

## Historical Code

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Section

Find

Results for 17-27a-507:

(Renumbered 11/6/2025) Renumbered to 17-79-812

(Superseded 5/3/2023)

Exaction means a requirement imposed by a governmental entity as a condition of development approval that a property owner dedicate property, grant an easement, construct public improvements, provide infrastructure, or otherwise contribute land, money, services, or facilities to address impacts associated with the proposed development.

For example, if a subdivision increases traffic along a roadway, the County may require additional right-of-way dedication or roadway improvements along the project frontage. That requirement would generally be considered an exaction.

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17-27a-507(5)(d) - has been 17-79-812

**Effective 5/6/2026**

**17-79-812 Exactions -- Requirement to offer to original owner property acquired by exaction -- Exaction for right-of-way improvements -- Improvement completion assurance requirements.**

- (1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Section 17-79-813, an exaction for a water interest, if:
  - (a) an essential link exists between a legitimate governmental interest and each exaction; and
  - (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
- (2) If a land use authority imposes an exaction for another governmental entity:
  - (a) the governmental entity shall request the exaction; and
  - (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.
- (3)
  - (a) If a county plans to dispose of surplus real property under Section 17-78-103 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.
  - (b) A person to whom a county offers to reconvey property under Subsection (3)(a) has 90 days to accept or reject the county's offer.
  - (c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale in accordance with the requirements of Title 11, Chapter 1, Part 2, Disposal of Public Property.
  - (d) Subsection (3)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.
- (4)
  - (a) A county may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.
  - (b) Subsection (4)(a) does not apply if a county requires the installation of pavement in excess of 32 feet:
    - (i) in a vehicle turnaround area;
    - (ii) in a cul-de-sac;
    - (iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;
    - (iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;
    - (v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;
    - (vi) as needed for the installation or location of a utility which is maintained by the county and is considered a transmission line or requires additional roadway width;
    - (vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the county within the roadway;
    - (viii) for utilities over 12 feet in depth;
    - (ix) for roadways with a design speed that exceeds 25 miles per hour;
    - (x) as needed for flood and stormwater routing;
    - (xi) as needed to meet fire code requirements for parking and hydrants; or

17-27a-507(5)(d) - has been 17-79-812

**Effective 11/6/2025**

**Superseded 5/6/2026**

**17-79-812 Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.**

- (1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:
  - (a) an essential link exists between a legitimate governmental interest and each exaction; and
  - (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
- (2) If a land use authority imposes an exaction for another governmental entity:
  - (a) the governmental entity shall request the exaction; and
  - (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.
- (3)
  - (a)
    - (i) Subject to the requirements of this Subsection (3), a county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
    - (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:
      - (A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water in accordance with Section 19-4-114; and
      - (B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the county.
    - (iii) A county or culinary water authority may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the county's or culinary water authority's sole discretion, determines there is good cause to do so.
    - (iv) A county shall make public the methodology used to comply with Subsection (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an exaction calculation used by the county or the county's culinary water authority under Subsection (3)(a)(ii). A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the county's governing body shall respond with due process.
    - (v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.
  - (b) A county or the county's culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).
- (4)
  - (a) If a county plans to dispose of surplus real property under Section 17-78-103 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.

17-27a-507(5)(d) - has been 17-79-812

- (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.
- (c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.
- (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

- (5)
  - (a) A county may not, as part of an infrastructure improvement, require the installation of pavement on a residential roadway at a width in excess of 32 feet.
  - (b) Subsection (5)(a) does not apply if a county requires the installation of pavement in excess of 32 feet:
    - (i) in a vehicle turnaround area;
    - (ii) in a cul-de-sac;
    - (iii) to address specific traffic flow constraints at an intersection, mid-block crossings, or other areas;
    - (iv) to address an applicable general or master plan improvement, including transportation, bicycle lanes, trails, or other similar improvements that are not included within an impact fee area;
    - (v) to address traffic flow constraints for service to or abutting higher density developments or uses that generate higher traffic volumes, including community centers, schools, and other similar uses;
    - (vi) as needed for the installation or location of a utility which is maintained by the county and is considered a transmission line or requires additional roadway width;
    - (vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the county within the roadway;
    - (viii) for utilities over 12 feet in depth;
    - (ix) for roadways with a design speed that exceeds 25 miles per hour;
    - (x) as needed for flood and stormwater routing;
    - (xi) as needed to meet fire code requirements for parking and hydrants; or
    - (xii) as needed to accommodate street parking.
  - (c) Nothing in this section shall be construed to prevent a county from approving a road cross section with a pavement width less than 32 feet.

- (d)
  - (i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.
  - (ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the county assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.
  - (iii) Unless otherwise agreed by the applicant and the county, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:
    - (A) one licensed engineer, designated by the county;
    - (B) one licensed engineer, designated by the land use applicant; and
    - (C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(d)(iii)(A) and (B).
  - (iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.
  - (v) The land use applicant shall pay:

17-27a-507(5)(d) - has been 17-79-812

- (A) 50% of the cost of the panel; and
- (B) the county's published appeal fee.
- (vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).
- (vii) In accordance with Section 17-79-1009, a land use applicant or the county may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

17-27a-507(5)(d) - has been 17-79-812

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a county from approving a road cross section with a pavement width less than 32 feet.

(d)

(i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the county assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the county, the panel described in Subsection (4)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the county;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (4)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the county under Subsection (4)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

(A) 50% of the cost of the panel; and

(B) the county's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (4)(d)(vii).

(vii) In accordance with Section 17-79-1009, a land use applicant or the county may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Amended by Chapter 210, 2026 General Session

17-27a-507(5)(d) - has been 17-79-812

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17-27a-507(5)(d) - has been 17-79-812