

# Chapter 47 - IMPACT FEES

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# Chapter 47 - IMPACT FEES

## ARTICLE I. - IN GENERAL

### Sec. 47-1. - Short title, authority and applicability.

- (a) This chapter shall be known and may be cited as the "Forsyth County Impact Fee Ordinance."
- (b) The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized Forsyth County to enact development impact fees for road, parks, library and public safety facilities.
- (c) This chapter shall apply throughout the unincorporated area of Forsyth County, and may also apply within the City of Cumming pursuant to an approved interlocal agreement.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004)

### Sec. 47-2. - Intents and purposes.

- (a) This chapter is intended to assist in the implementation of Forsyth County Comprehensive Plan pursuant to the Georgia Planning Act of 1989.
- (b) The purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide roads, parks, libraries and public safety improvements in Forsyth County.
- (c) This chapter is intended to comply fully with each and every relevant provision of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, and shall be interpreted and implemented to so comply.
- (d) Nothing herein shall be deemed to prevent or prohibit private development agreements between property owners or developers and the county.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004)

### Sec. 47-3. - Rules of construction.

- (a) The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of Forsyth County, Georgia.
- (b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
  - (1) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
  - (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
  - (3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

- (4) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
- (5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (6) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (7) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004)

#### **Sec. 47-4. - Definitions.**

*Affordable housing* means a dwelling unit offered for sale or rent to low-income persons or very-low-income persons and which monthly rent or monthly mortgage payments, including taxes and insurance, do not exceed thirty (30) per cent of that amount which represents the percentage of the median adjusted gross income for low-income persons and very-low-income persons in the Atlanta-Sandy Springs-Roswell, Georgia metropolitan statistical area.

*Applicant* is a person applying for the issuance of a building permit.

*Building permit* is the approval issued by Forsyth County that authorizes the construction or permanent placement of a building, dwelling or other structure on a site.

*Capital equipment and/or facility* is land, buildings and other improvements that increase the service capacity of a public facility and have an expected use life of ten years or more.

*County* means Forsyth County, Georgia, and all components and officials thereof.

*Capital improvement* includes land acquisition, site improvements, and capital equipment for road, park, library and public safety facilities, but excludes maintenance and operation.

*Comprehensive plan* means the duly adopted Forsyth County Comprehensive Plan.

*Developer* means any person or legal entity undertaking development.

*Development* means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, any of which creates additional demand for public facilities.

*Development approval* means any written authorization from Forsyth County which authorizes the commencement of construction.

*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.

*Encumber* means to legally obligate by contract or otherwise commit to use by appropriation or other official act of Forsyth County.

*Feepayer* means that person who pays a development impact fee or his/her successor in interest.

*Impact fee administrator* means the official designated by the board of commissioners to carry out the administration of this chapter.

*Impact fee study* means the *Impact Fee Study for Forsyth County, Georgia*, prepared by Duncan Associates in September 2015, or a subsequent similar study that calculates the maximum impact fees that may be imposed by the County, consistent with the Georgia Development Impact Fee Act.

*Industrial* means an establishment primarily engaged in the fabrication, assembly or processing of goods. Typical uses include manufacturing plants, industrial parks, research and development centers, welding shops, wholesale bakeries, dry cleaning plants, and bottling works.

*Low-income or very-low-income persons* means one or more natural persons, the total adjusted gross household income of which does not exceed 50% of the median adjusted gross income for households within the Atlanta-Sandy Springs-Roswell, Georgia metropolitan statistical area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

*Mobile home park* means a parcel of land where space is rented for occupancy by mobile homes and/or recreational vehicles.

*Multi-family* means a building with more than one dwelling unit, including duplexes, townhouses, apartments and residential condominiums.

*Nonresidential floor area* means both the enclosed and open areas of a building. Enclosed area refers to the total area of all floors of a building as measured to the exterior walls and including halls, stairways, elevator shafts, porches and balconies, but excluding enclosed parking and loading areas. Open areas are decks or walkways not covered by a roof and which are used for some business related purpose, excluding areas used for vehicle parking.

*Office* means a building not located in a shopping center and exclusively containing establishments providing executive, management, administrative or professional services, and which may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, or child care facilities. Typical uses include banks, financial institutions, real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, telephone answering, telephone marketing, music, radio and television recording and broadcasting studios; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; medical and dental offices and clinics, including veterinarian clinics; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations.

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

*Public facilities* means road facilities, park facilities, library facilities, or public safety facilities, which are defined as follows.

*Road facilities* means any public street within the county classified as an arterial roadway in the County's Thoroughfare Plan, including State and Federal highways.

*Park facilities* means a County-owned park providing active recreational opportunities to the public, but excluding greenways and open space preserves.

*Library facilities* means a County-owned facility offering browsing and lending to the public of printed material, audio and video recordings, and internet access and related information services.

*Public safety facilities* means land, buildings or equipment used for fire protection, suppression and rescue used by the County fire department, and emergency communications equipment used for the County E-911 system.

*Private park and/or recreational facility* is an area which is not owned by or dedicated to any governmental entity and is an area designed and equipped for sports and leisure activities but does not include areas not readily accessible by the public for such activities.

*Project* means a particular development on an identified parcel of land.

*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 governing body of the county shall be considered a project improvement.

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

*Public/institutional* means a governmental, quasi-public, or institutional use, not located in a shopping center. Typical uses include elementary, secondary or higher educational establishments, day care centers, hospitals, mental institutions, nursing homes, fire stations, city halls, county court houses, civic centers, convention centers, sports arenas, post offices, jails, libraries, museums, places of religious worship, military bases, airports, bus stations, fraternal lodges, parks, and playgrounds.

*Retail/commercial* means establishments engaged in the selling or rental of goods, services or entertainment to the general public. Such uses include, but are not limited to, amusement parks, automobile sales and service, bowling alleys, barber shops, building material and lumber stores, car washes, convenience stores, dance studios, discount stores, funeral homes, furniture stores, health clubs, golf courses and driving ranges, hardware and paint stores, home improvement stores, marinas, miniature golf courses, movie theaters, pharmacies, photocopy and reproduction shops, restaurants, shopping centers, supermarkets, tire stores and vocational or technical schools. Any land use within a shopping center shall be considered a retail/commercial use.

*Service area* means a geographic area defined by Forsyth County in which a defined set of public facilities provide service to development within the area.

*Shopping center* means a group of retail and/or other commercial establishments that is planned, developed, owned and managed as a single property, with common on-site parking provided.

*Single-family detached* means one dwelling unit, including a manufactured or mobile home, located on a separate lot and not attached to any other dwelling unit.

*System improvement costs* means capital improvement costs incurred to provide additional public facilities capacity needed to serve 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, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, provided that such administrative costs shall not exceed three percent of the total amount of development impact fee receipts. Projected interest charges and other finance costs may be included if 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 municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

*Road system improvement costs* means costs related to capacity-expanding capital improvements to the arterial road system, including improvements to pedestrian facilities, bikeways and trails within arterial road rights-of-way, undertaken to accommodate and which will substantially benefit additional vehicular, pedestrian and bicycle traffic resulting from new development. These improvements include, but are not limited to, construction of new through lanes, construction of curbs, gutters, medians and shoulders, widening of existing roads, construction of new drainage

facilities in conjunction with new road construction, purchase and installation of traffic signals, including new and upgraded signalization, relocating utilities to accommodate new road construction, construction and reconstruction of intersections, acceleration and deceleration lanes, interchanges, sidewalks, bikeways, and trails.

*Park system improvement costs* means capital improvement costs related to the acquisition of additional park land, development of new park facilities, and expansion and improvement of existing park facilities, undertaken to accommodate the additional recreational demands resulting from new residential development.

*Library system improvement costs* means capital improvement costs related to the acquisition and construction of new library facilities, as well as the expansion and improvement of existing library facilities, undertaken to accommodate the additional demands for library services resulting from new residential development.

*Public safety system improvement costs* means capital improvement costs related to the acquisition and construction of new public safety facilities, as well as the expansion and improvement of existing public safety facilities and equipment, undertaken to accommodate the additional demands for public safety services resulting from new development.

*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."

*Warehouse* means an establishment primarily engaged in the display, storage and sale of goods to other firms for resale, or activities involving significant movement and storage of products or equipment, or leasing of dead storage space. Typical uses include wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations, mail processing centers, mini-warehouse, and self-storage facilities.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004)

## **Sec. 47-5. - Administrative organization and responsibility.**

- (a) *Impact fee administrator.* The impact fee administrator is hereby authorized to interpret and implement all provisions of this chapter and the appropriate ordinances of Forsyth County and to carry out the general administration of all impact fees enacted by the county. The impact fee administrator shall have the responsibility to carry out the following:
- (1) When no equivalent type of land use is present in the fee schedule in section 47-12(a), the definitions in section 47-4, or the list of uses in section 47-31, and the proposed use is not a previously determined miscellaneous land use per section 47-12(c), the impact fee administrator shall establish a fee applicable to the most nearly equivalent type of land use on the fee schedule.
  - (2) When requested, the impact fee administrator shall interpret the impact fee schedules as they may apply to a particular development using the procedures described in the appropriate impact fee ordinance and in this chapter.
  - (3) When requested, the impact fee administrator shall certify the impact fees applicable to a particular development using the procedures described in the appropriate impact fee ordinance and in this chapter.
  - (4) With respect to an individual fee determination, the impact fee administrator shall:
    - a. Conduct a preapplication meeting with the applicant and representatives of appropriate departments of the county;
    - b. Review the individual fee determination study for sufficiency, methodology, technical accuracy and findings; and

- c. Establish the amount of the impact fee as a result of the independent study based on the procedures described in the ordinance and in this chapter.
- (5) The impact fee administrator shall determine exemptions from a requirement to pay an impact fee.
- (6) The impact fee administrator shall determine the availability of and the amount of any refund of impact fees.
- (7) The impact fee administrator shall calculate additional impact fees due in the event of change of use, redevelopment, or modifications of an existing use.
- (b) *Other departments.* Other departments and offices of the county shall provide advice, information, or other such services upon the request of the impact fee administrator.
- (c) *County attorney.* The impact fee administrator shall refer all legal matters regarding the administration of this chapter and the relevant impact fee ordinances to the county attorney.

(Ord. No. 95, 12-15-2003)

**Secs. 47-6 – 47-10. - Reserved.**

## ARTICLE II. - IMPOSITION OF FEES

### Sec. 47-11. - Imposition of impact fees.

- (a) *Feepayer.* Any person who, after the effective date of the appropriate impact fee ordinance, seeks to develop land by applying to the county for any of the following permits shall be required to pay an impact fee in the manner and amount set forth in the relevant ordinance and in this chapter:
- (1) The issuance or extension of a building permit, or
  - (2) The issuance or extension of a permit that would allow the construction or installation of a structure, including a mobile home, or
  - (3) The issuance or extension of a permit that would allow the installation or placement of a recreational vehicle.

Persons who filed a fully completed application for a permit prior to 5:00 p.m., the business day prior to the date on which the collection of road impact fees commences, which was subsequently approved within 30 days of submission, shall not be subject to the road impact fees for that permit.

- (b) *Payment due.*

- (1) *General.* Impact fees shall be paid prior to the issuance of a permit for any activity requiring payment of an impact fee. All payment shall be made in the following manner:
  - a. Payment by approved credit card, personal or business check, cashier's check, or money order payable to the county;
  - b. All payments are to be made at offices of the Forsyth County, Department of Planning and Community Development.
- (2) *Invalid payment.* In the event the payment of impact fees subsequently proves to be invalid due to insufficient funds, improper execution, or for any other reason, then the following actions shall be taken:
  - a. The impact fee administrator shall, within 30 days of detection of such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail that to last known address:
    1. An impact fee amount is due by valid payment immediately upon receipt of said notice;
    2. Permits, inspections or certificates will not be issued until the amount is paid and, if not paid within 30 days, the impact fee administrator shall have authority to instruct the Forsyth County Building Department to stop all construction on the site of said building or construction until the payment is received.
  - b. No further building permits, construction permits, inspections or certificate of use and occupancy (C.O.) shall be issued by the county until the required impact fee is paid.
  - c. The amount due shall be the amount of the impact fees plus the amount charged by the bank for the dishonored payment plus a service charge as established by the county
- (3) *Credit in lieu of payment.* In the event the feepayer has received approval from the impact fee administrator for credits for construction or dedication of land pursuant to section 47-24 and the credits are provided before completion of the improvements, the feepayer must comply with all requirements as a condition of receiving such credits. Otherwise, full payment of the impact fee due will be required.

(c) *Determination of fee.*

- (1) *General.* The amount of the impact fee shall be determined by the impact fee administrator, who shall receive assistance from other departments when necessary and appropriate. The impact fee administrator shall determine the amount of the fees due, whether the method of determination is based on the fee schedule contained in the appropriate impact fee ordinance or by independent fee determination study. The calculation of exemptions, refunds, and credits, and the determination of the net impact fees due shall also be the responsibility of the impact fee administrator with the assistance of appropriate county departments.
- (2) *Credits.* In lieu of monetary payment, up to 100 percent of impact fees due may be paid by the use of credits, as provided in section 47-24. However, road credits may be used only for the payment of road impact fees, park credits may be used only for the payment of park impact fees, library credits may be used only for the payment of library impact fees and public safety credits may only be used for the payment of public safety impact fees.

(d) *Expiration of building permits.*

- (1) If a permit expires, is revoked, or is voluntarily surrendered and is, therefore, voided and no construction or improvement of land has commenced, then the feepayer shall be entitled to a refund, without interest, of 95 percent of the impact fees which were paid as a condition for its issuance. The county shall retain five percent of the fees to offset the costs of collection and refund. The feepayer must submit an application for such a refund to the impact fee administrator within 30 days of the expiration of the permit. In the case of an expired permit which was obtained in whole or in part by the use of credits, only that portion not paid by credits may be refunded, and it is from this part that the five percent administrative fee shall be deducted.
- (2) If a refund has been received by the feepayer, the feepayer must pay the appropriate impact fee if he/she reapplies for a permit. Conversely, if a permit expires and no refund has been issued, a feepayer will not have to pay the fee again if he/she reapplies for the permit on the same lot, parcel or tract unless the use or size of the structure has changed and then the amount due would be the change in the amount of the fee based upon the new structure as contrasted with the original.
- (3) A credit for previous payment of an impact fee must be requested by the feepayer. Any exemption or credit not so requested at the time of reapplication shall be deemed waived by the feepayer.
- (4) A refund of the impact fee shall not be granted if the permit expires and construction has commenced. In this case, the feepayer will not have to pay an impact fee if he/she reapplies for a permit for the same type and size of structure. In case of reapplication, the provisions of section 47-12(g) for change of use shall apply.
- (5) The feepayer shall be responsible for requesting any credits or refunds pursuant to the terms of this chapter. The county will not be responsible for notifying the developer of a right to a refund or credit due to an expired permit. Upon receipt of such request, refunds and credits will be determined in accordance with section 47-23 and section 47-24.

(Ord. No. 95, 12-15-2003; Amd. of 12-1-2011)

**Sec. 47-12. - Determination of fees based on fee schedules.**

(a) *Payment from schedule.* At the option of the feepayer, the amount of the fees can be determined from the schedule of fees listed below, utilizing section 47-32, Impact Fee Calculation Form. Impact fees for nonresidential development shall be converted to a fee per square foot by dividing the fee per 1,000 square feet by 1,000. Any impact fee for a development application shall be rounded to the nearest dollar.

(1) *Fee schedule applicable on effective date.* The following fee schedule shall apply to new development for which a building permit is issued on or after the effective date of this ordinance amendment.

Land Use Type	Development Unit	Impact Fee per Development Unit				
		Roads	Parks	Library	Public Safety	Total
Single-Family Detached	Dwelling	\$1,968	\$1,015	\$148	\$510	\$3,641
Multi-Family	Dwelling	\$1,247	\$645	\$94	\$324	\$2,310
Mobile Home Park	Space	\$591	\$1,163	\$170	\$584	\$2,508
Retail/Commercial	1,000 sq. ft.	\$0	\$0	\$0	\$532	\$532
Office	1,000 sq. ft.	\$0	\$0	\$0	\$227	\$227
Industrial/Warehouse	1,000 sq. ft.	\$0	\$0	\$0	\$100	\$100
Public/Institutional	1,000 sq. ft.	\$0	\$0	\$0	\$227	\$227

(b) *Automatic adjustment.* The impact fee schedule shown in subsection (a) above shall be adjusted by the impact fee administrator in April of each calendar year. Unless otherwise directed by the county board of commissioners, any adjustments to the impact fee made pursuant to this section shall be effective the first Monday in October of each calendar year.

(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.

(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.

(3) The current inflation-adjusted fee schedule shall be available at the building permit counter and shall be posted on the County's web site in the County's current schedule of development fees and/or separately.

(c) *Determination of land use type.* If the type of development activity is not specified in the fee schedules, and is not already on a list of miscellaneous land use types maintained by the impact fee administrator, the impact fee administrator shall apply the fee of the most nearly equivalent type of land use on the fee schedules. The impact fee administrator shall be guided in the selection of a comparable land use type by the definitions in section 47-4, the list of land uses in section 47-31, the Forsyth County Comprehensive Plan and the land development regulations of the county. In the event that the classification of a particular use of land into the classification established by the ordinance is unclear, the North American Industry Classification System, United States, latest

edition, shall be used as the final authority. The impact fee administrator shall maintain a list of the fees determined administratively for miscellaneous land use types.

- (d) *Interpretation of fee schedules.* Individuals may request an interpretation of the impact fee schedules as they may apply to their developments. If the individual requests, the impact fee administrator shall certify the impact fees due for that development and said certification shall establish the applicable impact fees for such development for a period of 180 days from the date thereof. If the feepayer disagrees with the interpretation of the impact fee schedules, the feepayer may prepare an individual fee determination study in accordance with this chapter and the relevant impact fee ordinance.
- (e) *Mixed use development.* If a development includes both residential and nonresidential uses, the impact fees are to be assessed for each use based on the fee schedule and the results added together.
- (f) *Mixed use structures.* If a structure includes both residential and nonresidential uses, the impact fees are to be assessed for each use individually based on the relevant fee schedule and the results added together.
- (g) *Shell permit.* Builders may apply for a building permit to construct the "shell" of a building. Tenant finish permits are issued later to finish construction of the interior of the structure. The impact fee shall be paid prior to the issuance of the building permit for construction of the shell. The amount of the fee shall be based on the intended land use as described by the builder. If a builder applies for a "shell" permit and the intended land use is not known, the impact fees shall be assessed based on that land use which generates the greatest impact and is allowed under the existing zoning for the lot or parcel. If it is found during review of the application for a tenant finish permit that the actual land use differs from the intended land use as described by the builder, a determination shall be made as to whether or not an additional impact fee is due based on the procedures for change of use. If so, the additional impact fee shall be paid prior to the issuance of a new building permit for the completion of the shell. If it is determined that there has been an over-payment of impact fees, a refund would become available pursuant to section 47-23(e) of this chapter. If a shell permit was issued prior to the effective date of the appropriate impact fee ordinance and left unfinished, no impact fee shall be assessed for tenant finish permits. Subsequent change of use, redevelopment, or modification of the structure may be subject to an impact fee based on the procedures for change of use.
- (h) *Change of use.* In the case of a change of use, redevelopment, or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net increase in the impact fees for the new use as compared to the previous use. The amount of the impact fees that is due as a result of the change in land use shall be determined at the time the feepayer applies for a building permit. The impact fees shall be paid prior to the issuance of a building permit for construction or remodeling. Previous land use shall be the lawful land use physically existing on the effective date of the ordinance or the current lawful land use. The feepayer shall furnish all documentation required by the impact fee administrator to determine the previous use. Should the change of use, redevelopment, or modification result in a net decrease in the impact, no refunds or credits for impact fees previously paid shall be made. If the change of land use does not require the issuance of a building permit, there shall be no requirement to pay an impact fee.
- (i) *Accessory or auxiliary uses.* Generally, no fee shall be assessed for accessory or auxiliary land uses for residential developments, such as a clubhouse or tennis court in an apartment complex, unless it can be established by the impact fee administrator that the land use serves as an individual attraction. However, structures that meet the definition of a "dwelling" in the Forsyth County Building Code are not exempted as accessory or auxiliary uses.
- (j) *Mobile homes.* When a person applies for a permit that would authorize the installation of a mobile home, the feepayer may request a determination by the impact fee administrator as to whether or not a mobile home (or other dwelling unit) was legally in place on that lot, parcel, or space prior to the effective date of the ordinance. If so, no impact fee shall be assessed for installation of the mobile home. An exemption will be granted if it can be documented that an impact fee has been paid

previously for a mobile home on that same lot, parcel, or space. Documentation to be used by the impact fee administrator may include utility bills for the period of time in question or tax records.

- (k) *House moves and mobile home moves.* Impact fees shall be assessed for structures or mobile homes moved from one location to another unless the structure or unit being moved is a replacement of an equivalent use at the new location. If the structure or mobile home so moved is replaced by an equivalent use at the old location, no impact fee shall be due for the replacement use. In every case, the burden of proving past payment of impact fees, exemption, or equivalency of use rests with the feepayer.
- (l) *Recreational vehicles (RV's).* Reference to "recreational vehicles" refers to the recreational vehicle site which has been permitted by an applicable development approval. The development of an RV site, not the issuance of a permit, is the relevant regulatory issue for this chapter and the administration of the impact fee. Recreational vehicle development approval should contain a condition of approval providing for payment of the impact fee. The impact fee shall be paid according to this condition of approval and the following provisions:
  - (1) No impact fees shall be assessed for "move in" of a recreational vehicle in an RV park developed prior to the effective date of the ordinance or that has paid an impact fee.
  - (2) RV's located outside of RV parks shall be treated as mobile homes. RV owners who apply for a permit, et cetera, shall pay the impact fees at the same rate as a mobile home and are entitled to the same exemptions as mobile home owners.
- (m) *Model homes.* Model homes on residentially zoned land shall be charged residential impact fees. Model homes on land zoned for nonresidential use shall be charged nonresidential impact fees.

(Ord. No. 95, 12-15-2003)

### **Sec. 47-13. – Exemptions and Waivers.**

- (a) *Must be claimed by feepayer.* An exemption must be claimed by the feepayer at the time of application for a building permit. Any exemption not so claimed shall be deemed waived by the feepayer.
- (b) *Total exemptions.*
  - (1) *Exemption list.* The following shall be exempted from payment of all impact fees:
    - a. Alteration of an existing building or use of land where the existing use of the property is not changed and there is no additional heated area in residential structures or enclosed or open area in residential structures.
    - b. The construction of residential accessory or auxiliary buildings or structures which will not be occupied by residents will be exempt from the requirement to pay park and recreation or library impact fees.
    - c. The replacement of a lawfully permitted building, mobile home, recreational vehicle, trailer or structure with a new unit, building or structure of the same type, use and size. If the existing unit, building, or structure is torn down, destroyed by fire or other natural disaster, or otherwise eliminated or moved off the site, or if the original structure is converted to a utility building, garage, or other nonresidential or noncommercial use, the replacement structure will be exempt from the payment of impact fees. The permit applicant shall document such replacement.
    - d. An amendment to a development approval provided that the amended development approval does not increase the impact of the development.
    - e. A permit which does not result in any additional residents, visitors, building occupants, customers or employees within the county.

- (2) *Applicant's duty.* In applying for the above-mentioned exemptions, it shall be the applicant's responsibility to furnish, as required by the impact fee administrator, all materials and information necessary to validate the exemption including, but not limited to, the following:
  - a. Current opinion of title or title insurance;
  - b. Old and new construction plans;
  - c. Official certificate of occupancy and use records;
  - d. Statements from owner stating past and proposed land use;
  - e. Utility bills or receipts; and
  - f. Tax records.
- (c) *Exemption based on error or misrepresentation.* Exemptions from payment of an impact fee based on error or misrepresentation shall be subject to the provisions for invalid payments found in section 47-11(b)(2).
- (d) *Exemptions for vested permit applications.* Applicants for vested permits must meet the following requirements in order to obtain and maintain an exemption from the payment of some or all impact fees:
  - (1) *Complete application for permit allowing construction of a building, mobile home installation or recreational vehicle installation.* The applicant must submit to the impact fee administrator a completed application form with all necessary attachments, forms, and plans to meet the following requirements:
    - a. Applications for residential building permits must meet all of the requirements of the items listed on the "Impact Fee Calculation Form," section 47-32.
    - b. Applications for permits for mobile home installation must meet all of the requirements of the items identified on the "Impact Fee Calculation Form," section 47-32.
    - c. Applications for permit for recreational vehicle installation must meet all of the requirements of the items identified on the "Impact Fee Calculation Form," section 47-32.
    - d. Applications for nonresidential building permits must meet all of the items identified on the "Impact Fee Calculation Form," section 47-32.
    - e. The application form must have been reviewed and assigned an application number by the department of planning and community development. In addition, the date and time stamped by the department of planning and community development on the application form must be prior to the effective date of the ordinance or ordinance amendment.
  - (2) The applicant must pick-up the permit within 30 days of the date stamped on the application by the impact fee administrator.
  - (3) *Health department permit review.* If the applicant has experienced delays in health department permit review, then a receipt from the county health department documenting that the applicant has submitted to the health department both of the following applications on or prior to the effective date of the ordinance must be provided:
    - a. Percolation test (soil suitability test); and
    - b. Septic tank permit (application for on-site sewage disposal system permit).
  - (4) *Zoning issues.* In order for the applicant to pick-up a permit within the required 30 days, it will be necessary for the impact fee administrator to sign off on the application. If the impact fee administrator determines that a variance may be necessary and applying for one could cause the applicant to lose an impact fee exemption, the impact fee administrator may adjust the relevant time period for a time reasonably sufficient for the applicant to pursue a variance procedure.

- (5) *Appeals.* Applicants whose requests for exemptions from impact fees are rejected may appeal the decision pursuant to section 47-24.

- (e) *Waivers.* The collection of impact fees may be waived for particular development projects that create extraordinary economic development or provide affordable housing, provided the following conditions are met.
- (1) *Affordable housing waivers.* Applications for affordable housing waivers must comply with the following.
- a. Any person seeking an affordable housing exemption shall file with the county manager an application for exemption prior to the impact fee payment date for the proposed residential construction. The application for exemption shall contain the following:
    - i. The name and address of the owner;
    - ii. The legal description of the residential construction;
    - iii. The proposed selling price or the proposed rental price, as applicable; and
    - iv. Evidence that the residential construction shall be occupied by low income persons or very-low-income persons.
  - b. For residential construction to receive an affordable housing waiver, it must meet all the restrictions of affordable housing as provided herein, and these restrictions must continue for a period of at least ten (10) years from the date of issuance of the building permit.
  - c. If the residential construction meets the requirements for an affordable housing waiver, and sufficient non-impact-fee funds have been appropriated by the board of commissioners for this purpose and are available to pay the impact fees for the construction, the impact fee administrator shall transfer the funds into the appropriate impact fee accounts and issue the waiver. The waiver shall be presented in lieu of payment of the impact fees.
  - d. In the event the residential dwelling unit fails to meet the restrictions of affordable housing as provided herein at any time within the ten-year period following the issuance of the building permit such that the property no longer qualifies as affordable housing, the impact fees in effect at the time of the change in circumstances shall be immediately due.
- (2) *Economic development waivers.* The board of commissioners may waive impact fees for particular development projects that create extraordinary economic development and employment growth, pursuant to the following provisions.
- a. The board of commissioners shall make a finding that the proposed development would create extraordinary economic development and employment growth.
  - b. The board of commissioners shall appropriate sufficient non-impact fee revenue to pay for the waiver.
  - c. Once the above conditions are satisfied, the impact fee administrator shall transfer the funds into the appropriate impact fee accounts and issue the waiver. The waiver shall be presented in lieu of payment of the impact fees.

(Ord. No. 95, 12-15-2003; Amd. of 12-1-2011)

#### **Sec. 47-14. - Individual fee determination.**

- (a) *Option of the feepayer.* If a feepayer shall opt not to have impact fees determined according to the fee schedule in section 47-12(a), then the feepayer shall prepare and submit an individual fee determination in accordance with this section and the appropriate impact fee ordinance. The

utilization of this option by the feepayer shall not exempt him/her from paying the impact fee prior to the issuance of a permit.

- (b) *Notice of intent by feepayer.* The feepayer shall inform the impact fee administrator of his/her intent to utilize an individual fee determination. The impact fee administrator shall then schedule a pre-application meeting with the applicant.
- (c) *Pre-application meeting.* Before beginning the individual fee determination study, the feepayer or his/her representative shall be given the opportunity to attend a pre-application meeting with the impact fee administrator. The purpose of the pre-application meeting is to discuss the procedures of the individual fee determination study, the methodology to be employed, and the standards to be met. Results, conclusions, and agreements reached at the pre-application meeting regarding methodology, required forms or documentation, or procedures, which may not constitute a waiver of ordinance provisions, shall be placed in writing by the impact fee administrator within 15 days. A copy of this memorandum shall be sent to the applicant. The agreements set out in the letter will expire in 30 days unless the applicant acknowledges receipt and acceptance of the agreements in writing, to the impact fee administrator, within those 30 days. The applicant may waive the pre-application meeting. Any applicant who waives this pre-application meeting has waived his/her right to administratively raise methodological or procedural issues at a subsequent time.
- (d) *Guidelines.*
  - (1) The purpose of the individual determination study is to measure the impact of the development in question on the arterial road system, the park and recreation system, the library system, or the public safety system of the county.
  - (2) An individual determination study must address the expected impact of the development over the projected life of the structures within the development. Any claim that the use or occupancy of the structures within the development will be different from normal use or occupancy must be supported by deed restrictions, restrictive covenants or other appropriate documentation that will support the claim.
  - (3) The individual fee determination study shall follow the methodologies and formats which are agreed upon during the pre-application meeting and be in accord with the methodology used in the supporting impact fee study. The methodology in the impact fee study multiplies the number of service units generated by the land use by the net cost per service unit. The individual fee determination study may only address the expected number of service units to be generated by the development, and shall use the net cost per service unit contained in the appropriate impact fee study. The service units are daily vehicle-miles of travel for the road impact fees, household residents for the park and library impact fees, and functional population for the public safety impact fees. In the event that the impact fees are adopted at a percentage less than 100% of the maximum fees calculated in the impact fee study, the individual fee determination study shall apply the same percentage at which the current fees are adopted.
    - a. A minimum of three sites for the land use in question should be selected. The selected sites should be single use sites and should, whenever possible, be located in the county.
    - b. The site inventory and sites proposed for the survey shall be reviewed by the impact fee administrator. The impact fee administrator must approve the sites to be surveyed prior to initiation of any survey.
  - (4) The individual fee determination study shall be prepared and presented by professionals qualified in their respective fields. The methodology shall be consistent with best professional practice and support the central claim of the study. The study shall provide all necessary supporting documentation and information. Failure to adhere to best professional standards is a basis for rejection of the study. The applicant's submission must certify that the study complies with best professional practices and this attestation shall be sealed where and when applicable.
  - (5) The applicant shall submit the study to the impact fee administrator. This submission shall begin the 30-day clock referred to below.

- (6) The applicant shall provide the impact fee administrator with the name, address and telephone number of the property owner, the contractor and the applicant.
- (e) *Recoupment of cost.*
- (1) The impact fee administrator may require applicants pursuing an individual fee determination to reimburse the county for reasonable non-staff personnel and associated expenses it incurs in order to adequately review and evaluate independent fee determinations.
  - (2) The impact fee administrator shall notify applicants in writing if the county intends to obtain and seek recoupment for non-staff personnel and associated expenses that it deems necessary to properly evaluate the application.
  - (3) Subsequent to notification, the impact fee administrator shall provide good faith estimates of the costs to be borne by the applicant.
- (f) *Sufficiency determination.*
- (1) The impact fee administrator will review the individual fee determination study for sufficiency, methodology, technical accuracy and findings. The impact fee administrator shall have 30 days to review the study and to inform the applicant, in writing, of any deficiencies or defects in the study, or to find the study complete and competent. The notice of sufficiency or lack thereof shall be mailed to the applicant. In the event that this notice is not given within 30 days, the study shall be considered complete and competent.
  - (2) Upon receipt of notice of deficiencies or defects in the study, the applicant may modify or supplement the study and resubmit a modified study. The applicant shall have 30 days to respond to said notice and/or resubmit a modified study to remedy defects or deficiencies identified in the notice. The impact fee administrator will consider the individual fee determination study to be inactive if the impact fee administrator does not receive a response from the applicant within 30 days of receipt of the above notice.
  - (3) Upon receipt of a response or resubmittal of the study, the impact fee administrator shall have 30 days to review the resubmittal or response and notify the applicant of any further defects or deficiencies in the resubmittal. If the impact fee administrator finds deficiencies or defects in a resubmitted study, notice of such deficiencies or defects shall be provided as in subsection (1) above and subsequent responses from applicants shall be resubmitted as provided in subsection (2) above.
- (g) *Determination of fee.*
- (1) The determination of the amount of the applicable impact fee shall be made by the impact fee administrator based on his/her review of a competent and sufficient independent determination study.
  - (2) If an applicant requests, the impact fee administrator shall certify, as provided in the Georgia Development Impact Fee Act, O.C.G.A. § 36-71-2(h), the impact fees due for a development and said certification shall establish the applicable impact fees for such development for a period of 180 days from the date thereof.
- (h) *Effective date.* The effective date for impact fees assessed by an individual fee determined shall be the date at which the individual fee determination study is found to be sufficient, or 30 days after submission if there is no finding with respect to sufficiency.
- (i) *Notification of feepayer and appeal.* Within 30 days of the determination that the study is deemed competent and complete, the impact fee administrator shall notify the feepayer in writing of the acceptance, conditional acceptance, or rejection of the request. If the feepayer disagrees with the findings of the impact fee administrator, the feepayer may appeal the decision pursuant to section 47-25.

- (j) *Application for permit.* It shall be the responsibility of the feepayer, at the time of application for a building permit, to present the approved individually determined fee as approved by the impact fee administrator.

(Ord. No. 95, 12-15-2003)

**Secs. 47-15 – 47-20. - Reserved.**

## **ARTICLE III. - ACCOUNTING AND EXPENDITURE OF FEES**

### **Sec. 47-21. - Trust funds.**

- (a) *Trust funds established.* Separate impact fee trust funds are established for road, park, library and public safety impact fees.
- (b) *Deposit of impact fees into trust funds.* All impact fees collected shall be properly identified and promptly transferred for deposit in the appropriate impact fee trust fund to be held in a separate account until expended or encumbered in accord with this chapter.

(Ord. No. 95, 12-15-2003)

### **Sec. 47-22. - Use of impact fee funds.**

- (a) Impact fees collected shall be used solely for the purpose system improvements for the type of public facility for which the fees were collected, and shall not be used for maintenance or operations.
- (b) Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the service area from which the funds were collected. In the event that the City of Cumming does not enter into an interlocal agreement to collect the County's impact fees from new development within its jurisdiction, impact fees shall not be used to fund improvements located within the city limits, unless a determination is made that the location of the improvement within the city limits is necessary to most efficiently serve new development in the unincorporated area.
- (c) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which impact fees may be expended, 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 subsections (a) and (b) above.
- (d) In the event a developer enters into an agreement with the county to construct, fund or contribute system improvements so that the amount of the credit created by such construction, funding or contribution is in excess of the impact fee otherwise due, the developer shall be reimbursed for such excess construction funding or contribution from development impact fees paid by other developments located in the service area which is benefited by such improvements if so provided in the agreement.
- (e) At least once each fiscal period the impact fee administrator shall present to the board of commissioners a report describing the amount of impact fees collected, encumbered and used, and a proposed capital improvement program, which assigns funds, including any accrued interest, from the several impact fee trust funds to specific improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same impact fee trust funds until the next fiscal period except as provided by the refund provisions of section 47-23.
- (f) Impact fee funds may be used to provide refunds.
- (g) Funds in the impact fee trust accounts shall be considered expended on a first in, first out basis.
- (h) Fire and library fees collected under previous ordinances that required that funds collected in the north service area be spent in the north service area, and that funds collected in the south service area be spent in the south service area, shall be expended according to the requirements of those ordinances.

- (i) Emergency communications (E-911) impact fees collected under the previous public safety impact fee ordinance shall continue to be kept in a separate account and spent according to the provisions of that ordinance.

(Ord. No. 95, 12-15-2003)

### **Sec. 47-23. - Refunds.**

- (a) *Expiration, revocation, or surrender of permit.* In the event that a building permit or other development approval for which an impact fee was paid expires, is revoked or is surrendered without the commencement of construction, a feepayer or his/her successors in interest shall be entitled to a refund, without interest, equal to 95 percent of the impact fee paid. Five percent of the fee shall be retained by the county to offset the administrative costs of collection and refund. In the case of an expired permit or development approval which was obtained in whole or in part by the use of credits, only the portion not obtained by credit may be refunded.
- (b) *Denial of service.* Pursuant to O.C.G.A. § 36-71-9, in the event that road, park, library or public safety service or access to facilities under the jurisdiction of the County is denied after a road, park, library or public safety impact fee has been paid, the feepayer or his/her successors in interest shall be entitled to a refund of the applicable impact fee.
  - (1) Before issuance of the refund can be authorized, the feepayer or his/her successors in interest shall submit a written request for refund to the impact fee administrator. This request must be submitted within 180 days of the date of the denial of service or access.
  - (2) In applying for the refund, it shall be the applicant's responsibility to furnish, as required by the impact fee administrator, all materials and information necessary to validate proof of payment by the feepayer or his/her predecessor in interest, the date and amount paid, and the permit issued as a result of that payment. The impact fee administrator shall verify whether the impact fee is refundable and, if so, process the applicant's request.
  - (3) The refunded impact fee shall be returned to the applicant with a pro rata share of interest actually earned on the amount to be refunded.
- (c) *Trust accounts not expended.* Any funds within impact fee trust accounts not expended or encumbered by the end of the calendar quarter immediately following six years from the date the relevant impact fee was paid shall be considered refundable. Funds shall be deemed expended or encumbered when a contract or agreement obligating those funds is approved by the county.
  - (1) When funds have not been expended or encumbered within the appropriate period, the impact fee administrator shall provide written notice of an entitlement to a refund to the feepayer who paid the development impact fee at the last known address or to a successor in interest who has given notice of name and address to Forsyth County, Department of Planning and Community Development, of a transfer or assignment of the right or entitlement to a refund and who has provided a mailing address. Such notice shall also be published within 30 days after 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."
  - (2) Before issuance of the refund can be authorized pursuant to this section, the feepayer or his/her successor in interest shall submit a written request for refund to the impact fee administrator. This request must be submitted within one year of the time such refund becomes payable under this section or within one year of publication of the notice of entitlement to a refund, whichever is later. All rights to a refund shall be deemed waived if requests are not timely received.
  - (3) In applying for the refund, it shall be the applicant's responsibility to furnish, as required by the impact fee administrator, all materials and information necessary to validate proof of payment by the feepayer or his/her predecessor in interest, the date and amount paid, and the permit

issued as a result of that payment. The impact fee administrator shall verify whether the impact fee is refundable and if so, process the applicant's request.

- (4) Any impact fee to be refunded under this section shall be made to the feepayer with a pro rata share of interest actually earned on the unused or excess balance within 60 days of after it is determined that sufficient proof of claim for a refund has been made. Any trust fund balance not so refunded shall be transferred to the General Fund of Forsyth County.
- (d) *Termination.* In the event that the imposition of an impact fee is terminated in a portion or in the whole of the county, the trust account balance(s) for that area shall be considered refundable upon application of the feepayer or his/her successor in interest. No refunds of fees will be provided for in the event the fees collected have been expended or encumbered or if a feepayer or his/her successor in interest does not request such a refund.
- (1) Within 30 days following the effective date of this termination, the impact fee administrator shall provide written notice of an entitlement to a refund to the feepayer who paid the development impact fee at the address shown on the application for a permit or to a successor in interest who has given notice to Forsyth County, Department of Planning and Community Development, of a transfer or assignment of the right or entitlement to a refund and who has provided a mailing address. Such notice shall contain the heading "Notice of Entitlement to Development Impact Fee Refund."
  - (2) Before issuance of the refund can be authorized pursuant to this section, the feepayer or his/her successor in interest shall submit a written request for refund to the impact fee administrator. This request must be submitted within one year of the time such refund becomes payable under this section or within one year of publication of the notice of entitlement to a refund, whichever is later. All rights to a refund shall be deemed waived if requests are not timely received.
  - (3) In applying for the refund, it shall be the applicant's responsibility to furnish, as required by the impact fee administrator, all materials and information necessary to validate proof of payment by the feepayer or his/her predecessor in interest, the date and amount paid, and the permit issued as a result of that payment. The impact fee administrator shall verify whether the impact fee is refundable and if so, process the applicant's request.
  - (4) Fees available for refund shall be prorated over those eligible applicants submitting proper application for refund. In no case shall the applicant receive a refund greater than the amount originally paid plus a pro rata share of interest actually earned on the impacts fees to be refunded. Any trust fund balance not so refunded shall be transferred to the General Fund of Forsyth County.

Holders of impact fee credits shall be considered feepayers for purposes of refunds under this termination procedure.

- (e) *Overpayment.* A refund, without interest, will be made if it is determined by the impact fee administrator that an overpayment of impact fees has occurred.

(Ord. No. 95, 12-15-2003; Amd. of 12-1-2011)

### **Sec. 47-24. - Credits.**

- (a) *General conditions.* Generally, an applicant may obtain credit for up to 100 percent of impact fees otherwise due or to become due by offering to dedicate land and/or construct improvements for county approved projects. To receive a credit, applicants must file an "Impact Fee Credit Application" as set forth in section 47-33 and provide required information and documentation as required by this section or as determined necessary by the impact fee administrator. Any claim for credit must be made no later than the time of application for an applicable permit. Any right to claim credits shall be deemed waived if not timely made.

- (1) Credits may be available for all required dedications of land or construction of capital improvements or all voluntary dedications of land or construction of capital improvements if such serves a public need as defined by the Forsyth County Capital Improvement Element of the Forsyth County Comprehensive Plan. Furthermore, credits will only be issued for the dedication of land or construction of a capital improvement if such meets the criteria, as defined in the Impact Fee Act, the county impact fee ordinances and this chapter.

Credits shall be issued on a pro rata basis against impact fees otherwise due or to become due for the development that prompted the county to require such dedications or that is subject to impact fees.

- (2) No credit shall be given for:
  - a. Improvements or land dedications that are not in the adopted capital improvement element of the county's comprehensive plan;
  - b. Improvements deemed to be project improvements pursuant to a county development or zoning approval, and pursuant to the county impact fee ordinances; or
  - c. Improvements which do not meet county or state design standards, whichever is applicable;
  - d. Improvements or land dedications for which compensation has previously been given by a governmental body;
  - e. Private recreational facilities, except as provided in section 47-24(c);
  - f. Private police protection or security services;
  - g. Private public safety or rescue services; or
  - h. Land dedication for or improvements of local or collector roads.
- (3) The authority to determine credit lies exclusively with the county. In every case impact fee credits shall be calculated so as to be consistent with O.C.G.A. § 36-71-1 through 13.

(b) *General documentation and procedures.*

- (1) *Application for credit in general.* An offer to make capital improvements or dedicate land in lieu of paying impact fees shall be made in an application filed with the impact fee administrator identifying the capital improvements and/or land dedications for which credits are requested.
  - a. The applicant shall specify the dollar amount of the credit requested. The credit claimed by the applicant as the basis for the credit requested shall be no more than fair market value as determined by the impact fee administrator. It is the obligation of the applicant to submit documentation to the satisfaction of the impact fee administrator that supports the amount of the credit requested and indicates the basis on which the amount requested was calculated.
  - b. An applicant claiming credit for eligible capital improvements and/or land dedication shall timely provide required information and documentation to the impact fee administrator during development review or prior to application for the issuance of building permits, as set out below.
- (2) *Application for credit for construction of capital improvements.* The applicant shall submit a project description in sufficient detail and with cost estimates prepared by qualified professionals, to allow the impact fee administrator to verify the cost estimates and make a credit determination. The application shall include:
  - a. Invoices or other appropriate documents delineating costs claimed as a basis for the requested credit, and

- b. The method of attribution of any general costs to the improvement for which credit is requested. In no case shall the cost for design, engineering, contingencies and overhead constitute more than 15 percent of the credit granted.

(3) *Application for credit for land dedication.*

- a. The impact fee administrator shall coordinate and consult with the county attorney in reviewing an application for land dedication and determine what documentation is needed for accepting an offer of dedication of land.

- b. The application shall include:

- 1. A title opinion issued to the county certified by a licensed State of Georgia attorney and rendered within 60 days of submission thereof, the content of which is satisfactory to the county attorney and verifying that the proffered deed will convey unencumbered title to the appropriate entity;
- 2. A certified copy of the most recent assessment of the property for tax purposes. The impact fee administrator may determine credit values based on 115 percent of the most recent tax assessment value; and
- 3. Applicants may submit a property appraisal for consideration by the impact fee administrator, as prepared by a certified appraiser licensed to do business in the State of Georgia. In preparing the reports, appraisers shall value the land in the following manner:

If the dedication is made pursuant to a condition of zoning approval, is not a project improvement and the zoning condition does not specifically prescribe otherwise, the land shall be valued based upon the zoning of the land as it existed prior to the zoning approval which contains the condition of dedication; or

Otherwise, appraisers shall value the land at its then current zoning and without any enhanced value which could be attributed to improvements on adjacent lands.

(4) *Determination and issuance of credits.* If the county accepts such an offer, whether the acceptance is before or after the effective date of the appropriate impact fee ordinance, the credit shall be determined and provided in the following manner:

- a. *Written determination and certification in general.* The impact fee administrator shall determine the credit for construction of capital improvement or land dedication in a certified written report. The impact fee administrator shall provide the applicant with a copy of the written report certifying the determination of the credit to be provided.

- 1. The credit determination shall be based upon the cost estimates and other documentation provided by the applicant; or if the impact fee administrator determines that such estimates or documentation submitted by the applicant are either unreliable or inaccurate, then upon alternative engineering criteria, construction cost estimates, or property appraisals through the use of the methodology described in the relevant ordinance.
- 2. The written determination shall include the following: Whether the credit is provided for park and recreation, library or public safety impact fees; the dollar amount of the credit; the reason for the credit; the legal description or other adequate description of the project or development to which the credit may be applied; and the terms upon which such credit will be issued, including compliance with the provisions of this chapter.

- b. *Determination of credit for dedication of land or construction of capital improvement.*

- 1. The impact fee administrator shall determine credits for the dedication of land on the following values: 115 percent of the most recent assessed value by the county for

purposes of property taxation; or at the option of the applicant, by fair market value determined by the impact fee administrator, based on an appraisal accepted by the impact fee administrator.

2. The impact fee administrator shall determine credits for the construction of a capital improvement from the engineering criteria and/or construction cost estimates as provided by the applicant and accepted by the impact fee administrator.
- c. *Issuance of credits.*
1. Once the impact fee administrator has made a credit determination, a certification of the determination shall be provided to the applicant. The applicant shall sign and date the certification and return the document to the impact fee administrator, which shall be binding on the applicant as to the terms and conditions of the credit.
  2. *Land dedication.* Once the amount and terms of the credit are determined, credits will be provided when the following procedures have been satisfied:
    - i. The delivery of a fully executed deed or other appropriate conveyance document, as approved by the county attorney, to the county;
    - ii. Sufficient funds to pay all costs of transfer of title and taxes, including recording fees;
    - iii. Payment of all property taxes due for the current year;
    - iv. Receipt of quit claim deeds or other documents sufficient to release all liens identified in the title certificate;
    - v. Receipt of all other appropriate documentation sufficient to ensure conveyance of clear title, free and clear of any encumbrances; and
    - vi. Acceptance of the dedication by the board of commissioners.
- d. *Construction of capital improvements.* Credit for construction of capital improvements may be issued 1) after the completion of the approved project; 2) or before completion in accordance with the following conditions. All credits are conditioned upon compliance with all applicable and then current county, state and federal design, specifications, procedures, inspections, policies, laws and regulations.

Upon completion, credits will be issued when:

1. The project is substantially completed and accepted by the county; and
2. A maintenance bond, performance bond, warranty bond, letter of credit, maintenance agreement or other document as may be required is received by the county and approved by the county attorney.

Prior to completion, the applicant must comply with the following:

1. The feepayer shall submit to the impact fee administrator on appropriate forms a surety performance bond or an automatically renewable, irrevocable letter of credit for an amount equal to 100 percent of the full amount of the cost of construction. The performance bond or letter of credit shall be payable to the county and in a proper form, as reviewed and accepted by the county attorney;
2. The performance bond shall be issued by a good and sufficient surety registered in and licensed to do business in the State of Georgia, for the purpose of securing faithful performance of the construction and to indemnify the county for any damages associated with failure to satisfactorily perform construction in lieu of impact fees; and shall be effective for one year after completion of the construction project;

3. A letter of credit, pursuant to subsection 1. above, shall be automatically renewable unless notice of intent to cancel or not to renew is given to the impact fee administrator not later than 90 days prior to the renewal date;
  4. The impact fee administrator shall be entitled to declare default and collect the full amount of the letter of credit or take action on the performance bond in the event that
    - 1) a notice to cancel or intent not to renew prior to completion of construction is received; or
    - 2) the county determines that construction has not been performed within the terms of the agreement and this Code. If the costs incurred by the county to complete the construction exceed sums available under the letter of credit or performance bond, then the county reserves all available rights in law and equity to recover its damages.
- e. *Increased credits for construction of capital improvements.* In the event that actual construction costs for agreed upon improvements exceed estimates used in credit determination, the feepayer may request in writing that the credit be increased to account for such additional costs. Feepayer shall provide the impact fee administrator with sufficient documentation to substantiate and justify such request. Any increase in credit shall be made at the discretion of the impact fee administrator if it is determined that an increase is justified.
- (2) *Transferability of credits.* Impact fee credits shall not be transferable from one project or development to another unless so provided for in a development impact fee agreement with the county.
  - (3) *Withdrawal of offer by applicant.* Any person who offers land and/or improvements in exchange for credits may withdraw the offer of dedication at any time prior to the transfer of legal title to the land or improvements in question and pay the full impact fees required by the appropriate impact fee ordinance.
  - (4) *Cancellation of credit.* Once used, credits shall be canceled and shall not be reestablished even if the permit for which they were used expires without commencing construction. Credits issued in lieu of payment of impact fees shall run with the land.
- (c) *Credit for private park or recreation facilities.* An applicant may apply for credit against park and recreation impact fees otherwise due for private park or recreation improvements by filing a "Parks and Recreation Application for Impact Fee Credit for Private Recreation Facilities," section 47-34. In no circumstance shall credit for private park or recreation facilities exceed 50 percent of the park and recreation impact fees otherwise due.
- (1) The private park or recreation facilities for which credit is sought must serve a public recreational need and, the private park or recreation facilities for which credit is sought must be consistent with the park and recreational provisions within the county comprehensive plan.
  - (2) An applicant wishing to receive credit for private recreational facilities shall submit a request to the impact fee administrator. This request must contain:
 

An inventory of the private park and recreation facilities for which credit is sought, including:

    - a. The nature or use of the park or recreation area;
    - b. The size of the facilities and the equipment or apparatus available to the users;
    - c. The availability of the spaces or facilities to development residents or occupants and the availability of the spaces or facilities to the general public;
    - d. The public park or recreation purpose that is served by the private facility; and
    - e. The park and recreational provisions of the county comprehensive plan that are furthered by the private facilities.

- (3) The impact fee administrator shall consult with the county director of planning and community development and the county director of parks and recreation on the application for credit. After review, the impact fee administrator shall, within 30 days, notify the applicant of the results of the review. If the request for credit is granted, the impact fee administrator shall notify the applicant of the granting and provide a letter stating the percentage of the park and recreation impact fee that would be applicable to the subject development. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the impact fee administrator before credit will be given. If the applicant fails to sign, date, and return such document within 30 days of receipt, the impact fee administrator will consider the credit application to be inactive.
- (4) The decision of the impact fee administrator may be appealed as set out in section 47-25.

(Ord. No. 95, 12-15-2003; Amd. of 12-1-2011)

### **Sec. 47-25. - Appeals.**

(a) *Procedure.*

- (1) *Request for reconsideration.* If the applicant or feepayer is dissatisfied with a final decision from the impact fee administrator, deemed such by the impact fee administrator, an applicant, within 15 days of that final decision, may ask for reconsideration by the impact fee administrator by submitting a letter which explains the nature of the feepayer's disagreement with the decision of the impact fee administrator. On the basis of the feepayer's letter and the recommendation of the other departments, the impact fee administrator shall, within 15 days of the receipt for the request for reconsideration, provide a written determination with respect to the request for reconsideration to the applicant or feepayer.
- (2) *Appeal to the board of commissioners.* All appeals from the impact fee administrator's determination shall be taken within 15 days of the impact fee administrator's decision on the request for reconsideration by filing with the impact fee administrator a notice of appeal specifying the grounds therefor. The impact fee administrator shall transmit to the board of commissioners all papers constituting the record upon which the action appealed from is taken. The board of commissioners shall thereafter establish a reasonable date and time for a hearing on the appeal, give due notice thereof, and make a determination on the appeal within a reasonable period of time following the hearing. Any applicant or feepayer taking an appeal shall have the right to appear at the hearing, to present their arguments through documentation and/or oral presentation, and may be represented by counsel.
- (3) *Judicial remedy.* Nothing in this chapter or in the impact fees ordinances is intended to preclude any applicant who is dissatisfied with the determination of the board of commissioners from seeking a judicial remedy.

(b) *Payment of impact fees pending appeal.*

- (1) The permit applied for will not be issued unless the impact fee as determined by the impact fee administrator is paid in full, regardless of an appeal by an applicant.
- (2) Any reduction of impact fees resulting from a successful appeal shall be by refund of any excess amount paid at the time of the issuance of the permit. No interest will be paid on a refund of any such overpayment.

(Ord. No. 95, 12-15-2003)

### **Sec. 47-26. - Enforcement.**

(a) *Misdemeanor.*

- (1) Knowingly furnishing false information on any matter relating to the administration of the impact fees ordinances to the impact fee administrator, or any designee, shall constitute a violation thereof.
  - (2) A violation of the impact fee ordinances shall be a misdemeanor punishable according to law. Staff of the county who are aware of such violations shall present their evidence to the office of the county attorney for appropriate legal action.
- (b) *Code enforcement.* In addition to the enforcement provision in subsection (a) above, those authorized to enforce Forsyth County codes and ordinances may be requested by the impact fee administrator and/or the county attorney to enforce specified provisions of the impact fee ordinances.
  - (c) *Penalty provision.* A violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution Forsyth County shall have the power to sue in civil court to enforce the provisions of this chapter.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004; Ord. No. 95, 12-15-2003)

#### **Sec. 47-27. - Review.**

The impact fee study, the impact fee schedule set forth in section 47-12, this chapter and the administration of the impact fee system shall be reviewed by the county board of commissioners at least once each fiscal biennium to determine if any updates or revisions are needed.

(Ord. No. 92, 1-1-2004; Ord. No. 93, 1-1-2004; Ord. No. 94, 1-1-2004)

#### **Sec. 47-28. - Amendments.**

All additions or changes to this chapter shall be subject to review and approval by the board of commissioners as amended items during the regular meetings of the commission. Copies of this chapter as revised and approved by the board of commissioners, and any subsequent amendments approved by the board of commissioners, shall be made available to all county staff who administer impact fees and shall be made available to members of the general public, upon request, at designated locations in the county.

(Ord. No. 95, 12-15-2003)

#### **Secs. 47-29 – 47-30. - Reserved.**

### **ARTICLE IV. - ADMINISTRATIVE FORMS**

#### **Sec. 47-31. - Land Use Categories**

The following list of specific land use types within each fee schedule land use category is intended to provide guidance to the impact fee administrator in determining the appropriate classification of proposed land uses.

- (a) Single-Family Detached (per dwelling unit)
  - (1) Single-family detached

- (2) Manufactured or mobile home subdivision
- (3) Manufactured or mobile home on a separate lot outside a mobile home park
- (b). Multi-Family (per dwelling unit)
  - (1) Single Family Attached (Townhouse)
  - (2) Villa
  - (3) Duplex
  - (4) Apartment
  - (5) Condominium
  - (6) Triplex
  - (7) Fourplex
  - (8) Retirement community (if multi-family dwelling units)
  - (9) Accessory apartment
- (c) Mobile Home Park (per space)
  - (1) Manufactured or mobile home park
  - (2) Recreational vehicle park
  - (3) Recreation vehicle that requires building permit for electrical hook-up, etc) as well as land use permit
- (d) Retail/Commercial (per square foot of gross floor area)
  - (1) Shopping center
  - (2) Freestanding retail
  - (3) Specialty retail center
  - (4) Supermarket
  - (5) Drug store or pharmacy
  - (6) Department store
  - (7) Discount store
  - (8) Hardware/paint store
  - (9) Furniture store
  - (10) Clothing/apparel/fabric store
  - (11) Jewelry/watch store
  - (12) Automobile sales or service
  - (13) Fast food restaurant
  - (14) High-turnover, sit-down restaurant
  - (15) Quality restaurant
  - (16) Bar or night club
  - (17) Convenience store
  - (18) Gas station/service station
  - (19) Car wash

- (20) Barber shop
- (21) Beauty salon
- (22) Shoe repair shop
- (23) Dry cleaners
- (24) Amusement park
- (25) Bowling alley
- (26) Dance studio
- (27) Fitness center
- (28) Funeral home
- (29) Golf course or driving range
- (30) Marina
- (31) Movie theater
- (32) Vocational or technical school
- (33) Hotel or motel
- (34) Bed and breakfast inn
- (35) Boarding or rooming house
- (36) Campground
- (37) Commercial recreational facility, outdoor
- (38) Plant nursery or retail greenhouse
- (39) Shooting range, commercial
- (e) Office (per square foot of gross floor area)
  - (1) General office building
  - (2) Medical office or clinic
  - (3) Dental office
  - (4) Optician
  - (5) Chiropractor
  - (6) Veterinarian or kennel (except large animal, agricultural services)
  - (7) Investment broker
  - (8) Attorney
  - (9) Accountant
  - (10) Real estate
  - (11) Insurance
  - (12) Engineering
  - (13) Government agency
  - (14) Corporate headquarters
  - (15) Office park
  - (16) Research center

- (17) Financial institution
- (18) Bank (walk-in or drive-in)
- (19) Savings and loan (walk-in or drive-in)
- (20) Radio or television recording or broadcasting studio
- (21) Telemarketing
- (22) Software development or support
- (23) Business office of nonprofit organization
- (f) Industrial (per square foot of gross floor area)
  - (1) Light or heavy industrial
  - (2) Manufacturing
  - (3) Mining or extraction
  - (4) Assembly plant
  - (5) Bottling works
  - (6) Dry cleaning plant
  - (7) Industrial park
  - (8) [Reserved]
  - (9) Printing plant
  - (10) Research and development center
  - (11) Welding shop
  - (12) Wholesale bakery
- (g) Warehouse (per square foot of gross floor area)
  - (1) Storage warehouse
  - (2) Wholesale distributor
  - (3) Moving and storage
  - (4) Mini-warehouse
  - (5) Salvage yard or junk yard
  - (6) Mail processing center
  - (7) Wholesale Greenhouse
  - (8) Materials recovery facility
- (h) Public/Institutional (per square foot of gross floor area)
  - (1). Elementary, secondary or higher educational establishment
  - (2) Day care center
  - (3) Hospital
  - (4) Mental institution
  - (5) Nursing or convalescent home
  - (6) Jail
  - (7) Other institutional group quarters (congregate living facility, dormitory)

- (8) Fire station
- (9) City hall
- (10) County court house
- (11) Civic center
- (12) Convention center
- (13) Sports arena
- (14) Post office
- (15) Jail
- (16) Library
- (17) Museum
- (18) Place of religious worship
- (19) Military base
- (20) Airport
- (21) Bus station
- (22) Nonprofit club or lodge
- (23) Park or playground
- (24) Water or sewage treatment plant
- (25) Recycling collection point or recycling plant
- (26) Solid waste landfill or handling facility
- (27) Public utility facility

(Ord. No. 95, 12-15-2003, Amd. of 12-1-2011)

**Sec. 47-32. - Impact Fee Calculation Form**

**Forsyth County  
IMPACT FEE CALCULATION FORM**

**SECTION 1**

Property Owner	Contractor
Permit Reference Number	Permit Type
Property ID Number	Job Address

The impact fees calculated herein have been determined based on the fee schedules adopted in the Forsyth County Code Impact Fee Ordinance. This form is authorized only for those building projects expressly identified above. Changes or modifications to the building referred to above or amendments to the impact fee schedules contained in Forsyth County Impact Fee Ordinance shall render this calculation form null and void.

ANY CLAIM FOR CREDIT OR EXEMPTION MUST BE MADE NO LATER THAN THE TIME OF APPLICATION FOR A BUILDING PERMIT OR PERMIT FOR MOBILE HOME INSTALLATION. ANY CLAIM NOT SO MADE SHALL BE DEEMED WAIVED.

Signature	Date>

LAND USE CATEGORY \_\_\_\_\_ (If Change, FROM \_\_\_\_\_ TO \_\_\_\_\_)  
 No. of Dwelling Units \_\_\_\_\_ (If Change, FROM \_\_\_\_\_ TO \_\_\_\_\_)  
 Nonresidential Sq. Feet \_\_\_\_\_ (If Change, FROM \_\_\_\_\_ TO \_\_\_\_\_)

CHANGE IN LAND USE CATEGORY?	( ) YES ( ) NO
SHELL PERMIT?	( ) YES ( ) NO
CREDIT REQUESTED	( ) YES* ( ) NO
CATEGORY REVIEW REQUESTED	( ) YES* ( ) NO
INDIVIDUAL FEE APPLICATION	( ) YES* ( ) NO
*IF YES IS CHECKED, DETERMINATION MUST BE MADE PRIOR TO RELEASE	

**ROAD IMPACT FEE**

Residential	_____ units x \$ _____ per unit	\$ _____
Non-Residential	_____ sq. ft. x \$ _____ per sq. ft.	\$ _____
Road Impact Fee		\$ _____
Road Credits Applied		\$ _____
Net Public Safety Impact Fees		\$ _____

**PARKS IMPACT FEE**

Parks Impact Fee	_____ units x \$ _____ per unit	\$ _____
Parks Credits Applied		\$ _____
Net Parks Impact Fees		\$ _____

**LIBRARY IMPACT FEE**

Library Impact Fee	_____ units x \$ _____ per unit	\$ _____
Library Credits Applied		\$ _____
Net Library Impact Fees		\$ _____

**PUBLIC SAFETY IMPACT FEE**

Residential	_____ units x \$ _____ per unit	\$ _____
Non-Residential	_____ sq. ft. x \$ _____ per sq. ft.	\$ _____
Public Safety Impact Fee		\$ _____
Public Safety Credits Applied		\$ _____
Net Public Safety Impact Fees		\$ _____

**TOTAL IMPACT FEES**

Total Net Impact Fees Due		\$ _____
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**SECTION 2. IMPACT FEES COLLECTION**

To be filled out by Department of Planning and Community Development CASHIER:

The total Impact Fees calculated in Section 1 of this form and shown here in Section 2 have been paid in full:

Amount:	\$ _____	_____
Date:	_____	Cashier Signature
Check Number:	_____	

In the event of possible refund of Development Impact Fees paid, please provide the following names and addresses:

Property Owner Name	Property Owner Address
Impact Fee Payer Name	Impact Fee Payer Address
Contractor Name	Contractor Address

(Ord. No. 95, 12-15-2003, Amd. of 12-1-2011)

**Sec. 47-33. - Impact Fee Credit Application**

**Forsyth County  
IMPACT FEE CREDIT APPLICATION**

**CREDIT REQUEST**

Forsyth County development impact fee ordinances provide for the donation of property or the construction of facilities in lieu of impact fee payments for development projects within the County. Accordingly, you are hereby requested to review the submitted documentation to determine the applicable credit, if any.

Type of Credit Requested (check one):

Roads	_____
Parks	_____
Library	_____
Public Safety	_____

Name of Applicant	
Street Address	
City, State, Zip Code	
Permit Number	
Approval Date	

**CREDIT TRANSFER**

Applicants for transfer of impact fee credits must attach a copy of the impact fee agreement approving the transferability of impact fee credits.

Account Number	Amount

The above impact fee credit account has previously been established for the undersigned to be used to offset impact fee assessments in Forsyth County, Georgia. Accordingly, you are hereby requested to transfer these credits as identified above.

Credit Holder's Name	Signature	Date

**APPLY CREDIT**

Account Number	Service Area	Amount

The above impact fee credit account has previously been established for the undersigned to be used to offset impact fee assessments in Forsyth County, Georgia. Accordingly, you are hereby requested to apply these credits as identified above to:

		\$
Account Number	Service Area	Amount
Subdivision/Project Name:		

Thank you for your prompt attention to the above request. .

Credit Holder's Name	Signature	Date

**DEPARTMENTAL USE ONLY**

—Approved Amount—


Name	Title	Date

(Ord. No. 95, 12-15-2003)

**Sec. 47-34. - Application for Parks and Recreation Credit for Private Facilities**

**Forsyth County  
APPLICATION FOR PARKS AND RECREATION IMPACT FEE CREDIT  
FOR PRIVATE FACILITIES**

Forsyth County Park and Recreation Development Impact Fee Ordinance establishes that park and recreation impact fees otherwise due may be reduced in recognition of the public benefit resulting from certain private park or recreational facilities. The impact fee administrator will review the following to determine the amount of reduction, if any, to be approved.

DEVELOPMENT \_\_\_\_\_

Please provide the name and location of the development and name of the agent.

PRIVATE FACILITIES: The private facilities provided are:

Name	Location	Use	Size
Name	Location	Use	Size
Name	Location	Use	Size

Are these facilities:

Open to the public?	( ) Yes ( ) No
Open to all residents/Occupants?	( ) Yes ( ) No

**PUBLIC PURPOSE**

What public purpose is met by the provision of these private facilities? Please refer to the Forsyth County Comprehensive Plan in responding.

(Ord. No. 95, 12-15-2003, Amd. of 12-1-2011)