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FOOTNOTE(S):

(39) **Editor's note**— Ord. No. 2008-02-08, adopted February 19, 2008, pertaining to impact fees, did not specifically amend the code. For purposes of classification, and at the editor's discretion, these provisions have been included as Ch. 107, §§ 107-1—107-150. ([Back](#))

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ARTICLE II. - PARKS AND RECREATION DEVELOPMENT IMPACT FEES

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Sec. 107-21. - Legislative findings.

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

- (1) 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.
- (2) 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 development and adoption of development impact fees.
- (3) The City of Sandy Springs, Georgia Comprehensive Plan contains Land Use Assumptions, a five-year capital improvement element for parks and recreation, and the establishment of a level of service for parks and recreation capital facilities for the planning horizon to 2027; and the City of Sandy Springs, Georgia Comprehensive Plan has been submitted to and approved by the Atlanta Regional Commission so as to qualify Sandy Springs as a "Qualified Local Government" pursuant to the Georgia Planning Act of 1989.
- (4) Sandy Springs must expand its parks and recreation system in order to maintain current parks and recreation standards if new development is to be accommodated without decreasing current standards. This expansion of its parks and recreation system 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.
- (5) The imposition of development impact fees is a preferred method of ensuring the availability of capital facilities necessary to accommodate new growth and development.
- (6) Each of the types of land development described herein will create new demand for the acquisition or expansion of parks and recreation and the construction of parks and recreation improvements.
- (7) 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 parks and recreation areas, and parks and recreation improvements, necessitated by the new land developments for which such fees are imposed.
- (8) A report to the City Council entitled "Sandy Springs Recreation and Parks Master Plan", prepared by Robert G. Betz, AICP, Inc. and dated November 20, 2007, sets forth a reasonable methodology and analysis for the determination for the need for and costs of additional parks and recreation areas, and parks and recreation improvements in Sandy Springs. Additional information can also be found in Chapter 7 of the 2027 Comprehensive Plan adopted on November 20, 2007.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-22. - Intent and purpose.

This article 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:

- (1) 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.
- (2) 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 article shall be deemed to prevent or prohibit private development agreements between property

owners or developers and the city.

(Ord. of 2-19-08)

Secs. 107-23—107-25. - Reserved.

Sec. 107-26. - Short title, authority, and applicability.

This article shall be known and may be cited as the "City of Sandy Springs Parks and Recreation Development Impact Fee Ordinance" and shall apply throughout the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

Secs. 107-27—107-30. - Reserved.

Sec. 107-31. - Definitions.

For the purpose of this article, certain terms are defined as follows:

Administrator means the director of community development or his/her designee responsible for administration of the provisions of this article.

Capital equipment and/or facility means 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.

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.

Feepayer means that person who pays a development impact fee or his successor in interest, with the right or entitlement to any refund of a previously paid development impact fee which is required by this ordinance and which 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.

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.

Methodology report means the technical analysis adopted as of the effective date of this ordinance, and shall be the chapter of the adopted City of Sandy Springs, Georgia 2027 Comprehensive Plan titled "Chapter 7: Capital Improvement Element for Impact Fees," as may be amended from time to time.

Present value means the current value of past, present or future payments, contributions or dedications of goods, services, materials, construction, or money.

Project improvements means site improvements and facilities that are planned and designed 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 are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or 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 facilities 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 approved by the city shall be considered a project improvement.

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

Service area means the geographic limits of the City of Sandy Springs including any future annexations.

System improvement costs means costs incurred to provide additional facilities, including equipment, needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorney's 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 improvement element, and administrative costs equal to three percent of the total amount of the costs. System improvement costs shall also include projected interest charges and other finance costs if and to the extent the development 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 improvement element. 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 and are designed to provide service to the community at large, in contrast to project improvements.

Where a term is not defined herein but is defined under the Georgia Development Impact Fee Act, it shall have the meaning ascribed to it in the Georgia Development Impact Fee Act.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-32. - Parks and recreation development impact fee required.

- (a) Any person who, after the effective date of this ordinance, seeks to develop land within the City of Sandy Springs, Georgia, by applying for a residential building permit is hereby required to pay a parks and recreation development impact fee in the manner and amount set forth in this ordinance.
- (b) Development impact fees shall be collected at the time of the issuance of a building permit, and no building permit shall be issued until the parks and recreation development impact fee hereby required has been paid in full.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-33. - Computation of parks and recreation development impact fees

The applicant for a building permit may elect to have the parks and recreation development impact fee determined pursuant to the fee schedule set forth in subsection (a) herein or pursuant to the individual assessment as provided in subsection (b) herein.

- (1) *Fee schedule.*

Residential development: \$165.00 per dwelling unit.

 - a. *Mixed use.* If a building permit is requested for a mixed-use development, then the corresponding parks and recreation development impact fee shall be determined by using the above schedule as applied to the residential uses within such development.
 - b. *Change of use, redevelopment, expansion or modification.* If there is a change of use, redevelopment, expansion or modification of an existing use that requires the issuance of a building permit, then the development impact fee shall be based upon the difference in square footage between the new use and the previous use.
- (2) *Individual assessment.* If an applicant opts for individual assessment, then, as provided in O.C.G.A. § 36-71-4(g), the applicant shall prepare and submit to the administrator an individual fee assessment study satisfactory to the administrator for the land development activity for which a building permit is sought. The individual fee calculation study shall follow the methodology and format of the methodology report or subject to prior approval of the administrator, such other professionally accepted methodology that identifies a project's proportionate share. The developer shall attend a pre-application meeting with the administrator, and no agreement or understanding in regard to data assumptions or methodology shall be binding upon the city unless specifically agreed to by the city in writing. The documentation submitted shall show the basis upon which the individual fee assessment was made. Within 30 days of receipt of such documentation, the administrator shall render a decision regarding the assessment. The administrator must consider the documentation submitted by the applicant, but is not required to accept any such documentation as the administrator reasonably deems to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable individual fee assessment study is not presented, the applicant shall pay parks and recreation development impact fees based upon the schedule shown in paragraph (1) of this section. If an acceptable individual fee assessment study is presented, the administrator may adjust the fee to that appropriate to the particular development. Such adjustment may include a credit against the fee otherwise payable up to 50 percent for private recreational facilities constructed or deed restricted or otherwise set aside for

recreational purposes by the applicant which serve the same purposes and functions as set forth for public parks and recreation facilities in the City of Sandy Springs, Georgia Comprehensive Plan. Determinations made by the administrator pursuant to this paragraph may be appealed as provided in this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-34. - Parks and recreation development impact fee certification.

- (a) Upon the request of an applicant, the administrator shall certify the parks and recreation development impact fee schedule or parks and recreation development impact fees resulting from an individual fee determination, whichever is applicable
- (b) Applications for certification shall include the following information and items:
 - (1) A full and complete description of the project;
 - (2) A full and complete description of the proposed land use and development activity;
 - (3) A statement as to whether the applicant seeks a certification of the development impact fee schedule or a certification of an individual fee determination; and
 - (4) If the applicant seeks a certification of an individual fee determination, an individual fee calculation study complying with the requirements of section 107-33(2).
- (c) The administrator shall provide an applicant with a written certification of the development impact fee schedule within five working days after the administrator's receipt of a completed application. The fee schedule certified by the administrator shall establish the development impact fee schedule for the proposed development activity for a period of 180 days from the date of certification. The administrator shall provide the applicant with a written certification of an individual fee determination within 30 days after receipt of a completed application. The individual fee determination certified by the administrator shall establish the development impact fee for the proposed development activity for the 180-day period immediately following the date of such certification.
- (d) Notwithstanding the issuance of any such certification, any changes in or additions to the proposed development activity different from the development activity identified in the original application shall be subject to increased or additional development impact fees to the extent that such changes or additions require capital improvements or facilities expansions. The additional development impact fees shall be based upon the development impact fee schedule in effect at the time of any such change or addition.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-35. - Payment of parks and recreation development impact fees.

- (a) Any person required to pay development impact fees pursuant to this article shall pay such fees to the administrator as a condition to the issuance of a building permit unless the city has previously approved a private development agreement providing for an alternative method of payment.
- (b) All funds collected pursuant to this article shall be properly identified as parks and recreation development impact fees and promptly transferred for deposit into the parks and recreation development impact fee trust fund to be held as provided for in section 107-37 of this ordinance. Funds shall be used solely for the purposes specified in this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-36. - Parks and recreation development impact fee service area established.

- (a) The geographic limits of the city shall comprise one service area for collection of parks and recreation development impact fees.
- (b) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review the development potential of any area within the city, whether it be a previously designated service area or not, or the city as a whole. Based on such review of development potential, the city may adjust boundaries of service areas or create new service areas.
- (c) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review capital facilities plans in service areas and modify such plans as a result of development occurring in the previous year or requests for permission to develop.
- (d) As a result of modifications to service area boundaries and/or capital facilities plans, the city may modify development impact fee schedules as appropriate and adopt such revised schedules through official action of the mayor and city council.
- (e)

Failure of the city to undertake a review shall result in the continued use and application of the existing fee schedules and other data. The failure to review such schedules shall not invalidate this chapter.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-37. - Parks and recreation development impact fee trust fund established.

- (a) There is hereby established the parks and recreation development impact fee trust fund. The parks and recreation development impact fee trust fund shall be maintained in one or more interest bearing accounts and all parks and recreation development impact fees collected shall be promptly deposited and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.
- (b) The city shall maintain accounting records for each category of system improvements and the service area in which the fees are collected.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-38. - Use of parks and recreation development impact fee funds.

- (a) Funds collected as parks and recreation development impact fees shall be used for the following purposes only:
 - (1) Acquiring and/or making capital improvements to parks and recreation areas under the jurisdiction of the City of Sandy Springs, Georgia, and shall not be used for maintenance or operations.
 - (2) Acquiring and/or making capital improvements to parks and recreation areas shown in the capital improvements element of the City of Sandy Springs, Georgia Comprehensive Plan.
 - (3) Acquiring and/or making system improvements in the service area from which the parks and recreation development impact fees were collected.
 - (4) Any other purpose expressly authorized by the Georgia Development Impact Fee Act.
- (b) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which parks and recreation development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph (a) above.
- (c) In the event that a developer enters into an agreement with the city to construct, fund, or contribute system improvements such that the amount of the credit created by such construction, funding, or contribution is in excess of the development impact fee that would otherwise have been paid for the development project, the developer shall be reimbursed for such excess construction, funding, or contribution from parks and recreation development impact fees paid by other development located in the service area which is benefited by such improvements.
- (d) At least once each fiscal period the administrator shall present a report to the mayor and city council describing the amount of parks and recreation development impact fees collected, encumbered and used during the preceding fiscal period within the service area, and a proposed capital improvement program for parks and recreation, assigning funds, including any accrued interest, from the parks and recreation development impact fee trust fund to specific parks and recreation improvement projects and related expenses. Monies, including any accrued interest, not assigned or encumbered in any fiscal period shall be retained in the parks and recreation development impact fee trust fund until the next fiscal period except as provided by the refund provisions of this ordinance.
- (e) Funds may be used to provide refunds as described in section 107-39.
- (f) Funds shall be considered encumbered on a first-in, first-out (FIFO) basis.
- (g) The city shall be entitled to retain up to three percent of all development impact fees it collects as an administrative fee to offset the costs of administering this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-39. - Refunds.

When eligible, feepayors shall be entitled to a refund of parks and recreation development impact fees paid under the circumstances and in the manner set forth in this section.

- (1) Expiration of building permit. If a building permit expires without commencement of construction, then the feepayor shall be entitled to a refund of parks and recreation development impact fees paid as a condition for its issuance, without interest. The city shall retain three percent of the fee to offset a portion of the costs of collection and refund. The feepayor must submit an application for such a refund to the administrator within 30 days of the expiration of the building permit. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and if so, the amount of such refund. Refunds shall be made to

the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made. Refunds shall be deemed waived if no application is made pursuant to this section.

- (2) **Development Impact Fees Not Expended or Encumbered.** The Administrator shall provide written notice of entitlement to a refund to the feepayor when development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the development impact fee was paid. Such notice shall be sent to the address shown on the application for the building permit or to the feepayor's successor in interest who has given notice to the city of a transfer of right or entitlement to a refund and who has provided a mailing address. Such notice shall also be published in the city's legal organ no more than 30 days after the end of the calendar quarter immediately following the expiration of the six-year period after the date that the development impact fees were collected and shall contain the heading "Notice of Entitlement to Development Impact Fee Refund."
- (3) An application for a refund must be submitted to the administrator within one year of the end of the calendar quarter immediately following the expiration of the six-year period running from the date the development impact fee was paid or the publication of the notice of entitlement, whichever is later. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and, if so, the amount of such refund. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made, and shall include a pro rata share of interest actually earned on the unused or excess development impact fee collected. Refunds shall be deemed waived if no application is made pursuant to this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-40. - Exemptions.

- (a) The following shall be exempted from payment of parks and recreation development impact fees:
 - (1) Alterations or expansions of an existing building where the use and size are not changed, and where no additional demand for parks and recreation facilities will be produced over and above those produced by the existing building.
 - (2) 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.
 - (3) The replacement of a building or structure with a new building or structure of the same size and use.
 - (4) All or part of a particular project if and to the extent the city council determines such project to create extraordinary economic development and employment growth and provided that such project's proportionate share of parks and recreation system improvements is funded through a revenue source other than parks and recreation development impact fees.
- (b) Applicants for exemption shall submit information and documentation sufficient to permit the administrator to determine whether such exemption claimed is proper, and, if so, the extent of such exemption. Any claim of exemption must be made no later than the time of application for a building permit except in the case of a private development agreement. Any exemptions not so applied for shall be deemed waived.

(Ord. No. 2008-02-08, 2-19-2008)

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 calculated.
 - 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 percent of the most recent assessed value by the Fulton County Tax Assessor, or

(Ord. No. 2008-02-08, 2-19-2008; Ord. No. 2008-06-26, § 1, 6-17-2008)

Secs. 107-42—107-45. - Reserved.

Sec. 107-46. - Right to appeal.

Any applicant or feepayor aggrieved by a decision of the administrator with respect to the determination of a parks and recreation development impact fee shall have the right to appeal to the city council. Prior to any such appeal, the aggrieved applicant or feepayor may file a request for reconsideration with the administrator who shall act upon such request within 15 days. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-47. - Procedure.

All appeals shall be filed within 15 days of the administrator's decision. If the applicant or feepayor requests reconsideration, the appeal shall be filed within 15 days of the administrator's decision on that request. A notice of appeal shall be filed with the administrator and shall specify the grounds of such appeal. The administrator shall forthwith transmit to the city manager and city council all papers constituting the record upon which the action appealed from is taken. The city council shall thereafter establish a reasonable date and time 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.

Following the consideration of all testimony, documentary evidence and matters of record, the city council shall make a determination on the appeal. A decision shall be made within a reasonable time but in no event more than 60 days from the date of the hearing. An appeal shall be sustained only upon an express finding by the city council that the administrator's decision was based on an erroneous finding of material fact or that the administrator acted in an arbitrary manner or otherwise abused his discretion. The city council shall have all the powers of the administrator and 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-48. - Appeal to superior court.

Any person aggrieved by a decision of the city council may take an appeal to the Superior Court of Fulton County within 30 days after the decision of the city council is rendered. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-49. - Payment under protest.

A developer may pay a parks and recreation development impact fee under protest to obtain a building permit, 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 improperly collected in accordance with this ordinance.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-50. - Reserved.

Sec. 107-51. - Update by recalculation.

The city council shall review the fee schedule contained in section 107-33 at least once each fiscal biennium. The failure to so review the fee structure shall not render such fee schedule or this ordinance invalid.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-52. - Annual adjustment.

The administrator shall adjust the development impact fee schedule contained in section 107-33 in January of each calendar year. Unless otherwise directed by the city council, any adjustments to the parks and recreation development impact fees, made pursuant to this section, shall be effective the first Monday in October of each calendar year. All adjustments to the parks and recreation development impact fees shall be based on annual changes to the January Consumer Price Index as more particularly described below.

- (1) The base for computing any adjustment is the January Consumer Price Index - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. For the purpose of this section, the initial index to be referenced is January 2004.
- (2) If the index is changed so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-53. - Administrative review of impact.

The administrator 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). 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. The adjustments shall be made subject to provisions of the administrative guidelines and shall be included in the update by recalculation provided in this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-54. - 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 this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-55. - Reserved.

Sec. 107-56. - Penalty provision.

- (a) Any person, firm, corporation or other entity violating any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of up to a maximum of \$1000.00 per violation per day or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each calendar day a violation exists shall be considered a separate offense. There are no maximum limitations to the accrual of fines.
- (b) In addition to or in lieu of any criminal prosecution, the city shall have the power to sue in law or equity for relief in civil court to enforce this article, including recourse to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of the article and to recover such damages as may be incurred by the implementation of specific corrective actions. Each owner of any property wherein a violation exists shall be jointly and severally responsible for said violation. Each offense will be tried in the municipal court of Sandy Springs.
- (c) Knowingly furnishing false information to the city on any matter relating to the administration of this article shall constitute an actionable violation.
- (d) The administrator may revoke or withhold the issuance of any building permit or other development permits if

the provisions of this article have been violated by the owner or his assigns.

- (e) The administrator shall have the right to inspect the lands affected by this article and shall have the right to issue cease and desist orders, stop work orders, and other appropriate citations for violations. Refusal of written notice of violation under this article shall constitute legal notice of service.
- (f) 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 agent, or to the person performing the work. The receipt of a citation shall require that corrective action be taken within ten working days unless otherwise extended at the discretion of the administrator. 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.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-57.](#) - Enforcement.

The enforcement of this article will be the responsibility of the administrator and such city personnel as the administrator may designate from time to time.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-58.](#) - Intergovernmental agreements.

The city may enter into intergovernmental agreements with other municipalities, counties, public authorities or with the State of Georgia for the purpose of assessing, collecting, and expending development impact fees as provided by this article.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-59.](#) - 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.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-60.](#) - Effective date.

This article shall become effective immediately upon its adoption and approval. This article shall become part of the official code of the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

[Secs. 107-61—107-80.](#) - Reserved.

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Sec. 107-81. - Legislative findings.

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

- (1) 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.
- (2) 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 development and adoption of development impact fees.
- (3) The City of Sandy Springs, Georgia Comprehensive Plan contains within it a five-year capital improvement element for public safety facilities, and the establishment of a level of service for public safety facilities for the planning horizon to 2027; and the City of Sandy Springs, Georgia Comprehensive Plan has been submitted to and approved by the Atlanta Regional Commission so as to qualify Sandy Springs as a "Qualified Local Government" pursuant to the Georgia Planning Act of 1989.
- (4) Sandy Springs must expand its public safety system in order to maintain current service standards if new development is to be accommodated without decreasing current standards in order to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of the citizens of Sandy Springs, Georgia.
- (5) The imposition of development impact fees is a preferred method of ensuring the availability of public safety facilities necessary to accommodate new growth and development.
- (6) Each of the types of land development described in section 107-86 hereof will create new demand for the acquisition or expansion of public safety facilities.
- (7) The development impact fees established by section 107-86 are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional public safety facilities necessitated by the new land developments for which such fees are imposed.
- (8) Certain development projects located within community improvement districts, if such districts are created in accordance with law, create extraordinary economic development and employment growth such that all or part of such development projects should receive credit against the development impact fees established by section 107-86, as provided by the development impact fee act, O.C.G.A. § 36-71-4(1).
- (9) A report to the city council entitled "20 Year Space Needs Analysis," prepared by Lord, Aeck and Sargent, and dated May 5, 2007, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional public safety facilities in Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-82. - Short title, authority and applicability.

This article shall be known and may be cited as the "City of Sandy Springs Public Safety Facility Development Impact Fee Ordinance" and shall apply throughout the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-83. - Intent and purpose.

This article 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:

- (1) To ensure that adequate public safety facilities 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 public safety facilities in Sandy Springs, consistent with the city's Comprehensive Plan.
- (2) To fully comply with each and every relevant provision of the Georgia Development Impact Fee Act, O.C.G.A. §§ 36-71-1 through 36-71-13, and shall be interpreted and implemented to so comply.

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

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-84. - Definitions.

For the purpose of this article, certain terms are defined as follows:

Administrator means the director of community development or his/her designee responsible for administration of the provisions of this article.

Capital equipment and/or facility means 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.

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.

Fee payor means that person who pays a development impact fee or his successor in interest, with the right or entitlement to any refund of a previously paid development impact fee which is required by this ordinance and which 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.

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.

Methodology report means the technical analysis adopted as of the effective date of this ordinance, and shall be the chapter of the adopted City of Sandy Springs, Georgia 2027 Comprehensive Plan titled "Chapter 7: Capital Improvement Element for Impact Fees," as may be amended from time to time.

Present value means the current value of past, present or future payments, contributions or dedications of goods, services, materials, construction, or money.

Project improvements means site improvements and facilities that are planned and designed 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 are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or 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 facilities 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 approved by the city shall be considered a project improvement.

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

Service area means the geographic limits of the City of Sandy Springs including any future annexations.

System improvement costs means costs incurred to provide additional facilities, including equipment, needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorney's 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 improvement element, and administrative costs equal to three percent of the total amount of the costs. System improvement costs shall also include projected interest charges and other finance costs if and to the extent the development 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 improvement element. 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 and are designed to provide service to the community at large, in contrast to project improvements.

Where a term is not defined herein but is defined under the Georgia Development Impact Fee Act, it shall have the meaning ascribed to it in the Georgia Development Impact Fee Act.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-85. - Public safety facility development impact fee required.

- (a) Any person who, after the effective date of this ordinance, seeks to develop land within the City of Sandy Springs, Georgia, by applying for a building permit is hereby required to pay a public safety facility development impact fee in the manner and amount set forth in this ordinance.
- (b) Development impact fees shall be collected at the time of the issuance of a building permit, and no building permit shall be issued until the public safety facility development impact fee hereby required has been paid in full.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-86. - Computation of public safety facility development impact fees.

The applicant for a building permit may elect to have the public safety facility development impact fee determined pursuant to the fee schedule set forth in subsection (1) herein or pursuant to the individual assessment as provided in subsection (2) herein.

(1) *Fee schedule:*

Land Use	Per	Public Safety Impact Fee
Single Family Residential	Dwelling	\$165.00
Multi Family Residential	Dwelling	\$165.00
Retail/Commercial	1,000 square feet	\$433.00
Office	1,000 square feet	\$168.00

- a. Mixed Use. If a building permit is requested for a mixed use development, then the corresponding public safety facility development impact fee shall be determined according to the fee schedule by apportioning the space committed to the individual uses specified on the schedule. If the type of development activity for which a building permit is applied for is not specified on the above fee schedule, the administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedule.
- b. Change of use, redevelopment, expansion or modification. In the case of change of use, redevelopment, expansion or modification of an existing use which requires the issuance of a building permit, then the development impact fee shall be based upon the difference in square footage between the new use and the previous use. Should a redevelopment or modification of an existing use or building that requires the issuance of a building permit but does not involve a change in use result in a net increase in gross floor area, the development impact fee shall be

based on said net increase. Should a change of use, redevelopment, or modification of an existing use or building result in a net decrease in gross floor area or calculated development impact fee, no refund or credit for past development impact fees paid shall be made or created.

- (2) *Individual assessment.* If an applicant opts for individual assessment, then, as provided in O.C.G.A. § 36-71-4(g), the applicant shall prepare and submit to the administrator an individual fee assessment study satisfactory to the administrator for the land development activity for which a building permit is sought. The individual fee calculation study shall follow the methodology and format of the methodology report or subject to prior approval of the administrator, such other professionally accepted methodology that identifies a project's proportionate share. The developer shall attend a pre-application meeting with the administrator, and no agreement or understanding in regard to data assumptions or methodology shall be binding upon the city unless specifically agreed to by the city in writing. The documentation submitted shall show the basis upon which the individual fee assessment was made. Within 30 days of receipt of such documentation, the administrator shall render a decision regarding the assessment. The administrator must consider the documentation submitted by the applicant, but is not required to accept any such documentation as the administrator reasonably deems to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable individual fee assessment study is not presented, the applicant shall pay public safety facility development impact fees based upon the schedule shown in paragraph (1) of this section. If an acceptable individual fee assessment study is presented, the administrator may adjust the fee to that appropriate to the particular development. Determinations made by the administrator pursuant to this paragraph may be appealed as provided in section 107-102 of this ordinance.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-87. - Public safety facility development impact fee certification.

- (a) Upon the request of an applicant, the administrator shall certify the public safety facility development impact fee schedule or public safety facility development impact fees resulting from an individual fee determination, whichever is applicable.
- (b) Applications for certification shall include the following information and items:
- (1) A full and complete description of the project;
 - (2) A full and complete description of the proposed land use and development activity;
 - (3) A statement as to whether the applicant seeks a certification of the development impact fee schedule or a certification of an individual fee determination; and
 - (4) If the applicant seeks a certification of an individual fee determination, an individual fee calculation study complying with the requirements of section 107-86(2).
- (c) The administrator shall provide an applicant with a written certification of the development impact fee schedule within five working days after the administrator's receipt of a completed application. The fee schedule certified by the administrator shall establish the development impact fee schedule for the proposed development activity for a period of 180 days from the date of certification. The administrator shall provide the applicant with a written certification of an individual fee determination within 30 days after receipt of a completed application. The individual fee determination certified by the administrator shall establish the development impact fee for the proposed development activity for the 30 day period immediately following the date of such certification.
- (d) Notwithstanding the issuance of any such certification, any changes in or additions to the proposed development activity different from the development activity identified in the original application shall be subject to increased or additional development impact fees to the extent that such changes or additions require capital improvements or facilities expansions. The additional development impact fees shall be based upon the development impact fee schedule in effect at the time of any such change or addition.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-88. - Payment of public safety facility development impact fees.

- (a) Any person required to pay development impact fees pursuant to this article shall pay such fees to the administrator as a condition to the issuance of a building permit unless the city has previously approved a private development agreement providing for an alternative method of payment.
- (b) All funds collected pursuant to this Article shall be properly identified as public safety facility development impact fees and promptly transferred for deposit into the public safety facility development impact fee trust fund to be held as provided for in section 107-90 of this article. Funds shall be used solely for the purposes specified in this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-89. - Public safety facility development impact fee service area.

- (a) The geographic limits of the City of Sandy Springs shall comprise one service area for collection of public safety facility development impact fees.
- (b) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review the development potential of any area within the city, whether it be a previously designated service area or not, or the city as a whole. Based on such review of development potential, the city may adjust boundaries of service areas or create new service areas.
- (c) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review capital facilities plans in service areas and modify such plans as a result of development occurring in the previous year or requests for permission to develop.
- (d) As a result of modifications to service area boundaries and/or capital facilities plans, the city may modify development impact fee schedules as appropriate and adopt such revised schedules through official action of the mayor and city council.
- (e) Failure of the city to undertake a review shall result in the continued use and application of the existing fee schedules and other data. The failure to review such schedules shall not invalidate this chapter.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-90. - Public safety facility development impact fee trust fund established.

- (a) There is hereby established the public safety facility development impact fee trust fund. The public safety facility development impact fee trust fund shall be maintained in one or more interest bearing accounts and all public safety facility development impact fees collected shall be promptly deposited and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.
- (b) The city shall maintain accounting records for each category of system improvements and the service area in which the fees are collected.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-91. - Use of public safety facility development impact fee funds.

- (a) Funds collected as public safety facility development impact fees shall be used for the following purposes only:
 - (1) Acquiring and/or making capital improvements to public safety facilities under the jurisdiction of the City of Sandy Springs, Georgia, and shall not be used for maintenance or operations.
 - (2) Acquiring and/or making capital improvements to public safety facilities described in the capital improvements element of the City of Sandy Springs, Georgia Comprehensive Plan.
 - (3) Acquiring and/or making system improvements in the service area from which the public safety facility development impact fees were collected.
 - (4) Any other purpose expressly authorized by the Georgia development impact fee act.
- (b) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which public safety facility development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph (a) above.
- (c) In the event that a developer enters into an agreement with the city to construct, fund, or contribute system improvements such that the amount of the credit created by such construction, funding, or contribution is in excess of the development impact fee that would otherwise have been paid for the development project, the developer shall be reimbursed for such excess construction, funding, or contribution from public safety facility development impact fees paid by other development located in the service area which is benefited by such improvements.
- (d) At least once each fiscal period the administrator shall present a report to the mayor and city council describing the amount of public safety facility development impact fees collected, encumbered and used during the preceding fiscal period within the service area, and a proposed capital improvement program for public safety facilities, assigning funds, including any accrued interest, from the public safety facility development impact fee trust fund to specific public safety facility improvement projects and related expenses. Monies, including any accrued interest, not assigned or encumbered in any fiscal period shall be retained in the public safety facility development impact fee trust fund until the next fiscal period except as provided by the refund provisions of this ordinance.
- (e) Funds may be used to provide refunds as described in section 107-92.
- (f) Funds shall be considered encumbered on a first-in, first-out (FIFO) basis.
- (g) The city shall be entitled to retain up to three percent of all development impact fees it collects as an

administrative fee to offset the costs of administering this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-92. - Refunds.

When eligible, feepayors shall be entitled to a refund of public safety facility development impact fees paid under the circumstances and in the manner set forth in this section.

- (1) Expiration of building permit. If a building permit expires without commencement of construction, then the feepayor shall be entitled to a refund of public safety facility development impact fees paid as a condition for its issuance, without interest. The city shall retain three percent of the fee to offset a portion of the costs of collection and refund. The feepayor must submit an application for such a refund to the administrator within 30 days of the expiration of the building permit. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and if so, the amount of such refund. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made. Refunds shall be deemed waived if no application is made pursuant to this section.
- (2) Development impact fees not expended or encumbered. The administrator shall provide written notice of entitlement to a refund to the feepayor when development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the development impact fee was paid. Such notice shall be sent to the address shown on the application for the building permit or to the feepayor's successor in interest who has given notice to the city of a transfer of right or entitlement to a refund and who has provided a mailing address. Such notice shall also be published in the city's legal organ no more than 30 days after the end of the calendar quarter immediately following the expiration of the six-year period after the date that the development impact fees were collected and shall contain the heading "Notice of Entitlement to Development Impact Fee Refund."
- (3) An application for a refund must be submitted to the administrator within one year of the end of the calendar quarter immediately following the expiration of the six-year period running from the date the development impact fee was paid or the publication of the notice of entitlement, whichever is later. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and, if so, the amount of such refund. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made, and shall include a pro rata share of interest actually earned on the unused or excess development impact fee collected. Refunds shall be deemed waived if no application is made pursuant to this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-93. - Exemptions.

- (a) The following development projects shall be exempted from payment of public safety facility development impact fees:
 - (1) Alterations or expansions of an existing building where the use and size are not changed, and where no additional demand for public safety facilities will be produced over and above those produced by the existing building.
 - (2) The construction of accessory buildings or structures which will not produce additional demand for public safety facilities over and above those produced by the principal buildings or structures.
 - (3) The replacement of a building or structure with a new building or structure of the same size and use.
 - (4) All or part of a particular project if and to the extent the city council determines such project to create extraordinary economic development and employment growth and provided that such project's proportionate share of public safety facility system improvements is funded through a revenue source other than public safety facility development impact fees.
- (b) Applicants for exemption shall submit information and documentation sufficient to permit the administrator to determine whether such exemption claimed is proper, and, if so, the extent of such exemption. Any claim of exemption must be made no later than the time of application for a building permit except in the case of a private development agreement. Any exemptions not so applied for shall be deemed waived.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-94. - Credits.

Credits shall be determined and applied to public safety development impact fees as follows:

Public safety land and/or improvements may be offered by the applicant as total or as partial payment of the required public safety development impact fee. The applicant must request a public safety 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 public safety 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.
- (2) In no event shall credit be given for project improvements.
 - (3) Except as provided in subsection (4) herein, credit against public safety 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.
 - (4) Credit may be provided before completion of specified public safety 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 public safety 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.
 - (5) 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.
 - (6) No credit shall be given for public safety land and/or capital improvements made or dedicated more than five years prior to the effective date of this ordinance.
 - (7) 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 administrator 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.
 - (8) 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.

(Ord. No. 2008-02-08, 2-19-2008)

Secs. 107-95—107-99. - Reserved.

Sec. 107-100. - Right to appeal.

Any applicant or feepayor aggrieved by a decision of the administrator with respect to the determination of a public safety facility development impact fee shall have the right to appeal to the city council. Prior to any such appeal, the aggrieved applicant or feepayor may file a request for reconsideration with the administrator who shall act upon such request within 15 days. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-101. - Procedure.

All appeals shall be filed within 15 days of the administrator's decision. If the applicant or feepayor requests reconsideration, the appeal shall be filed within 15 days of the administrator's decision on that request. A notice of appeal shall be filed with the administrator and shall specify the grounds of such appeal. The administrator shall forthwith transmit to the city manager and city council all papers constituting the record upon which the action appealed from is taken. The city council shall thereafter establish a reasonable date and time 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.

Following the consideration of all testimony, documentary evidence and matters of record, the city council shall make a determination on the appeal. A decision shall be made within a reasonable time but in no event more than 60 days from the date of the hearing. An appeal shall be sustained only upon an express finding by the city council that the administrator's decision was based on an erroneous finding of material fact or that the administrator acted in an arbitrary manner or otherwise abused his discretion. The city council shall have all the powers of the administrator and 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-102. - Appeal to Superior Court.

Any person aggrieved by a decision of the city council may take an appeal to the Superior Court of Fulton County within 30 days after the decision of the city council is rendered. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-103. - Payment under protest.

A developer may pay a public safety facility development impact fee under protest to obtain a building permit, 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 improperly collected in accordance with this ordinance.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-104. - Reserved.

Sec. 107-105. - Update by recalculation.

The city council shall review the fee schedule contained in section 107-86 at least once each fiscal biennium. The failure to so review the fee structure shall not render such fee schedule or this ordinance invalid.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-106. - Annual adjustment.

The administrator shall adjust the development impact fee schedule contained in section 107-86 in January of each calendar year. Unless otherwise directed by the city council, any adjustments to the public safety facility development impact fees, made pursuant to this section, shall be effective the first Monday in October of each calendar year. All adjustments to the public safety facility development impact fees shall be based on annual changes to the January Consumer Price Index as more particularly described below.

- (1) The base for computing any adjustment is the January Consumer Price Index - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. For the purpose of this section, the initial index to be referenced is January 2004.
- (2) If the index is changed so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-107. - Administrative review of impact.

The administrator 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). 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. The adjustments shall be made subject to provisions of the administrative guidelines and shall be included in the update by recalculation provided in this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-108. - Administrative guidelines.

The administrator shall issue guidelines to aid city staff in the administration of this ordinance and to facilitate compliance with it by fee payors. 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 this section.

(Ord. No. 2008-02-08, 2-19-2008)

Secs. 107-109, 107-110. - Reserved.

Sec. 107-111. - Penalty provision.

- (a) Any person, firm, corporation or other entity violating any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of up to a maximum of \$1000.00 per violation per day or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each calendar day a violation exists shall be considered a separate offense. There are no maximum limitations to the accrual of fines.
- (b) In addition to or in lieu of any criminal prosecution, the city shall have the power to sue in law or equity for relief in civil court to enforce this article, including recourse to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of the article and to recover such damages as may be incurred by the implementation of specific corrective actions. Each owner of any property wherein a violation exists shall be jointly and severally responsible for said violation. Each offense will be tried in the municipal court of Sandy Springs.
- (c) Knowingly furnishing false information to the city on any matter relating to the administration of this article shall constitute an actionable violation.
- (d) The administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of this article have been violated by the owner or his assigns.
- (e) The administrator shall have the right to inspect the lands affected by this article and shall have the right to issue cease and desist orders, stop work orders, and other appropriate citations for violations. Refusal of written notice of violation under this article shall constitute legal notice of service.
- (f) 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

agent, or to the person performing the work. The receipt of a citation shall require that corrective action be taken within ten working days unless otherwise extended at the discretion of the administrator. 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.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-112.](#) - Enforcement.

The enforcement of this article will be the responsibility of the administrator and such city personnel as the administrator may designate from time to time.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-113.](#) - Intergovernmental agreements.

The city may enter into intergovernmental agreements with other municipalities, counties, public authorities or with the State of Georgia for the purpose of assessing, collecting, and expending development impact fees as provided by this article.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-114.](#) - 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.

(Ord. No. 2008-02-08, 2-19-2008)

[Sec. 107-115.](#) - Effective date.

This article shall become effective immediately upon its adoption and approval. This article shall become part of the official code of the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

[Secs. 107-116—107-119.](#) - Reserved.

Sandy Springs, Georgia, Code of Ordinances >> Subpart B - LAND DEVELOPMENT REGULATIONS
>> **[Chapter 107 - IMPACT FEES](#)** >> ARTICLE IV. - TRANSPORTATION DEVELOPMENT IMPACT FEES
>>

[ARTICLE IV. - TRANSPORTATION DEVELOPMENT IMPACT FEES](#)

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[Sec. 107-150. - Effective date.](#)

Sec. 107-120. - Legislative findings.

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

- (1) 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.
- (2) 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 development and adoption of development impact fees.
- (3) The City of Sandy Springs, Georgia Comprehensive Plan contains land use assumptions, a five-year capital improvement element for transportation, and the establishment of a level of service for transportation capital facilities for the planning horizon to 2027, and the City of Sandy Springs, Georgia Comprehensive Plan has been submitted to and approved by the Atlanta Regional Commission so as to qualify Sandy Springs as a "Qualified Local Government" pursuant to the Georgia Planning Act of 1989.
- (4) Sandy Springs must expand its transportation system in order to maintain current transportation standards if new development is to be accommodated without decreasing current standards. This 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.
- (5) The imposition of development impact fees is a preferred method of ensuring the availability of transportation facilities necessary to accommodate new growth and development.
- (6) Each of the types of land development described in section 107-126 hereof will create new demand for the acquisition of land and the construction or expansion of transportation facilities.
- (7) The development impact fees established by section 107-126 are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional transportation facilities, necessitated by the new land developments for which such fees are imposed.
- (8) Certain development projects located within community improvement districts, if such districts are created in accordance with law, create extraordinary economic development and employment growth such that all or part of such development projects should receive credit against the development impact fees established by section 107-126, as provided by the Development Impact Fee Act, O.C.G.A. § 36-71-4(1).
- (9) A report to the City Council entitled "Transportation Impact Fee Analysis" prepared by Jacobs, Carter-Burgess, Inc. and dated January 31, 2008, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional transportation facilities in Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-121. - Short title, authority and applicability.

This article shall be known and may be cited as the "City of Sandy Springs Transportation Development Impact Fee Ordinance" and shall apply throughout the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-122. - Intent and purpose.

This article 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:

- (1) To ensure that adequate transportation facilities 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 transportation facilities in Sandy Springs, consistent with the city's Comprehensive Plan.
- (2) 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 article shall be deemed to prevent or prohibit private development agreements between property owners or developers and the city.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-123. - Definitions.

For the purpose of this article, certain terms are defined as follows:

Administrator means the director of community development or his/her designee responsible for administration of the provisions of this article.

Capital equipment and/or facility means 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.

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.

Fee payor means that person who pays a development impact fee or his successor in interest, with the right or entitlement to any refund of a previously paid development impact fee which is required by this ordinance and which 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 12-month accounting period beginning on July 1 of a given year and continuing through June 30 of the subsequent year.

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.

Methodology report means the technical analysis adopted as of the effective date of this ordinance, and shall be the chapter of the adopted City of Sandy Springs, Georgia 2027 Comprehensive Plan titled "Chapter 7: Capital Improvement Element for Impact Fees," as may be amended from time to time.

Present value means the current value of past, present or future payments, contributions or dedications of goods, services, materials, construction, or money.

Project improvements means site improvements and facilities that are planned and designed 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 are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or 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 facilities 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 approved by the city shall be considered a project improvement.

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

Service area means the geographic limits of the City of Sandy Springs including any future annexations.

System improvement costs means costs incurred to provide additional facilities, including equipment, needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorney's 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 improvement element, and administrative costs equal to three percent of the total amount of the costs. System improvement costs shall also include projected interest charges and other finance costs if and to the extent the development 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 improvement element. 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 and are designed to provide service to the community at large, in contrast to project improvements.

Where a term is not defined herein but is defined under the Georgia Development Impact Fee Act, it shall have the meaning ascribed to it in the Georgia Development Impact Fee Act.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-124. - Reserved.

Sec. 107-125. - Transportation development impact fee required.

- (a) Any person who, after the effective date of this ordinance, seeks to develop land within the City of Sandy Springs, Georgia, by applying for a building permit is hereby required to pay a transportation development impact fee in the manner and amount set forth in this ordinance.
- (b) Development impact fees shall be collected at the time of the issuance of a building permit, and no building permit shall be issued until the transportation development impact fee hereby required has been paid in full.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-126. - Computation of transportation development impact fees.

The applicant for a building permit may elect to have the transportation development impact fee determined pursuant to the fee schedule set forth in subsection (1) herein or pursuant to the individual assessment as provided in subsection (2) herein.

(1) *Fee schedule.*

Based on Five-Year Work Program Cost of \$362.00 per trip.

Land Use	Code	Development Type	Daily Trips ¹	Per	Pass-By Rate	Total Fee (38% of maximum) ²
Residential	210	Single-Family Detached Housing	9.57	Dwelling Unit	N.A.	\$1,316.45
	220	Apartment	6.72	Dwelling Unit	N.A.	\$924.40
	230	Condominium/Townhouse	5.86	Dwelling Unit	N.A.	\$806.10
	251	Sr. Adult Housing	3.71	Dwelling Unit	N.A.	\$510.35
	253	Congregate Care Facility	2.02	Dwelling Unit	N.A.	\$277.87
Lodging	310	Hotel	8.92	Room	N.A.	\$1,227.03
	320	Motel	9.11	Room	N.A.	\$1,253.17
Recreational	430	Golf Course	35.74	Hole	N.A.	\$4,916.40
	432	Golf Driving Range	13.65	Tees	N.A.	\$1,877.70
	435	Multipurpose Recreational Facility	90.38	Facility	N.A.	\$12,432.68

	437	Bowling Alley	33.33	Lane	N.A.	\$1,266.54
	444	Movie Theater with Matinee	2.24	Seat	N.A.	\$308.14
	460	Arena	33.33	Acre	N.A.	\$4,584.87
	491	Racquet Club	38.70	Court	N.A.	\$5,323.57
	493	Athletic Club	43.00	1,000 Sq.Ft.	N.A.	\$5,915.08
Industrial	110	General Light Industrial	6.97	1,000 Sq.Ft.	N.A.	\$958.79
	130	Industrial Park	6.96	1,000 Sq.Ft.	N.A.	\$957.42
	140	Manufacturing	3.82	1,000 Sq.Ft.	N.A.	\$525.48
	150	Warehousing	4.96	1,000 Sq.Ft.	N.A.	\$682.30
	151	Mini-Warehouse	2.50	1,000 Sq.Ft.	N.A.	\$343.90
Institutional	520	Elementary School	1.29	Student	N.A.	\$177.45
	522	Middle School/Junior High School	1.62	Student	N.A.	\$222.84
	530	High School	1.71	Student	N.A.	\$235.23
	540	Junior/Community College	1.20	Student	N.A.	\$165.07
	560	Church	9.11	1,000 Sq.Ft.	N.A.	\$1,253.17
	565	Day Care Center	79.26	1,000 Sq.Ft.	N.A.	\$10,903.00
	566	Cemetery	4.73	Acre	N.A.	\$650.66
	590	Library	54.00	1,000 Sq.Ft.	N.A.	\$7,428.24
	591	Lodge/Fraternal Organization	0.29	Members	N.A.	\$39.89
Medical	610	Hospital	17.57	1,000 Sq.Ft.	N.A.	\$2,416.93
	620	Nursing Home	2.37	Beds	N.A.	\$326.02
	630	Clinic	31.45	1,000 Sq.Ft.	N.A.	\$4,326.27
Office	710	General Office Building	11.02	1,000 Sq.Ft.	N.A.	\$1,515.91
	715	Single Tenant Office Building	11.57	1,000 Sq.Ft.	N.A.	\$1,591.57
	720	Medical-Dental Office Building	36.13	1,000 Sq.Ft.	N.A.	\$4,970.04
	750	Office Park	11.42	1,000 Sq.Ft.	N.A.	\$ 1,570.93
	760	Research and Development Center	8.11	1,000 Sq.Ft.	N.A.	\$1,115.61
	770	Business Park	12.76	1,000 Sq.Ft.	N.A.	\$1,755.26
Retail	812	Building Materials and Lumber Store	45.16	1,000 Sq.Ft.	10%	\$5,590.98
	813	Free-Standing Discount Superstore	49.21	1,000 Sq.Ft.	10%	\$6,092.40
	814	Specialty Retail Center	44.32	1,000 Sq.Ft.	34%	\$4,023.80
	816	Hardware/Paint Store	51.29	1,000 Sq.Ft.	10%	\$6,349.91

817	Nursery (Garden Center)	36.08	1,000 Sq.Ft.	10%	\$4,466.85
820	Shopping Center	42.94	1,000 Sq.Ft.	34%	\$3,898.51
823	Factory Outlet Center	26.59	1,000 Sq.Ft.	10%	\$3,291.95
841	New Car Sales	33.34	1,000 Sq.Ft.	0%	\$4,586.25
843	Automobile Parts Sales	61.91	1,000 Sq.Ft.	43%	\$4,854.32
848	Tire Store	24.87	1,000 Sq.Ft.	28%	\$2,463.20
850	Supermarket	102.24	1,000 Sq.Ft.	36%	\$9,001.05
851	Convenience Market (24-Hour)	737.99	1,000 Sq.Ft.	61%	\$39,591.98
852	Convenience Market (Regular Hours)	362.20	1,000 Sq.Ft.	63%	\$18,434.96
861	Discount Club	41.80	1,000 Sq.Ft.	10%	\$5,175.00
862	Home Improvement Superstore	29.80	1,000 Sq.Ft.	48%	\$2,131.63
863	Electronics Superstore	45.04	1,000 Sq.Ft.	40%	\$3,717.42
864	Toy/Children's Superstore	55.30	1,000 Sq.Ft.	10%	\$6,846.36
865	Baby Superstore	26.80	1,000 Sq.Ft.	10%	\$3,317.94
866	Pet Supply Superstore	79.60	1,000 Sq.Ft.	10%	\$9,854.80
867	Office Supply Superstore	34.00	1,000 Sq.Ft.	10%	\$4,209.34
868	Book Superstore	153.00	1,000 Sq.Ft.	10%	\$18,942.01
870	Apparel Store	66.40	1,000 Sq.Ft.	10%	\$8,220.58
880	Pharmacy/Drugstore w/o Drive Thru	90.06	1,000 Sq.Ft.	53%	\$5,822.66
881	Pharmacy/Drugstore w/Drive Thru	88.16	1,000 Sq.Ft.	49%	\$6,184.91
890	Furniture Store	5.06	1,000 Sq.Ft.	53%	\$327.15
896	Video Rental Store	31.50	1,000 Sq.Ft.	10%	\$3,899.83
931	Quality Restaurant	2.86	Seat	44%	\$220.31
932	High-Turnover (sit-down) Restaurant	4.83	Seat	43%	\$378.72
933	Fast-Food Restaurant w/o Drive Thru	42.12	Seat	49%	\$2,954.96
934	Fast-Food Restaurant w/ Drive Thru	19.52	Seat	49%	\$1,369.43
936	Drinking Place	154.90	1,000 Sq.Ft.	10%	\$19,177.24
941	Quick Lubrication Vehicle Shop	46.00	Position	10%	\$5,694.98
942	Automobile Care Center	21.70	Service Stall	10%	\$2,686.55
944	Gasoline/Service Station	168.56	Fueling	42%	\$13,448.53

	945	Gas Station w/Convenience Market	162.78	Position Fueling Position	56%	\$9,852.49
	946	Gas Station w/Convenience Market and Car Wash	152.84	Position Fueling Position	56%	\$9,250.85
	947	Self-Service Car Wash	108.00	Wash Stall	42%	\$8,616.76
Service	911	Walk-in Bank	156.48	1,000 Sq.Ft.	47%	\$11,408.46
	912	Drive-in Bank	246.49	1,000 Sq.Ft.	47%	\$17,970.80

¹ The average trip generation rates in this fee schedule are from Trip Generation, 7th Edition, by the Institute of Transportation Engineers.

² The transportation impact fee by land use is reduced to 38 percent of its maximum value to reflect community values providing fees competitive with surrounding jurisdictions.

Total fee at 38% of maximum = \$362 per trip x daily trips x (1-pass by) x 38%

- a. Mixed use. If a building permit is requested for a mixed use development, then the corresponding transportation development impact fee shall be determined according to the fee schedule by apportioning the space committed to the individual uses specified on the schedule. If the type of development activity for which a building permit is applied for is not specified on the above fee schedule, the administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedule.
 - b. Change of use, redevelopment, expansion or modification. In the case of change of use, redevelopment, expansion or modification of an existing use which requires the issuance of a building permit, then the development impact fee shall be based upon the difference in square footage between the new use and the previous use. Should a redevelopment or modification of an existing use or building that requires the issuance of a building permit but does not involve a change in use result in a net increase in gross floor area, the development impact fee shall be based on said net increase. Should a change of use, redevelopment, or modification of an existing use or building result in a net decrease in gross floor area or calculated development impact fee, no refund or credit for past development impact fees paid shall be made or created.
- (2) *Individual assessment.* If an applicant opts for individual assessment, then, as provided in O.C.G.A. § 36-71-4(g), the applicant shall prepare and submit to the administrator an individual fee assessment study satisfactory to the administrator for the land development activity for which a building permit is sought. The individual fee calculation study shall follow the methodology and format of the methodology report or subject to prior approval of the administrator, such other professionally accepted methodology that identifies a project's proportionate share. The developer shall attend a pre-application meeting with the administrator, and no agreement or understanding in regard to data assumptions or methodology shall be binding upon the city unless specifically agreed to by the city in writing. The documentation submitted shall show the basis upon which the individual fee assessment was made. Within 30 days of receipt of such documentation, the administrator shall render a decision regarding the assessment. The administrator must consider the documentation submitted by the applicant, but is not required to accept any such documentation as the administrator reasonably deems to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable individual fee assessment study is not presented, the applicant shall pay transportation development impact fees based upon the schedule shown in paragraph (1) of this section. If an acceptable individual fee assessment study is presented, the administrator may adjust the fee to that appropriate to the particular development. Determinations made by the administrator pursuant to this paragraph may be appealed as provided in section 107-136 of this chapter.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-127. - Transportation development impact fee certification.

- (a) Upon the request of an applicant, the administrator shall certify the transportation development impact fee schedule or transportation development impact fees resulting from an individual fee determination, whichever is applicable.
- (b) Applications for certification shall include the following information and items:
 - (1) A full and complete description of the project;
 - (2) A full and complete description of the proposed land use and development activity;
 - (3) A statement as to whether the applicant seeks a certification of the development impact fee schedule

or a certification of an individual fee determination; and

- (4) If the applicant seeks a certification of an individual fee determination, an individual fee calculation study complying with the requirements of section 107-126(2).
- (c) The administrator shall provide an applicant with a written certification of the development impact fee schedule within five working days after the administrator's receipt of a completed application. The fee schedule certified by the administrator shall establish the development impact fee schedule for the proposed development activity for a period of 180 days from the date of certification. The administrator shall provide the applicant with a written certification of an individual fee determination within 30 days after receipt of a completed application. The individual fee determination certified by the administrator shall establish the development impact fee for the proposed development activity for the 180 day period immediately following the date of such certification.
- (d) Notwithstanding the issuance of any such certification, any changes in or additions to the proposed development activity different from the development activity identified in the original application shall be subject to increased or additional development impact fees to the extent that such changes or additions require capital improvements or facilities expansions. The additional development impact fees shall be based upon the development impact fee schedule in effect at the time of any such change or addition.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-128. - Payment of transportation development impact fees.

- (a) Any person required to pay development impact fees pursuant to this article shall pay such fees to the administrator as a condition to the issuance of a building permit unless the city has previously approved a private development agreement providing for an alternative method of payment.
- (b) All funds collected pursuant to this article shall be properly identified as transportation facility development impact fees and promptly transferred for deposit into the transportation development impact fee trust fund to be held as provided for in section 107-130 of this article. Funds shall be used solely for the purposes specified in this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-129. - Transportation development impact fee service area.

- (a) The geographic limits of the City of Sandy Springs shall comprise one service area for collection of transportation development impact fees.
- (b) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review the development potential of any area within the city, whether it be a previously designated service area or not, or the city as a whole. Based on such review of development potential, the city may adjust boundaries of service areas or create new service areas.
- (c) As part of the city's annual capital improvement program process, or comprehensive planning process, or as part of any other planning process which causes the city to evaluate development potential in any area, the city may review capital facilities plans in service areas and modify such plans as a result of development occurring in the previous year or requests for permission to develop.
- (d) As a result of modifications to service area boundaries and/or capital facilities plans, the city may modify development impact fee schedules as appropriate and adopt such revised schedules through official action of the mayor and city council.
- (e) Failure of the city to undertake a review shall result in the continued use and application of the existing fee schedules and other data. The failure to review such schedules shall not invalidate this chapter.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-130. - Transportation development impact fee trust fund established.

- (a) There is hereby established the transportation development impact fee trust fund. The transportation development impact fee trust fund shall be maintained in one or more interest bearing accounts and all transportation development impact fees collected shall be promptly deposited and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.
- (b) The city shall maintain accounting records for each category of system improvements and the service area in which the fees are collected.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-131. - Use of transportation development impact fee funds.

- (a) Funds collected as transportation development impact fees shall be used for the following purposes only:
 - (1) Acquiring and/or making capital improvements to transportation facilities under the jurisdiction of the City of Sandy Springs, Georgia, and shall not be used for maintenance or operations.
 - (2) Acquiring and/or making capital improvements to transportation facilities described in the capital improvements element of the City of Sandy Springs, Georgia Comprehensive Plan.
 - (3) Acquiring, expanding or making capital improvements in the service area from which the transportation development impact fees were collected.
 - (4) Any other purpose expressly authorized by the Georgia Development Impact Fee Act.
- (b) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which transportation development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph (a) above.
- (c) In the event that a developer enters into an agreement with the city to construct, fund, or contribute system improvements such that the amount of the credit created by such construction, funding, or contribution is in excess of the development impact fee that would otherwise have been paid for the development project, the developer shall be reimbursed for such excess construction, funding, or contribution from transportation facility development impact fees paid by other development located in the service area which is benefited by such improvements.
- (d) The administrator shall present a report to the mayor and city council, at least once each fiscal period, describing the amount of transportation development impact fees collected, encumbered and used during the preceding fiscal period within the service area, and a proposed capital improvement program for transportation facilities, assigning funds, including any accrued interest, from the transportation development impact fee trust fund to specific transportation improvement projects and related expenses. Monies, including any accrued interest, not assigned or encumbered in any fiscal period shall be retained in the transportation development impact fee trust fund until the next fiscal period except as provided by the refund provisions of this ordinance.
- (e) Funds may be used to provide refunds as described in section 107-132.
- (f) Funds shall be considered encumbered on a first-in, first-out (FIFO) basis.
- (g) The city shall be entitled to retain up to three percent of all development impact fees it collects as an administrative fee to offset the costs of administering this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-132. - Refunds.

When eligible, feepayors shall be entitled to a refund of development impact fees paid under the circumstances and in the manner set forth in this section.

- (1) Expiration of building permit. If a building permit expires without commencement of construction, then the feepayor shall be entitled to a refund of transportation development impact fees paid as a condition for its issuance, without interest. The city shall retain three percent of the fee to offset a portion of the costs of collection and refund. The feepayor must submit an application for such a refund to the administrator within 30 days of the expiration of the building permit. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and if so, the amount of such refund. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made. Refunds shall be deemed waived if no application is made pursuant to this section.
- (2) Development impact fees not expended or encumbered. The administrator shall provide written notice of entitlement to a refund to the feepayor when development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six years from the date the development impact fee was paid. Such notice shall be sent to the address shown on the application for the development permit or to the feepayor's successor in interest who has given notice to the city of a transfer of right or entitlement to a refund and who has provided a mailing address. Such notice shall also be published in the city's legal organ no more than 30 days after the end of the calendar quarter immediately following the expiration of the six-year period after the date that the development impact fees were collected and shall contain the heading "Notice of Entitlement to Development Impact Fee Refund."
- (3) Any application for a refund must be submitted to the administrator within one year of the end of the calendar quarter immediately following the expiration of the six-year period running from the date the development impact fee was paid or the publication of the notice of entitlement, whichever is later. A refund application shall include information and documentation sufficient to permit the administrator to determine whether the refund claimed is proper, and, if so, the amount of such refund. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for a refund has been made, and shall include a pro rata share of interest actually earned on the unused or

excess development impact fee collected. Refunds shall be deemed waived if no application is made pursuant to this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-133. - Exemptions.

- (a) The following shall be exempted from payment of transportation development impact fees:
- (1) Alterations or expansions of an existing building where the use and size are not changed, and where no additional demand for transportation facilities will be produced over and above those produced by the existing building.
 - (2) The construction of accessory buildings or structures which will not produce additional demand for transportation facilities over and above those produced by the principal buildings or structures.
 - (3) The replacement of a building or structure with a new building or structure of the same size and use.
 - (4) All or part of a particular project if and to the extent the city council determines such project to create extraordinary economic development and employment growth and provided that such project's proportionate share of transportation system improvements is funded through a revenue source other than transportation development impact fees.
- (b) Applicants for exemption shall submit information and documentation sufficient to permit the administrator to determine whether such exemption claimed is proper, and, if so, the extent of such exemption. Any claim of exemption must be made no later than the time of application for a building permit except in the case of a private development agreement. Any exemptions not so applied for shall be deemed waived.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-134. - Credits.

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

- (1) Transportation land and/or improvements may be offered by the applicant as total or as partial payment of the required transportation development impact fee. The applicant must request a transportation 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 transportation 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.
- (2) Credit against transportation development impact fees may be given for projects located within any community improvement district now in existence or in the future created pursuant to the Fulton County Community Improvement District Act, 1987 Ga. Laws 5460, as amended from time to time, provided such community improvement district collects taxes, fees, and assessments to be used for system improvements to transportation facilities. Development impact fee credits for taxes, fees, and assessments paid by property located in a community improvement district shall be calculated according to the following formula:
 - a. The total amount of tax monies assessed and actually received by any applicable community improvement district (hereinafter referred to as "CID") for the immediately preceding three calendar years shall be determined.
 - b. Of the total amount of tax monies as determined in the preceding subsection a., the total dollar amount of those tax monies actually expended during the immediately preceding three calendar years on system improvements by the applicable CID shall be determined.
 - c. The total dollar amount expended as determined in the preceding subsection b. shall be divided

by the total of tax monies received as determined in subsection a. The resulting figure shall be the percentage to be applied to the total CID taxes paid for and during that immediately preceding three calendar years for all property covered by a proposed zoning in order to determine the total amount of credit available to be divided among all property covered by the proposed zoning according to parcel.

- d. The resulting credit attaches to the property, not any owner thereof. To be eligible for this credit, the applicant for this credit shall provide satisfactory proof that the CID tax monies described above were paid on the property in question and received by the Fulton County tax commissioner for and during the immediately preceding three calendar years.
 - e. The resulting credit shall be applied to and allowed against only those sums for the transportation improvements portion of the impact fee.
- (3) In no event shall credit be given for project improvements.
- (4) Except as provided in subsection (5) herein, credit against transportation 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 transportation 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 transportation 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) 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.
- (7) No credit shall be given for transportation land and/or capital improvements made or dedicated more than five years prior to the effective date of this ordinance.
- (8) 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 administrator 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.
- (9) 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-35. - Reserved.

Sec. 107-136. - Right to appeal.

Any applicant or feepayor aggrieved by a decision of the administrator with respect to the determination of a transportation development impact fee shall have the right to appeal to the city council. Prior to any such appeal, the aggrieved applicant or feepayor may file a request for reconsideration with the administrator who shall act upon such request within 15 days. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-137. - Procedure.

All appeals shall be filed within 15 days of the administrator's decision. If the applicant or feepayor requests reconsideration, the appeal shall be filed within 15 days of the administrator's decision on that request. A notice of appeal shall be filed with the administrator and shall specify the grounds of such appeal. The administrator shall forthwith transmit to the city manager and city council all papers constituting the record upon which the action appealed from is taken. The city council shall thereafter establish a reasonable date and time 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.

Following the consideration of all testimony, documentary evidence and matters of record, the city council shall make a determination on the appeal. A decision shall be made within a reasonable time but in no event more than 60 days from the date of the hearing. An appeal shall be sustained only upon an express finding by the city council that the administrator's decision was based on an erroneous finding of material fact or that the administrator acted in an arbitrary manner or otherwise abused his discretion. The city council shall have all the powers of the administrator and 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-138. - Appeal to superior court.

Any person aggrieved by a decision of the city council may take an appeal to the Superior Court of Fulton County within 30 days after the decision of the city council is rendered. The filing of an appeal shall not stay the collection of a development impact fee.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-139. - Payment under protest.

A developer may pay a transportation development impact fee under protest to obtain a building permit, and by making such payment shall not be estopped from exercising the right of appeal provided for in this section, or receiving a refund of any amount deemed to have been improperly collected in accordance with this ordinance.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-140. - Reserved.

Sec. 107-141. - Update by recalculation.

The city council shall review the fee schedule contained in section 107-126 at least once each fiscal biennium. The failure to so review the fee structure shall not render such fee schedule or this ordinance invalid.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-142. - Annual adjustment.

The administrator shall adjust the development impact fee schedule contained in section 107-126 in January of each calendar year. Unless otherwise directed by the city council, any adjustments to the transportation development impact fees made pursuant to this section shall be effective the first Monday in October of each calendar year. All adjustments to the transportation development impact fees shall be based on annual changes to the January Consumer Price Index as more particularly described below.

- (1) The base for computing any adjustment is the January Consumer Price Index - All Urban Consumers for the United States, published by the United States Department of Labor, Bureau of Labor Statistics. For the purpose of this section, the initial index to be referenced is January 2004.

- (2) If the index is changed so that the base year is different, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-143. - Administrative review of impact.

The administrator 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). 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. The adjustments shall be made subject to provisions of the administrative guidelines and shall be included in the update by recalculation provided in this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-144. - Administrative guidelines.

The administrator shall issue guidelines to aid city staff in the administration of this ordinance and to facilitate compliance with it by fee payors. 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 this section.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-145. - Reserved.

Sec. 107-146. - Penalty provision.

- (a) Any person, firm, corporation or other entity violating any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of up to a maximum of \$1000.00 per violation per day or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each calendar day a violation exists shall be considered a separate offense. There are no maximum limitations to the accrual of fines.
- (b) In addition to or in lieu of any criminal prosecution, the city shall have the power to sue in law or equity for relief in civil court to enforce this article, including recourse to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of the article and to recover such damages as may be incurred by the implementation of specific corrective actions. Each owner of any property wherein a violation exists shall be jointly and severally responsible for said violation. Each offense will be tried in the municipal court of Sandy Springs.
- (c) Knowingly furnishing false information to the city on any matter relating to the administration of this article shall constitute an actionable violation.
- (d) The administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of this article have been violated by the owner or his assigns.
- (e) The administrator shall have the right to inspect the lands affected by this article and shall have the right to issue cease and desist orders, stop work orders, and other appropriate citations for violations. Refusal of written notice of violation under this article shall constitute legal notice of service.
- (f) 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 agent, or to the person performing the work. The receipt of a citation shall require that corrective action be taken within ten working days unless otherwise extended at the discretion of the administrator. 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-147. - Enforcement.

The enforcement of this article will be the responsibility of the administrator and such city personnel as the administrator may designate from time to time.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-148. - Intergovernmental agreements.

The city may enter into intergovernmental agreements with other municipalities, counties, public authorities or with the State of Georgia for the purpose of assessing, collecting, and expending development impact fees as provided by this article.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-149. - 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.

(Ord. No. 2008-02-08, 2-19-2008)

Sec. 107-150. - Effective date.

This article shall become effective on March 1, 2008. This article shall become part of the official code of the City of Sandy Springs.

(Ord. No. 2008-02-08, 2-19-2008)
