quarterly, July 1981, p. 323.

A variety of growth management tools is examined in this report including assessments, exactions, impact fees and taxes, growth staging plans, adequate public facilities ordinances, and developer incentives. Site-planning techniques that reduce the costs of public improvements are examined briefly. Descriptions of ways these tools and techniques are used by local governments are included in Chapter 2.

Before instituting any of these approaches, local officials must assess carefully their effectiveness, benefits, and cost when used in their own communities. Some researchers feel that the full costs, including those over the long term, associated with the use of these tools has not been examined adequately. This concern is examined in the Issues section of the Information Bulletin.

Other major issues affecting the use of these tools are also discussed including:

- Legal concerns.
- The philosophical concern of who should pay for improvements--future or current residents.
- Response of the building and development industry.

#### LOCAL EXPERIENCE--AN OVERVIEW

Through the use of growth management tools, a variety of essential public services and facilities as well as amenities can be provided. Included are services and facilities that otherwise couldn't be provided without raising taxes or allowing other facilities to deteriorate and services to be curtailed. To finance these improvements, local governments have instituted growth management programs through which fees, exactions, and taxes are collected that range from \$100 to \$200 up to several thousand dollars for development of a residential unit. One jurisdiction in Florida reportedly collects \$13,000 per unit.<sup>3</sup>

Many jurisdictions require developers to provide not only streets, sidewalks, street lights, and other on-site improvements, but also off-site improvements at intersections and along streets adjacent to the development. In Irvine, California, the company that owns about 95% of the City's developable land, has agreed to contribute \$2.7 million to the City for circulation improvements. In Thousand Oaks, California, residential developers are charged \$64.30 a unit for units that generate 10 trips a day, for traffic signal improvements, in addition to a road improvement fee that is proportionate to the length of road adjacent to the development. Developers are also required to pay a proportionate share of the costs of road improvements adjacent to subdivisions in Bolingbrook, Illinois. In

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Address by J. Nicholas, Impact Fee Conference, State Association of County Commissioners, June 13, 1979. Cited by Paul Gougelman, "Impact Fees: National Perspective," Nova Law Journal, p. 138.

Roseville, California, a 1% surcharge on the value of a structure is collected to finance traffic circulation improvements. A similar fee is collected in Rockland, California, but at the rate of 1.09% of construction costs for road improvements and .003% for traffic signal improvements.

Often local officials and developers negotiate improvements on a case-by-case basis. The developer of a large office, residential, hotel, and commercial complex in Fairfax County, Virginia, agreed to make an estimated \$18 million in road improvements and coordinate a ridesharing program for 11,000 commuters as conditions of development approval. In San Francisco, construction of 43-story office building was approved on the condition that the developer coordinate a transportation brokerage and ridesharing program, provide a pedestrian-way between two existing streets, and contribute to the construction of a pedestrian bridge to the Transbay Terminal. The developer must also analyze the traffic impacts of the development, investigate the feasibility of an intercept fringe parking facility and shuttle service, and finance a proportionate share of future transportation improvements.

San Francisco hopes to finance a portion of the on-going operations and maintenance costs of the Municipal Railway (MUNI) through impact fees collected from developers of downtown office buildings, on the assumption that there will be an increased demand for MUNI services from the tenants of these buildings.

Growth management tools can also be used to encourage development in areas that previously have been bypassed by development, but that are already served by adequate transportation services and facilities. Jurisdictions can also use growth management tools to assure that development will not take place before necessary public improvements are in place.

Benefits are also realized through the use of site planning and design techniques such as cluster zoning. The National Association of Home Builders estimates that up to \$1,000 a unit can be saved on land-clearance, street paving, and storm sewers when housing is clustered or concentrated on a portion of a site and lot sizes are reduced.<sup>4</sup> The Real Estate Research Corporation reports that the cost of providing roads and utilities is about 55% lower in high-density developments than in low-density developments. In this study, low-density developments are defined as composed of single family homes, 75% sited in traditional grid patterns and the rest clustered; high-density developments are composed of 40% high rise apartments, 30% walkup apartments, 20% townhouses, and 10% clustered single family homes. Although operating costs and the provision of certain public services may be higher per unit in high density development, the capital costs per unit that are borne by the public sector generally are proportionately less for high density development than for low-density development.<sup>5</sup>

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Welford Sanders, "Cluster Housing: A Zoning Option," Planning, December 1980., p. 24.

5

Real Estate Research Corporation, "The Costs of Sprawl: Detailed Cost Analysis," Management and Control of Growth, Volume II, pp. 580-582.

The use of growth management tools has also provided cities with an improved overall capability for managing the implementation of their general or comprehensive plans. In the past, such plans often did not contain financing plans for the recommended new facilities or services.

## THE APPROACHES

Local governments use a variety of growth management tools. Some of the tools are used specifically to aid in the provision of transportation services and facilities while others are used in the provision of a wide range of public services and facilities.

### Assessments, Exactions, and Fees

Assessments, exactions, and impact fees and taxes have been used to finance the costs of public improvements for many years. However, these techniques are being used with greater frequency and in new ways by jurisdictions that want to manage the impacts of growth on existing transportation services and facilities and on the community's ability to finance new services and facilities.

The terms special assessments, exactions, and impact taxes and fees are used in reference both to very specific techniques and actions and generically. State laws authorizing local governments to impose special assessments, exactions, impact taxes, and fees vary as to the types of improvements that can be financed, the manner in which the funds can be collected, and the manner in which the funds may be spent. The responses of the courts have also varied in terms of what constitutes an assessment, exaction, fee, or tax, how it can be imposed and for what purposes.

Local market conditions and demands for development will determine whether a jurisdiction is successful in collecting these development charges or whether the charges drive developers to other jurisdictions. A jurisdiction's success will also depend on the types of controls and levels of charges imposed by neighboring jurisdictions.

Special Assessments. Special assessments are levied on a property or properties to collect some or all of the revenue required to finance public improvements that benefit the property or properties and that are necessitated by its development. Special assessments are collected for improvements that benefit directly particular properties as opposed to improvements that benefit the public or community as a whole.

Special assessments often are backed by bonds that governments issue to generate revenue for public improvements. Special assessments were used as early as 1691 in the United States to finance road improvements in New York City and were used frequently between 1900 and 1930 in rapidly growing cities in the Midwest, South, and West. During the Depression defaults on municipal bonds backed by special assessments were commonplace. As a result, financial institutions approached special assessments more cautiously, and State legislatures and courts imposed new and stiffer requirements. Consequently, although local governments continued to use special assessments, local governments looked for additional ways to finance the

public improvements necessitated by development. One of the techniques they turned to was exactions.

Exactions. Exactions may take the form of land and facilities, often referred to as dedications, or money. Exactions are passed from developers to the government. They are imposed by government as a condition of development approval and may be imposed at various points in the development approval process.

Local governments often use exactions for on-site improvements including parks and roads and the provision of improvements such as sidewalks, streets, street lighting, and traffic signals. Exactions can involve fee in-lieu-of facilities or land. These fees are often used for off-site improvements.

The conditions of an exaction may be stated in specific terms in a State law or local ordinance such as a zoning ordinance or subdivision regulations. Frequently, however, the conditions of an exaction are determined through negotiations between the developer and local officials. Local market conditions, the demand for development, and the type and level of growth management controls and charges imposed by neighboring jurisdictions can have a significant impact on local officials' success in negotiating desired improvements. Developers, however, are frequently very critical of negotiated exactions because often they must make a major financial commitment to a project in terms of the preparation of feasibility and marketing studies, site plans, and other preliminary analyses before knowing the nature and cost of the exactions that local government may impose.

A local jurisdiction's legal authority to impose exactions is derived from State law. In some States, the authorizing legislation is very specific as to the types of services and facilities that can be exacted. In other States, the law is not specific or there is no law authorizing exactions.

Developers frequently challenge the legality of exactions. Some of these challenges have been successful, and the courts have placed limitations on the authority of local governments to impose exaction (see Legal Issues, below). Many local governments have used exactions without any legal problems. However, many developers comply with the requirements of an exaction even if they believe it is illegal because the costs of litigation and delayed development are often greater than the exaction costs.

Impact Taxes and Fees. Impact taxes and fees are collected by local governments to finance improvements necessitated by development's impact on existing services and facilities. Local governments use impact taxes and fees as both alternatives and supplements to special assessments and exactions.

Impact taxes and fees provide local governments with greater latitude in financing the public improvements necessitated by new development and can be used to finance off-site projects such as intersection improvements, new streets, and traffic signals, as well as transit services, and transit and highway operating and maintenance costs, which seldom can be financed with exactions. In California, impact taxes need not even be spent for services and facilities that benefit the development from which the money

was collected. Impact fee and tax rates generally are specified in local ordinances and legislation. These rates are usually based on a charge for a given unit such as a residential unit, or a square foot of commercial or office space. An impact tax or fee may entail a fixed charge for each unit or a variable charge based, for instance, on the type of use and the amount of traffic the use is projected to generate. Local governments may impose an impact tax or fee to collect some or all of the costs of providing the public improvements necessitated by development.

Impact taxes or fees can be used in conjunction with small-scale developments that may not have an immediate impact on existing services and facilities but an incremental impact that will be felt in conjunction with the impact of other developments. Many developers prefer impact taxes and fees to the uncertainty of exactions, since the former allow developers to know before proceeding with a project how much they will have to contribute for public improvements. Local officials often prefer impact taxes and fees because generally they are easier and faster to administer than exactions.

Some local officials believe it is impossible to develop a standard formula or set of formulas that can accurately measure the impact of all types, densities, and magnitudes of development. However, impact taxes and fees are frequently used in combination with exactions, particularly for large-scale projects, to recover the costs of improvements.

Cost Recovery Districts. Cost recovery districts permit a jurisdiction to require that a developer provide at his cost certain public improvements that the city will repay a portion of from fees collected from future subdivisions that benefit from the improvement. The area of benefit is established when the improvements are made. When proposals are submitted for future subdivisions, charges are assessed for the subdivision's share of the improvements, plus any interest charges. The money collected, including the interest charge, is passed on to the original developer.

### Planning Controls

A second category of growth management tools includes planning controls such as staging plans, adequate public facilities ordinances, and point-permit developer incentive systems. Communities use these controls to manage the location, timing, and density of development. Development can be encouraged in areas that are adequately served by public facilities and services and discouraged or prohibited in other areas. Planning controls are used to encourage development of areas over which development has leapfrogged but for which adequate or excess capacity of service and facilities are already available.

Local governments may recover the costs of public improvements through the use of planning controls although this may not be the primary reason for which the controls were enacted. Often these controls are instituted simply to control or slow development.

Adequate Facilities Ordinances. An adequate public facilities ordinance is a relatively simple growth management tool. An adequate public facilities requirement is often included as part of a jurisdiction's sub-

division permit or review requirements. In terms of transportation services, an adequate public facilities ordinance might require as a condition of site-plan, zoning, or subdivision approval that:

- The existing off-site road systems are adequate to accommodate additional traffic generated by the development.
- The on-site road systems are adequate to serve the development and provide access for private cars, deliveries, transit, and emergency vehicles.
- Public transportation services are adequate to serve the residents of the development as measured by the frequency of public transportation serving the development, the proximity of transit stops, and other criteria.

An adequate public facilities ordinance may define terms such as "adequacy" and "accommodate," with standards such as Level-of-Service measures of highway and road service capacity, or the definition of these terms may be left to the discretion of the jurisdiction planning commission, review board, technical staff, or elected officials.<sup>6</sup>

An adequate public facilities ordinance can be used to encourage development of land previously by-passed by development and as an assurance that private development will not occur before a jurisdiction is able to provide public improvements.

These ordinances have been adopted by many communities, and at least one jurisdiction, Montgomery County, Maryland, is considering combining its ordinance with a proposed growth staging plan.

Staging and Phasing Plans. Growth staging and phasing plans go one step beyond most adequate public facilities ordinances by identifying the levels of future development that can be served adequately by programmed levels of future capital improvements. In the staging plan proposed by Montgomery County, levels of future residential and non-residential development have been set for each of 11 geographic areas in the County. These levels are based on:

- The availability of existing transportation and sewer services.
- The future availability of transportation facilities and services as indicated by the County's capital improvement program.

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Level-of-Service is defined on page 313 of the Institute of Traffic Engineer's Transportation and Traffic Engineering Handbook as "a qualitative measure that represents the collective factors of speed, travel, time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume level." Level-of-service criteria frequently are used in conjunction with growth management tools to measure the actual or projected impact of development on existing streets and highways.

To strengthen the tie between the County's capital improvement program and its staging plan, each would be reviewed and revised biennially, but in alternating years.

Both adequate public facilities ordinances and growth staging plans allow a jurisdiction to manage growth and mitigate its negative impacts on transportation services and facilities, but neither necessarily provides a means for local government to share the costs of public improvements with the developer. This can be accomplished through the use of a third category of planning controls, point permit developer incentive plans.

Point-Permit Developer Incentive Plans. Point-permit systems offer an incentive to developers to pay for public improvements. The incentive is development approval from the jurisdiction.

Developers receive points for providing on- and off-site public improvements such as bicycle paths, street lights, intersection improvements, and sidewalks. A community may require a developer to earn a minimum number of points before development approval is granted, or developers may compete with one another with approval going to the developer or developers earning the most points.

Point-permit systems are often used by jurisdictions that want to limit the amount of development that can take place either ultimately or in any one year. Usually, these limits are based on the amount of development that can be served by existing services and facilities in combination with projects included in the jurisdiction's capital improvements program. The effectiveness of a point-permit system depends to a large extent on local market conditions and demand for development.

In most cases, when local governments use the types of planning controls described above, development is permitted only if the necessary public improvements are available or will be available soon. However, in Ramapo, New York, where a point-permit system was instituted in the late 1960s, a vested right can be granted to a developer to proceed with a project at such time in the future as the necessary public improvements that are programmed become available. A similar approach could be used with adequate public facilities ordinances and staging and phasing plans.

Development Agreements. The State of California allows local governments to enter into development agreements with private developers. Development agreements are new land use planning mechanisms that permit developers and local officials to identify and agree to the conditions and rules under which development may proceed. In California, there are no specific requirements as to what may or may not be included in a development agreement. Development agreements can, for example, specify the on- and off-site improvements that a developer agrees to make, or specify that the local government agrees not to change any planning or zoning laws or policies affecting the development.

Development agreements can eliminate any uncertainty a developer might have as to whether a city will attempt to impose additional requirements at later stages in the development process. Development agreements can also

provide an assurance for the city that a developer will provide the services and facilities that have been agreed to.

## THE ISSUES

There are a number of issues affecting the use of growth management programs, including:

- Who should pay for what? Since costs imposed on developers generally are passed on to the purchaser of a property, should current or future residents of a community be required to pay for the improvements necessitated by new development? If future residents are expected to pay for these costs, the impact on the already high cost of housing is a concern.
- The concerns of the developer. Growth management programs have a very direct impact on a developer's costs and ability to plan. A developer's concerns and response to the imposition of growth management tools can have a direct impact on the effectiveness of a growth management program.
- The legal issues. Frequently, growth management tools are challenged in court, and some of these challenges have been successful. Courts have invalidated growth management programs and tools on several grounds.

### Who Should Pay For What?

Should new development pay its own way? Should the residents of a community be expected to pay the costs of extending new services and facilities to persons who want to settle in the community?

Should new residents be expected to pay for facilities and services that in the past were paid for by the whole community? Should new residents pay for public improvements simply because the community's existing residents do not want a tax increase? Should new residents bear only the costs of on-site improvements or should they also bear the costs of off-site improvements that might benefit the whole community either directly or indirectly by decreasing the burden on existing facilities? Is it right for local officials to impose taxes, fees, and assessments on future residents to whom the officials are not yet accountable?

State legislatures and the courts have provided some answers to these questions through statutes and rulings that specify what is and is not permitted. However, within the parameters established by the statutes and rulings, it is the local official who, based on his knowledge of local needs and sentiments, must address these questions.

### Concerns of the Developer

A second issue that local officials have had to address involves the concerns, attitudes, and responses of developers to growth management programs.

Of great concern to developers are the amount and types of charges that are imposed on various types of development. Some developers feel that they have more to gain by negotiating fees and improvements on a case-by-case basis with local officials; others prefer to know up-front what improvements or payments are expected.

Some developers have also expressed an interest in including charges for public improvements as part of the closing costs rather than as part of the selling price of a property. Because closing costs are not amortized, this approach could save a homeowner a significant sum of money over the life of a mortgage given current interest rates. Although this approach increases the initial cash outlay for a property, it may deserve further consideration, given the sky-rocketing costs of residential properties.

A related concern is the actual cost of providing public improvements. Developers generally have to borrow money at a higher interest rate than is available to local governments. Some developers have suggested that local governments give low-interest loans to finance required public improvements. Developers also want assurances that the money collected from a development is used to benefit that development rather than becoming part of the government's general fund.

The National Association of Home Builders (NAHB) is aware that local governments, particularly in States that restrict local governments' authority or ability to raise taxes, are in need of revenue to provide public improvements. NAHB is also aware that State courts are ruling in favor of an increasing variety of growth management tools. As a result, some builders feel that their members should support legislation that would eliminate restrictions on local governments' taxing authority because this would give local governments more flexibility to raise revenues for public improvements. They believe that this action would be more effective for its members than continuing to challenge local ordinances and legislation on a case-by-case basis.

While some builders have taken a stand on this matter, many developers have chosen to ignore the issue of growth management. These developers feel that if the issue is addressed, local government officials will learn what their counterparts elsewhere are doing, and then will ask developers in their own communities for more and more in terms of improvements and payments.

### The Cost of Growth Management

Researchers have raised questions about the costs and benefits that will result from land use policies that encourage high density, compact development, and urban infill on a metropolitan wide basis. Such land use and development policies may lead to higher household costs and government operating costs.

Questions have also been raised with regard to the impact of growth management programs on the supply and cost of developable land. A recent study of 30 metropolitan areas indicated that the prices for land increased

the fastest in communities with the most stringent growth restrictions.<sup>7</sup> Another recent study indicated that even in areas with large amounts of vacant land, the land may not be available for development. In the three metropolitan areas studied, 50% of the owners of vacant land were not interested in selling or developing their land during the next five years.<sup>8</sup>

The research suggests that local officials should take a closer look at growth management and infill development policies and the amount and location of available and developable land. They further caution that as a result of growth management policies, a few landowners may gain a monopoly on developable land or that speculative land investments may be encouraged.

Closely associated with these concerns is that of the cost of the housing itself. In a number of jurisdictions in California, special assessments and charges that have been imposed since the enactment of Proposition 13 have added as much as \$4,000 to \$6,000 to the cost of a single-family home. The cost that growth management tools can add to the already high cost of housing is a major issue to the increasing numbers of people for whom home-ownership has become a great financial burden or an impossibility.

### Legal Issues

Growth management tools are often subject to legal challenge. The responses of the courts to these challenges have varied from State to State and within States. The law in this area is still in a state of development.

Assessments, exactions, impact fees, and other planning controls have withstood many legal challenges, especially when they have been carefully developed and when the burden imposed on the developer or new residents is offset by a substantial benefit to the new residents. Several issues have recurred in the court decisions dealing with such ordinances.

Although a few courts have held that a municipality has inherent authority through its police power to enact ordinances imposing exactions or impact fees, many courts have struck down such ordinances because there was no State enabling statute to serve as a legal basis for a local ordinance, because the local ordinance exceeded the scope of existing enabling legislation, or because a particular requirement exceeded current local legislation.

A State enabling statute may grant general or specific authorizations. For example, a State may authorize a local government to require developers to provide on-site roads and to coordinate these roads with existing off-site roads, but may not authorize the use of fees for off-site road

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James Hoben and Tom Black, "Residential Land Policies: Variations Between Metropolitan Areas," Draft of article prepared for publication in Urban Land. n.d.

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Urban Infill: Its Potential As A Development Strategy. Real Estate Research Corporation. Chicago, October 1981.

improvements. A statute might permit exactions for parks, but not for police stations, schools, or sidewalks. If an enabling statute is ambiguous, it is more likely to lead to litigation, and courts will have more leeway within which to invalidate a local ordinance.

Local ordinances, and the State enabling statutes on which they are based, are exercises of the State's inherent police power to provide for the general welfare of the public, which includes managing development to provide sufficient services for residents. To simplify matters, such exercises of the police power by local jurisdictions are valid if they are based on an enabling statute, are enacted for a legitimate purpose such as providing services and making capital additions, and if they are reasonable.

Most litigation concerning growth management tools has centered on whether a particular ordinance is reasonable under the circumstances. Ordinances enacted under the police power are subject to the due process requirements of the Fifth and Fourteenth Amendments. Due process is satisfied if an ordinance is the result of a regular legislative process and is reasonable. Various courts have adopted different standards for determining the reasonableness of growth management ordinances.

The supreme courts of Florida, New Hampshire, and Mississippi have applied the "Rational Nexus" test, which is probably the currently predominant standard. Under this standard, the reviewing court is directed to balance the impacts and benefits among the developer, incoming residents, and local governments. Both the developer and the locality are required to present evidence as to the amount of increased demand for public services and the degree of expected benefits. For example, in determining the validity of an ordinance that requires a developer to pay for improving roads adjacent to the development, a court would consider the original traffic pattern, the expected amount of increase in traffic, and the extent to which both prior residents and new residents are to be benefitted.

A second prevalent standard is the "Reasonable Relationship" test. This standard places the burden on the developer to prove that the local ordinance is unreasonable or excessive. For example, a California court approved a requirement that a developer dedicate an 80-foot-wide strip of land for an access road, even though the road itself would be only 60 feet wide. In the court's opinion, the developer failed to show that the exaction went grossly beyond a legitimate need.

However, legislation recently enacted in California specifies that in the case of growth control ordinances the burden of proof for reasonableness rests with the municipality. For the purpose of this legislation, growth control ordinances are defined rather specifically to include ordinances that either limit the number of buildable lots or the number of building permits issued by a jurisdiction.

Another standard that has been discussed frequently but that has not been widely adopted, is the "Specifically and Uniquely Attributable" test. With this test, the burden is on the locality to justify the exaction, assessment, or fee and prove that it is not excessive given the level of increased service demands specifically caused by the development. For

example, a village in Illinois sought to compel a developer to dedicate 6.7 acres of land for a new school. The State Supreme Court ruled that because the proposed development would not generate the need for a school, but would contribute to only a small degree to the need for a school, the exaction was invalid.

Under each of these tests, an ordinance is more likely to survive a court challenge if it is a well thought-out attempt to make developers pay a fair share for the cost of increased services and capital improvements. Courts have enumerated two factors that affect the validity of an ordinance. First, a fee or exaction must be based on an actual need for increased services. Second, the levy must not be excessive. The courts have differed greatly on whether a fee or exaction must be strictly limited to the amount of increased need, or may exceed that amount. Some courts have been very liberal in permitting municipalities to impose a greater fee than absolutely required by the circumstances, while other courts have been much more stringent.

A fee, exaction, or assessment is most likely to withstand a court challenge if it is roughly proportional to the increased service requirements. Many courts have struck down growth management controls that they believed were grossly disproportionate.

Another important factor is that funds from the levy generally must be earmarked for the particular service area or capital improvement. Although a few courts, including the courts in California, have held that levied funds may go into general revenues, many jurisdictions have earmarked the funds collected from a developer for the benefit of the owners or residents of the development by establishing a special account separate from the jurisdiction's general fund. The proportionality and earmarking factors point to the difference between a fee and tax. A fee is supposed to benefit those who pay it; a tax is for the benefit of the general public. Thus a fee that does not go to the benefit of those who paid it may be struck down as a hidden tax.

A number of other issues have been raised with regard to fees and exactions, but have rarely been addressed by the courts. Exactions have been challenged on the basis that they violate the Fifth and Fourteenth Amendments. While a few courts have held that exactions or fees amounted to a "taking" without compensation, most courts have ruled that because the value of the property is raised by capital improvements and service provision, value has been received in return for the exaction. Some courts have also noted that a taking did not occur because the developer initiated the need for capital improvements.

In other suits, fees have been challenged on the basis that the equal protection clause of the Fourteenth Amendment was violated because old residents were disproportionately benefited by a fee imposed on new residents. For example, a Utah court struck down a \$100 per unit building permit fee because it placed a disproportionate burden for the cost of public improvements on new residents. But if an exaction or fee is proportionate to the benefit conferred on new residents, or if at least a substantial benefit is conferred on new residents, the exaction is likely to survive an equal protection challenge.

Many communities are also adopting growth management planning controls, which control the rate of development or otherwise affect its direction. If such planning controls are shown to reflect sound planning, based on professionally prepared studies, they should survive court challenges.

There are, however, limits on growth management plans. They cannot be exclusionary. Development cannot be restricted simply to avoid burdens on service systems to the benefit of current residents. Thus a flat limit on the number of dwelling units in a municipality is likely to be struck down as exclusionary. Growth management planning controls are also subject to invalidation if they are not the result of a sound planning process. Thus planning controls have been struck down because they were inconsistent with a comprehensive land use plan, and because an underlying comprehensive land use plan was itself inconsistent with the zoning ordinance.

## DESIGNING AND IMPLEMENTING GROWTH MANAGEMENT PROGRAMS

There is no guarantee that a growth management program that has been effective in one community will be equally effective in another. A community's needs and policies and the State's statutes and court rulings must be carefully considered before growth management programs, tools, and techniques are instituted.

Just as there is no single growth management tool or technique that can be transferred from one community to another, neither is there a single or recommended process that can be followed in designing and implementing a growth management program. However, there are several steps in the process that warrant careful consideration.

### Background Data

Often the first step in developing a growth management program is an inventory of:

- The community's existing public services and facilities, their condition and current level of utilization.
- Future public improvements planned by local, State, and regional governments for the community.
- Existing levels of development by type, density, and use.
- Future development by type, density, and use for which development approval has already been granted.

This information is important because it forms the basis on which decisions are made regarding the impacts of development. It may already exist in usable form; however, it is important that the inventory be kept up-to-date. Large or rapidly growing communities may find it necessary to computerize their inventories.

### Service Standards

Service standards also serve as a basis upon which decisions regarding the impacts of development are made. Communities can adopt a wide range of acceptability standards including standards for:

- Operating capacities for streets and highways.
- Frequencies of transit service.
- Transit stop locations.
- The construction and design of streets and highways, parking areas, and bus stops.
- The location and spacing of street lights along various types of streets.

These standards may be based on criteria recommended by organizations such as the American Planning Association and the Institute of Transportation Engineers.

### Fiscal Impact Analyses

Decisions regarding the impacts of growth often are also based on fiscal impact analyses. However, the accuracy and validity of these analyses is a controversial issue. Fiscal impact analyses are based on population data that often are out of date, and on assumptions about future social, political, and economic conditions and trends. Different assumptions about the future can produce very different results. For example, two fiscal impact analyses were made for a large residential development proposed for Contra Costa County, California. The analysis by the County planning department staff indicated that the development would produce an annual deficit of \$104,000. The analysis made by the consultant indicated an annual surplus of \$1.2 million.<sup>8</sup> Research has indicated similar discrepancies in other comparative studies.<sup>9</sup>

Although the validity and accuracy of fiscal impact analyses has been questioned, it is studies such as these as well as background data, service standards, and adopted plans and ordinances that are used to justify the implementation of growth management policies.

### The Funds

Taxes, fees, assessments, and exactions collected as part of a growth management program generally must be used to benefit the development from which they are collected. Many communities establish separate

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Bernard J. Frieden, Allocating the Public Service Costs, pp. 18-19.

9

Thomas Muller, "Fiscal Impact: Methods and Issues," in Management and Control of Growth, Volume II, p. 535.

accounts in which to deposit revenue from these sources. As a result, the revenues are easier to manage than if the revenues were included in a general fund, capital improvements fund, or other existing accounts.

### Cooperative Efforts

Local officials may wish to involve developers and builders in the process of selecting and implementing growth management programs. This helps local officials to understand the needs and concerns of the developers and builders and allows the builders and developers to understand better the jurisdiction's financial situation and its purposes in implementing a growth management program. Local chambers of commerce and home builders associations might help local officials identify builders and developers from among their membership to assist in such an effort.



## Chapter 2

### CONTACTS AND CURRENT PROGRAMS

Information about growth management programs, tools, and techniques can be obtained from the following Federal government offices, private organizations, and local officials.

#### FEDERAL PROGRAMS AND NATIONAL ORGANIZATIONS

##### U.S. Department of Transportation

- Office of the Secretary  
Office of Transportation Economic Analysis  
Concerned with the land use and economic impacts of transportation improvements.  
Contact: Edward Weiner (P-35)  
Office of Transportation Economics Analysis  
Office of the Secretary  
U.S. Department of Transportation  
400 7th Street, S.W.  
Washington, D.C. 20590  
(202) 426-4441

##### Department of Housing and Urban Development

- Office of the Assistant Secretary for Policy Development and Research  
Concerned with the land planning and growth management efforts of local governments.  
Contact: James E. Hoben  
Chief, Community Planning and Design Branch  
Room 8210  
Department of Housing and  
Urban Development  
451 7th Street, S.W.  
Washington, D.C. 20201  
(202) 655-5422

### National Association of Home Builders

- Concerned about the impacts that the use of growth management tools have on housing costs and on the home building industry.  
Contact: Nancy Lieberman  
Staff Attorney  
National Association of Home Builders  
15th and M Streets, N.W.  
Washington, D.C. 20005  
(202) 822-0200

### American Planning Association

- Conducts and sponsors research on a wide range of land use issues and growth management techniques.  
Contact: Gregory Longhini  
Senior Research Associate  
American Planning Association  
1313 East Sixtieth Street  
Chicago, Illinois 60637  
(312) 947-2575

### LOCAL PROGRAMS

- Aurora, Colorado--Street Improvement Assessment District  
In Aurora, a street improvement assessment district can be established to collect money from adjacent property owners for the extension, improvement, or widening of major arterials abutting or lying within a residential, commercial, office, or industrial subdivision. In addition, developers are required to provide on-site improvements including streets, street lights, sidewalks, and street signs.  
Contact: Frank Mizner  
Transportation Planner  
Department of Planning and Community Development  
City of Aurora  
1470 S. Havana Street  
Aurora, Colorado 80012  
(303) 695-7250
- Bolingbrook, Illinois--Road Improvement Fee  
The Village of Bolingbrook requires as a condition of development approval that subdivision developers improve existing streets and construct proposed streets that would abut their subdivision. If subsequent development takes place, the first developer is reimbursed, at least in part, by later developers. Developers are also required to reimburse the Village for any improvements made by the Village to streets adjacent to their subdivisions.  
Contact: Richard F. Kozdras  
Director of Community Development  
Village of Bolingbrook  
375 W. Briarcliffe Road  
Bolingbrook, Illinois 60439  
(312) 759-0430

- Boulder, Colorado--Point Permit System

Boulder's Residential Allocation Plan, also known as the Danish Plan, limits residential development to 450 units a year with 175 units within the central city and the remainder in the City's periphery. If requests for development exceed the annual limit and if the proposed developments are in accordance with other City land use and zoning regulations, a merit system review is conducted for the projects. The proposals earning the most points are approved. A development proposal can receive from minus 25 to plus 105 points. Up to 14 points can be awarded for the provision or the availability of transportation facilities. Although this is only 13 % of the available points, it is a relatively important portion, as only two points are allocated for the availability of other public services and facilities such as parks, sewer services, and schools.

Contact: Frank Gray  
Director  
City Planning Department  
1739 Broadway  
Boulder, Colorado 80302  
(303) 441-3270

- Broward County, Florida--Traffic Impact Mitigation Measures

Broward County has adopted Development Review Requirements that require developers to pay for street and highway improvements necessitated by the development. The need for improvements is based on the development's impact on the operating capacity of the regional transportation system. If the capacity of the system falls to a level-of-service D or worse, the developer is required to provide either a proportionate share of additional capacity, such as additional lanes or intersection improvements, based on the development's share of the impact; contribute to the City's road fund the money required to make these improvements; or phase the development in accordance with improvements made by the County. The developer is also required to dedicate right-of-way for roads that are in or provide access to the development and that are part of the County's adopted traffic ways plan.

Contact: Norm Standerfer  
Director  
Office of Planning  
955 South Federal Highway  
Fort Lauderdale, Florida 33316  
(305) 765-8246

- California--Development Agreements

The State of California allows local governments to enter into development agreements with private developers. Development agreements are new land use planning mechanisms that permit developers and local officials to identify and agree to the conditions and rules under which development may proceed. There are no specific requirements as to what may or may not be included in a development agreement. Development agreements can, for example, specify the on- and off-site improvements that a developer agrees to make, or specify that the local government agrees not to change any planning

or zoning laws or policies affecting the development. The agreements can eliminate any uncertainty a developer might have as to whether a city will attempt to impose additional requirements at later stages in the development process and can also provide an assurance for the city that a developer will provide the services and facilities that have been agreed to.

Contact: League of California Cities  
1100 K Street  
Sacramento, California 95814  
(916) 444-5790

- Fairfax County, Virginia--Off-Site Improvements and Ridesharing Provisions

Fairfax County rezoned a 334 acre tract of land for a mixed use development that will include 3.6 million square feet of office development, 1,100 residential units, and a large hotel, on the condition that the developer make specified road and storm water control improvements and organize a ridesharing program for 11,000 commuters. The road improvements currently are estimated to cost \$18 million. The ridesharing program is important because the developers have agreed to halt construction temporarily if the office development generates more than 3,300 commuter vehicles daily.

Contact: Elizabeth Baker  
Planner  
Fairfax County Planning Department  
4100 Chain Bridge Rd.  
Fairfax, Virginia 22030  
(703) 691-4236

- Fairfield, California--Profit-Sharing Plan

The City of Fairfield granted approval for the development of a regional mall with one million square feet of floor area after the developer agreed to pay the City 55¢ per square foot of gross leasable floor area or \$350,000, whichever is greater, a year for 25 years for off-site improvements including construction of an interchange, street widening, and other traffic improvements. The developer also agreed to give the City, on an annual basis, 10% of all leasing profits between \$250,000 and \$500,000, 15% of profits between \$500,000 and \$750,000, and 17% of profits in excess of \$750,000. This agreement runs in perpetuity and includes revenues from any refinancing of the project. The money will go to the City's general fund to cover maintenance and service provision costs generated by the mall.

Contact: B. Gale Wilson  
City Manager  
Fairfield City Hall  
1000 Webster Street  
Fairfield, California 94533  
(707) 425-1031

- Fort Collins, Colorado--Point-Permit System

Fort Collins has adopted a Land Development Guidance System to encourage higher density development than was permitted previ-

ously, mixed-use development, and large scale development on the City's periphery. Proposed developments are evaluated according to absolute, variable, and density criteria. Absolute criteria, such as compliance with adopted street policies and design specifications and the prohibition of adverse traffic impacts, must be met as a condition of development approval. Variable criteria, for which points can be earned, are intended to encourage the provision of amenities, good design, and the responsible utilization of natural resources. A specified minimum number of variable points must be earned as a condition of development approval. Density criteria are used to determine the density bonus a project can earn based on the number of points it receives. Variable criteria are given for the provision of sidewalks, pedestrian amenities, bikeways, joint-use parking, and a variety of other transportation and circulation improvements.

Contact: Joe Frank  
Senior Planner  
Planning Division  
City of Fort Collins  
P.O. Box 580  
Fort Collins, Colorado  
(303) 484-4220

- Fresno, California--Service Area Fiscal Impacts

Fresno's Urban Growth Management Plan stipulates that a developer must provide urban-level services for all new development unless such services are already available and unless the annual cost of service provision will be covered by the property taxes generated by the development. As a result of service delivery and cost/revenue analyses conducted in conjunction with development proposals, the City has required developers to make major off-site street improvements and construct enough units to reach a cost/revenue break-even point in a specified time period. The City has also placed liens on developers' properties to ensure that public improvement costs can be covered if a developer fails to perform.

Contact: George A. Kerber  
Director  
Planning and Inspection Department  
Fresno City Hall  
Fresno, California 93721  
(209) 488-1591

- Irvine, California--Joint Partnership and Circulation Improvements

The City of Irvine has adopted a Circulation Improvement and Residential Phasing Program. The program was developed by the City in partnership with a developer who owns 95% of the City's developable land. The program includes an 18-month road construction and improvement phasing program to which the City is committed to contributing \$890,000 and the developer \$2.7 million. The developer's contribution is for roads that serve areas with residential zoning. As partners, the City and developer are also working together to secure State and Federal roadway funds.

Contact: William Woolett, Jr.  
City Manager  
City Hall  
17200 Jamboree  
Irvine, California 92714  
(714) 754-3605

● Montgomery County, Maryland--Adequate Public Facilities Ordinance and Staged Growth Plan

Montgomery County has adopted an Adequate Public Facilities ordinance that authorizes the County Planning Board to withhold approval of a subdivision plan if any of eight categories of public facilities will not adequately serve the proposed development. The adequacy of road and highway facilities is determined by the percentage of travel at level-of-service E or worse and the type, level, and availability of transit service. These determinations are made for each of 11 geographic service areas in the County. The County's proposed Comprehensive Staging Plan would be used in conjunction with the Adequate Public Facilities ordinance. For each of the 11 policy areas, acceptable levels of future growth are designated based on the level of facilities both currently available and programmed for the future. Of the eight categories of public facilities, transportation facilities are the most important in determining the acceptable stages of growth for each policy area.

Contact: Drew Dedrick  
Special Projects Office  
Maryland-National Capital  
Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20907  
(301) 565-7451

● Petaluma, California--Point-Permit System

Petaluma adopted one of the first and perhaps most thoroughly scrutinized point-permit systems in the country. Each year the City sets allocation quotas for residential developments in various sections of the City. Development proposals, if in accordance with the City's adopted plans, are then reviewed in terms of their impacts on public facilities. Each project receives points and a rating based on design qualities, the provision of amenities, and the development's impact on public services and facilities. Projects are approved beginning with those with the most points and highest rating and continuing until the annual allocation has been exhausted. The City also collects impact fees to finance public improvements.

Contact: Warner Salmons  
Planner  
City Planning Department  
11 English Street  
Petaluma, California 94952  
(707) 763-2613

o Ramapo, New York--Development Staging Plan

Ramapo's growth management plan requires that all residential developments of two or more lots are reviewed in terms of the availability of public facilities as designated in the Town's 18-year capital improvements plan. Each development proposal receives points based on the availability of these facilities. The Town will permit a developer to proceed only if an adequate number of points, as specified in the zoning ordinance, are available. If adequate facilities are not available at the time of the review, but are included in the capital improvements program, the developer is given the vested right to proceed with the development once the necessary facilities are available. Developers may also earn the required points by providing the services and facilities themselves.

Contact: John A. Keough  
Administrative Assistant  
Town of Ramapo  
237 Route 59  
Suffern, New York 10901  
(914) 357-5100

● Redding, California--Construction Tax

Redding imposes a construction tax on all residential and nonresidential construction, reconstruction, and modifications. The construction tax includes capital improvements, storm drainage, and electric service elements. The tax for capital improvements is \$200 on a single-family dwelling unit and \$.10 for each square foot of non-residential development. Developers who make off-site road improvements as a condition of development approval may receive a credit towards the capital improvements element of the construction tax if improvements represent at least 10% of the costs for all principal improvements required for approval of the subdivision and if the off-site improvements benefit properties outside of the subdivision.

Contact: William Brickwood  
City Manager  
City Hall  
760 Parkview  
Redding, California 96001  
(916) 246-1151

● Roseville, California--Traffic Circulation Fee

The City of Roseville has imposed a 1% surcharge on all new construction in order to raise revenue for traffic circulation improvements necessitated by new development.

Contact: Steve Dillon  
Director of Planning  
City of Roseville  
316 Vernon Street  
Roseville, California 95678  
(916) 783-9151

- San Diego, California--Facilities Benefit Assessment

The City of San Diego uses a Facilities Benefit Assessment (FBA) to finance certain public facilities including transportation facilities directly or indirectly necessitated by development in the City's Planned Urbanized Areas. The FBAs are collected from Benefit Assessment Areas, which are the areas that will benefit from the improvements. FBA's are calculated on a dwelling unit basis for residential development and on acreage bases for commercial and industrial uses. A schedule of charges is calculated for future years so that developers know what to expect. For example, the fee schedule charges for development occurring in one area of the City in 1985 are \$1665 for each multifamily dwelling unit, \$59,440 for each acre of commercial use, and \$7639 for each acre of industrial use.

The City has the option of preparing an FBA plan in response to a development request or in advance. A Community Financing Plan, outlining the methods and sources of funding for all needed improvements, must be prepared in conjunction with the FBA.

Contact: George T. Simpson  
Assistant Director  
Department of Engineering  
and Development  
City of San Diego  
1222 First Avenue  
San Diego, California 92101  
(714) 236-7067

- San Francisco, California--Transit Impact Development Fees

San Francisco's Board of Supervisors has adopted an ordinance that requires developers to pay an impact fee of \$5.00 for each square foot of office space in new, enlarged, or converted buildings within the downtown. The fees are to offset the added cost of operating and maintaining the San Francisco Municipal Railroad (MUNI) generated by new development. The ordinance has been challenged in court on the grounds that the fee is actually a tax for which a 2/3 vote of the electorate is required under the provisions of Proposition 13. The case is still pending.

The Board of Supervisions has also passed enabling legislation to create a smaller downtown assessment district within which an annual fee would be collected from the owners of all commercial buildings. These fees would be used to offset MUNI's operating costs.

Contact: Alan Lubliner  
Manager  
Center City Circulation Project  
San Francisco Department of City Planning  
100 Larkin Street  
San Francisco, CA 94102  
(415) 558-5423

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- Snohomish County Washington--Adequate Road Improvement Ordinance  
Snohomish County enacted an ordinance to ensure that roads are improved to serve adequately the increased demands generated by new development. The ordinance was enacted in response to the County's rapid large-scale growth and the inadequacy of County funding for road improvements and construction.

Depending on the level-of-service (LOS) on roads serving new development, the following apply:

- LOS A or B after development:  
No obligation placed on developer.
- LOS C after development:  
Developer must agree not to protest the formation of a future road improvement district.
- LOS D after development:
  1. Developer can agree not to protest the formation of a future road improvement district and in addition must agree to one of the following options:
    - a. Pay a fee of \$1,500 per unit.
    - b. Make improvements which partially address the road system deficiency; the scope of these improvements would be negotiated with the county.
  2. Developer can form a RID to remedy the LOS situation.
  3. Developer can pay his proportionate share of the improvements necessary to remedy the LOS situation.
- LOS E after development or a designated hazard on the road system:
  1. Developer can form a RID to remedy the LOS or hazard situation.
  2. Developer can pay his proportionate share of the improvements necessary to remedy the LOS or hazard situation.

Under LOS D requirements 2 and 3 and hazardous conditions under LOS E requirements 1 and 2, all improvements necessary to remedy the deficiency must be completed prior to occupancy of the development even if the developer is not required to fund the entire improvement.

The roads considered for the purpose of determining a developer's obligation are roads projected to be utilized by the majority of the traffic generated by the development in travelling between the development and the "nearest" state highway.

Contact: Harold Wirch  
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Administration Building  
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- Tempe, Arizona--Subdivision Exactions

Tempe requires developers to provide right-of-way dedication and full off-site improvements for streets and alleys within a subdivision and one-half of boundary streets adjacent to the subdivision. Construction drawings for these improvements must be approved by the City Engineer prior to issuance of a building permit and construction of off-site improvements must be completed and accepted by the City Engineer prior to release of the certificate of occupancy.

An Off-site Improvement Agreement may be accepted by the City postponing the improvements should such an agreement be in the best interest of the City. Upon entering the agreement, the owner/developer agrees to join a special assessment district for the improvements or construction upon request by the Public Works Director. The owner/developer may also post a cash bond to guaranty completion of the required off-site improvements should they not be completed at the time of request for certificate of occupancy.

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- Thousand Oaks, California--Traffic Impact Mitigation Fees

The City of Thousand Oaks has adopted three traffic impact mitigation policies: a traffic signal fee policy, a road payback fee policy, and a road improvement fee policy. The traffic signal fee policy entails two separate fees, one for signals at intersections identified in the City's master plan and one for other intersections. The fee for signals at master plan intersections is levied on all new developments and is based on the Average Daily Traffic (ADT) that the new development is expected to generate. The ADT is multiplied by a unit fee that is based on the installation cost of a signal (design, construction engineering, and construction costs) divided by the CALTRANS minimum ADT

volume warrant for a signal. If signals are needed at other intersections as a result of the development, the total construction cost is borne by the developer. In this case, developers are also required to pay the present-worth value of the traffic signal maintenance cost for 20 years.

The road payback fee policy requires that a developer pay the cost of paving a portion of the arterial roads adjacent to a proposed development if the roads have already been constructed by the City. The developer pays for a portion of the total project cost based on the project's road frontage. The project cost is adjusted for inflation so that the fees collected by the City are adequate to compensate for lost interest earnings on the monies advanced by the City.

The road improvement fee policy will provide funds for off-site arterial road improvements necessitated by development in an area of the City that has a particularly deficient street system. Funds totalling \$8 million will be collected from both residential and non-residential development at a rate, in 1978 dollars, of \$1,040 per dwelling unit and \$0.16 per gross square foot of non-residential development. The fees are adjusted for inflation based upon the increase in the California Highway Construction index.

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### Chapter 3

#### ANNOTATED BIBLIOGRAPHY

Clement, J.P. "Traffic Impact Mitigation Measures." Western City (May 1979) pp. 7-8.

This article summarizes Thousand Oaks, California's traffic signal, road payback, and road improvement fee policies.

Development Agreements. Sacramento, California: League of California Cities, 1980.

This manual was designed for local government officials, developers, and the public. The manual explains the California law authorizing development agreements, the implementation of development agreements, and pertinent legal issues.

"Development Agreements." Western City (March 1980) pp. 13-15,

This article describes development agreements, a new land use planning mechanism recently adopted in California. Development agreements permit local governments to enter into agreements with developers that outline conditions and rules under which development may precede.

Final Report of the Task Force on Housing Costs. William J. White, Chairman. Washington, D.C.: U.S. Department of Housing and Urban Development, 1978.

This report examines factors, including regulations imposed by Federal, state, and local governments, that the Task Force identified as contributing to the increasing costs of housing. These regulations include a number of growth management tools and techniques. The report includes a series of recommendations to help reduce or stabilize housing costs.

Fischer, Glenn W. Financing Local Improvements by Special Assessments. Chicago, Illinois: The Municipal Finance Officers Association, 1974.

This report discusses the types of public improvements for which special assessments may be used, relevant legal issues, and the administrative process of establishing special assessment districts and collecting and backing special assessment revenues.

Frieden, Bernard J. Allocating the Public Service Costs of New Housing. Prepared for the National Association of Home Builders. Cambridge, Massachusetts: Massachusetts Institute of Technology, Department of Urban Studies and Planning, 1979.

This report discusses the impact of increased government regulations on housing costs. The allocation of these costs to the public versus the private sectors and to future versus current community residents is discussed. Fiscal impact analysis and future research needs are also discussed briefly. A slightly revised version of this report was published in Urban Land, January 1980, pp. 12-16.

Getzels, Judith and Charles Thurow. Local Capital Improvements and Development Management: Analysis and Case Studies. Chicago, Illinois: American Planning Association, June 1980.

This report examines the concerns that both growing and mature communities consider in making decisions about capital investments. The report includes case studies that examine techniques used by six cities--Saint Paul, Minnesota; Dayton, Ohio; Atlanta, Georgia; San Jose, California; Salem, Oregon; and Aurora, Colorado--to manage their capital expenditures by linking together development and budget policies and programs.

Gladstone Associates. Innovative Financing Techniques: A Catalog and Annotated Bibliography. Washington, D.C.: U.S. Department of Transportation, Urban Mass Transportation Administration, 1978.

This report examines a wide range of traditional and innovative techniques for financing the construction and operations of transit service. Joint development, value capture, special assessments, user charges, increment taxes, and a number of other techniques are included. Also included are short case study descriptions of applications of these techniques.

Gleeson, Michael E. et al. Urban Growth Management Systems: An Evaluation of Policy - Related Research. Chicago, Illinois: Planning Advisory Service of the American Planning Society, n.d.

This report includes case studies of growth management practices in 13 communities, an analysis of 55 growth management techniques and tools, and an analysis of relevant constitutional issues. An extensive annotated bibliography and a listing of relevant judicial decisions is also included.

Hagman, Donald and Dean Misczynski, eds. Windfalls for Wipeouts: Land Value Capture and Compensation. Chicago, Illinois: American Society of Planning Officials, 1978.

This report discusses land and real estate value losses and benefits that result from the use of a variety of land use and growth management controls and value capture techniques such as special assessments, exactions, and impact taxes.

Hathaway, Stephen. New Housing Paying Its Way? Sacramento, California: Office of Planning and Research, Governor's Office, 1979.

This report summarizes the findings of cost/revenue studies conducted by 10 cities in California. The studies examined the impact of Proposition 13 on the local government costs and revenues associated with new or proposed residential and mixed-use developments. The report concluded that since the enactment of Proposition 13, new development does not pay its own way.

Harwell, Hugh. J. ed. Environmental Comment (June 1979).

This issue of Environmental Comment addresses growth management. Programs in six communities--Boca Raton, Florida; San Jose, California; Palatuma, California; Boulder, Colorado; Ramapo, New York; and Salem, Oregon--are examined.

Konives, Boo. "Why Not Treat Transit Like A Utility." Planning (December 1979) pp. 16-18.

This article suggests that the provision of transit service should be given the same consideration as other public utilities in the planning, financing, and marketing of new developments. The article examines a proposal based on this idea that was presented to the City Council of Fort Collins, Colorado, in the late 70's. The proposal generated considerable interest, although it was not adopted.

Mandelker, Daniel P. "The Catch - 13 in Proposition 13: Higher Development Charges Raise New Questions in the Courts." Environmental Comment (July 1979) pp. 4-5.

This article examines the legal ramifications of the increasing use of exactions and user charges by local governments in California since the enactment of Proposition 13.

McCarty, Barbara and Irv Eachus. "The Real Costs of Development: Cities Take a New Look." Western City (September 1980) pp. 21-22, and 35.

This article examines the impacts that new developments have had on local governments' ability to finance public services and facilities since the enactment of Proposition 13 in California.

Netter, Edith. "Developers Balk at Subdivision Exactions." Planning (January 1981) p. 9.

This article examines State supreme court cases in Virginia, Nebraska, and Utah that involved developers' challenges to exactions. The courts' responses were not uniform. The author recommends that local governments adopt precise exaction standards in order to avoid litigation.

\_\_\_\_\_. "No Plans, No Growth Controls." Planning (May 1980) p.11.

This article discusses two cases, one in New Hampshire and one in Florida, in which the courts invalidated local growth control efforts on the grounds that they were not supported by background studies and comprehensive plans.

Rick, William B. "Growth Management in San Diego." Western City (June 1979) pp. 6-8, 28.

This article discusses San Diego's initial efforts to develop a growth management program.

Sanders, Welford. The Cluster Subdivision: A Cost--Effective Approach. Chicago: American Planning Association (Planning Advisory Service Report No. 356), 1980.

This report describes cluster subdivisions. Generally, public facilities in cluster subdivisions can be provided less expensively than they can be provided in conventionally zoned subdivisions. The report describes zoning ordinance provisions for cluster subdivisions and includes excerpts from local ordinances.

Scott, Randall, W., ed. Management and Control of Growth: Issues, Techniques, Problems, Trends. Volumes I-III. Washington, D. C.: The Urban Land Institute, 1975.

This three volume report includes over 125 articles on a wide range of growth management concerns including the perspective of the private developer, the fiscal impact of growth management programs, exclusionary land use, and State and Federal policies. A variety of innovative growth management tools and techniques is also explored including capital facilities planning, development rights transfer, impact taxes, and sewer moratoria. Several articles are also included on the growth management programs in Ramapo, New York, and Petaluma, California.

Seidel, Stephen R. Housing Costs and Government Regulations: Confronting the Regulatory Maze. New Brunswick, New Jersey: The Center for Urban Policy Research, 1978.

This book discusses the effects of a variety of regulations including growth control regulations on the cost of housing. In the preparation of this report, 300 public officials were surveyed to obtain information on their jurisdictions' regulations. In addition, 2500 land developers and home builders were surveyed as to their reaction to the regulatory process. The book includes case studies of projects and regulations in New Jersey, North Carolina, and California, and recommendations for reforming the regulatory process.

So, Frank S., Michael J. Meshenberg, and Judith Getzels. Local Capital Improvements and Development Management: Literature Synthesis. Chicago, Illinois: American Society of Planning Officials, July 1977.

This report examines cities' practices in linking capital budgeting and development policy. Relevant legal issues and the impacts of capital improvements on development patterns are also discussed. The report includes an annotated bibliography with over 180 entries including local plans and capital programs, and reports on financing, policy issues, and the effects of capital improvements on patterns of development.

Urban Land Institute and Gruen, Gruen and Associates. Effects of Regulations on Housing Costs: Two Case Studies. Washington, D.C.: Urban Land Institute, 1977.

This report includes case studies of the effects of growth management controls on housing costs in San Jose, California, and Jacksonville, Florida.

Wollett, William, Jr. and Les Card. "Improving Circulation in Irvine: A Joint Venture." Western City (March 1980) pp. 10-11.

This article describes Irvine, California's Circulation Improvement and Residential Phasing Program. The Program includes a commitment by a private developer to finance \$2.7 million in road improvements and the formation of a partnership between the developer and the local government for future transportation planning.







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