

COUNTY OF JACKSON
STATE OF GEORGIA

ORDINANCE NO. ____

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN JACKSON COUNTY, GEORGIA; IMPOSING A DEVELOPMENT IMPACT FEE ON LAND DEVELOPMENT IN JACKSON COUNTY FOR PROVIDING CERTAIN PUBLIC SAFETY FACILITIES, PARK AND OPEN SPACE LAND, AND ROADS NECESSITATED BY SUCH NEW DEVELOPMENT; STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE; MAKING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; PROVIDING A SHORT TITLE AND APPLICABILITY; PROVIDING INTENTS AND PURPOSES; PROVIDING RULES OF CONSTRUCTION; PROVIDING FOR THE COMPUTATION OF THE AMOUNT OF DEVELOPMENT IMPACT FEES; PROVIDING FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES; PROVIDING FOR A DEVELOPMENT IMPACT FEE SERVICE AREA FOR EACH FACILITY FOR WHICH AN IMPACT FEE IS CHARGED; PROVIDING FOR THE ESTABLISHMENT OF DEVELOPMENT IMPACT FEE TRUST FUNDS FOR EACH FACILITY FOR WHICH AN IMPACT FEE IS CHARGED; PROVIDING FOR THE USE OF FUNDS; PROVIDING FOR THE REFUND OF FEES PAID; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; PROVIDING FOR APPEALS; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

IT IS ORDAINED by the Board of Commissioners of Jackson County that a new Chapter 40 of the Code of Ordinances of Jackson County is hereby adopted as follows:

“CHAPTER 40
DEVELOPMENT IMPACT FEES

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- Sec. 40-2. Short title and applicability.
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ARTICLE I GENERAL PROVISIONS

Sec. 40-1. Legislative findings.

The Board of Commissioners of Jackson County has considered the feasibility of imposing development impact fees and finds determines and declares that:

- A. The Georgia General Assembly, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized Jackson County to enact development impact fees;
- B. Jackson County established a Development Impact Fee Advisory Committee pursuant to the Georgia Development Impact Fee Act, Georgia Code Title 36-71-5, and that Committee has served in an advisory capacity and assisted and advised Jackson County with regard to the development and adoption of this development impact fee ordinance;
- C. The Jackson County comprehensive plan contains within it a Capital Improvements Element which establishes of a level of service standard for various capital facilities for the planning horizon to 2042; and the Capital Improvements Element has been submitted to the Northeast Georgia Regional Commission and determined by the Georgia Department of Community Affairs to be in compliance with the rules of the Georgia Department of Community Affairs, Chapter 110-12-2, Development Impact Fee Compliance Requirements;
- D. Jackson County must expand various facilities in order to maintain its level of service standard if new development is to be accommodated without decreasing the adopted standard. This must be done in order to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of Jackson County, Georgia;
- E. The imposition of development impact fees is a preferred method of ensuring the availability of capital facilities necessary to accommodate new development;
- F. The type of land development described in Article II hereof, will create demand for the acquisition of park and open space land and the construction of capital facilities;
- G. The fees established by Article II are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional facilities necessitated by the new land developments for which the fees are levied; and
- H. The report entitled "A Report on Impact Fees Prepared for Jackson County, Georgia," dated April 8, 2022, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional facilities in Jackson County for which the fees are levied.

Sec. 40-2. Short title and applicability.

- A. This ordinance shall be known and may be cited as the “The Jackson County Development Impact Fee Ordinance.”
- B. This ordinance shall apply throughout the unincorporated area of Jackson County.

Sec. 40-3. Intent and purposes.

- A. This ordinance is intended to assist in the implementation of the Jackson County comprehensive plan.
- B. The purpose of this ordinance 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 acquire open space and construct various public safety capital facilities and roads in Jackson County.
- C. This ordinance 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.

Sec. 40-4. Rules of construction.

- A. The provisions of this ordinance 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 Jackson County, Georgia;
- B. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:
 - 1. In case of any difference of meaning or implication between the text of this ordinance 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 (2) 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.

Sec. 40-5. Definitions.

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

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

“Capital equipment” is buildings and other improvements which increase the service capacity of a public facility all with an expected use life of ten years or more.

“Capital improvement” includes planning, land acquisition, site improvements, and capital equipment, but excludes maintenance and operation.

“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 and need for park and recreation facilities.

“Development approval” means any written authorization from Jackson 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 certain specified 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 Jackson County.

“Feepayer” means that person who pays a development impact fee or his/her successor in interest. In the absence of any 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.”

“Floor area” shall have the same meaning as in the International Building Code.

“Impact fee administrator” shall mean the Director of Public Development of Jackson County, Georgia, or designee.

“Living area” shall have the same meaning as in the International Building Code.

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

“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 to all residents of the county 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.

“Service area” means a geographic area defined by Jackson County 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.

“System improvement costs” means cost 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 3 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.

"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." No improvement or facility shall be considered a system improvement unless it is included in a plan for public facilities approved by the governing body of the county.

"Impact fee administrator" means the Jackson County Director of Public Development or other municipal official designated to carry out the administration of this ordinance.

Secs. 40-6 – 40-20 Reserved.

ARTICLE II DEVELOPMENT IMPACT FEES IMPOSED

Sec. 40-21. Imposition of development impact fees.

- A. **Fees.** Any person who, after the effective date of this ordinance, seeks to develop land within Jackson County, Georgia, by applying for a building permit is hereby required to pay the following development impact fees in the manner and amount set forth in this ordinance.
1. Public Safety – Emergency Medical Services (EMS);
 2. Public Safety – Emergency Management Agency/911;
 3. Park and open space land acquisition; and
 4. Roads.
- B. **Fee payment before permit issuance.** No building permit for any activity requiring payment of a development impact fee pursuant to this article shall be issued unless and until all applicable development impact fees hereby required have been paid.
- C. **Uses.** The impact fee administrator shall determine which of the impact fees for land use(s) set forth in this chapter applies to a given application for building permit. The

impact fee administrator shall be guided in such determinations by the use definitions and applicable use permissions of the Jackson County Unified Development Code.

- D. **Mixed uses.** If a building permit is requested for mixed uses, then the fee shall be determined through using the schedule of fees provided in this article by apportioning the space committed to uses specified on the schedule.
- E. **Change, expansion or modification of use.** In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use.
- F. **Shell buildings.** 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 building. 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. 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 Article IV of this chapter. If a shell permit was issued prior to the effective date of this impact fee ordinance and left unfinished, impact fees shall be assessed for tenant finish permits within that shell, based on the land use proposed in each tenant finish permit. Subsequent change of use, redevelopment, or modification of the structure may be subject to an impact fee as determined by the impact fee administrator.
- G. **Accessory residential structures.** Generally, no impact fee shall be assessed for a use that is accessory to residential development, as interpreted by the impact fee administrator based on use permissions in the Jackson County Unified Development Code, such as a clubhouse or tennis court in an apartment complex or a guest house on the lot of a detached dwelling, if it can be established to the satisfaction of the impact fee administrator that the structure will not result in any additional residents, visitors, building occupants, customers or employees.

H. **Model homes.** Model homes on residentially zoned land shall be assessed impact fees.

Sec. 40-22. Computation of the amount of park and open space land development impact fee.

At the option of the applicant, the amount of the park and open space development impact fee may be determined by the following fee schedule.

	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Per dwelling unit	590.40	17.70	608.10

Sec. 40-23. Computation of the amount of emergency medical services (EMS) development impact fee.

At the option of the applicant, the amount of the emergency medical services (EMS) development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	178.70	5.36	184.06
Industrial, per 1,000 gross square feet	37.23	1.11	38.34
Institutional, per 1,000 gross square feet	55.84	1.67	57.51
Commercial, per 1,000 gross square feet	108.58	3.25	111.83

Sec. 40-24. Computation of the amount of emergency management agency/911 development impact fee.

At the option of the applicant, the amount of the emergency management agency/ 911 development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	55.87	1.67	57.54
Industrial, per 1,000 gross square feet	11.64	0.34	11.98
Institutional, per 1,000 gross square feet	17.46	0.52	17.98
Commercial, per 1,000 gross square feet	33.95	1.01	34.96

Sec. 40-25. Computation of the amount of road development impact fee.

At the option of the applicant, the amount of the road development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	2,136.00	64.09	2,200.09
Industrial, per 1,000 gross square feet	1,955.00	58.66	2,013.66
Institutional, per 1,000 gross square feet	3,130.00	93.91	3,223.91
Commercial, per 1,000 gross square feet	8,004.00	240.13	8,244.13

Sec. 40-26. Independent fee calculation study.

If an applicant opts not to have the development impact fee determined according to one or more

of the fee schedules specified in this article, then the applicant shall prepare and submit to the impact fee administrator an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The impact fee administrator shall consider the documentation submitted by the applicant but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the applicant shall pay development impact fees based upon the schedules specified in this article. If an acceptable independent fee calculation study is presented, the impact fee administrator may adjust the fee to that appropriate to the particular development. Determinations made by the impact fee administrator pursuant to this paragraph may be appealed to the Jackson County Board of Commissioners by filing a written request with the County Clerk within ten (10) days of the impact fee administrator's determination.

Sec. 40-37. Certification of fee schedule.

On the request of an applicant, the impact fee administrator shall certify the development impact fee schedules or development impact fees resulting from an individual assessment, whichever is applicable, and said certification shall establish the applicable development impact fee for a period of 180 days from the date thereof.

Sec. 40-28. Payment of fee.

- A. The applicant shall pay all development impact fees required by this ordinance to the impact fee administrator or his/her designee prior to the issuance of a building permit.
- B. All funds collected shall be properly identified by impact fee service area and promptly transferred for deposit in the appropriate development impact fee trust fund to be held in separate accounts as determined in this article and used solely for the purposes specified in this ordinance.

Secs. 40-29 – 40-40 Reserved.

**ARTICLE III
SERVICE AREAS AND TRUST FUNDS**

Sec. 40-41. Establishment of development impact fee service areas.

There is hereby established one (1) development impact fee service area for each of the following facilities, which shall be the entire area of the Jackson County including municipal boundaries, unless specifically indicated otherwise:

- A. Public Safety – Emergency Medical Services (EMS);
- B. Public Safety – Emergency Medical Agency/911;

C. Park and open space land acquisition; and

D. Roads.

Sec. 40-42 Development impact fee trust funds established.

A. There is hereby established one (1) development impact fee trust fund for each of the development impact fee service areas established in this article:

1. Public Safety – Emergency Medical Services (EMS);
2. Public Safety – Emergency Management Agency/911;
3. Park and open space land acquisition; and
4. Roads.

B. Development impact fees placed in these funds shall be maintained in interest bearing accounts.

C. All development impact fees collected shall be promptly deposited in the development impact fee trust fund created for that purpose and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.

D. Funds withdrawn from these account must be used in accordance with the provisions of this article.

Sec. 40-43. Use of funds.

A. Funds collected from development impact fees shall be used solely for the class or kind of capital facility or land for which they were collected under the jurisdiction of Jackson County, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

B. In the event that bonds or similar debt instruments are issued or capital expenditures made for advanced provision of capital facilities for which development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments or to recoup prior expenditures to the extent that the expenditure is of a type authorized by the Georgia Development Impact Fee Act.

C. At least once each fiscal year the impact fee administrator should present to the Board of Commissioners a report describing the amount of development impact fees collected, encumbered and used, and a proposed capital improvement program for the facilities for which development impact fees are charged, assigning funds, including any accrued interest, from the development impact fee trust funds to specific authorized expenses.

Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the respective development impact fee trust fund until the next fiscal period except as provided by the refund provisions of this ordinance.

D. Funds may be used to provide refunds as described in Article IV.

E. Funds shall be considered expended on a first in, first out basis.

Secs. 40-44 – 40-50 Reserved.

ARTICLE IV FEE ADMINISTRATION

Sec. 40-51. Refund of fees paid.

- A. If a building permit expires without commencement of construction, then the feepayor shall be entitled to a refund, without interest, of the development impact fee paid as a condition for its issuance, except that the County shall retain three percent (3%) of the fee to offset a portion of the costs of collection and refund. The feepayor must submit an application for such a refund to the impact fee administrator within 30 days of the expiration of the permit.
- B. In the event that development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the development impact fee was paid, the impact fee administrator shall provide written notice of entitlement to a refund to feepayers or their successors in interest.
- C. If funds are not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date development impact fee was paid, upon application of the then current landowner, they must be returned to such feepayor with interest that is a pro rata share of the interest earned by the fund. A feepayor must submit an application for a refund to the impact fee administrator within one year of the expiration of the six-year period or the publication of the notice of entitlement, whichever is later. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for as refund has been made.

Sec. 40-52. Exemptions.

The following shall be exempted from payment of the development impact fee:

1. Alterations of an existing building where the use and size are not changed.
2. The construction of residential accessory buildings or structures. The construction of nonresidential accessory buildings or structures may be exempted by the impact fee administrator if there is no net additional facility impact in the opinion of the impact fee administrator.

3. The replacement of a nonresidential building or structure with a new nonresidential building or structure of the same size and use. In the case of a change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use.
4. The replacement of a single-family dwelling or manufactured home that has a heated floor area of 1,000 square feet or more, with another single-family dwelling or manufactured home.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived. In applying for an exemption, 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 which may include any of the following: old and new construction plans; certificate of occupancy and use records; statements from the owner stating past and proposed land use; utility bills or receipts; and tax records.

Sec. 40-53. Credits.

1. Open space land and/or system improvements may be offered by the applicant as total or partial payment of one or more of the required development impact fees. The applicant must request a development impact fee credit. If the impact fee administrator accepts such an offer, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at:
 - i. 115% of the most recent assessed value by the Property Appraiser, or
 - ii. By fair market value established by private appraisers acceptable to the County. Credit for the dedication of open space land shall be provided when the property has been conveyed at no charge to, and accepted by, the County in a manner satisfactory to the impact fee administrator.
 - b. Applicants for credit for construction of system improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the impact fee administrator. The impact fee administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the impact fee administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate. The impact fee administrator shall provide the applicant with a letter or certificate setting forth the dollar

amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate 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. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

- c. Except as provided in subparagraph (d), credit against development impact fees otherwise due will not be provided until:
 - i. The construction is completed and accepted by the County; and
 - ii. A suitable maintenance and warranty bond is received and approved by the impact fee administrator, when applicable.
 - d. Credit may be provided before completion of system improvements if adequate assurances are given by the applicant that the standards set out above will be met and if the applicant posts security as provided below for the costs of such construction. Security in the form of a performance bond or escrow agreement shall be posted with and approved by the impact fee administrator in an amount determined by the impact fee administrator. If the capital facility project will not be constructed within one (1) year of the acceptance of the offer by the impact fee administrator, the amount of the security shall be increased by ten percent (10%) compounded, for each year of the life of the security.
- 2. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
 - 3. Credits shall not be transferable from one project or development to another unless so provided in a development impact fee credit agreement.

Sec. 40-54. Appeals.

- A. Any applicant or fee payor aggrieved by a decision of the impact fee administrator made pursuant to this ordinance shall have the right to appeal to the Jackson County Board of Commissioners. Prior to any such appeal the aggrieved applicant or fee payor shall file a request for reconsideration with the impact fee administrator who shall act upon such request within fifteen (15) days. A fee may be charged for such appeal, if set forth in the county's development fee schedule.
- B. All appeals shall be taken within fifteen (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 therefore. The impact fee administrator shall forthwith transmit to the Jackson County Board of Commissioners all papers constituting

the record upon which the action appealed from is taken. The Jackson County Board of Commissioners shall thereafter establish a reasonable date and time for a hearing on the appeal, give due notice thereof, and decide the same within a reasonable period of time following the hearing. Any applicant or feepayor taking an appeal shall have the right to appear at the hearing, to present evidence and may be represented by counsel.

C. An applicant may pay a development impact fee under protest to obtain a building permit, and by making such payment, shall not be estopped from:

1. Exercising the right of appeal provided for in this section or
2. Receiving a refund of any amount deemed to have been illegally collected.

Sec. 40-55. Review of fee schedule.

The fee schedules contained in Article II should be reviewed by the Board of Commissioners at least once every two years.

Secs. 40-56 – 40-70 Reserved.

**ARTICLE V
LEGAL STATUS PROVISIONS**

Sec. 40-71. Penalty provision.

A violation of this ordinance 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 Jackson County shall have the power to sue in civil court to enforce the provisions of this ordinance.

Sec. 40-72. Severability.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Sec. 40-73. Repealer.

Any ordinances covering the subject matter contained in this Ordinance are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Sec. 40-74. Codification.

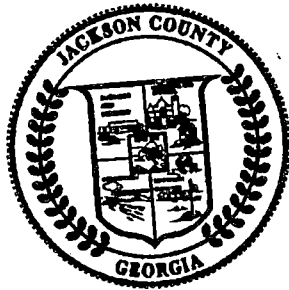
This ordinance may be codified as part of the Code of Ordinances of the Jackson County and may be reorganized or renumbered to effectuate that intent.

Sec. 40-75. Effective date.

The effective date of this ordinance shall be upon final approval by the Board of Commissioners of Jackson County.

Secs. 40-76 – 40-80 Reserved.”

ADOPTED, THIS 15th DAY OF August, 2022.

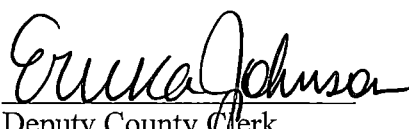


JACKSON COUNTY, GEORGIA

By: 

Chairman, Jackson County Board of
Commissioners

ATTEST:


Deputy County Clerk

Approved as to form:


County Attorney

COUNTY OF JACKSON
STATE OF GEORGIA

ORDINANCE NO. ____

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN JACKSON COUNTY, GEORGIA; IMPOSING A DEVELOPMENT IMPACT FEE ON LAND DEVELOPMENT IN JACKSON COUNTY FOR PROVIDING CERTAIN PUBLIC SAFETY FACILITIES, PARK AND OPEN SPACE LAND, AND ROADS NECESSITATED BY SUCH NEW DEVELOPMENT; STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE; MAKING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; PROVIDING A SHORT TITLE AND APPLICABILITY; PROVIDING INTENTS AND PURPOSES; PROVIDING RULES OF CONSTRUCTION; PROVIDING FOR THE COMPUTATION OF THE AMOUNT OF DEVELOPMENT IMPACT FEES; PROVIDING FOR THE PAYMENT OF DEVELOPMENT IMPACT FEES; PROVIDING FOR A DEVELOPMENT IMPACT FEE SERVICE AREA FOR EACH FACILITY FOR WHICH AN IMPACT FEE IS CHARGED; PROVIDING FOR THE ESTABLISHMENT OF DEVELOPMENT IMPACT FEE TRUST FUNDS FOR EACH FACILITY FOR WHICH AN IMPACT FEE IS CHARGED; PROVIDING FOR THE USE OF FUNDS; PROVIDING FOR THE REFUND OF FEES PAID; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REVIEW OF THE FEE SCHEDULE; PROVIDING FOR APPEALS; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

IT IS ORDAINED by the Board of Commissioners of Jackson County that a new Chapter 40 of the Code of Ordinances of Jackson County is hereby adopted as follows:

“CHAPTER 40
DEVELOPMENT IMPACT FEES

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ARTICLE I GENERAL PROVISIONS

Sec. 40-1. Legislative findings.

The Board of Commissioners of Jackson County has considered the feasibility of imposing development impact fees and finds determines and declares that:

- A. The Georgia General Assembly, through the enactment of the Georgia Development Impact Fee Act, Georgia Code Title 36-71-1 through 36-71-13, has authorized Jackson County to enact development impact fees;
- B. Jackson County established a Development Impact Fee Advisory Committee pursuant to the Georgia Development Impact Fee Act, Georgia Code Title 36-71-5, and that Committee has served in an advisory capacity and assisted and advised Jackson County with regard to the development and adoption of this development impact fee ordinance;
- C. The Jackson County comprehensive plan contains within it a Capital Improvements Element which establishes of a level of service standard for various capital facilities for the planning horizon to 2042; and the Capital Improvements Element has been submitted to the Northeast Georgia Regional Commission and determined by the Georgia Department of Community Affairs to be in compliance with the rules of the Georgia Department of Community Affairs, Chapter 110-12-2, Development Impact Fee Compliance Requirements;
- D. Jackson County must expand various facilities in order to maintain its level of service standard if new development is to be accommodated without decreasing the adopted standard. This must be done in order to promote and protect the health, safety, morals, convenience, order, prosperity, and the general welfare of Jackson County, Georgia;
- E. The imposition of development impact fees is a preferred method of ensuring the availability of capital facilities necessary to accommodate new development;
- F. The type of land development described in Article II hereof, will create demand for the acquisition of park and open space land and the construction of capital facilities;
- G. The fees established by Article II are derived from, are based upon, and do not exceed a proportionate share of the costs of providing additional facilities necessitated by the new land developments for which the fees are levied; and
- H. The report entitled "A Report on Impact Fees Prepared for Jackson County, Georgia," dated April 8, 2022, sets forth a reasonable methodology and analysis for the determination of the development impact of new development on the need for and costs for additional facilities in Jackson County for which the fees are levied.

Sec. 40-2. Short title and applicability.

- A. This ordinance shall be known and may be cited as the “The Jackson County Development Impact Fee Ordinance.”
- B. This ordinance shall apply throughout the unincorporated area of Jackson County.

Sec. 40-3. Intent and purposes.

- A. This ordinance is intended to assist in the implementation of the Jackson County comprehensive plan.
- B. The purpose of this ordinance 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 acquire open space and construct various public safety capital facilities and roads in Jackson County.
- C. This ordinance 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.

Sec. 40-4. Rules of construction.

- A. The provisions of this ordinance 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 Jackson County, Georgia;
- B. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:
 - 1. In case of any difference of meaning or implication between the text of this ordinance 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 (2) 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.

Sec. 40-5. Definitions.

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

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

“Capital equipment” is buildings and other improvements which increase the service capacity of a public facility all with an expected use life of ten years or more.

“Capital improvement” includes planning, land acquisition, site improvements, and capital equipment, but excludes maintenance and operation.

“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 and need for park and recreation facilities.

“Development approval” means any written authorization from Jackson 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 certain specified 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 Jackson County.

“Fee payor” means that person who pays a development impact fee or his/her successor in interest. In the absence of any 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.”

“Floor area” shall have the same meaning as in the International Building Code.

“Impact fee administrator” shall mean the Director of Public Development of Jackson County, Georgia, or designee.

“Living area” shall have the same meaning as in the International Building Code.

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

“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 to all residents of the county 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.

“Service area” means a geographic area defined by Jackson County 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.

“System improvement costs” means cost 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 3 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.

"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." No improvement or facility shall be considered a system improvement unless it is included in a plan for public facilities approved by the governing body of the county.

"Impact fee administrator" means the Jackson County Director of Public Development or other municipal official designated to carry out the administration of this ordinance.

Secs. 40-6 – 40-20 Reserved.

ARTICLE II DEVELOPMENT IMPACT FEES IMPOSED

Sec. 40-21. Imposition of development impact fees.

- A. **Fees.** Any person who, after the effective date of this ordinance, seeks to develop land within Jackson County, Georgia, by applying for a building permit is hereby required to pay the following development impact fees in the manner and amount set forth in this ordinance.
 - 1. Public Safety – Emergency Medical Services (EMS);
 - 2. Public Safety – Emergency Management Agency/911;
 - 3. Park and open space land acquisition; and
 - 4. Roads.
- B. **Fee payment before permit issuance.** No building permit for any activity requiring payment of a development impact fee pursuant to this article shall be issued unless and until all applicable development impact fees hereby required have been paid.
- C. **Uses.** The impact fee administrator shall determine which of the impact fees for land use(s) set forth in this chapter applies to a given application for building permit. The

impact fee administrator shall be guided in such determinations by the use definitions and applicable use permissions of the Jackson County Unified Development Code.

- D. **Mixed uses.** If a building permit is requested for mixed uses, then the fee shall be determined through using the schedule of fees provided in this article by apportioning the space committed to uses specified on the schedule.
- E. **Change, expansion or modification of use.** In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use.
- F. **Shell buildings.** 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 building. 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. 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 Article IV of this chapter. If a shell permit was issued prior to the effective date of this impact fee ordinance and left unfinished, impact fees shall be assessed for tenant finish permits within that shell, based on the land use proposed in each tenant finish permit. Subsequent change of use, redevelopment, or modification of the structure may be subject to an impact fee as determined by the impact fee administrator.
- G. **Accessory residential structures.** Generally, no impact fee shall be assessed for a use that is accessory to residential development, as interpreted by the impact fee administrator based on use permissions in the Jackson County Unified Development Code, such as a clubhouse or tennis court in an apartment complex or a guest house on the lot of a detached dwelling, if it can be established to the satisfaction of the impact fee administrator that the structure will not result in any additional residents, visitors, building occupants, customers or employees.

- H. **Model homes.** Model homes on residentially zoned land shall be assessed impact fees.

Sec. 40-22. Computation of the amount of park and open space land development impact fee.

At the option of the applicant, the amount of the park and open space development impact fee may be determined by the following fee schedule.

	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Per dwelling unit	590.40	17.70	608.10

Sec. 40-23. Computation of the amount of emergency medical services (EMS) development impact fee.

At the option of the applicant, the amount of the emergency medical services (EMS) development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	178.70	5.36	184.06
Industrial, per 1,000 gross square feet	37.23	1.11	38.34
Institutional, per 1,000 gross square feet	55.84	1.67	57.51
Commercial, per 1,000 gross square feet	108.58	3.25	111.83

Sec. 40-24. Computation of the amount of emergency management agency/911 development impact fee.

At the option of the applicant, the amount of the emergency management agency/ 911 development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	55.87	1.67	57.54
Industrial, per 1,000 gross square feet	11.64	0.34	11.98
Institutional, per 1,000 gross square feet	17.46	0.52	17.98
Commercial, per 1,000 gross square feet	33.95	1.01	34.96

Sec. 40-25. Computation of the amount of road development impact fee.

At the option of the applicant, the amount of the road development impact fee may be determined by the following fee schedule.

Per 1,000 Square Feet of Gross Building Space Unless Noted Otherwise	Impact Fee (\$)	Administration Fee (\$ (3%))	Total Fee (\$)
Residential, per dwelling unit	2,136.00	64.09	2,200.09
Industrial, per 1,000 gross square feet	1,955.00	58.66	2,013.66
Institutional, per 1,000 gross square feet	3,130.00	93.91	3,223.91
Commercial, per 1,000 gross square feet	8,004.00	240.13	8,244.13

Sec. 40-26. Independent fee calculation study.

If an applicant opts not to have the development impact fee determined according to one or

more of the fee schedules specified in this article, then the applicant shall prepare and submit to the impact fee administrator an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The impact fee administrator shall consider the documentation submitted by the applicant but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the applicant shall pay development impact fees based upon the schedules specified in this article. If an acceptable independent fee calculation study is presented, the impact fee administrator may adjust the fee to that appropriate to the particular development. Determinations made by the impact fee administrator pursuant to this paragraph may be appealed to the Jackson County Board of Commissioners by filing a written request with the County Clerk within ten (10) days of the impact fee administrator's determination.

Sec. 40-37. Certification of fee schedule.

On the request of an applicant, the impact fee administrator shall certify the development impact fee schedules or development impact fees resulting from an individual assessment, whichever is applicable, and said certification shall establish the applicable development impact fee for a period of 180 days from the date thereof.

Sec. 40-28. Payment of fee.

- A. The applicant shall pay all development impact fees required by this ordinance to the impact fee administrator or his/her designee prior to the issuance of a building permit.
- B. All funds collected shall be properly identified by impact fee service area and promptly transferred for deposit in the appropriate development impact fee trust fund to be held in separate accounts as determined in this article and used solely for the purposes specified in this ordinance.

Secs. 40-29 – 40-40 Reserved.

**ARTICLE III
SERVICE AREAS AND TRUST FUNDS**

Sec. 40-41. Establishment of development impact fee service areas.

There is hereby established one (1) development impact fee service area for each of the following facilities, which shall be the entire area of the Jackson County including municipal boundaries, unless specifically indicated otherwise:

- A. Public Safety – Emergency Medical Services (EMS);
- B. Public Safety – Emergency Medical Agency/911;

C. Park and open space land acquisition; and

D. Roads.

Sec. 40-42 Development impact fee trust funds established.

A. There is hereby established one (1) development impact fee trust fund for each of the development impact fee service areas established in this article:

1. Public Safety – Emergency Medical Services (EMS);

2. Public Safety – Emergency Management Agency/911;

3. Park and open space land acquisition; and

4. Roads.

B. Development impact fees placed in these funds shall be maintained in interest bearing accounts.

C. All development impact fees collected shall be promptly deposited in the development impact fee trust fund created for that purpose and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.

D. Funds withdrawn from these account must be used in accordance with the provisions of this article.

Sec. 40-43. Use of funds.

A. Funds collected from development impact fees shall be used solely for the class or kind of capital facility or land for which they were collected under the jurisdiction of Jackson County, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.

B. In the event that bonds or similar debt instruments are issued or capital expenditures made for advanced provision of capital facilities for which development impact fees may be expended, development impact fees may be used to pay debt service on such bonds or similar debt instruments or to recoup prior expenditures to the extent that the expenditure is of a type authorized by the Georgia Development Impact Fee Act.

C. At least once each fiscal year the impact fee administrator should present to the Board of Commissioners a report describing the amount of development impact fees collected, encumbered and used, and a proposed capital improvement program for the facilities for which development impact fees are charged, assigning funds, including any accrued interest, from the development impact fee trust funds to specific authorized expenses.

Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the respective development impact fee trust fund until the next fiscal period except as provided by the refund provisions of this ordinance.

D. Funds may be used to provide refunds as described in Article IV.

E. Funds shall be considered expended on a first in, first out basis.

Secs. 40-44 – 40-50 Reserved.

ARTICLE IV FEE ADMINISTRATION

Sec. 40-51. Refund of fees paid.

- A. If a building permit expires without commencement of construction, then the feepayor shall be entitled to a refund, without interest, of the development impact fee paid as a condition for its issuance, except that the County shall retain three percent (3%) of the fee to offset a portion of the costs of collection and refund. The feepayor must submit an application for such a refund to the impact fee administrator within 30 days of the expiration of the permit.
- B. In the event that development impact fees have not been expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the development impact fee was paid, the impact fee administrator shall provide written notice of entitlement to a refund to feepayers or their successors in interest.
- C. If funds are not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date development impact fee was paid, upon application of the then current landowner, they must be returned to such feepayor with interest that is a pro rata share of the interest earned by the fund. A feepayor must submit an application for a refund to the impact fee administrator within one year of the expiration of the six-year period or the publication of the notice of entitlement, whichever is later. Refunds shall be made to the feepayor within 60 days after it is determined that a sufficient proof of claim for as refund has been made.

Sec. 40-52. Exemptions.

The following shall be exempted from payment of the development impact fee:

1. Alterations of an existing building where the use and size are not changed.
2. The construction of residential accessory buildings or structures. The construction of nonresidential accessory buildings or structures may be exempted by the impact fee administrator if there is no net additional facility impact in the opinion of the impact fee administrator.

3. The replacement of a nonresidential building or structure with a new nonresidential building or structure of the same size and use. In the case of a change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the development impact fee shall be based upon the net positive increase in the development impact fee for the new use as compared to the previous use.
4. The replacement of a single-family dwelling or manufactured home that has a heated floor area of 1,000 square feet or more, with another single-family dwelling or manufactured home.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived. In applying for an exemption, 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 which may include any of the following: old and new construction plans; certificate of occupancy and use records; statements from the owner stating past and proposed land use; utility bills or receipts; and tax records.

Sec. 40-53. Credits.

1. Open space land and/or system improvements may be offered by the applicant as total or partial payment of one or more of the required development impact fees. The applicant must request a development impact fee credit. If the impact fee administrator accepts such an offer, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at:
 - i. 115% of the most recent assessed value by the Property Appraiser, or
 - ii. By fair market value established by private appraisers acceptable to the County. Credit for the dedication of open space land shall be provided when the property has been conveyed at no charge to, and accepted by, the County in a manner satisfactory to the impact fee administrator.
 - b. Applicants for credit for construction of system improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the impact fee administrator. The impact fee administrator shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the impact fee administrator determines that such estimates submitted by the applicant are either unreliable or inaccurate. The impact fee administrator shall provide the applicant with a letter or certificate setting forth the dollar

amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate 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. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.

- c. Except as provided in subparagraph (d), credit against development impact fees otherwise due will not be provided until:
 - i. The construction is completed and accepted by the County; and
 - ii. A suitable maintenance and warranty bond is received and approved by the impact fee administrator, when applicable.
 - d. Credit may be provided before completion of system improvements if adequate assurances are given by the applicant that the standards set out above will be met and if the applicant posts security as provided below for the costs of such construction. Security in the form of a performance bond or escrow agreement shall be posted with and approved by the impact fee administrator in an amount determined by the impact fee administrator. If the capital facility project will not be constructed within one (1) year of the acceptance of the offer by the impact fee administrator, the amount of the security shall be increased by ten percent (10%) compounded, for each year of the life of the security.
- 2. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
 - 3. Credits shall not be transferable from one project or development to another unless so provided in a development impact fee credit agreement.

Sec. 40-54. Appeals.

- A. Any applicant or fee payor aggrieved by a decision of the impact fee administrator made pursuant to this ordinance shall have the right to appeal to the Jackson County Board of Commissioners. Prior to any such appeal the aggrieved applicant or fee payor shall file a request for reconsideration with the impact fee administrator who shall act upon such request within fifteen (15) days. A fee may be charged for such appeal, if set forth in the county's development fee schedule.
- B. All appeals shall be taken within fifteen (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 therefore. The impact fee administrator shall forthwith transmit to the Jackson County Board of Commissioners all papers constituting

the record upon which the action appealed from is taken. The Jackson County Board of Commissioners shall thereafter establish a reasonable date and time for a hearing on the appeal, give due notice thereof, and decide the same within a reasonable period of time following the hearing. Any applicant or feepayor taking an appeal shall have the right to appear at the hearing, to present evidence and may be represented by counsel.

- C. An applicant may pay a development impact fee under protest to obtain a building permit, and by making such payment, shall not be estopped from:
1. Exercising the right of appeal provided for in this section or
 2. Receiving a refund of any amount deemed to have been illegally collected.

Sec. 40-55. Review of fee schedule.

The fee schedules contained in Article II should be reviewed by the Board of Commissioners at least once every two years.

Secs. 40-56 – 40-70 Reserved.

**ARTICLE V
LEGAL STATUS PROVISIONS**

Sec. 40-71. Penalty provision.

A violation of this ordinance 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 Jackson County shall have the power to sue in civil court to enforce the provisions of this ordinance.

Sec. 40-72. Severability.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Sec. 40-73. Repealer.

Any ordinances covering the subject matter contained in this Ordinance are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Sec. 40-74. Codification.

This ordinance may be codified as part of the Code of Ordinances of the Jackson County and may be reorganized or renumbered to effectuate that intent.

Sec. 40-75. Effective date.

The effective date of this ordinance shall be upon final approval by the Board of Commissioners of Jackson County.

Secs. 40-76 – 40-80 Reserved.”

ADOPTED, THIS _____ DAY OF _____, 2022.

JACKSON COUNTY, GEORGIA

By: _____

Chairman, Jackson County Board of
Commissioners

ATTEST:

Deputy County Clerk

Approved as to form:

County Attorney