

Sec. 32-26. - Short title, authority, and applicability.

- (a) *Short title.* This article shall be known and may be cited as the "Impact Fee Ordinance of Cherokee County, Georgia."
- (b) *Authority.*
 - (1) This article has been prepared and adopted by the Board of Commissioners of Cherokee County, Georgia, in accordance with the authority provided by Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia, the Georgia Development Impact Fee Act (O.C.G.A. §§ 36-71-1 et seq., as amended), and such other laws as may apply to the provision of public facilities and the power to charge fees for such facilities.
 - (2) The provisions of this article shall not be construed to limit the power of Cherokee County, Georgia, to use any other legal methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article.
 - (3) This article shall apply to all areas under the regulatory control and authority of Cherokee County, Georgia, and such other areas as may be included by intergovernmental agreement.

(Ord. No. 2000-O-2, 4-25-00)

Sec. 32-27. - Findings, purpose, and intent.

- (a) *Findings.* The Board of Commissioners of Cherokee County, Georgia, finds and declares:
 - (1) That an equitable program for planning and financing public facilities to serve new growth and development is necessary in order to promote and accommodate orderly growth and development and to protect the public health, safety, and general welfare of the citizens of Cherokee County.
 - (2) That certain public facilities as herein defined have been and must be further expanded if new growth and development is to be accommodated at the same level of service available to existing development.
 - (3) That it is fair and equitable that new land development shall bear a proportionate share of the cost of such public facilities necessary to serve new growth and development.
- (b) *Purpose.*
 - (1) The purpose of this article is to impose impact fees, as hereinafter set forth, for certain public facilities, as hereinafter defined.
 - (2) It is also the purpose of this article to ensure that adequate public facilities are available to serve new growth and development in Cherokee County and to provide that new growth and development bears a proportionate share of the cost of new public facilities needed to serve them.
- (c) *Intent.* This article is intended to implement and be consistent with the Cherokee County Comprehensive Plan, as it may be adopted or amended in accord with the Georgia Comprehensive Planning Act (O.C.G.A. §§ 50-8-1 et seq.) and the minimum standards and procedures for local comprehensive planning as adopted by the Georgia Board of Community Affairs and amended from time to time.

(Ord. No. 2000-O-2, 4-25-00)

Sec. 32-28. - Rules of construction and definitions.

- (a) *Generally.* The provisions of this article shall be construed so as to effectively carry out its purpose in the interest of the public health, safety, and general welfare of the citizens of Cherokee County.
- (b) *Rules of construction.* Unless otherwise stated in this article, the following rules of construction shall apply to the text of this article:
- (1) In the case of any difference of meaning or implication between words or phrases as used in this article and as used in other codes, regulations or laws of Cherokee County, such difference shall not affect the meaning or implication of such words or phrases as used in this article.
 - (2) In the case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table or illustrative table, the text shall control.
 - (3) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
 - (4) Words used in the present tense shall include the future and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
 - (5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other legal or similar entity.
 - (6) The conjunction "and" indicates that all the connected terms, conditions, provisions, or events shall apply.
 - (7) The conjunction "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (8) The use of "either ... or" indicates that the connected items, conditions, provisions, or events shall apply singly and not in combination.
 - (9) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - (10) The article, section, and paragraph headings and enumerations used in this article are included solely for convenience and shall not affect the interpretation of this article.
- (b) *Definitions.* As used in this article, the following terms shall have the meaning set forth below.

Administrator means the appointed designee of the board of commissioners, who is hereby charged with implementation and enforcement of this article.

Board of commissioners means the Board of Commissioners of Cherokee County, Georgia.

Building permit means the permit required for new construction, completion of construction, or an interior finish pursuant to the applicable building code. As used herein, the term shall not include permits required for remodeling; rehabilitation, or other improvements to an existing structure provided there is no increase in the demand placed on those public facilities as defined herein.

Capital improvement means an improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.

Capital improvements element means that portion of the Cherokee County Comprehensive Plan that sets out projected needs for system improvements during the planning horizon established therein, which provides a schedule that will meet the anticipated need for system improvements, and which provides a description of anticipated funding sources for each required

improvement.

Code enforcement officer means the employee or official who is designated and empowered to enforce the building codes of Cherokee County, Georgia.

Commencement of construction, for private development, means initiation of physical construction activities as authorized by a development permit and leading to completion of a foundation inspection or other initial inspection and approval by a public official charged with such duties; and for public projects, means expenditure or encumbrance of any funds, whether they be development impact fee funds or not, for a public facilities project, or advertising of bids to undertake a public facilities project.

Completion of construction means the issuance of the final certificate of occupancy by the appropriate governmental jurisdiction. The date of completion is the date on which such certificate is issued.

Comprehensive plan means the Cherokee County Comprehensive Plan as adopted or amended in accord with the Georgia Comprehensive Planning Act (O.C.G.A. §§ 50-8-1 et seq.) and the minimum standards and procedures for local comprehensive planning as adopted by the Georgia Board of Community Affairs.

County means Cherokee County, a legal subdivision of the State of Georgia.

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

Developer means any person or legal entity undertaking development.

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

Development approval means written authorization, such as issuance of a building permit, approval for connection to public utilities, or other forms of official action required by local law or regulation prior to commencement of construction or connection to public utilities.

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

Development impact fee appeals board means the board who is appointed by the Board of Commissioners of Cherokee County to hear appeals or waiver requests.

Encumber means to legally obligate by contract or otherwise commit to use by appropriation or other official act of Cherokee County, Georgia.

Excess capacity means that portion of the capacity of a public facility or system of public facilities, which is beyond that necessary to provide adequate service to existing development at the adopted level-of-service standard.

Fee payer means that person or entity who pays a development impact fee, or his legal successor in interest when the right or entitlement to any refund of previously paid development impact fees which is required by this article has been expressly transferred or assigned to the successor in interest.

Individual assessment determination means a finding by the administrator that an individual assessment study does or does not meet the requirements for such a study as established by this article or, if the requirements are met, the fee calculated therefrom.

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

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

Present value means the current value of past, present, or future payments, contributions, or dedications of goods, services, materials, construction, or money, as calculated using accepted methods of financial analysis for determination of "net present value."

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

Project improvements means site specific improvements or facilities that are planned, designed, or built to provide service for a specific development project and that are necessary for the use and convenience of the occupants or users of that project only, and that are not "system" improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or a "system" improvement, and the physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a "project" improvement or a "system" improvement. A project improvement may provide no more than incidental service or facility capacity to persons other than users or occupants of the particular project they serve.

Property owner means that person or entity that holds a majority interest in legal title to property.

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

Public facilities means:

- (1) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;
- (2) Parks, open space, and recreation areas and related facilities;
- (3) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and
- (4) Libraries and related facilities.

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

System improvement costs means costs incurred to provide public facilities capacity to serve new growth and development, including the costs of planning, design, engineering, construction, land acquisition, and land improvement for the construction or reconstruction of facility improvements or expansions. System improvement costs include the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvements element, and administrative costs of up to three percent of the total of all other costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued to finance system improvements, but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

System improvements means capital improvements that are public facilities designed to provide service to more than one project or to the community at large, in contrast to "project" improvements.

Unit of development means the standard incremental measure of land development activity for a specific type of land use upon which the rate of demand for public service and facilities is based. Such term includes but is not limited to, "housing unit," "acre of land," and "square feet of floor area."

Unused or excess impact fee means any individual impact fee payment from which no amount of money or only a portion thereof has been encumbered or expended according to the requirements of this article.

(Ord. No. 2000-O-2, 4-25-00)