

AN ORDINANCE AMENDING SECTION 107-41 OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS, GEORGIA

WHEREAS, on February 19, 2008, the Mayor and City Council adopted an Impact Fee Ordinance; and

WHEREAS, the Mayor and City Council of the City of Sandy Springs find that from time to time it is necessary to amend sections of the Code of Ordinances to correct, clarify, and update the provisions of the Ordinances; and

NOW, THEREFORE, be it ordained by the Mayor and City Council of the City of Sandy Springs that Chapter 107 Impact Fees, Section 107-41 Credits is hereby amended to read as follows:

1.

**Sec. 107-41. Credits.**

Credits shall be determined and applied to parks and recreation development impact fees as follows:

- (1) A contribution of money may be offered by the applicant as total or as partial payment of the required parks and recreation development impact fee. The applicant must request a parks and recreation development impact fee credit. If the impact fee administrator accepts such an offer, the credit shall be determined and provided in the following manner:
  - (a) The original value of the money shall be the same as that at the time of contribution, from which present value may be calculate.
  - (b) 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 City Council in its sole discretion may deem appropriate.
- (2) Parks and recreation land and/or improvements may be offered by the applicant as total or as partial payment of the required parks and recreation development impact fee. The applicant must request a parks and recreation development impact fee credit. If the impact fee administrator accepts such an offer, the credit shall be determined and provided in the following manner:
  - (a) Credit for the dedication of land shall be valued at:
    1. One hundred fifteen (115) percent of the most recent assessed value by the Fulton County tax assessor, or
    2. Fair market value established by private appraisers acceptable to the city. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the city in a manner satisfactory to the administrator.
  - (b) Applicants for credit for construction of parks and recreation facilities shall submit acceptable engineering drawings and specifications, and construction cost estimates to the administrator. 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 either these cost estimates or upon alternative engineering criteria and construction cost estimates. 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. 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.

- (3) In no event shall credit be given for project improvements.
- (4) Except as provided in subsection (5) herein, credit against parks and recreation development impact fees otherwise due will not be provided until:
  - (a) The construction is completed and accepted by the city, the county, or the state, whichever is applicable; and
  - (b) A suitable maintenance and warranty bond is received and approved by the administrator, when applicable.
- (5) Credit may be provided before completion of specified parks and recreation facilities 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. 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. If the parks and recreation 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.
- (6) An applicant may apply for credit against parks and recreation development impact fees otherwise due for private parks and recreation facilities. In no circumstance shall credit for private parks and recreation facilities exceed 50 percent of the parks and recreation development impact fees otherwise due. An applicant requesting credit must show that:
  - (a) The private parks and recreation facility for which credit is sought serves a public parks and recreation need,
  - (b) The private parks and recreation facility for which credit is sought is consistent with the city's comprehensive plan, and
  - (c) The request complies with the security provisions set forth in paragraph (6) of this section.
- (7) 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.
- (8) No credit shall be given for parks and recreation contributions of money or land and/or capital improvements made or dedicated more than five years prior to the effective date of this ordinance.
- (9) 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 number of the credit certificate, and the amount of the credit. Each credit certificate shall be numbered in the order in which it is issued, and shall be signed, either manually or facsimile, by the city finance director with the seal of the city affixed thereto. The city shall also maintain a register (the "credit certificate register") which shall set forth the name of the credit holder, the number of the credit certificate, the amount of the credit, and the name of any party entitled to the credit represented by the credit certificate.

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 enter the secured party's name in the credit certificate register. Credits are transferable from one developer to another and from one project to another provided that such credits shall not be transferred to a project in a different development impact fee service area, and provided further that the transfer is accomplished in accordance with the provisions of this section.

- (10) Transfers of credit certificates shall only be effective when entered in the credit certificate register of the city upon surrender of the credit certificate signed and dated as of the date of the purported transfer by the person in whose name the credit certificate is registered or on his behalf by a person legally authorized to so sign. Any attempted transfer not in compliance with the terms of this section shall not be effective, shall not be recognized by the city, and shall result in the waiver and forfeiture of the credit. If the credit certificate to be transferred is subject to a security interest reflected in the credit certificate register, the surrendered credit certificate shall also be accompanied by a written consent to transfer or release of security interest signed by the secured party. Upon compliance with the transfer provisions of this section, the city shall issue a new credit certificate in the name of the authorized transferee.

2.

**Repeal of Conflicting Provisions.** It is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention. All ordinances or parts of ordinances in conflict herewith are repealed.

3.

This Ordinance is effective June 17, 2008; and

Approved: Eva Galambos  
Eva Galambos, Mayor

Attest: Christina Rowland  
Christina Rowland, City Clerk  
(Seal)

