

Title 36. Local Government
Provisions Applicable to Counties and Municipal Corporations
Chapter 71. Development Impact Fees
O.C.G.A. § 36-71-2. Definitions

As used in this chapter, the term:

- (1) "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.
- (2) "Capital improvements element" means a component of a comprehensive plan adopted pursuant to Chapter 70 of this title which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.
- (3) "Comprehensive plan" has the same meaning as provided for in Chapter 70 of this title.
- (4) "Developer" means any person or legal entity undertaking development.
- (5) "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 and need for public facilities.
- (6) "Development approval" means any written authorization from a municipality or county which authorizes the commencement of construction.
- (7) "Development exaction" means a requirement attached to a development approval or other municipal or county action approving or authorizing a particular development project, including but not limited to a rezoning, which requirement compels the payment, dedication, or contribution of goods, services, land, or money as a condition of approval.
- (8) "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.
- (9) "Encumber" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a municipality or county.

(10) "Feepayer" means that person who pays a development impact fee or his successor in interest where the right or entitlement to any refund of previously paid development impact fees which is required by this chapter has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment of the right or entitlement to any refund of previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."

(11) "Governmental entity" means any water authority, water and sewer authority, or water or wastewater authority created by or pursuant to an Act of the General Assembly of Georgia.

(12) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities in terms of demand to capacity ratios, the comfort and convenience of use or service of public facilities, or both.

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

(14) "Project" means a particular development on an identified parcel of land.

(15) "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 municipality or county shall be considered a project improvement.

(16) "Proportionate share" means that portion of the cost of system improvements which is reasonably related to the service demands and needs of the project within the defined service area.

(17) "Public facilities" means:

(A) Water supply production, treatment, and distribution facilities;

(B) Waste-water collection, treatment, and disposal facilities;

(C) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;

(D) Storm-water collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(E) Parks, open space, and recreation areas and related facilities;

(F) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and

(G) Libraries and related facilities.

(18) "Service area" means a geographic area defined by a municipality, county, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

(19) "System improvement costs" means costs incurred to provide additional public facilities capacity needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, 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 3 percent of the total amount of the 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 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.

(20) "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."

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