

**CITY OF HOSCHTON
STATE OF GEORGIA**

ORDINANCE NO. 0-20-06

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE CITY OF HOSCHTON, GEORGIA; IMPOSING A DEVELOPMENT IMPACT FEE ON LAND DEVELOPMENT IN THE CITY OF HOSCHTON FOR PROVIDING PUBLIC SAFETY, PARK AND RECREATION AND RELATED FACILITIES 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 DEFINITIONS; PROVIDING FOR THE COMPUTATION OF THE AMOUNT OF THE DEVELOPMENT IMPACT FEE; PROVIDING FOR THE PAYMENT OF A DEVELOPMENT IMPACT FEE; PROVIDING FOR A DEVELOPMENT IMPACT FEE SERVICE AREA; PROVIDING FOR THE ESTABLISHMENT OF A DEVELOPMENT IMPACT FEE TRUST FUND; 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 A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW THEREFORE THE COUNCIL OF THE CITY OF HOSCHTON HEREBY ORDAINS as follows:

Section 1. Legislative findings.

The City Council of the City of Hoschton has considered the feasibility of imposing development impact fees and finds, determines, and declares that:

- A. The Georgia Legislature, through the enactment of the Georgia Development Impact Fee Act, O.C.G.A. §§ 36-71-1 through 36-71-13, has authorized the City of Hoschton to enact development impact fees;
- B. The City of Hoschton established a Development Impact Fee Advisory Committee pursuant to the Georgia Development Impact Fee Act, O.C.G.A. § 36-71-5, and that Committee has served in an advisory capacity and assisted and advised the City of Hoschton with regard to the development and adoption of this development impact fee ordinance;
- C. The City of Hoschton comprehensive plan contains within it a Capital Improvements Element which establishes of a level of service standard for park and recreation capital facilities for the planning horizon to 2040; and the Capital Improvements Element has

Georgia Development Impact Fee Act, O.C.G.A. §§ 36-71-1 through 36-71-13, and shall be interpreted and implemented to so comply.

- D. Nothing in this ordinance shall be deemed to prevent or prohibit private development agreements between property owners and the City of Hoschton.

Section 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 the City of Hoschton, 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 shall include 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 limited liability company, 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.

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

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

“Individual Fee Calculation Study” means the documentation prepared by a feepayer to allow determination of a development impact fee other than by use of the fee schedule of this ordinance as required by O.C.G.A. § 36-71-4(g).

“Individual Fee Determination” means a development impact fee determined by the Impact Fee Administrator on the basis of an individual fee calculation study.

“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 city 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 municipality or 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 the City of Hoschton 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

Non-residential Development Impact Fee Schedule
(\$ per 1,000 square feet of building unless indicated otherwise)

INDUSTRIAL AND RELATED	NAICS	Police Impact Fee (\$)	Fire Impact Fee (\$)	Admin. Fee (3%) (\$)	Total Impact Fees (\$)
Construction company	23	962.96	1143.69	63.19	2169.84
Data processing	5182	1095.84	1301.51	71.92	2469.27
General freight trucking	4841	439.98	522.55	28.87	991.40
Industrial, light	--	315.31	374.49	20.69	710.49
Industrial, heavy	--	157.51	187.07	10.33	354.91
Materials recovery facility	56292	1842.04	2187.76	120.89	4150.69
Mini-warehouse	--	62.77	74.55	4.11	141.43
Mining (acre)	21231	20.53	24.38	1.34	46.25
Nursery stock wholesaler (acre)	42493	199.75	237.23	13.10	450.08
Manufacturing	31-33	504.51	599.19	33.11	1136.81
Petroleum bulk storage (acre)	4247	711.00	844.44	46.66	1602.10
Research laboratory	--	1095.84	1301.51	71.92	2469.27
Septic tank services	562991	1036.29	1230.79	68.01	2335.09
Solid waste collection	562111	1513.53	1797.58	99.33	3410.44
Warehousing	4931	439.98	522.55	28.87	991.40
Wholesale trade	42	315.31	374.49	20.69	710.49
RETAIL TRADE/SERVICE	NAICS	Police Impact Fee (\$)	Fire Impact Fee (\$)	Admin. Fee (3%) (\$)	Total Impact Fees (\$)
Amusement arcade	71312	733.30	870.92	48.12	1652.34
Amusement park (acre)	713	3154.06	3746.02	207.00	7107.08
Arena	--	1576.88	1872.83	103.49	3553.20
Art store	45392	602.18	715.20	39.52	1356.90
Automobile, new car dealer	44111	630.63	748.99	41.38	1421.00
Automobile, used car dealer	44112	733.30	870.92	48.12	1652.34
Automotive repair/maintenance	8111	1211.41	1438.76	79.50	2729.67
Automotive parts store	44131	630.63	748.99	41.38	1421.00
Automobile rental and leasing	53211	733.30	870.92	48.12	1652.34
Bank	52211	1261.27	1497.99	82.77	2842.03
Baked goods store	445291	733.30	870.92	48.12	1652.34
Bar, drinking place or tavern	7224	906.35	1076.46	59.48	2042.29
Beer, wine and liquor store	44531	418.27	496.77	27.45	942.49
Book store	4512	733.30	870.92	48.12	1652.34
Bowling center	71395	733.30	870.92	48.12	1652.34
Building materials store	4441	188.89	224.35	12.39	425.63
Car wash (principal use)	811192	1202.61	1428.31	78.92	2709.84
Caterer	72232	1173.28	1393.48	77.00	2643.76
Cemetery (acre)	81222	25.22	29.95	1.65	56.82
Clothing store	4481	526.50	625.32	34.55	1186.37
Consumer lending	522291	1022.51	1214.41	67.10	2304.02
Cosmetic or beauty supply store	44612	556.42	660.85	36.51	1253.78
Day care center	6244	788.44	936.41	51.74	1776.59

Ordinance O-20-06, City of Hoschton Development Impact Fees

	NAICS	Police Impact Fee (\$)	Fire Impact Fee (\$)	Admin. Fee (3%) (\$)	Total Impact Fees (\$)
Securities brokerage	52312	1085.28	1288.96	71.22	2445.46
Shoe store	44821	526.50	625.32	34.55	1186.37
Specialty food store	4452	733.30	870.92	48.12	1652.34
Supermarket/ grocery	44511	526.50	625.32	34.55	1186.37
Sporting goods store	45111	526.50	625.32	34.55	1186.37
Tennis or racquet club (principal) (court)	--	75.67	89.87	4.96	170.50
Tire store	44132	526.50	625.32	34.55	1186.37
Tobacco/vape store	453991	733.30	870.92	48.12	1652.34
Veterinary or animal hospital	54194	890.81	1057.99	58.46	2007.26
Video rental	53223	623.30	740.28	40.90	1404.48
TRANSPORTATION AND COMMUNICATION	NAICS	Police Impact Fee (\$)	Fire Impact Fee (\$)	Admin. Fee (3%) (\$)	Total Impact Fees (\$)
Ambulance services	62191	1217.27	1445.73	79.89	2742.89
Courier or express delivery	4921	747.96	888.34	49.08	1685.38
Limousine service	48532	868.22	1031.17	56.98	1956.37
Motor vehicle towing	48841	1217.27	1445.73	79.89	2742.89
Newspaper publisher	51111	629.75	747.95	1377.70	1419.03
Parking lot/garage (acre)	81293	2103.69	2498.50	138.06	4740.25
Radio/TV broadcasting	5151	377.20	448.00	24.75	849.95
Sound recording studio	51224	246.38	292.63	16.17	555.18
Taxi service	48531	1217.27	1445.73	79.89	2742.89
Wireless telecommunication carrier	51721	733.30	870.92	48.12	1652.34
INSTITUTIONAL	NAICS	Police Impact Fee (\$)	Fire Impact Fee (\$)	Admin. Fee (3%) (\$)	Total Impact Fees (\$)
Church/religious organization	8131	157.51	187.07	10.33	354.91
Civic or social organization	8134	315.31	374.49	20.69	710.49
Crisis center	6242	824.81	979.61	54.13	1858.55
Hospital	622	1025.15	1217.55	67.28	2309.98
Nursing home/ assisted living	623	1488.59	1767.97	97.69	3354.25
Recreational community center	--	630.63	748.99	41.38	1421.00
School, general education	61111	315.31	374.49	20.69	710.49
School, business	6114	733.30	870.92	48.12	1652.34
School, technical/trade	6115	513.31	609.64	33.68	1156.63
School, cosmetology/barber	611511	733.30	870.92	48.12	1652.34
School, fine arts	61161	733.30	870.92	48.12	1652.34
Rooming or boarding house	7213	1692.45	2010.09	111.07	3813.61

1. If a building permit is requested for mixed uses, then the fee shall be determined through using the above schedule by apportioning the space committed to uses specified on the schedule.
2. In the case of change of use, redevelopment, or expansion or modification of an

Section 10. Impact Fee Trust Fund Established.

- A. There is hereby established one (1) park and recreation development impact fee Trust Fund for the park and recreation development impact fee Service Area established by Section 9 of this ordinance.
- B. There is hereby established one (1) police development impact fee Trust Fund for the police development impact fee Service Area established by Section 9 of this ordinance.
- C. There is hereby established one (1) fire facilities development impact fee Trust Fund for the fire service development impact fee Service Area established by Section 9 of this ordinance.
- D. Development impact fees placed in the Trust Funds shall be maintained in interest bearing accounts.
- E. All development impact fees collected shall be promptly deposited in the Trust Funds established for that purpose and maintained there, including interest thereon, until withdrawn pursuant to this ordinance.
- F. Funds withdrawn from the Trust Fund accounts must be used in accordance with the provisions of Section 11 of this ordinance.

Section 11. Use of funds.

- A. Funds collected from park and recreation development impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to park and recreation facilities under the jurisdiction of the City of Hoschton, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.
- B. Funds collected from police development impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to police facilities under the jurisdiction of the City of Hoschton, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.
- C. Funds collected from fire facilities development impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to fire facilities under the jurisdiction of the City of Hoschton, and related expenses as permitted by the Georgia Development Impact Fee Act, and shall not be used for maintenance or operations.
- D. Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the development impact fee service area from which the funds were collected.
- E. In the event that bonds or similar debt instruments are issued for advanced provision of

Section 13. Exemptions and credits.

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

1. Alterations, repairs, or expansion of an existing building where the use and size are not changed.
2. The construction of residential accessory buildings or structures.
3. The replacement of a building or structure with a new building or structure of the same size and use. As provided in Section 7 (A) (3), 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.

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.

B. Credits:

1. Land and/or capital improvements may be offered by the applicant as total or partial payment of the required development impact fee. 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 County Property Tax Assessors, or
 - ii. By fair market value established by private appraisers acceptable to the City. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the City in a manner satisfactory to the Impact Fee Administrator.
 - b. Applicants for credit for construction of capital 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

provided in a development impact fee credit agreement.

Section 14. Appeals.

- A. Any applicant or feepayor aggrieved by a decision of the Impact Fee Administrator made pursuant to this ordinance shall have the right to appeal to the Hoschton City Council. Prior to any such appeal the aggrieved applicant or feepayor shall file a request for reconsideration with the Impact Fee Administrator who shall act upon such request within fifteen (15) days.
- 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 City Council all papers constituting the record upon which the action appealed from is taken. The City Council 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.

Section 15. Review of fee schedule.

The fee schedule contained in Section 7 (A) should be reviewed by the City Council at least once every two years.

Section 16. 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 prosecution the City of Hoschton shall have the power to sue in civil court to enforce the provisions of this ordinance.

Section 17. 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.