



TO: John McDonough, City Manager

FROM: Jim Tolbert, Assistant City Manager

DATE: October 8, 2016 for inclusion on the October 18, 2016 Regular Agenda for the Mayor and Council Meeting

ITEM: Amendment of the City Code regarding Impact Fees

Background

On the agenda tonight and attached is an ordinance that will amend the Impact Fee section of the Code of Ordinances of the City of Sandy Springs. Sandy Springs adopted an ordinance to allow the collection of impact fees in 2007. That ordinance imposed fees on all new development to assist in the financing of improvements to Parks and Recreation, Public Safety, and Roads. The ordinance has not been reviewed nor have new fees been calculated since the original adoption.

Discussion

The ordinance before you tonight is intended to accomplish three objectives.

-) The first is to streamline the code section into one coherent ordinance that addresses all three functions for which impact fees will be collected rather than three different sections of the code, all saying the same thing.
-) The second objective is to clarify the administrative functions of the code to make clear the process for appeals, when fees are paid, and to clearly outline exemption criteria.
-) The final objective is to amend the fee schedule to adopt a set of fees that more closely align with the projected costs of the construction of new public improvements.

This previous agenda item to adopt a new Capital Improvement Element supports this amendment to the code and was submitted to the Atlanta Regional Commission and to the Georgia Department of Community Affairs for their review and approval. That approval has been received and the impact fee ordinance amendment may now be adopted.

Alternatives

The alternative is to leave the ordinance as it is currently written or adopt a different fee schedule other than the one proposed.

Attachments

-) Ordinance

*City
Manager*

**STATE OF GEORGIA
COUNTY OF FULTON**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA TO AMEND CHAPTER 107 (IMPACT FEES) OF THE CODE ORDINANCES OF THE CITY OF SANDY SPRINGS, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City of Sandy Springs (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

WHEREAS, in 2008, pursuant to the 1990 Georgia Development Impact Fee Act found at O.C.G.A § 36-71-1, *et seq* (“Act”), Mayor and Council authorized the adoption of the Sandy Springs Impact Fee Program and Ordinance (“Ordinance”), codified as Chapter 107 of the Code of the City of Sandy Springs, Georgia (“Code”); and

WHEREAS, the Ordinance provided for three (3) distinct classifications of Development Impact Fees, including Parks and Recreation Development Impact Fees, Public Safety Facilities Development Impact Fees, and Transportation Development Impact Fees; and

WHEREAS, after approximately eight (8) years, City staff now recommends amending the Ordinance to make certain revisions for ease in administering while continuing the City’s policies of promoting and accommodating its orderly growth and development and protecting the public health, safety, and general welfare of its citizens; and

WHEREAS, such revisions include, but are not limited to, consolidating the classifications of Development Impact Fees and amending the impact fee schedule; and

WHEREAS, City staff further recommends amending the Ordinance to eliminate certain “legislative findings” provisions that are no longer correct or pertinent and making certain deletions, insertions, additions, and to insert headings, article numbers and section numbers where appropriate to streamline divisions and revise and correct errors or omissions; and

WHEREAS, a copy of the Ordinance, as amended (“Amended Ordinance”), is attached hereto and upon adoption by the Mayor and Council shall become and be made a part of the Code.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF SANDY SPRINGS, GEORGIA:

1. That the Mayor and City Council hereby approve the attached Amended Ordinance.
2. That, in order to avoid reciting each revision to Ordinance provisions separately and to assist in reviewing and interpreting the Ordinance, as amended, Chapter 107 of the Code is hereby revised in its entirety and in lieu thereof shall be substituted the attached Amended Ordinance.

3. That the Mayor, City Manager, and City Attorney are hereby authorized to execute any documents necessary to further the intent of this Resolution.
4. That this Resolution shall be effective immediately upon its adoption by the City Council and approved by the Mayor.

RESOLVED, this the _____ day of _____, 2016.

CITY OF SANDY SPRINGS, GEORGIA

By: _____
Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk

(SEAL)

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Chapter 107 IMPACT FEES

Sec. 107-1. Legislative findings.

The governing authority of the City of Sandy Springs has considered the feasibility of imposing development impact fees and finds, determines, and declares that:

- (a) The Georgia General Assembly, through the enactment of the Georgia Development Impact Fee Act, O.C.G.A. §§ 36-71-1--36-71-13, as amended, authorizes Sandy Springs to impose development impact fees.
- (b) Pursuant to the Georgia Development Impact Fee Act, O.C.G.A. § 36-71-5, Sandy Springs established a development impact fee advisory committee that assisted and advised Sandy Springs with regard to the original development and adoption of its development impact fees.
- (c) The City of Sandy Springs, Georgia has adopted and maintains a Comprehensive Plan which, through approval of the Georgia Department of Community Affairs, qualifies Sandy Springs as a "Qualified Local Government" pursuant to the Georgia Planning Act of 1989.
- (d) Sandy Springs must expand its public facilities (as defined herein) in order to maintain its adopted level of service standards if new development is to be accommodated without decreasing the level of service standards available to all residents and businesses in the city. This expansion of its public facilities must be done in order to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the citizens of Sandy Springs, Georgia.
- (e) The imposition of development impact fees is a preferred method of ensuring the availability of public facilities necessary to accommodate new growth and development.
- (f) Each of the types of land development described herein will create new demand for the acquisition or expansion of public facilities and the construction of public facility improvements.
- (g) The development impact fees established herein are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional public facility improvements, necessitated by the new land developments for which such fees are imposed.
- (h) The development impact fees established herein are based on the Comprehensive Plan as it may be amended from time to time, the portion of the Comprehensive Plan entitled "Capital Improvements Element" as most recently adopted and as may be amended from time to time, and plans and studies prepared by or affecting Sandy Springs from time to time that are of pertinence and relevance to the need for and provision of public facilities.

Sec. 107-2. Intent and purpose.

This chapter is intended to assist in the implementation of the City of Sandy Springs, Georgia Comprehensive Plan and the Georgia Planning Act of 1989, and to accomplish the following:

- (a) To ensure that adequate public parks and recreation areas and improvements are available to serve new growth and development by assuring that new growth and development bears a proportionate share of the cost of capital expenditures necessary to provide such parks and recreation areas and such parks and recreation improvements in Sandy Springs, consistent with the City of Sandy Springs, Georgia Comprehensive Plan.
- (b) To fully comply with each and every relevant provision of the Georgia Development Impact Fee Act, O.C.G.A. §§ 36-71-1—36-71-13, and shall be interpreted and implemented to so comply.

Nothing in this chapter shall be deemed to prevent or prohibit private development agreements between property owners or developers and the city.

Sec. 107-3. Short title, authority, and applicability.

- (a) This ordinance shall be known and may be cited as the “Development Impact Fee Ordinance of Sandy Springs, Georgia, 2016, as amended” or the short title of “Impact Fee Ordinance.”
- (b) This ordinance has been prepared and adopted by the city council of Sandy Springs, Georgia, in accordance with the authority provided by Article 9, Section 2, Paragraph 3 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.
- (c) The provisions of this ordinance shall not be construed to limit the power of Sandy Springs, Georgia, 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 ordinance.
- (d) This ordinance shall apply to all areas under the regulatory control and authority of Sandy Springs, Georgia, and such other areas as may be included by intergovernmental agreement.

Sec. 107-4. Rules of construction and definitions.

The provisions of this ordinance are to effectively carry out the need for the City of Sandy Springs to protect the interest of the public health, safety, and general welfare of its citizens.

- (a) Rules of construction.

Unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

- (1) In the case of a conflict between words or phrases as used in this ordinance 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 ordinance.
- (2) In the case of a conflict between the text of this ordinance 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 conjunctions “or” and “and/or” indicate 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” and the phrase “such as” shall not limit a term to the specific example or examples given but are intended to extend its meaning to all other instances or circumstances of like kind or character.
- (10) The article, section, and paragraph headings and enumerations used in this ordinance are included solely for convenience and shall not affect the interpretation of this ordinance.

(b) Definitions.

As used in this ordinance, the following terms shall have the meaning set forth below.

Administrator means the city manager of Sandy Springs, Georgia, or the city manager’s designee, who is hereby charged with implementation and enforcement of this ordinance.

ARC means the Atlanta Regional Commission, also referred to as “the regional commission”.

Building permit means the document issued by the city authorizing the construction, repair, alteration of or addition to a structure. For the purposes of this chapter, a building permit also means an interior finishes permit.

Capital equipment and/or facility means electronic or mechanical equipment, vehicles, buildings or other improvements which increase the service capacity of a public facility and which have an expected useful life of ten years or more.

Capital improvement includes land acquisition, site improvements, capital equipment, and capital facilities, but excludes maintenance and operation.

Capital improvements element means that portion of the Sandy Springs Comprehensive Plan that sets out projected needs for system improvements during the planning horizon established therein, which provides a schedule that will meet the anticipated need for system improvements, and which provides a description of anticipated funding sources for each required improvement, as most recently adopted or amended by the city council.

City means the city of Sandy Springs, Georgia, a municipal corporation of the state of Georgia.

City council means the city council of Sandy Springs, Georgia.

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 public official 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.

Comprehensive plan means the Sandy Springs plan or planning elements as adopted or amended by the city council in accord with 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 Board of Community Affairs.

Day means a calendar day, unless otherwise specifically identified as a “work” day or other designation when used in the text.

DCA means the Georgia Department of Community Affairs.

Developer means any person or legal entity undertaking development.

Development means any action which creates demand on or need for public facilities, as defined herein, and includes any construction or expansion of a building, structure, or use; any change in use of land, a building, or structure; or the connection of any building or structure to a public utility.

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 prior to commencement of construction.

Development impact fee means the payment of money imposed upon and paid by new development as a condition of development approval as its proportionate share of the cost of system improvements needed to serve it.

Development impact fee assessment means the determination of the amount of an impact fee due for issuance of a particular building permit.

Development impact fee collection means the receipt by the city of the amount due for an impact fee assessed for a particular building permit.

Dwelling Unit means one or more rooms of a building or portion thereof constructed with cooking, sleeping and sanitary facilities designed for and limited to use as living quarters for one family for periods of more than 30 consecutive days. A dwelling unit may be a single-family detached home, or an apartment or condominium in a multi-family structure.

Encumber means to legally obligate by contract or otherwise commit to use by appropriation or other official act of the city council.

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.

Fee assessment: see “Development impact fee assessment”.

Fee collection: see “Development impact fee collection”.

Fee payor means that person or entity who pays a development impact fee, or his or her legal successor in interest, with the right or entitlement to any refund of previously paid development impact fees that are required by this ordinance 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.”

Fiscal period means the city's twelve-month accounting period beginning on July 1 of a given year and continuing through June 30 of the subsequent year, or such other time period as may be determined by the city council.

Floor area means the gross heated horizontal areas of the floors of a building exclusive of open porches and garages, measured from the interior face of the exterior walls of the building. Also referred to as the “gross floor area”.

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 ordinance or, if the requirements are met, the fee calculated therefrom.

Individual assessment study means the engineering, financial, or economic documentation prepared by a fee payor or applicant to allow individual determination of a development impact fee other than by use of the applicable fee schedule.

Level of service means a measure of the relationship between service capacity and service demand for specified public facilities as established by the city in terms of demand to capacity ratios or the comfort and convenience of use or service of such public facilities or both.

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 methods of financial analysis acceptable to the Administrator for determination of “net present value.”

Project means a single improvement or set of interrelated improvements undertaken together within a finite time period at a specific location. With regard to land development, a project may be identified as those construction activities authorized collectively by a building permit or other development approval, or for an interrelated collection of buildings and common public facilities such as a residential subdivision or an office park.

Project improvements means site specific improvements or facilities that are planned, designed, or built to provide service for a specific development project and that are necessary for the use and convenience of the occupants or users of that project only, 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. A project improvement may provide no more than incidental service or facility capacity to persons other than users or occupants of the particular project they serve. 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.

Property owner means that person or entity that holds legal title to property.

Proportionate share means that portion of the cost of system improvements that is reasonably and fairly related to the service demands and needs of a project.

Public facilities means: (a) parks, open space, recreation areas and recreation facilities; and (b) public safety facilities, including fire, police and law enforcement, warning and communications facilities; and (c) roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any other components of local, state or federal streets or highways.

Service area means a geographically defined area as designated in the capital improvements element of the comprehensive plan in which a defined set of public facilities provide or are proposed to provide service to existing or future development.

System improvement costs means costs incurred to provide public facilities capacity to serve new growth and development, including the costs of planning, design, engineering, construction, land acquisition, and land improvement for the construction or reconstruction of facility improvements or expansions. System improvement costs include 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 of up to 3 percent of the total of all other system improvement 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 to finance system improvements, but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

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.

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.

Sec. 107-5. Imposition of development impact fees.

- (a) Any person who after the effective date of this ordinance engages in development shall pay a development impact fee in the manner and amount set forth in this ordinance.
- (b) Service areas:

The city limits of the city of Sandy Springs, Georgia, constitute a single service area for all public facilities subject to impact fees under this ordinance.

Sec. 107-6. Construction not subject to impact fees.

- (a) The following projects and construction activities do not constitute “development” as defined in this ordinance, 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 ordinance) 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) The construction of accessory buildings or structures which will not produce additional demand for parks and recreation facilities over and above those produced by the principal buildings or structures.
 - (4) Placing a temporary construction or sales office on a lot during the period of construction or build-out of a development project.
 - (5) Replacing a residential housing unit with another housing unit on the same lot or property.
 - (6) Constructing an addition to or expansion of a residential dwelling unit that may increase the floor area or number of rooms but 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, detached garage or utility shed, satellite antenna, pet enclosure, or private recreational facilities such as a swimming pool or tennis court.
- (b) A person claiming to be not subject to impact fees under this section shall submit to the administrator information and documentation sufficient to permit the administrator to determine whether such claim is correct. Any such claim must be made no later than the time of application for a building permit except in the case of a private development agreement approved by the city council under Sec. 107-32, below. Any such claims not so applied for shall be deemed waived.

Sec. 107-7. Grandfathered projects.

- (a) Notwithstanding any other provision of this ordinance, that portion of a project for which a valid building permit has been issued prior to the effective date of this ordinance shall not be subject to development impact fees so long as the permit remains valid and construction is commenced and is pursued according to the terms of the permit.
- (b) Any building for which a valid and complete application for a building permit has been received prior to the effective date of this ordinance may proceed without payment of fees otherwise imposed by this ordinance, provided that:
 - (1) all fees and development exactions in effect prior to the effective date of this ordinance shall be or have been paid in full; and,

- (2) said construction shall be commenced, pursued and completed within the time established by the building permit, not to exceed 180 days from the date of initial issuance of the permit.

Sec. 107-8. Method of impact fee calculation.

- (a) Any development impact fee imposed pursuant to this ordinance shall not exceed a project's proportionate share of the cost of system improvements, 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.
- (b) Notwithstanding anything to the contrary in this ordinance, the calculation of impact fees shall be net of credits for the present value of ad valorem taxes or other revenues as established in the capital improvements element, and which:
 - (1) are reasonably expected to be generated by new growth and development; and
 - (2) are reasonably expected on the basis of historical funding patterns to be made available to pay for system improvements of the same public facilities category and for which an impact fee is imposed to otherwise finance.
- (c) The method of calculating impact fees for public facilities under this ordinance 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.
- (d) 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.
- (e) 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.
- (f) The city shall be entitled to collect an administrative fee of up to an additional three percent of a development impact fee at the time of collection as to offset the costs of administering this chapter.

Sec. 107-9. Fee assessment and payment.

- (a) 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 ordinance.
- (b) 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 other than a shopping center, the total development impact fee shall be the sum of the fees for each and every building,

structure, or use, including each and every use within a building or structure. Shopping centers shall be assessed a single impact fee, in accordance with Attachment A, as a single use without regard to its individual tenants or changes in future tenants.

- (c) In the event that an applicant contends that the land use category of the proposed development is not shown on the fee schedule or fits within a different category, then:
 - (1) The administrator in his or her reasonable discretion shall make a determination as to the appropriate land use category and the appropriate development impact fee.
 - (2) 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 land use categories shown on the adopted fee schedule.
 - (3) If the land use of the proposed development is not similar to a land use category shown on the adopted fee schedule, then an appropriate fee may be determined by the administrator as an individual assessment in accordance with the individual assessment determinations section of this ordinance.
 - (4) Appeals from the decision of the administrator shall be made to the city council in accordance with the administrative appeals section of this ordinance.

Sec. 107-10. Timing of impact fee assessment and payment.

- (a) Development impact fees shall be assessed at the time of application for a building permit and collected in accordance with the requirements of this section.
- (b) All development impact fees shall be collected no earlier than at the time of issuance of a building permit, or with the administrator's approval no later than as a prerequisite to issuance of an interior finishes permit or a certificate of occupancy for the building or building shell.
- (c) 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, whichever is earliest.
- (d) If the final use of a building cannot be determined at the time 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, and shall adjust the fee in accordance with the following:
 - (1) Prior to the completion of the project, and as a condition to the issuance of an interior finishes permit or a certificate of occupancy, as applicable, the developer shall recertify in writing to the administrator the actual land use or uses of the project, and shall present an architect's certificate of the actual gross square footage of floor area attributable to each use.
 - (2) In the event that the actual land use or uses and/or the actual gross square footage applicable to the actual land use or uses differs from that originally certified, and in the event that the impact fee applicable to the actual land use or uses and/or gross square footage exceeds the impact fee previously paid, the developer shall be required to pay

the amount of the excess as a condition to the issuance of an interior finishes permit or a certificate of occupancy.

- (3) The amount of the excess shall be based upon the impact fee schedule in effect on the date the interior finishes permit or the certificate of occupancy is issued.
 - (4) If the actual gross square footage constructed after the issuance of the building permit is less than the amount originally certified, the developer shall be entitled to a refund of the excess portion of the fee in accordance with this ordinance.
- (e) Change of use, redevelopment, expansion or modification.
- (1) Any future change in demand for public facilities in excess of the average demand anticipated at the time of issuance of the original building permit shall result in the assessment of such additional fee, net of the previous fee paid, as would otherwise have been due.
 - (2) 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 original building permit.

Sec. 107-11. Individual assessment determinations.

An individual assessment of development impact fees for a particular property or proposed use may be established as follows:

- (a) 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.
- (b) In the event that an applicant elects an individual assessment, the applicant shall submit an individual assessment study. The individual assessment study shall:
 - (1) be based on relevant and credible information from an accepted standard source of engineering or planning data; or,
 - (2) 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.
- (c) The applicant shall provide any other written specifications as may be reasonably required by the administrator to substantiate the individual assessment determination.
- (d) The administrator in his or her reasonable discretion shall determine whether the content of an individual assessment study satisfies the requirements of this ordinance. A negative determination by the administrator may be appealed to the city council in accordance with the administrative appeals section of this ordinance.

- (e) 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 as individually levied by the city, and shall be deemed to be in compliance with the requirements of this ordinance.

Sec. 107-12. Fee certification.

Upon application to the administrator, a property owner or developer may receive 1) a certification of the development impact fee schedule attached hereto and incorporated herein as Attachment A, or 2) a certified fee for a particular project, as applicable.

- (a) Certified fee schedule.
 - (1) The administrator shall provide an applicant with a written certification of the impact fee schedule within 5 working days after the administrator's receipt of a completed application.
 - (2) The fee schedule certified by the administrator shall establish the impact fee schedule for all land use categories for a period of 180 days from the date of certification.
- (b) Certified fee determination for a particular project.
 - (1) The administrator shall provide the applicant with a written certification of an individual fee determination requested for a particular project within 30 days after receipt of a completed application. The individual fee determination certified by the administrator shall establish the total impact fee for the particular proposed development for the 180 day period immediately following the date of such certification.
 - (2) Notwithstanding the issuance of any certification of an individual fee determination for a particular development project, any additions to the proposed development different from the development identified in the original application shall negate any such certification. The applicable development impact fee shall thereafter be based on the fee schedule (Attachment A) in effect at the time the building permit is issued.

Sec. 107-13. Exemption policy.

- (a) The City of Sandy Springs recognizes that certain office, retail trade, hospitality and other business development projects 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. In addition, the City recognizes that fees, in some circumstances, can negatively affect the affordability of housing, particularly "workforce" housing. To encourage such development projects of public benefit to Sandy Springs, the city council may consider granting a reduction in the impact fee for a business development project upon the determination and relative to the extent that the project represents extraordinary economic development and employment growth, or that the affordability of a housing project may be increased, in accordance with exemption criteria adopted in this section.

- (b) It is also recognized that the cost of system improvements otherwise foregone through exemption of any impact fee must be funded through revenue sources other than impact fees.

Sec. 107-14. Process for exemption approval.

An application for exemption shall be considered under the following procedures:

- (a) An application for exemption approval must be made prior to or along with an application for the first building permit or other qualifying permit. Any exemptions not so applied for shall be deemed waived.
- (b) A building permit may be issued upon approval of an exemption, or may be issued without payment of applicable impact fees following receipt of a complete exemption application and pending its approval, but a certificate of occupancy shall not be issued until a decision regarding the exemption has been made, or until such time that the application for exemption is otherwise withdrawn by the applicant and payment of impact fees has been made.
- (c) Documentation must be provided that demonstrates the applicant’s eligibility for an exemption. This documentation shall address, but need not be limited to, all applicable exemption criteria adopted herein.
- (d) The administrator in his or her reasonable discretion shall determine whether an application for exemption addresses the exemption criteria adopted herein and is complete.
 - (1) The administrator may request additional information or documentation from the applicant in making this determination. Such determination shall be made within 5 working days of receipt of a complete application.
 - (2) Upon a positive determination as to compliance with the exemption criteria and the appropriate amount of the exemption, the administrator will thereupon forward the application to the city council for consideration and action.
 - (3) A negative determination by the administrator as to compliance with the exemption criteria may be appealed to the city council in accordance with the administrative appeals section of this ordinance.
- (e) The city council shall determine the eligibility for and extent of exemption, in accordance with the applicable exemption criteria adopted herein. The application for exemption shall be placed on the agenda at the next regularly scheduled meeting of the city council that falls at least two weeks after a complete application for exemption has been received from the city manager.

Sec. 107-15. Exemption criteria—extraordinary economic development and employment growth.

The following nonresidential projects may be considered for exemption, in whole or in part, from the payment of impact fees otherwise required by this ordinance:

- (a) Major construction project: Any nonresidential construction project involving the construction of new floor area, the expansion of an existing building or the renovation of existing floor space that will result in all of the following:
 - (1) the creation of 100 or more new jobs occupying said space that meet or exceed the average wage level within the city; and,
 - (2) a capital investment in the creation or renovation of the space of more than \$5 million; and,
 - (3) a written commitment to remain in the new or renovated space for at least 10 years.
- (b) Minor construction project: Any nonresidential construction project involving the construction of new floor area, the expansion of an existing building or the renovation of existing floor space that will result in all of the following:
 - (1) the creation of no fewer than 22 new jobs occupying said space that meet or exceed the average wage level within the city; and,
 - (2) a capital investment in the creation or renovation of the space of more than \$1 million; and,
 - (3) a written commitment to remain in the new or renovated space for at least 7 years.
- (c) The average wage level within the city shall be determined by the administrator from time to time based in credible data, such as reports from the US Bureau of the Census or the US Department of Commerce.

Sec. 107-16. Exemption criteria—affordable housing.

The following residential projects may be considered for exemption, in whole or in part, from the payment of impact fees otherwise required by this ordinance:

- (a) Any housing project that proposes to create at least 150 new or replacement housing units and at least 20% of the units will be made available to individuals or families with annual incomes of no more than 120% of the annual median income of all households in Sandy Springs (as determined by the administrator from time to time based in credible data, such as reports from the US Bureau of the Census).
- (b) Any housing project of at least 150 housing units that proposes to replace at least 150 existing rental housing units with no less than 75% of the units intended for home ownership.

Sec. 107-17. Reimbursement to impact fee fund.

As part of the annual budgeting process, adequate funds shall be identified and transferred to the impact fee fund accounts equal to the amount of all exemptions granted by the city council during the preceding year.

Sec. 107-18. Deposit and expenditure of fees.

The city shall comply with all applicable accounting requirements of O.C.G.A. § 36-71-8, which includes the following:

- (a) Maintenance of funds.
 - (1) All development impact fee funds collected for future expenditure on construction or expansion of facilities pursuant to this ordinance shall be maintained in one or more interest-bearing accounts until encumbered or expended. Restrictions on the investment of development impact fee funds shall be the same that apply to investment of all city funds generally.
 - (2) Separate accounting records shall be maintained for each category of system improvements (parks and recreation, public safety and road improvements) and for administration fees collected.
 - (3) Interest earned on development impact fees shall be allocated to each category of system improvements and the administration accounts in proportion to the impact fees collected, 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 ordinance.
- (b) Expenditures; restrictions.
 - (1) Expenditures from the system improvements impact fee accounts shall be made only for the category of system improvements for which the development impact fee was assessed and collected.
 - (2) Expenditures from the administration account may be expended directly for administrative purposes, which may include required annual reporting or amendments to the capital improvements element) or transferred to the general fund to cover administrative costs.
 - (3) Except as provided below, development impact fees shall not be expended for any purpose that does not involve building, acquiring or expanding system improvements that create additional capacity available to serve new growth and development.
 - (4) Notwithstanding anything to the contrary in this ordinance, the following shall be considered general revenue of the city, and may be expended accordingly:
 - a. impact fees collected to recover the present value of excess capacity in existing system improvements;
 - b. 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,
 - c. any portion of the fee collected for administration of the impact fee program.
- (c) Annual financial report.

- (1) The director of the finance department shall prepare an annual report to the administrator as part of the annual audit describing the amount of any development impact fees collected, encumbered, and expended during the preceding fiscal year by category of public facility.
- (2) Such annual report shall be prepared following guidelines of the Georgia Department of Community Affairs (DCA), and included in the annual update report of the city's capital improvements element as required to be submitted to the regional commission and reviewed by DCA, in accordance with Sec. 107-37.

Sec. 107-19. Credits.

When eligible, feepayors shall be entitled to a credit against impact fees otherwise due and owing under the circumstances and in the manner set forth in this Chapter.

Sec. 107-20. Credits; restrictions.

- (a) Except as provided in the following Paragraph (b), 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 ordinance.
- (b) 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 ordinance for system improvements that are included for impact fee funding in the capital improvements element, 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.
- (c) Notwithstanding anything to the contrary in this ordinance, any credit due under this section shall not constitute a liability of the city, and shall accrue to the developer to the extent of impact fees assessed for new development for the same category of system improvements.
- (d) In no event shall credit be given for project improvements as defined in this ordinance.

Sec. 107-21. Granting of credits.

- (a) 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 for which a development impact fee is imposed, provided that:
 - (1) the system improvement is included for impact fee funding in the capital improvements element;
 - (2) 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 capital improvements element;and,

- (3) the city council shall approve said improvement, contribution, dedication, or payment and the value thereof prior to its construction, dedication, or transfer.
- (b) The credit allowed pursuant to this section shall not exceed the impact fee due for any particular public facilities category for which a development impact fee is imposed, unless a greater credit is authorized under a private contractual agreement executed under the provisions of this ordinance.
 - (1) Any credit amount in excess of the impact fee due for any particular public facilities category may be carried over and applied to the impact fee due in the same public facilities category for another development by the developer, or to a successor in interest, within the city.
 - (2) To qualify as a “successor in interest” for entitlement to a credit, notice must have been given to the administrator of a legal transfer or assignment of the right of entitlement to the credit, including the name, mailing address and written, notarized authorization of the grantor and the name and mailing address of the grantee.

Sec. 107-22. Guidelines for credit valuation.

Credits under this Section shall be valued using the following guidelines:

- (a) Construction. For the construction of any system improvements by a developer (as defined in this ordinance) or his or her predecessor in title or interest and accepted by the city, the developer shall present evidence satisfactory to the administrator of the original cost of the improvement. The administrator shall determine if the amount claimed is reasonable and appropriate.
- (b) Land. 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 value of the land so dedicated shall be the lesser of: the original cost of the land paid by the developer, or that value attributed to the property by the validated Fulton County tax appraisal at the time of dedication.
- (c) Equipment. 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, and as determined to be reasonable and appropriate by the administrator.
- (d) Money. 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.
- (e) In making a present value calculation, the discount rate used shall be the interest rate being earned on the city’s impact fee funds, and the average annual inflation rate shall be that for the Consumer Price Index (the CPI) for the cost of money, or the average rate reported by the Engineering News Record for construction in general (the CCI) or building construction specifically (the BCI), as appropriate.

Sec. 107-23. Credits; application.

- (a) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
- (b) No credit shall be given for contributions of money or land and/or capital improvements made or dedicated prior to the effective date of the incorporation of the city.
- (c) Credits shall be given only upon written application under the authority of the property owner or developer to the administrator. An applicant shall present written evidence satisfactory to the administrator at or before the time of development impact fee assessment.
- (d) The administrator, in his or her reasonable discretion, shall review all applications for credits and make determinations regarding the allowance of any claimed credit, and the value of any allowed credit.

Sec. 107-24. Credits for proposed construction of system improvements.

- (a) Applicants for credit for construction of a system improvement shall submit acceptable engineering drawings and specifications, and construction cost estimates to the administrator.
 - (1) If the administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate, then the administrator shall determine credit for construction based upon alternative engineering criteria and construction cost estimates available to the city.
 - (2) The administrator shall provide the applicant with a letter or other certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied.
 - (3) The applicant must sign and date a duplicate copy of such letter or certificate and return such signed document to the administrator before credit will be given. The credit shall be nullified if the applicant fails to sign, date, and return such document within 60 days of the receipt of such letter or certificate from the administrator.
- (b) Credit against development impact fees for new construction of system improvements otherwise due will not be provided until:
 - (1) The construction is completed and accepted by the city, the county, or the state, whichever is applicable; and
 - (2) a suitable maintenance and warranty bond is received and approved by the administrator, when applicable.
- (c) However, credit may be provided before completion of the specified facilities, in the discretion of the administrator, if adequate assurances are given by the applicant that the standards set out above will be met and if the applicant posts security as provided below for the costs of such construction.

- (1) Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the administrator in an amount determined by the administrator.
 - (2) If the construction project will not be constructed within one year of the acceptance of the offer by the administrator, then the amount of the security shall be increased by ten percent compounded for each year of the life of the security.
- (d) Appeals from the decision of the administrator shall be made to the city council in accordance with the Administrative Appeals Section of this ordinance.

Sec. 107-25. Credit certificates.

- (a) Credits shall be represented by a written certificate (the "credit certificate") setting forth the name of the person or entity to whom the credit certificate is issued, the date of the credit certificate, and the amount of the credit. Each credit certificate shall be signed, either manually or facsimile, by the city finance director with the seal of the city affixed thereto.
- (b) The interest of a secured party shall not be effective and shall not be recognized by the city unless and until the city is in receipt of a written document satisfactory to the city signed by the secured party and the holder of the credit certificate verifying the creation of the security interest and directing the city to append the secured party's name to the credit certificate.

Sec. 107-26. Transfer of credits.

- (a) Credits are transferable from one holder to another and from one project to another provided that such credits shall apply only to impact fees assessed for the same category of system improvements for which the original credit was approved by the city, and provided further that the transfer is accomplished in accordance with the provisions of this subsection.
- (b) A transfer of credits shall only be effective upon surrender of the previous credit certificate signed and dated as of the date of the transfer by the certificate holder.
- (c) If the previous credit certificate is subject to a security interest reflected in the credit certificate, the previous credit certificate shall also be accompanied by a written consent to transfer or release of security interest signed by the secured party.
- (d) Upon compliance with the transfer provisions of this subsection, the city shall issue a new credit certificate in the name of the authorized transferee, with an applicable security interest attached, if applicable.
- (e) A transfer from one holder to another not in compliance with the terms of this section shall not be recognized by the city.

Sec. 107-27. Credits; abandoned building permits.

- (a) In the event that an impact fee is paid but the building permit becomes invalid, credit shall be given for the paid amount of the impact fee against future impact fees for the same parcel of land.

- (b) In accordance with the city's Building Code, a building permit shall be deemed invalid if no construction on the site authorized by the permit is commenced within 180 days after its issuance, or if the work authorized on the site by the permit is suspended or abandoned for a period of 180 days after the work is commenced.
- (c) No extension of an invalidated building permit shall be authorized by the building official for any reason. Work may resume on such a site only through issuance of a new building permit, which will be subject to all fees required for such issuance at the time the application for the new permit is requested.

Sec. 107-28. Refunds; eligibility.

- (a) Upon the written request of a feepayor regarding a property on which a development impact fee has been paid, the development impact fee shall be refunded if:
 - (1) capacity is available in the public facilities for which the fee was collected but service is permanently denied; or,
 - (2) the development impact fee has not been encumbered or construction has not been commenced within six years after the date the fee was collected.
- (b) In determining whether development impact fees have been encumbered, development impact fees shall be considered encumbered on a first-in, first-out (FIFO) basis.

Sec. 107-29. Notice of entitlement to a refund.

When the right to a refund exists due to a failure to spend or encumber the development impact fees, the administrator shall provide written notice of entitlement to a refund to the feepayor at the address shown on the application for development approval or to the assignee in interest of a legal transfer or assignment of the right to entitlement to a refund and who has provided a mailing address. 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.

Sec. 107-30. Filing a request for a refund.

A request for a refund 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. Failure to make a claim for a refund within said time period shall result in a waiver of all claims to said funds.

Sec. 107-31. Payment of refunds.

- (a) 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.

- (b) A refund shall include a refund of a pro rata share of interest actually earned on the unused or excess impact fee collected.
- (c) 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 ordinance or for recovery of the cost of preparation of the capital improvements element.

Sec. 107-32. Private development agreements.

This ordinance does not prohibit the voluntary mutual approval of a private contractual agreement between the city 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 for such system improvement costs incurred, provided that:

- (a) The system improvements are included for impact fee funding in the capital improvements element; and,
- (b) The amount of any credit granted shall not exceed the portion of the system improvement's cost that is eligible for impact fee funding.

Sec. 107-33. Private agreements; provisions.

A private contractual agreement for system improvements, among other items, may include 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 schedules set forth in this ordinance.
- (b) Provide for 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) Provide for 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 ordinance, provided that acceptable security is posted ensuring payment of the development impact fees. Forms of security that may be acceptable include a cash bond, irrevocable letter of credit from a bank authorized to do business within the state of Georgia and acceptable to the administrator, a surety bond, or lien or mortgage on lands to be covered by the building permit.

Sec. 107-34. Private agreements; procedure.

- (a) Any private agreement proposed by an applicant pursuant to this Section shall be submitted to the administrator for review and negotiation, prior to submission to the city council.
- (b) Any private agreement proposed by an applicant pursuant to this Section shall be reviewed and approved by the city attorney as to form and sufficiency prior to consideration by the city council.
- (c) Any private agreement must be presented to and approved by the city council prior to the issuance of the first building permit or other qualifying permit.
- (d) Any private agreement shall be executed or approved by mortgagees, lien holders or contract purchasers in addition to the landowner, and shall require the applicant to submit such agreement to the clerk of superior court for recording on the deed records.

Sec. 107-35. Automatic annual fee schedule adjustment.

The city council is authorized to automatically adjust the development impact fee schedule set forth in Attachment A to this ordinance as necessary and appropriate from time to time. Automatic adjustments to the development impact fees, made pursuant to this section, shall be effective upon their adoption or at such subsequent date designated by the city council.

- (a) Automatic adjustments to the development impact fees shall not exceed the change in the average annual Consumer Price Index (CPI) for the most recent calendar year compared to the average annual CPI used for the original adoption of the impact fee schedule or the last automatic adjustment, whichever most recently occurred.
- (b) The base for computing any adjustment is the average annual Consumer Price Index - All Urban Consumers for the Southern Region (Current Series), published by the United States Department of Labor, Bureau of Labor Statistics.

Sec. 107-36. Administrative review of impact.

The city council may from time to time review impacts associated with classes of land uses and may adjust the development impact fee schedule for such class(es) accordingly or modify the development impact fee schedule to include such class(es) previously omitted. Such review may include but shall not be limited to differences in impact associated with location, density, configuration, and/or mix of land uses and development types.

Sec. 107-37. Annual capital improvements element update report.

Each year, a Capital Improvements Element Annual Update report shall be prepared based on the rules and regulations pertaining to impact fees in Georgia, as specified by the Development Impact Fee Act (DIFA) and the Georgia Department of Community Affairs (DCA) documents *Development Impact Fee Compliance Requirements* and the *Standards and Procedures for Local Comprehensive Planning*. These three documents dictate the essential elements of an Annual Update, specifically the inclusion of a financial report and an updated schedule of improvements.

(a) Financial Report.

- (1) The financial report is to be based on the annual audit completed for the most recent fiscal year, describing the amount of any development impact fees collected, encumbered, and expended during the fiscal year by category of public facility.
- (2) The financial report must also include financial and status information for each of the impact fee projects contained in the capital improvements element, by public facility category.

(b) Schedule of Improvements.

In addition to the financial report, the city shall update its five-year schedule of impact fee projects contained in its community work program (CWP) as specified in DCA's *Development Impact Fee Compliance Requirements*, by adding a new fifth year and deleting the year just passed.

Sec. 107-38. Capital improvements element amendment.

The city council may determine to amend the capital improvements element from time to time. Amendments to the capital improvements element must comply with the procedural requirements of the *Development Impact Fee Compliance Requirements* as adopted by the Board of Community Affairs of the State of Georgia, and shall be required for any change to the capital improvements element that would:

- (a) redefine growth projections, land development assumptions, or goals or objectives that would affect system improvements proposed in the capital improvements element;
- (b) add new public facility categories for impact fee funding, modify impact fee service areas or make changes to system improvement projects;
- (c) change service levels established for an existing impact fee service area; or
- (d) make any other revisions needed to keep the capital improvements element up to date.

Sec. 107-39. Continuation of validity.

Failure of the city council to make any automatic fee schedule adjustments under this Chapter, or to make such annual update reports or to amend the capital improvements element shall result in the continued use and application of the latest adopted or adjusted development impact fee schedule; project listings, including estimated costs and impact eligibility percentages; and data upon which the level of service standards and impact fee calculations are based. The failure to periodically adjust, review or amend such impact fee program elements shall not invalidate this ordinance.

Sec. 107-40. Administrative guidelines.

The administrator shall issue guidelines to aid city staff in the administration of this ordinance and to facilitate compliance with it by feepayers. The guidelines shall include descriptions of the powers and responsibilities of the administrator. The guidelines shall also include procedures for evaluating

and certifying exemptions and credits consistent with the Georgia Development Impact Fee Act, O.C.G.A. § 36-71-1, *et seq.*, and undertaking administrative review of impact pursuant to Sec. 107-36.

Sec. 107-41. Administrative appeals.

Only applicants or feepayors 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. Such appeals may address:

- (a) The imposition and/or the amount of an impact fee.
- (b) The entitlement to and/or the amount of credits applicable to an impact fee.
- (c) The entitlement to and/or the amount of a refund of an impact fee.

Sec. 107-42. Administrative appeals process.

- (a) The administrator shall make a written final decision with respect to a matter addressed in subsection (a) of this section, above. The decision shall be of sufficient content to set forth the basis for the determination. The final decision shall be mailed or electronically transferred to the applicant or feepayor at the address given.
- (b) The aggrieved applicant or feepayor shall file a written appeal with the administrator within 15 days of the decision or written determination from which the appeal is taken.
- (c) The appeal shall constitute an application for relief, and be of sufficient content to specify the grounds of the appeal and the relief sought. It shall include:
 - (1) the name and address of the appellant;
 - (2) the location of the affected property; and,
 - (3) a copy of any applicable written decision or determination made by the administrator (from which the appeal is taken).
- (d) Appeals from the decision of the administrator shall be made to the city council.
- (e) The city council shall thereafter establish a date, within 60 days of the appeal, for a hearing on the appeal and give due notice thereof. Any applicant or feepayor taking an appeal shall have the right to appear at the hearing and to present evidence, and may be represented by counsel.
- (f) Following the consideration of all testimony, documentary evidence and matters of record, the city council shall make a determination on the appeal.
 - (1) A decision shall be made within a reasonable time but in no event more than 60 days from the date of the hearing.
 - (2) An appeal shall be sustained only upon a finding by the city council that the administrator's decision was based on an erroneous finding of material facts or documents.

- (3) The city council may set the amount of the development impact fee to be paid as a condition of the issuance of the building permit provided all other requirements imposed by all applicable laws are met.

Sec. 107-43. Payment of impact fee during appeal.

- (a) The filing of an appeal shall not stay the collection of a development impact fee as a condition to the issuance of development approval.
- (b) A developer may pay a development impact fee under protest to obtain a development approval, and by making such payment shall not be estopped from exercising this right of appeal or seeking a refund of any amount deemed to have been collected in excess.

Sec. 107-44. Repeal of conflicting laws.

Any and all other ordinances, resolutions or regulations, or parts thereof, in conflict with this ordinance are hereby repealed to the extent of such conflict. Where this ordinance overlaps with other ordinances or regulations adopted by the city council, whichever imposes the more stringent restrictions shall prevail.

Sec. 107-45. Severability.

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Sec. 107-46. Reference to Georgia law.

It is the intent of the city council that this development impact fee ordinance of Sandy Springs, Georgia, complies 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 ordinance is inconsistent with the provisions of said Title 36-Chapter 71, the latter shall control. Furthermore, to the extent that this ordinance is silent as to any provision of said Title 36-Chapter 71 that is otherwise made mandatory by said Chapter 36-71, such provision shall control and shall be binding upon the city.

Attachment A: Impact Fee Schedule

ITE Code	Land Use Category	Parks & Recreation	Public Safety	Roads	Subtotal	Adminis- tration (3%)	TOTAL IMPACT FEE	Unit of Measure
Residential								
210	Single-Family Detached Housing	4,543.67	444.80	1,666.69	6,655.16	199.65	6,854.82	per dwelling
220	Apartment	4,543.67	444.80	1,351.04	6,339.51	190.19	6,529.69	per dwelling
230	Residential Condominium/Townhouse	4,543.67	444.80	1,666.69	6,655.16	199.65	6,854.82	per dwelling
Port and Terminal								
030	Truck Terminal	0.40	0.33	2.02	2.75	0.08	2.83	per square foot
Industrial								
110	General Light Industrial	0.64	0.55	1.42	2.61	0.08	2.69	per square foot
120	General Heavy Industrial	0.51	0.43	0.31	1.25	0.04	1.29	per square foot
140	Manufacturing	0.50	0.42	0.78	1.70	0.05	1.76	per square foot
150	Warehousing	0.26	0.22	0.73	1.20	0.04	1.23	per square foot
151	Mini-Warehouse	0.02	0.02	0.51	0.55	0.02	0.57	per square foot
152	High-Cube Warehouse	0.02	0.02	0.34	0.38	0.01	0.39	per square foot
Lodging								
310	Hotel	159.07	134.80	1,810.75	2,104.61	63.14	2,167.75	per room
311	All Suites Hotel	139.60	118.30	1,086.01	1,343.90	40.32	1,384.22	per room
320	Motel	122.71	103.98	1,247.80	1,474.49	44.23	1,518.72	per room
Recreational								
430	Golf Course	68.57	58.11	949.48	1,076.17	32.28	1,108.45	per acre
437	Bowling Alley	0.28	0.24	6.28	6.79	0.20	7.00	per square foot
443	Movie Theater	0.41	0.35	14.71	15.46	0.46	15.93	per square foot
460	Arena	930.56	788.57	6,279.01	7,998.13	239.94	8,238.08	per acre
480	Amusement Park	2,539.24	2,151.78	14,272.35	18,963.37	568.90	19,532.27	per acre
490	Tennis Courts	68.09	57.70	3,063.21	3,189.00	95.67	3,284.67	per acre
491	Racquet/Tennis Club	0.09	0.07	2.64	2.80	0.08	2.89	per square foot
492	Health/Fitness Center	0.20	0.17	6.20	6.57	0.20	6.76	per square foot
495	Recreational Community Center	0.35	0.29	6.37	7.01	0.21	7.22	per square foot
Institutional								
520	Private Elementary School	0.27	0.23	2.74	3.24	0.10	3.34	per square foot
530	Private High School	0.18	0.15	2.43	2.77	0.08	2.85	per square foot
560	Church/Synagogue	0.10	0.08	1.82	2.00	0.06	2.06	per square foot
565	Day Care Center	0.79	0.67	1.76	3.21	0.10	3.31	per square foot
566	Cemetery	22.73	19.26	943.50	985.50	29.56	1,015.06	per acre
Medical								
610	Hospital	0.82	0.70	2.26	3.77	0.11	3.88	per square foot
620	Nursing Home	0.65	0.55	1.26	2.47	0.07	2.54	per square foot
630	Clinic	1.10	0.93	5.37	7.39	0.22	7.61	per square foot

Fee Schedule continued on next page.

Impact Fee Schedule continued

ITE Code	Land Use Category	Parks & Recreation	Fire Protection	Roads	Subtotal	Adminis- tration (3%)	TOTAL IMPACT FEE	Unit of Measure
Office								
710	General Office Building	0.93	0.79	2.25	3.96	0.12	4.08	per square foot
714	Corporate Headquarters Building	0.96	0.81	1.63	3.39	0.10	3.50	per square foot
715	Single-Tenant Office Building	0.88	0.74	2.38	4.00	0.12	4.12	per square foot
720	Medical-Dental Office Building	1.13	0.96	7.37	9.46	0.28	9.74	per square foot
760	Research and Development Center	0.82	0.69	1.65	3.16	0.09	3.26	per square foot
770	Business Park Building	0.86	0.73	2.54	4.12	0.12	4.25	per square foot
Retail								
812	Building Materials and Lumber Store	0.39	0.33	8.11	8.83	0.26	9.10	per square foot
813	Free-Standing Discount Superstore	0.27	0.23	8.44	8.93	0.27	9.20	per square foot
814	Variety Store	0.27	0.23	6.95	7.45	0.22	7.67	per square foot
815	Free-Standing Discount Store	0.55	0.47	7.74	8.76	0.26	9.03	per square foot
816	Hardware/Paint Store	0.27	0.23	4.55	5.04	0.15	5.20	per square foot
817	Nursery (Garden Center)	0.87	0.74	12.23	13.83	0.42	14.25	per square foot
818	Nursery (Wholesale)	0.47	0.39	7.00	7.86	0.24	8.10	per square foot
820	Shopping Center	0.47	0.40	7.14	8.00	0.24	8.24	per square foot
823	Factory Outlet Center	0.47	0.40	4.77	5.63	0.17	5.80	per square foot
826	Specialty Retail Center	0.55	0.47	7.96	8.98	0.27	9.25	per square foot
841	Automobile Sales	0.43	0.36	5.66	6.44	0.19	6.64	per square foot
843	Auto Parts Store	0.27	0.23	6.04	6.53	0.20	6.73	per square foot
848	Tire Store	0.36	0.30	3.69	4.35	0.13	4.48	per square foot
849	Tire Superstore	0.36	0.30	3.75	4.41	0.13	4.54	per square foot
850	Supermarket	0.33	0.28	9.74	10.34	0.31	10.65	per square foot
851	Convenience Market (Open 24 Hours)	0.50	0.43	32.71	33.64	1.01	34.65	per square foot
853	Convenience Market with Gasoline Pumps	0.50	0.43	29.99	30.91	0.93	31.84	per square foot
854	Discount Supermarket	0.63	0.53	10.47	11.63	0.35	11.98	per square foot
860	Wholesale Market	0.23	0.19	0.91	1.33	0.04	1.37	per square foot
857	Discount Club	0.36	0.31	5.65	6.32	0.19	6.51	per square foot
862	Home Improvement Superstore	0.27	0.23	2.11	2.61	0.08	2.69	per square foot
863	Electronics Superstore	0.27	0.23	2.70	3.19	0.10	3.29	per square foot
876	Apparel Store	0.47	0.40	7.21	8.07	0.24	8.31	per square foot
875	Department Store	0.55	0.47	2.48	3.51	0.11	3.61	per square foot
880	Pharmacy/Drugstore	0.47	0.40	7.98	8.85	0.27	9.11	per square foot
890	Furniture Store	0.12	0.10	0.22	0.44	0.01	0.45	per square foot
Services								
912	Drive-in Bank	1.34	1.13	7.22	9.69	0.29	9.98	per square foot
931	Quality Restaurant	2.08	1.77	7.58	11.42	0.34	11.77	per square foot
932	High-Turnover (Sit-Down) Restaurant	2.08	1.77	10.71	14.56	0.44	14.99	per square foot
934	Fast-Food Restaurant	3.04	2.58	29.69	35.31	1.06	36.37	per square foot
941	Quick Lubrication Vehicle Shop	586.31	496.85	7,358.25	8,441.41	253.24	8,694.65	per service bay
944	Gasoline/Service Station	44.67	37.85	7,471.73	7,554.26	226.63	7,780.89	per pump
945	Gasoline Station w/Convenience Market	0.06	0.05	5,050.87	5,050.98	151.53	5,202.51	per pump
947	Self-Service Car Wash	55.84	47.32	9,574.60	9,677.75	290.33	9,968.09	per stall

NOTES: ITE Code means the land use code assigned in the *Trip Generation* manual published by the Institute of Transportation Engineers, 9th Edition.

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

All figures rounded to nearest whole cent for clarity. Actual fees carried to six decimals or more.