

Development Impact Fees

What is it?

New development creates a demand for additional schools, roads, sewer lines, and recreational facilities. Development impact fees are one-time fees charged to new development that are used to defray some of the costs of providing these additional public facilities. In addition to offering your local government a valuable source of revenue, impact fees help ensure that new development pays for the public facilities it requires, rather than these costs being borne by all taxpayers in the community.

Development impact fees can also create a strong financial incentive to discourage inefficient land development patterns by:

- Promoting infill development. Infill development will be encouraged if impact fees are kept low in existing urbanized areas to reflect the fact that most of the public facilities needed to support new development are already in place.
- Discouraging scattered leap-frog development. Setting higher impact fees higher in areas on the urban periphery (to reflect the cost of providing new public facilities to support development in these areas) will discourage new development in these areas.

How to do it

1. **Become familiar with the state's impact fee requirements.** In Georgia, use of impact fees by local governments is subject to the very explicit requirements of the Georgia Development Impact Fee Act (O.C.G.A. 36-71). (Refer to the 'Other resources' section of GQGP quality growth tool: Development Impact Fees). Many communities choose to hire a consultant to assist with developing the local impact fee program. If you chose to hire a consultant, check qualifications and references from other impact fee work in Georgia.
2. **Involve key stakeholders.** Decide which groups or individuals in your community are most likely to be affected by (or might oppose) implementation of impact fees and invite them to participate in the process of developing the program. It is particularly important to seek the involvement and cooperation of any separate agencies or authorities that provide critical public facilities and services within your jurisdiction. Decide which local, regional, or state agencies might eventually build public facilities in your community. Don't forget the school board, development authorities, or agencies that provide local water and sewer service (if separate from your local government). Identify the individuals who make facility location decisions for these agencies and establish regular opportunities to meet with these key decision makers.

You are required to appoint an advisory committee of these key stakeholders to guide development and ongoing implementation of the local impact fee program. This committee must include 40% representation from the local development community.

3. **Identify services to be covered by impact fees.** Remember that you are limited to the seven types of services listed above. It is best to choose services for which you anticipate major capital costs over the next five to ten years that cannot be covered from normal funding sources.
4. **Establish desired development patterns.** Review the future land use section of your community's comprehensive plan to identify the development patterns (types and locations of development) that your community is seeking to achieve. Also review the plan to identify land areas that should be set aside from development in order to protect critical environmental resources such as scenic areas, historic properties, or prime agricultural lands. If you feel that the comprehensive plan does not provide enough guidance on future development patterns, you may want to utilize a community involvement process and amend the plan to reflect preferred development patterns.
5. **Strategically identify service areas.** Service areas are districts where a uniform level of service (e.g., library space per resident, maximum daily traffic volume on roadways) will be maintained. The community's desired development patterns should be carefully considered in drawing service area boundaries. See *Using Impact Fees to Promote Desired Development Patterns* (refer to the 'Other Resources' section of GQGP quality growth tool: *Development Impact Fees*). For some services, such as water supply and wastewater treatment, engineering principles (water can't flow uphill) will play a critical role in drawing service area boundaries. Service areas will typically vary for different types of services. For instance, you might have a single, community-wide service area for recreation, but have several service areas for wastewater treatment.
6. **Determine levels of service.** For each service type and service area, document existing service levels and consider whether these levels are adequate. Establish target levels of service based on adequacy of existing service or careful consideration of the community's desired development patterns. See *Using Impact Fees to Promote Desired Development Patterns* (refer to the 'Other Resources' section of GQGP quality growth tool: *Development Impact Fees*). Identify areas with service deficiencies (between current service levels and target levels) and excess service capacity (where service levels currently exceed target levels).
7. **Develop a schedule of improvements.** For each service type, use growth projections for the service areas to identify new facilities or expansions that

will be needed to provide the target levels of service. In addition to identifying projects in newly developing areas, be sure to consider projects needed to make up service level deficiencies in already developed areas of the community. Work with the advisory committee and affected local officials to prioritize the identified projects. Include the selected projects in a five-year schedule of system improvements that:

- lists projects by service area
- identifies start and completion dates for each project
- estimates total project costs
- identifies funding sources for each project, including the percentage of project cost to be paid from impact fees.

8. **Develop an impact fee ordinance.** Use the schedule of improvements and growth projections for each service area to establish the impact fees to be charged for each type of service. If you have just built major public facilities that resulted in excess service capacity, consider whether to recoup the costs of these facilities via impact fees. Consult with the advisory committee in preparing an impact fee ordinance and fee schedule. The ordinance should specify administrative procedures for collecting and accounting for fees and list any exemptions to fees to be granted for projects with extraordinary economic benefits or affordable housing components (see O.C.G.A. 36-71-4(l) for restrictions on exemptions).
9. **Adopt the impact fee ordinance.** Complete a Capital Improvement Element (CIE) that includes the schedule of improvements and explains your decisions on service areas and levels of service. After holding required public hearings (see O.C.G.A. 36-71-6), submit the CIE to the Georgia Department of Community Affairs for review and approval. Once the CIE is approved, your local government may adopt the CIE and impact fee ordinance. (Note: the CIE must be adopted prior to adoption of the impact fee ordinance.)
10. **Update the CIE annually.** Once the CIE and impact fee ordinance are officially adopted, your community is free to start collecting impact fees. But keep in mind that you will need to submit annual updates of the CIE to the Georgia Department of Community Affairs, including a brief report on fees collected and expended during the past year and a new schedule of improvements identifying capital projects five years into the future. It will also be necessary to periodically reevaluate your fee structures if major public facility costs or demands change.

Things to consider before using this tool

- Impact fees can have unintended consequences. The fees will typically increase the cost of new housing and other developments, since developers will raise sales prices in order to recover impact fees paid to local governments. High impact fees can put your community at a disadvantage in

attracting new development and could shift development to neighboring cities or counties. Keep in mind, however, that impact fees do not have to be set to reflect the total cost of providing public facilities to new development the fees can legally be set at any level less than this total cost, if this is more feasible for your community. In setting fees, consider what the market will bear without discouraging growth, but balance this against the desirability of using the fees to promote the community's desired development patterns. See Using Impact Fees to Promote Desired Development Patterns (refer to the 'Other Resources' section of GQGP quality growth tool: Development Impact Fees).

- Developing impact fee systems for certain types of services can be more complicated than others. For example, recreation, libraries, police, EMS, water supply and wastewater treatment are generally easier than fire, roads and bridges, and stormwater management. This difference arises from greater difficulty in collecting data or more complex analysis required to assign each development's fair share of the costs. Some communities choose to start with a few of the easier categories and add impact fees for more complex types of services later, once administrative systems are working smoothly and revenues are flowing in.
- Ensure that your local impact fee program is consistent with the local comprehensive plan. Also check that your designated impact fee service areas do not conflict with service areas agreed to in the county service delivery strategy. Make amendments where necessary. This will strengthen the legal status of your impact fee program and help ensure consistency of other local activities.
- If your impact fee program is designed to encourage infill development, be sure to update your land use regulations to accommodate this infill development. If land use codes are not adjusted to permit greater densities and mix of uses, your regulations will be working at cross-purposes and will not be effective in guiding local development patterns as desired.

Using Impact Fees to Promote Desired Development Patterns

Impact fees can help achieve a community's desired development patterns, but only if service areas and target levels of service are established with care. It's important to design the system so that impact fees are low in areas the community would like to see developed (or redeveloped at higher densities), higher in areas where development is less desirable, and higher still in critical resource areas that should be set aside from any development. This can be accomplished by establishing separate service areas for these three types of areas and determining target levels of service, distribution of excess service capacity, and planned facility improvements so that impact fees differ between service areas as desired. The following examples illustrate how this may be accomplished: (Note: In all cases, differences in fees between service areas will need to be justified by adopting supporting policies in the local comprehensive plan. This will help protect your community from litigation on equity issues.)

Example 1:

An area where infill development is desired could be designated as a separate service area that includes facilities with excess service capacity, or where a relatively low target level of service has been established, to ensure low impact fees. Conversely, a "floodplain" service area where development is not desired could be assigned a very high target level of service in order to ensure high impact fees.

Example 2:

A community seeking to promote orderly, gradual expansion of its urbanized area might establish three separate, concentric service areas: the urban infill area, the planned development area, and the rural conservation area:

1. Within the urban infill area, impact fees could be waived to encourage infill development in the area where excess sewer distribution capacity already exists.
2. Developments in the planned development area would be required to pay impact fees set to recover a portion (less than 100%) of the community's cost of expanding public facilities to serve new development in this area.
3. New development in the rural conservation area would be strongly discouraged by charging developers 100% of the local government's cost of new facilities or expansions needed to serve development in this area.

With time, as the planned development area is built out, it will be necessary to redraw these service area boundaries (preferably in conjunction with regular updates of the local comprehensive plan), expanding the size of the planned development area to allow continuing gradual expansion of the urbanized area.

Example 3:

A community seeking to discourage leap-frog development, far from existing service areas, might establish two service areas: the existing service area and the rural conservation area. The community might also use regular user fees in conjunction with impact fees to strengthen the disincentive for far-flung development. To illustrate, consider how this approach might work for sewer service. The costs of providing sewer service to a new development usually include: (1) the capital costs of providing the sewage treatment capacity, including either expanding existing plants or building new facilities (2) the capital costs of building new sanitary sewer lines to extend service to the new development project, (3) the operation and maintenance costs of the sewage treatment facilities, and (4) the cost of operation and maintenance of the sewer lines serving the new development project.

1. *Capital costs of the central treatment facility.* These costs would be recovered through an impact fee charged to all new development served by the treatment facility. Fees levied on a new subdivision development would be based on the treatment capacity it would be expected to consume on a daily basis. For example, a city might calculate, based on existing records, that a typical residential home requires treatment of 2,000 gallons of wastewater per day. If the cost of providing this treatment capacity is \$1000, a new subdivision proposed to have 100 new houses would pay a per-house capacity charge of \$1,000 or \$1,000,000 for the whole development. Commercial and industrial developments would also pay capacity fees based on the projected treatment capacity used.
2. *Capital costs of building sewer lines to extend service to a new development project.* If our 100-unit subdivision were to locate in the rural conservation area, an additional impact fee would be added to reflect the additional cost of extending new distribution lines and lift stations, to serve the development. Thus, if a total of \$1,000,000 of sewer line extensions and lift stations are required to serve the area where the new development is to locate, and these facilities are projected to eventually serve a total of 1000 homes in the area, the additional fee per home built in this area would be \$1,000. Each home in our 100-unit subdivision would be charged this additional fee, for a total impact fee assessment of \$2,000 per home.
3. *Routine operation and maintenance expenses for the central treatment facility.* These include the staff, administration, chemicals, electricity, testing, and other routine operational expenses. These costs cannot be recovered through impact fees, but instead are typically recovered through monthly service charges to each utility customer. If costs run \$1.20 per gallon per year, the monthly service fee would be a uniform \$10 per month for each home served by the facility. This would be the same regardless of where the home is located.
4. *Routine operation and maintenance expenses for line extensions.* These include cost of repair, replacement, rehabilitation and routine servicing (clean out, testing etc.) of the line extensions and lift stations required to serve new

development located in the rural conservation area. If maintenance and servicing of these facilities costs \$12,000 per year, the additional monthly charge to the projected 1000 new homes in the service area would be \$10, added to the standard \$10 monthly fee calculated above.

Georgia Development Impact Fee Act (GDIFA)

Overview of Requirements

GDIFA specifies that impact fees can be charged only for seven types of public facilities or services:

- Libraries
- Recreation
- Water supply
- Roads and bridges
- Public safety (police, jails, fire and EMS)
- Wastewater treatment
- Stormwater management

A local government must address the following requirements before implementing impact fees:

- Amend its comprehensive plan to add a Capital Improvements Element that includes the following:
 1. Mapped service areas for each type of public facility or service for which impact fees will be charged.
 2. Existing and proposed levels of service for each service area.
 3. A projection of facility needs (based on levels of service and growth projections in the comprehensive plan).
 4. A five-year schedule of needed facility improvements.
 5. Policy statements regarding any proposed exemptions from impact fees.

Once completed, the Capital Improvements Element must be reviewed and approved by the Georgia Department of Community Affairs.

- Adopt an impact fee ordinance that spells out the actual fee schedule.

GDIFA distinguishes between project improvements and system improvements:

- **Project improvements** are public facilities that primarily benefit specific developments. Developers may be required to bear the entire expense of project improvements, provided this is clearly specified in local development ordinances.
- **System improvements** are part of the overall public facility network that benefits the community at large. Developers may only be charged impact fees for their proportionate share of system improvements.

- **Impact fees** may not be used to defray regular maintenance and operational expenses for any public facility, although up to 3% of all fees collected can be used to cover costs of administering the local impact fee ordinance.

Other GDIFA's provisions:

1. Communities charging impact fees must be able to demonstrate a direct benefit returning to the developer that is proportionate to the fee he pays.
2. Impact fees must be expended in the same service areas where they are collected.
3. Impact fees not encumbered within five years of collection must be returned to the developer.
4. Developers must be given impact fee credits for any system improvements they construct.
5. Developers are entitled to appeal impact fees they consider disproportionate or unfair.

Additional Information on Using Public Facilities to Manage Growth

Background

- Does your community frequently find itself playing catch-up in providing public facilities and infrastructure to areas where new development is occurring?
- Are the costs of providing new public services for new developments causing a strain on public coffers?
- Is new development taking place in areas that your community would have preferred to see develop at a later time, or perhaps not at all -- such as environmentally sensitive areas or important farming areas?

If your community is like the typical Georgia city or county, development is taking place with little local government control of the timing, location and scale of these new developments. There are good reasons why this situation is not desirable:

- With limited predictability to when or where the next development will take place, the local government will have difficulty planning for the future development of the community or effectively managing development-related environmental impacts. This can lead to the kind of unplanned development known as "urban sprawl."
- Studies have shown that it is more expensive to provide public facilities and services to developments that have sprung up in a haphazard, or leap-frog manner. Your local government can save money by gradually expanding service from existing service areas in a rational and well-planned manner.
- As long as the local government is in a position of reacting to new developments, it is difficult to anticipate and budget for the costs of providing needed new public facilities.

The comprehensive public facility management approaches described herein are designed to put your local government in a position to *guide* rather than *react to* the location of new development. Even if your community is not facing intense growth pressures, you may find some of these approaches useful for attracting the growth the community desires.