

ARTICLE 31

IMPACT FEE ORDINANCE

(Adopted 5/8/01)

A. Purpose. This ordinance is enacted pursuant to RSA 674:21, and in order to:

1. Promote the public health, safety and welfare and prosperity;
2. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Hooksett;
3. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services.
4. Provide for the harmonious development of the municipality and its environs;
5. Ensure the proper arrangement and coordination of streets; and,
6. Ensure streets of sufficient width to accommodate existing and prospective traffic.

B. Definitions

1. **Fee payer** means the applicant for the issuance of a permit that would create new development as defined in this Section.
2. **Impact fee** means a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.
3. **New development** means an activity that results in:
 - a. The creation of a new dwelling unit or units; or
 - b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

- c. Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or
- d. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessments.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the public capital facilities of the town of Hooksett.

C. Authority to Assess Impact Fees.

The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance.

D. Standards and Methodology for Assessment

1. The amount of any impact fee shall be a proportional share of municipal capital improvement costs, which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.
2. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.
3. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefore.

E. Waivers

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed.

1. A fee payer may request a full or partial waiver of public school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.

2. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Town Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. All costs incurred by the Town for the review of such proposal, including consultant and counsel fees, shall be paid by the fee payer.

F. Administration of Impact Fees

1. All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.
2. Between the date of assessment and collection, the Planning Board may require fee payers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.
3. Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy; provided however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.
4. The Planning Board and the fee payer may establish an alternate, mutually acceptable schedule of payment of impact fees.
5. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
6. In the event that bonds or similar debt instruments have been or will be issued by the Town of Hooksett or the Hooksett School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
7. The Finance Director shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid

under this Section for each permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

8. The total impact fee, as calculated from the applicable fee schedule, is to be assessed to the applicant if a new development is created on vacant land or on land wherein there has been a structure. If a new development replaces an existing use, then the assessed fee is to be calculated as the net fee between that of the former use and that of the replacement use. (*Amended 05/14/13*)

G. Refund of Fees Paid

The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest under the following circumstances:

1. When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
2. When the Town of Hooksett, or in the case of school impact fees the Hooksett School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate non-impact fee share of related capital improvement costs.

H. Appeals Under This Section

1. A party aggrieved by a decision made by the Planning Board regarding the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board;
2. Upon denial of the appeal, a party aggrieved by a decision of the Planning Board under this Section may appeal such decision to the Merrimack County Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

I. Applicability

This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a). Payment of the impact fee under this Section does not restrict the Town of Hooksett or the Planning Board from requiring other payments or improvements from new development. Nothing in this section shall be construed to affect fees that are assessed under the authority of other statutes, town ordinances or regulations.

(End of Article 31)