

## Chapter 12

### Article VIII - Development Impact Fees

#### Section 12-280. Generally.

- A. This chapter has been prepared and adopted by the Mayor and council of the city, in accordance with the authority provided by Chapter 9, Section 2, Paragraph III of the Constitution of the State of Georgia, the Georgia Development Impact Fee Act (O.C.G.A. 36-71-1 *et seq.* as amended), and such other laws as may apply to the provision of public facilities and the power to charge fees for such facilities.
1. The provisions of this chapter shall not be construed to limit the power of the city, to use any other legal methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this chapter.
  2. This chapter shall apply to all areas under the regulatory control and authority of the city, and such other areas as may be included by intergovernmental agreement.
- B. Findings. The Mayor and council of the city, finds and declares:
1. That an equitable program for planning and financing public facilities to serve new growth and development is necessary to promote and accommodate orderly growth and development and to protect the public health, safety, and general welfare of the citizens of the city; and
  2. That certain public facilities as herein defined have been and must be further expanded if new growth and development is to be accommodated at the same level of service available to existing development; and
  3. That it is fair and equitable that new growth and development shall bear a proportionate share of the cost of such public facilities necessary to serve new growth and development.
- C. Purpose.
1. The purpose of this chapter is to impose impact fees, as hereinafter set forth, for certain public facilities, as hereinafter defined.
  2. It is also the purpose of this chapter to ensure that adequate public facilities are available to serve new growth and development in the City and to provide that new growth and development bears a proportionate share of the cost of new public facilities needed to serve them.
- D. Intent.
1. This chapter is intended to implement and be consistent with the City Comprehensive Plan, as it may be adopted or amended in accord with the Georgia Comprehensive Planning Act (O.C.G.A. 50-8-1 *et seq.*); and the applicable *Minimum Standards and Procedures for Local Comprehensive Planning* and the *Development Impact Fee Compliance Requirements*, both as adopted by the Georgia Department of Community Affairs and amended from time to time.
- E. Provisions.
1. The provisions of this chapter shall be construed to effectively carry out its purpose in the interest of the public health, safety, and general welfare of the citizens of the city.

#### Section 12-281. Imposition of development impact fees.

- A. Any person who after the effective date of this chapter engages in development shall pay a development impact fee in the manner and amount set forth in this chapter.

- B. Construction not subject to impact fees. The following projects and construction activities do not constitute “development” as defined in this chapter, and are therefore not subject to the imposition of impact fees:
1. Rebuilding no more than the same number of units of development as defined in this chapter that were removed by demolition, or destroyed by fire or other catastrophe, on the same lot or property.
  2. Remodeling or repairing a structure that does not result in an increase in the number of units of development.
  3. Replacing a residential housing unit with another housing unit on the same lot or property.
  4. Placing or replacing a manufactured home in a manufactured home park on a prepared manufactured home pad in existence and operation prior to the effective date of this chapter.
  5. Placing a temporary transportable construction office or a temporary transportable sales office on a lot during the period of construction or build-out of a development project.
  6. Constructing an addition to or expansion of a residential housing unit that does not increase the number of housing units.
  7. Adding uses that are typically accessory to residential uses and intended for the personal use of the residents, such as a deck or patio, satellite antenna, pet enclosure, or private recreational facilities such as a swimming pool.
- C. Grandfathered work.
1. Notwithstanding any other provision of this chapter, work for which a valid building permit has been issued for a platted and recorded lot prior to the effective date of this chapter, shall not be subject to any increased fees as set forth in this chapter so long as the permit remains valid and construction has commenced and is pursued according to the terms of the permit.
  2. Said work shall be commenced, pursued, and completed within the allowable time established by the building permit. Any extension or re-issuance shall require the applicant to pay the new development impact fee as set forth in this chapter.
  3. Work shall be considered as having commenced on the date of the first required inspection as determined by the city’s building official.
  4. Work for which a valid permit has been issued shall continue with this status until the permit expires, at which time the renewal of the permit or the issuance of a new permit for the same work or additional work on the same property shall incur the applicable impact fee.
- D. Method of calculation. Any development impact fee imposed pursuant to this chapter shall not exceed a project's proportionate share of the cost of system improvements, shall be calculated on the basis of the establishment of service areas (if applicable), and shall be calculated on the basis of levels of service for public facilities that are the same for existing development as for new growth and development, as established in the City’s capital improvements element of the comprehensive plan.
1. Notwithstanding anything to the contrary in this chapter, the calculation of impact fees shall be net of credits for the present value of ad valorem taxes, sales taxes, or other revenues as established in the capital improvements element of the comprehensive plan, and which:
    - a. Are reasonably expected to be generated by new growth and development; and
    - b. Are reasonably expected based on historical funding patterns to be made available to pay for system improvements of the same category and in the same service area for which an impact fee is imposed.
  2. The method of calculating impact fees for public facilities under this chapter shall be maintained for public inspection as a part of the official records of the city, and may be amended from time to time by official act of the Mayor and council.
  3. In addition to the cost of new or expanded system improvements needed to be built to serve new development, the cost basis of a development impact fee may also include the proportionate cost of existing system improvements to the extent that such public facilities have excess service capacity and new development will be served by such facilities, as established in the capital improvements element of the comprehensive plan.
  4. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs, as set forth in the capital improvements element of the comprehensive plan.

**Section 12-282. Rules of construction and definitions.**

- A. Rules of construction. Unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
1. In the case of any difference of meaning or implication between words or phrases as used in this chapter and as used in other codes, regulations, or laws of the city, such difference shall not affect the meaning or implication of such words or phrases as used in this chapter.
  2. In the case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
  3. The word “shall” is always mandatory and not discretionary; the word “may” is permissive.
  4. Words used in the present tense shall include the future, and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
  5. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other legal or similar entity.
  6. The conjunction “and” indicates that all the connected terms, conditions, provisions, or events shall apply.
  7. The conjunction “or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  8. The use of “either . . . or” indicates that the connected items, conditions, provisions, or events shall apply singly and not in combination.
  9. The word “includes” or “including” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
  10. The section and paragraph headings and enumerations used in this chapter are included solely for convenience and shall not affect the interpretation of this chapter.
- B. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:
1. Administrator means the City Manager of the city, or the City Manager’s designee, who is hereby charged with implementation and enforcement of this chapter.
  2. Mayor and council means the elected governing body of the city.
  3. Building permit is any permit required pursuant to the Ball Ground Development Code. As used herein, the term shall not include permits required for remodeling, rehabilitation, or other improvements to an existing structure provided there is no increase in the demand placed on those public facilities as defined herein.
  4. Capital improvement means an improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.
  5. Capital improvements element means a component of the city’s comprehensive plan that sets out projected needs for system improvements during the planning horizon established therein, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement, as most recently adopted or amended by the Mayor and council.
  6. Commencement of construction, for private development, means initiation of physical construction activities as authorized by a development or building permit and leading to completion of a foundation inspection or other initial inspection and approval by a building inspector charged with such duties; and for public projects, means expenditure or encumbrance of any funds, whether they be development impact fee funds or not, for a public facilities project, or advertising of bids to undertake a public facilities project.
  7. Completion of construction means the issuance of the final certificate of occupancy by a building inspector charged with such duties. The date of completion is the date on which such certificate is issued.
  8. Community Work Program means the component of the comprehensive plan that lays out the specific activities the City plans to undertake during the five years following adoption of the plan.

9. Comprehensive plan means the city's plan or planning elements as adopted or amended in accordance with the Georgia comprehensive planning act (O.C.G.A. 50-8-1 et seq.) and the applicable minimum standards and procedures for local comprehensive planning as adopted by the Georgia Department of Community Affairs.
10. City means the City of Ball Ground, a legal subdivision of the state of Georgia, and also refers to the Mayor and council or to the appropriate City official appointed by the Mayor and council, whenever official action is taken or required.
11. Day means a calendar day, unless otherwise specifically identified as a "work" day or other designation when used in the text of this chapter.
12. Developer means any person or legal entity undertaking development.
13. Development means any construction or expansion of a building, structure, or use; any change in use of a building or structure; or any change in the use of land; any of which creates additional demand and need for public facilities, as defined herein.
14. Development approval means written authorization, such as issuance of a building permit, land disturbance permit or other approval for grading or site development, or other forms of official action required by local law or regulation which authorizes the commencement of construction.
15. Development impact fee means a payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve new growth and development.
16. Encumber means to legally obligate by contract or otherwise commit to use by appropriation or by other official act of the Mayor and council.
17. Excess capacity means that portion of the capacity of a public facility or system of public facilities which is beyond that necessary to provide adequate service to existing development at the adopted level-of-service standard.
18. Feepayor means that person or entity who pays a development impact fee, or his or her legal successor in interest where the right or entitlement to any refund of previously paid development impact fees which is required by this chapter has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment of the right or entitlement to any refund of previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."
19. Individual assessment determination means a finding by the administrator that an individual assessment study does or does not meet the requirements for such a study as established by this chapter or, if the requirements are met, the fee calculated therefrom.
20. Individual assessment study means the engineering, financial, or economic documentation prepared by a feepayor or applicant to allow individual determination of a development impact fee other than by use of the fee schedule attached hereto as Attachment A.
21. Level of service means a measure of the relationship between service capacity and service demand for public facilities as established by the city, in terms of demand to capacity ratios, the comfort and convenience of use or service of such public facilities, or both.
22. Present value means the current value of past, present, or future payments, contributions, or dedications of goods, services, materials, construction, or money, as calculated using accepted methods of financial analysis for determination of "net present value."
23. Project means a particular development on an identified parcel of land.
24. Project improvements means site improvements and facilities that are planned, designed, or built to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and that are not "system" improvements. The character of the improvement shall control a determination of whether an improvement is a "project" improvement or a "system" improvement, and the physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a "project" improvement or a "system" improvement. If an improvement or facility provides or will provide more than incidental service or facility capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities and approved for public funding by the City shall be considered a project improvement.

25. Property owner means that person or entity that holds legal title to property.
26. Proportionate share means that portion of the cost of system improvements that is reasonably related to the service demands and needs of a project.
27. Public facilities means (a) parks, open space, and recreation areas and related facilities; and (b) public safety facilities, including police, inmate housing, animal control, fire rescue, emergency medical, emergency management, and E911 communications facilities; (c) public utilities providing water and sanitary sewer facilities; and (d) public road or highway improvements.
28. Regional commission means the Atlanta Regional Commission as designated by the Georgia Department of Community Affairs.
29. Service area means a geographic area defined by the Mayor and council, in which a defined set of public facilities provide service to development within the area.
30. System improvement costs means costs incurred to provide additional public facilities capacity to serve new growth and development for planning, design and construction, land acquisition, land improvement, and design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions. System improvement costs include but are not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees); and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvements element; and administrative costs, provided that such administrative costs shall not exceed three (3%) percent of the total amount of the costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the City to finance the capital improvements element. System improvement costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.
31. System improvements means capital improvements that are public facilities designed to provide service to more than one project or to the community at large, in contrast to "project" improvements.
32. Unit of development means the standard incremental measure of land development activity for a specific type of land use upon which the rate of demand for public service and facilities is based, such as a dwelling unit, square foot of floor area, motel room, etc.
33. Unused or excess impact fee means any individual impact fee payment from which no amount of money or only a portion thereof has been encumbered or expended according to the requirements of this chapter.

### **Section 12-283. Fee assessment and payment.**

#### **A. Fee schedule.**

1. Payment of a development impact fee pursuant to the fee schedule attached hereto and incorporated herein as Attachment A shall constitute full and complete payment of the project's proportionate share of system improvements as individually levied by the City and shall be deemed to be in compliance with the requirements of this chapter.
2. When a land development activity for which an application for a building permit has been made includes two or more buildings, structures, or other land uses in any combination, including two or more uses within a building or structure, the total development impact fee shall be the sum of the fees for each building, structure, or use, including each use within a building or structure.
3. If an applicant contends that the land use category of a proposed development is not shown on the fee schedule or fits within a different category, then the administrator in his or her sole discretion shall decide as to the appropriate land use designation and the appropriate development impact fee.
  - a. In making such determination, the administrator may require such additional information from the applicant as necessary to form a logical fee determination relative to the impact fees shown on the adopted fee schedule, attached hereto as Attachment A.

- b. If the land use designation is not in a category listed on Attachment A of this chapter, then an appropriate new category may be added by the administrator and an appropriate fee established under the city's current impact fee methodology, subject to annual confirmation by the Mayor and council.
  - 4. Appeals from the decision of the administrator shall be made to the Mayor and council in accordance with the administrative appeals procedures of this chapter.
- B. Timing of assessment and payment. Development impact fees shall be assessed at the time of application for a building permit.
  - 1. If the final use of a building cannot be determined at the time of issuance of the initial building permit, the administrator shall have the authority to assess a development impact fee based on the most likely use of the building in order for the building permit to be issued, and may adjust the fee assessment prior to issuance of a certificate of completion (if applicable) or certificate of occupancy.
    - a. Impact fees may be reassessed based on actual construction prior to issuance of a certificate of completion (if applicable) or a certificate of occupancy, and shall be paid prior to the release of the certificate of occupancy.
    - b. An adjustment may result in a refund to the feepayor or payment of the marginal increase of the adjusted fee over the amount already paid.
  - 2. Impact fees may be collected any time a building permit is active but shall be collected no later than the final building permit inspection is completed and prior to issuance of a certificate of occupancy for the development.
  - 3. Impact fees collected as part of the final building permit inspection shall be paid in the form of cash or certified check or other certified funds prior to the release of the certificate of occupancy.
  - 4. For projects not involving issuance of a building permit, all development impact fees shall be collected at the time of approval of the development permit or such other authorization to commence construction or to commence use of a property.
  - 5. Notwithstanding any other provision of this chapter, any future change in demand for public facilities in excess of the average demand anticipated at the time of issuance of the previously approved building permit shall result in such project being assessed such additional fee as would otherwise have been due. Future changes in demand may result from a change in the land use category of the occupant of the building or property, the expansion of a building or use on a property that results in an increase in the units of development (as defined herein), or the subsequent discovery of facts unknown or misrepresented at the time of issuance of the building permit.
- C. Individual assessment determinations. Individual assessments of development impact fees may be established as follows:
  - 1. At their option, an applicant for development approval may petition the administrator for an individual assessment determination of development impact fees due for their project in lieu of the fee established on the fee schedule attached hereto and incorporated herein as Attachment A.
  - 2. If an applicant elects an individual assessment, the applicant shall submit an individual assessment study. Each individual assessment study shall:
    - a. Be based on relevant and credible information from an accepted standard source of engineering or planning data; or,
    - b. Be based on actual, relevant, and credible studies or surveys of facility demand conducted in the City or its region, carried out by qualified engineers or planners pursuant to accepted methodology; and,
    - c. Provide any other written specifications as may be reasonably required by the administrator to substantiate the individual assessment determination.
  - 3. The administrator in his or her sole discretion shall determine whether the content of an individual assessment study satisfies the requirements of the preceding subsection (C)(2). A negative determination by the administrator may be appealed to the Mayor and council in accordance with the administrative appeals procedures of this chapter.
  - 4. Any fee approved as an individual assessment determination shall have standing for 180 days following the date of approval. Payment of such an approved individual assessment determination shall constitute full and complete payment of the project's proportionate share of system improvements and shall be deemed to be in compliance with the requirements of this chapter.
  - 5. Fee Certification.

- a. Upon application to the administrator, a developer may receive a certification of the development impact fee schedule attached hereto and incorporated herein as Attachment A or a certified fee for a particular project, as applicable.
  - b. Such certified schedule or fee shall establish the development impact fee due for a period of 180 days from the date of certification, even if new or revised impact fee rate schedules are adopted by the Mayor and council in the interim.
- D. Administrative appeals.
- 1. Eligibility to file an appeal.
    - a. Only applicants or feepayers who have already been assessed an impact fee by the City or who have already received a written determination of individual assessment, refund, or credit amount shall be entitled to an appeal.
  - 2. Appeals process.
    - a. The aggrieved applicant or feepayer must file a written appeal with the administrator within 15 days of the receipt of written determination of the amount of the development impact fee due, or entitlement to an amount of a refund or credit. Such written appeal shall be of sufficient content to clearly and unequivocally set forth the basis for the appeal and the relief sought.
    - b. Such written appeal shall state the basis for the appeal and the relief sought, and shall include:
      - c. The name and address of the aggrieved applicant or feepayer;
      - d. The location of the affected property; and,
      - e. A copy of any applicable written decision or determination made by the administrator from which the appeal is taken.
    - f. Within 15 days after receipt of the appeal, the administrator shall make a written decision with respect to the appeal. Such decision shall be of sufficient content to set forth the basis for the determination.
    - g. Appeals from the decision of the administrator shall be made to the Mayor and council within 30 days of receipt by the aggrieved applicant or feepayer of the administrator's decision. Delivery by hand or certified mail to, or posting upon the property, at the address given by the aggrieved applicant or feepayer in the application for relief shall constitute "receipt by the aggrieved applicant or feepayer" under this provision.
    - h. The Mayor and council shall thereafter establish a reasonable date and time for a hearing on the appeal, give written notice thereof to the applicant or feepayer, and decide the issue within a reasonable time following the hearing. Any party making an appeal shall have the right to appear at the hearing to present evidence and may be represented by counsel.
- E. Payment of impact fee during appeal.
- 1. The filing of an appeal shall not stay the collection of a development impact fee as a condition to the issuance of a building permit or other development approval (as defined herein).
  - 2. An applicant or feepayer may pay a development impact fee to obtain a building permit or other development approval, and by making such payment shall not be estopped from exercising the right of appeal or receiving a refund of any amount deemed to have been collected in excess.

**Section 12-284. Exemptions.**

- A. The Mayor and council recognizes that certain office, retail trade, and industrial development projects may provide extraordinary benefit in support of the economic advancement of the city's citizens over and above the access to jobs, goods, and services that such uses offer in general. To encourage such development projects, the Mayor and council may grant a reduction in the impact fee for such a development project upon the determination and relative to the extent that the business or project represents extraordinary economic development and employment growth of public benefit to the city.
- B. In addition, the Mayor and council recognizes that impact fees, in some circumstances, may negatively affect the affordability of housing, particularly "workforce" housing.

- C. If it wishes to encourage development projects of public benefit to the city, the Mayor and council shall first adopt exemption criteria to guide the granting of a reduction in the impact fee for:
  - 1. A business development project that represents extraordinary economic development and employment growth, and/or
  - 2. A residence or housing project that will increase the supply of housing that would be affordable to disadvantaged individuals or families.
- D. In the absence of adopted applicable exemption criteria for either extraordinary economic development and employment growth or for affordable housing, no applicable exemption shall be approved.
- E. It is recognized that the Georgia Development Impact Fee Act (under O.C.G.A. 36-74-4(h)(3)) requires that any amount of money granted as an exemption must be reimbursed by the City into the city's impact fee accounts from revenue sources other than impact fees.

**Section 12-285. Deposit and expenditure of fees.**

- A. Maintenance of Funds.
  - 1. All development impact fee funds collected for future expenditure on construction or expansion of facilities pursuant to this chapter shall be maintained in one or more interest-bearing accounts until expended. Restrictions on the investment of development impact fee funds shall be the same that apply to investment of all such funds generally.
  - 2. Separate accounting records shall be maintained for each public facility category of system improvements.
  - 3. Interest earned on development impact fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under this chapter. Interest earned each fiscal year shall be distributed among the various funds in proportion to their end-of-year balances on hand.
- B. Expenditures; Restrictions.
  - 1. Expenditures from the impact fee accounts shall be made only for the system improvements in the public facility category for which the development impact fee was assessed and collected.
  - 2. Expenditures from the impact fee account for a particular public facility category shall be made only for projects that are listed for that category in the most recently adopted capital improvements element.
  - 3. Such expenditures for a specific project may be based on the amount of the actual cost of the project, but ...
  - 4. Such expenditures may not exceed the percentage of impact fee eligibility established for such project in the capital improvements element.
  - 5. Expenditures for projects not listed in the capital improvements element may be made only after they have been included in the capital improvements element by amendment adopted by the Mayor and council and reviewed and approved by the Georgia Department of Community Affairs.
- C. Notwithstanding anything to the contrary in this chapter, the following shall be considered general revenue of the city, and may be expended accordingly:
  - 1. Impact fees collected to recover the present value of excess capacity in existing system improvements;
  - 2. Any portion of an impact fee collected as a repayment for previous expenditures made by the City for system improvements intended to be funded by such impact fee; and,
  - 3. Any portion of an impact fee collected for administration of the impact fee program, and any such additional amount assessed for repayment of the cost of preparing the capital improvements element of the comprehensive plan.

**Section 12-286. Credits.**

- A. When eligible, feepayers shall be entitled to a credit against impact fees under the circumstances and in the manner set forth in this section.
- B. Credits; restrictions.



1. Except as provided in subsection C, granting of credits, below, no credit shall be given for construction, contribution, or dedication of any system improvement or funds for system improvements made before the effective date of this chapter as originally first adopted, unless this restriction is waived by the Mayor and council.
2. If the value of any construction, dedication of land, or contribution of money made by a developer (or his or her predecessor in title or interest) prior to the effective date of this chapter, as originally adopted, is greater than the impact fee that would otherwise have been paid for the project, then the developer shall be entitled to a credit for such excess construction, dedication, or funding. Notwithstanding anything to the contrary in this chapter, any credit due under this section shall not constitute a liability of the City and shall accrue to the developer only to the extent of impact fees assessed for new development for the same category of system improvements within the same service area.
3. In no event shall credit be given for project improvements, or for system improvements not included for impact fee funding in the most recently adopted capital improvements element of the comprehensive plan.

C. Granting of credits.

1. Credit shall be given for the present value of any construction of improvements, contribution or dedication of land, or payment of money by a developer or his or her predecessor in title or interest for system improvements of the same public facilities category and in the same service area for which a development impact fee is imposed, provided that:
  - a. The system improvement is included for impact fee funding in the most recently adopted capital improvements element of the comprehensive plan; and,
  - b. The amount of the credit does not exceed the portion of the system improvement's cost that is eligible for impact fee funding, as shown in the most recently adopted capital improvements element; and,
  - c. The credit allowed pursuant to this section shall not exceed the impact fee due for such system improvement unless a greater credit is authorized under a private agreement executed under the provisions of this chapter. In the event that a developer enters into such a private agreement with the City to construct, fund, or contribute system improvements such that the amount of the credit created is in excess of the impact fee which would otherwise have been assessed for the development project, the developer shall retain such excess credit and may apply it to other impact fee assessments for the same public facility category for which the credit was allowed.

D. Guidelines for credit valuation. Credits under this chapter shall be valued using the following guidelines:

1. For the construction of any system improvements by a developer or his or her predecessor in title or interest and accepted by the city, the developer must present evidence satisfactory to the administrator of the original cost of the improvement, from which present value may be calculated.
2. For any contribution or dedication of land for system improvements by a developer or his or her predecessor in title or interest and accepted by the city, the original value of the land shall be the same as that attributed to the property by the validated tax appraisal at the time of dedication, from which present value may be calculated.
3. For any contribution of capital equipment that qualifies as a system improvement by a developer or his or her predecessor in title or interest and accepted by the city, the value shall be the original cost to the developer of the capital equipment or the cost that the City would normally pay for such equipment, whichever is less.
4. For any contribution of money for system improvements from a developer or his or her predecessor in title or interest accepted by the city, the original value of the money shall be the same as that at the time of contribution, from which present value may be calculated.
5. In making a present value calculation, the discount rate used shall be the net of the interest returned on a State of Georgia, AA rated or better municipal bond less average annual inflation, or such other discount rate as the Mayor and council in its sole discretion may deem appropriate.

E. Credits; application.

1. Credits shall be given only upon written request of the developer to the administrator. A developer must present written evidence satisfactory to the administrator at or before the time of development impact fee assessment.
2. The administrator, in his or her sole discretion, shall review all claims for credits and make determinations regarding the allowance of any claimed credit, and the value of any allowed credit.

3. Any credit approved by the administrator shall be acknowledged in writing by the administrator and calculated at the time of impact fee assessment.
  4. Credit denials by the administrator may be appealed to the Mayor and council in accordance with the provisions for administrative appeals in this chapter.
- F. Credits; abandoned building permits.
1. If an impact fee is paid but the building permit is abandoned, credit shall be given for the present value of the impact fee against future impact fees for the same parcel of land, upon submission of adequate evidence to the administrator that an impact fee was received by the city, the amount paid, and that the building permit was abandoned.

**Section 12-287. Refunds.**

- A. Eligibility for a refund.
1. Upon the request of a feepayor regarding a property on which a development impact fee has been paid, the development impact fee shall be refunded if:
    - a. Capacity is available in the public facilities for which the fee was collected but service to the property is permanently denied; or,
    - b. The development impact fee has not been encumbered or construction has not been commenced within six years after the date the fee was collected.
  2. In determining whether development impact fees have been encumbered, development impact fees shall be considered encumbered on a first-in, first-out (FIFO) basis. In addition, impact fees may be encumbered by the Mayor and council through adoption of the annual impact fee update report each year.
- B. Notice of entitlement to a refund.
1. When the right to a refund exists due to a failure to encumber the development impact fees, the administrator shall provide written notice of entitlement to a refund to the feepayor who paid the development impact fee at the address shown on the application for development approval or to a successor in interest who has given adequate notice to the administrator of a legal transfer or assignment of the right to entitlement to a refund and who has provided a mailing address.
  2. Such notice shall also be published in a newspaper of general circulation in the City within 30 days after the expiration of the six-year period after the date that the development impact fee was collected and shall contain a heading "Notice of Entitlement to Development Impact Fee Refund." No refund shall be made for a period of 30 days from the date of said publication.
- C. Filing a request for a refund.
1. All requests for refunds shall be made in writing to the administrator within one year of the time the refund becomes payable or within one year of publication of the notice of entitlement to a refund, whichever is later.
  2. Failure to make a claim for a refund within said time period shall result in a waiver of all claims to said funds. Such funds together with the accrued interest thereon shall be transferred to the general revenue account of the city.
- D. Payment of refunds.
1. All refunds shall be made to the feepayor within 60 days after it is determined by the administrator that a sufficient proof of claim for refund has been made, but no sooner than 30 days after publication of the notice of entitlement to the refund.
  2. A refund shall include a refund of a pro rata share of interest earned on the unused or excess impact fee collected.
  3. In no event shall a feepayor be entitled to a refund for impact fees assessed and paid to recover the cost of excess capacity in existing system improvements, for any portion of an impact fee collected as a repayment for expenditures made by the City for system improvements intended to be funded by such impact fee, or for that portion of the fee payment that was assessed for administration of the impact fee program, or for recovery of the cost of preparation of the capital improvements element of the comprehensive plan.

## **Section 12-288. Private contractual agreements.**

- A. Private agreements; authorized.
  - 1. Nothing in this chapter shall prohibit the voluntary mutual approval of a private contractual agreement between the Mayor and council and any developer or property owner or group of developers and/or property owners in regard to the construction or installation of system improvements and providing for credits or reimbursement for system improvement costs incurred by a developer, including interproject transfers of credits or providing for reimbursement for project improvement costs which are used or shared by more than one development project, provided that:
  - 2. The system improvements are included for impact fee funding in the most recently adopted capital improvements element of the comprehensive plan; and,
  - 3. The amount of any credit or reimbursement granted shall not exceed the portion of the system improvement's cost that is eligible for impact fee funding.
- B. Private agreements; provisions.
  - 1. A private contractual agreement for system improvements may include, but shall not be limited to, provisions that:
    - a. Modify the estimates of impact on public facilities according to the methods and provisions concerning the calculation of impact fees, provided that any such agreement shall allow the City to assess additional development impact fees after the completion of construction according to the fee schedule set forth as Attachment A to this chapter.
    - b. Permit construction of, dedication of property for, or other in-kind contribution for specific public facilities of the type for which development impact fees would be imposed in lieu of or with a credit against applicable development impact fees.
    - c. Permit a schedule and method of payment appropriate to particular and unique circumstances of a proposed project in lieu of the requirements for payment under this chapter, provided that security acceptable to City is posted ensuring payment of the development impact fees. Forms of security that may be acceptable to city, in its sole discretion, include a cash bond, irrevocable Letter of Credit from a bank authorized to do business within the State of Georgia, a surety bond, or lien or mortgage on lands to be covered by the building permit or development approval.
  - 2. Private agreements; procedure.
    - a. Any private agreement proposed by an applicant pursuant to this chapter shall be submitted to the administrator for review, negotiation, and submission to the Mayor and council.
    - b. Any such agreement must be presented to and approved by the Mayor and council prior to the issuance of a building permit, unless this requirement is revised or waived by the Board as part of the private agreement.
    - c. Any such agreement shall provide for execution by mortgagees, lien holders or contract purchasers in addition to the landowner and shall require the applicant to submit such private contractual agreement to the clerk of superior court for recording. A copy of the recorded document shall be provided to the administrator.

## **Section 12-289. Periodic review and amendments.**

- A. Amendments to this chapter.
  - 1. This chapter may be amended from time to time as deemed appropriate or desirable. Any such amendment to this chapter, including an amendment to the development impact fee schedule (Attachment A hereto), shall follow the procedures for adoption of an ordinance imposing a development impact fee as set out and required under the Georgia Development Impact Fee Act (O.C.G.A. § 36-71-1 et seq., as amended).
  - 2. Interim amendments to the impact fee schedule regarding the establishment of new land use categories by the administrator are expressly authorized and shall be confirmed by the Mayor and council when this chapter is subsequently amended.
- B. Impact fee program annual review.

1. At least once each year, the City shall prepare an “annual update report” for submission to the regional commission and the Georgia Department of Community Affairs. The report must include a financial report for the impact fee program based on the latest adopted audit. In addition, the report must update the community work program to maintain, at a minimum, a schedule of system improvements to be undertaken for each of the subsequent five years.
  2. The financial report is to include the beginning balances in each public facility category (such as parks & recreation, fire protection, etc.), the impact fees collected in each public facility category, interest earned on the funds on hand, refunds made, funds expended, and the ending balances.
  3. The community work program is to be updated by adding a future year and deleting the past year, such that a total of five years is always shown. Impact fee-funded projects that are anticipated to be undertaken are to be listed individually, the year of implementation indicated, the cost of the project shown along with the source of funds, and the department responsible for implementation.
  4. The annual update report may include changes in funding sources or project costs, or changes in the scheduling of projects. However, new projects not included in the list of impact fee eligible projects contained in the most recently adopted capital improvements element itself cannot be added in the annual update report.
  5. The annual update report is to be submitted to the regional commission for their review, in accordance with the Development Impact Fee Compliance Requirements as adopted by the Georgia Department of Community Affairs.
  6. Upon approval of the annual update report, the report shall be adopted by the Mayor and council and a copy sent to the regional commission.
- C. Impact fee program amendment.
1. From time to time, the Mayor and council may amend the capital improvements element, fee calculation methodology, and development impact fee schedule as deemed appropriate and necessary.
  2. Amendments to the capital improvements element shall comply with the procedural requirements of the Development Impact Fee Compliance Requirements as adopted by the Georgia Department of Community Affairs, and shall be required for any change to the capital improvements element that would:
    - a. Change the list of system improvement projects by adding, deleting, or substantially modifying the projects;
    - b. Redefine or extend growth projections, land development assumptions, or goals or objectives that would affect system improvements proposed in the capital improvements element;
    - c. Add new public facility categories for impact fee funding;
    - d. Change service levels established for an existing impact fee public facility category; or
    - e. Make any other revisions needed to keep the capital improvements element up to date.

**Section 12-290. Enforcement and penalties.**

- A. Enforcement authority.
1. The enforcement of this chapter shall be the responsibility of the administrator and such personnel as the administrator may designate from time to time.
  2. The administrator shall have the right to inspect the lands affected by this chapter and shall have the right to issue cease and desist orders and citations for violations. Refusal of written notice of violation under this chapter shall constitute legal notice of service.
  3. The administrator may suspend or revoke any building permit or withhold the issuance of other development approvals if the provisions of this chapter have been violated by the developer or the owner or their assigns.
  4. For any violation, the administrator shall have the authority to issue a citation. The citation shall be in the form of a written official notice issued in person or by certified mail to the owner of the property, or to his or her agent, or to the person performing the work.
    - a. The citation shall cite the specific provision of this chapter that is being violated and shall include, as an attachment, the text of the specific provision excerpted from this chapter.

- b. The receipt of a citation shall require that corrective action be taken within 30 days unless otherwise extended at the discretion of the administrator. In the case of an emergency as determined by the administrator, the time in which corrective action must be taken may be appropriately shorter than 30 days. If the required corrective action is not taken within the time allowed, the administrator may use any available civil or criminal remedies to secure compliance, including revoking a permit.

B. Violations.

1. Knowingly furnishing false information on any matter relating to the administration of this chapter shall constitute an actionable violation.
2. Proceeding with construction of a project that is not consistent with the project's impact fee assessment, such as the use category claimed or units of development indicated, shall constitute an actionable violation.
3. Failure to take corrective action following the receipt of a citation shall constitute an actionable violation.
4. A violation of this chapter shall be a misdemeanor punishable according to law. However, in addition to or in lieu of criminal prosecution, the Mayor and council shall have the power to sue in law or equity for relief in civil court to enforce this chapter, including recourse to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of this chapter and to recover such damages as may be incurred by the implementation of specific corrective actions.

**Section 12-291. Severability.**

A. Severability.

If any sentence, clause, part, paragraph, chapter, or provision of this chapter is declared by a court of competent jurisdiction to be invalid, the validity of the chapter as a whole or any other part hereof shall not be affected.

B. Incorporation by reference of Georgia law.

It is the intent of the Mayor and council that this chapter shall comply with the terms and provisions of the Georgia Development Impact Fee Act (O.C.G.A. 36-71-1 *et seq.* as amended). To the extent that any provision of this chapter is inconsistent with the provisions of said Chapter 36-71, the latter shall control. Furthermore, to the extent that this chapter is silent as to any provision of said Chapter 36-71 that is otherwise made mandatory by said Chapter 36-71, such provision shall control and shall be binding upon the city.

**Section 12-292. Effective Date.**

- A. This Ordinance shall take effect upon its adoption by the Mayor and Council of Ball Ground, Georgia.

**Attachment A: IMPACT FEE SCHEDULE**

Land Use	Parks & Recreation	Road Improvements	Total Impact Fee	Unit of Measure
<i>Residential</i>				
Single-Family Detached Housing	\$ 2,000.0000	\$ 1,000.0000	\$ 3,000.0000	per dwelling
Duplex or Townhouse 1-3 stories	\$ 2,000.0000	\$ 763.5207	\$ 2,763.5207	per dwelling
Multi-Family Low Rise 2-3 stories	\$ 2,000.0000	\$ 714.7402	\$ 2,714.7402	per dwelling
Mid-Rise Multi-Family 4-10 stories	\$ 2,000.0000	\$ 1,030.0647	\$ 3,030.0647	per dwelling
<i>Industrial</i>				
General Light Industrial	\$ -	\$ 0.5090	\$ 0.5090	per square foot
Manufacturing	\$ -	\$ 0.5037	\$ 0.5037	per square foot
Warehousing	\$ -	\$ 0.1813	\$ 0.1813	per square foot
Mini-Warehouse	\$ -	\$ 0.1538	\$ 0.1538	per square foot
High-Cube Warehouse, short term	\$ -	\$ 0.1485	\$ 0.1485	per square foot
High-Cube Warehouse, fulfillment center	\$ -	\$ 0.1919	\$ 0.1919	per square foot
High-Cube Hub Warehouse	\$ -	\$ 0.4910	\$ 0.4910	per square foot
Specialty Trade Contractor	\$ -	\$ 1.0414	\$ 1.0414	per square foot
<i>Lodging</i>				
Hotel or Conference Motel	\$ -	\$ 0.8473	\$ 0.8473	per room
All Suites Hotel	\$ -	\$ 0.4666	\$ 0.4666	per room
Business Hotel	\$ -	\$ 0.4263	\$ 0.4263	per room
Motel	\$ -	\$ 0.3552	\$ 0.3552	per room
<i>Recreational</i>				
Movie Theater	\$ -	\$ 8.2810	\$ 8.2810	per square foot
Amusement Park	\$ -	\$ 5,663.8388	\$ 5,663.8388	per acre
Soccer Fields	\$ -	\$ 7,564.1569	\$ 7,564.1569	per field
Racquet/Tennis Club	\$ -	\$ 2.3022	\$ 2.3022	per square foot
Recreational Community Center	\$ -	\$ 3.0562	\$ 3.0562	per square foot
<i>Institutional</i>				
Private Elementary School	\$ -	\$ 0.0727	\$ 0.0727	per square foot
Private Middle School (Junior High)	\$ -	\$ 0.0027	\$ 0.0027	per square foot
Private High School	\$ -	\$ 1.6034	\$ 1.6034	per employee
University or College	\$ -	\$ 0.9427	\$ 0.9427	per employee
Church/Place of Worship	\$ -	\$ 0.8059	\$ 0.8059	per square foot
Day Care Center	\$ -	\$ 5.0498	\$ 5.0498	per square foot
Cemetery	\$ -	\$ 0.6384	\$ 0.6384	per acre
<i>Medical</i>				
Hospital	\$ -	\$ 1.1421	\$ 1.1421	per square foot
Nursing Home	\$ -	\$ 0.7158	\$ 0.7158	per square foot
Clinic	\$ -	\$ 3.9873	\$ 3.9873	per square foot
Veterinary Clinic	\$ -	\$ 2.2800	\$ 2.2800	per square foot
<i>Office</i>				
General Office Building	\$ -	\$ 2.4594	\$ 2.4594	per square foot
Small Office Building	\$ -	\$ 3.2649	\$ 3.2649	per square foot
Corporate Headquarters Building	\$ -	\$ 1.8037	\$ 1.8037	per square foot
Single-Tenant Office Building	\$ -	\$ 2.9654	\$ 2.9654	per square foot
Medical-Dental Office Building	\$ -	\$ 8.1679	\$ 8.1679	per square foot
Office Park	\$ -	\$ 2.5116	\$ 2.5116	per square foot
Research and Development Center	\$ -	\$ 2.5139	\$ 2.5139	per square foot
Business Park	\$ -	\$ 2.8225	\$ 2.8225	per square foot

Land Use	Parks & Recreation	Road Improvements	Total Impact Fee	Unit of Measure
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*Retail*

Building Materials and Lumber Store	\$ -	\$ 1.8081	\$ 1.8081	per square foot
Free-Standing Discount Superstore	\$ -	\$ 5.3574	\$ 5.3574	per square foot
Variety Store	\$ -	\$ 6.7508	\$ 6.7508	per square foot
Free-Standing Discount Store	\$ -	\$ 5.7126	\$ 5.7126	per square foot
Hardware/Paint Store	\$ -	\$ 0.8558	\$ 0.8558	per square foot
Nursery (Garden Center)	\$ -	\$ 7.2216	\$ 7.2216	per square foot
Nursery (Wholesale)	\$ -	\$ 4.1357	\$ 4.1357	per square foot
Shopping Center	\$ -	\$ 3.9247	\$ 3.9247	per square foot
Shopping Plaza - No Supermarket (<150K)	\$ -	\$ 10.0201	\$ 10.0201	per square foot
Strip Retail Plaza	\$ -	\$ 5.7741	\$ 5.7741	per square foot
Automobile Sales (New)	\$ -	\$ 2.9523	\$ 2.9523	per square foot
Automobile Sales Used)	\$ -	\$ 2.8696	\$ 2.8696	per square foot
Recreation Vehicle Sales	\$ -	\$ 0.5302	\$ 0.5302	per square foot
Auto Parts Store	\$ -	\$ 5.7869	\$ 5.7869	per square foot
Tire Store	\$ -	\$ 2.9364	\$ 2.9364	per square foot
Supermarket	\$ -	\$ 9.9512	\$ 9.9512	per square foot
Discount Club	\$ -	\$ 4.5027	\$ 4.5027	per square foot
Sporting Goods Superstore	\$ -	\$ 2.5217	\$ 2.5217	per square foot
Home Improvement Superstore	\$ -	\$ 3.2598	\$ 3.2598	per square foot
Pharmacy/Drugstore w/drive-through	\$ -	\$ 11.4952	\$ 11.4952	per square foot
Furniture Store	\$ -	\$ 0.6681	\$ 0.6681	per square foot

*Services*

Drive-in Bank	\$ -	\$ 10.6416	\$ 10.6416	per square foot
Fast Casual Restaurant	\$ -	\$ 10.3012	\$ 10.3012	per square foot
Fine Dining Restaurant	\$ -	\$ 8.8908	\$ 8.8908	per square foot
High-Turnover (Sit-Down) Restaurant	\$ -	\$ 11.3680	\$ 11.3680	per square foot
Fast-Food Restaurant	\$ -	\$ 49.5737	\$ 49.5737	per square foot
Quick Lubrication Vehicle Shop	\$ -	\$ 7.3775	\$ 7.3775	per square foot
Automobile Parts & Service	\$ -	\$ 1.7603	\$ 1.7603	per square foot
Gasoline/Service Station	\$ -	\$ 127.4655	\$ 127.4655	per square foot
Convenience Store w/gas	\$ -	\$ 152.7063	\$ 152.7063	per square foot

NOTE: Impact fee amounts are shown to 4 decimal places. The fee applicable to a particular building permit will be calculated to 4 places and rounded down to 2 decimal places (cents).

"Square foot" means square foot of gross building floor area.