

BROOKLINE PLANNING BOARD

Amendment No. XXXXX

2100 Impact Fees

This proposed change will make the units in the Impact Fee Schedule consistently dwelling units and clarify when impact fees are assessed.

Reasoning: This will make the language consistent regarding the units in impact fee calculations. Currently it is sometimes housing, housing units, dwellings, or permits. The Board proposes dwelling units so that when new dwelling units are created, an impact fee will be assessed.

2100.00 IMPACT FEES

2101.00 Purpose

2101.01 This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

- a. Promote public health, safety, convenience, welfare, and prosperity;
- b. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Brookline, New Hampshire;
- c. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of drainage, transportation, schools, fire protection or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- d. Provide for the harmonious development of the municipality and its environs; and
- e. Ensure the proper arrangement and coordination of streets.

2102.00 Definitions

Any term not defined here shall have the same meaning as defined in Section 200.00 of this Ordinance.

2102.01 Impact Fee. 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 that 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 library facilities; and public recreational facilities not including public open space.

2102.02 Off-site Improvement / Exaction. Those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage and sewer and water upgrades pertinent to that development.

2103.00 Authority

2103.01 The Planning Board may, as a condition of approval of any subdivision or non-residential site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development.

2103.02 Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant in lieu of paying an impact fee, or the Board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, town ordinances or regulations.

2104.00 Assessment Methodology and Establishment and Review of Fees

2104.01 Proportionality

The amount of the impact fee shall be calculated by the Planning Board to 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.

2104.02 Existing Deficiencies

Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

2104.03 Impact Fee Schedule

The Impact Fee Schedule shall be prepared in accordance with RSA 674:21, and shall be calculated using the following factors, based upon the most recent data available or a conservative estimate:

- a. A determination of the size of the capital facility.
- b. An estimate of the proportion of users from future Brookline households subject to the impact fee that will use the facility when it has reached its capacity.
- c. Projections of future users based upon residential ~~building permit~~ *dwelling unit* projections.
- d. Estimates of the cost of the facility to the Town of Brookline, including financing and excluding non-municipal funding sources.
- e. Credits subtracted from a base fee accounting for property taxes paid by the proportion of the project to be financed by impact fees.
- f. A fee assessed per ~~housing~~ *dwelling unit* or the most appropriate factor for the specific impact fee being charged.
- g. A determination of the number of ~~building permits~~ *dwelling units* that will need to be created ~~issue~~ in order to finance the impact fee.
- h. An accounting of the number of ~~permits issued~~ *dwelling units*, with a maximum number of ~~permits~~ *dwelling units* to be assessed an impact fee prior to the fee's termination.
- i. Exemptions, if any.

2104.04 Computation of Impact Fees

- a. The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:

1. School Facilities
2. Municipal Facilities
3. Public Libraries
4. Public Recreation Facilities

2104.05 Review of Impact Fees

The Planning Board shall review an established impact fee schedule on an annual basis, based upon a recommendation of the Capital Improvements Committee. The Planning Board shall modify the impact fee schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the impact fee schedule with more accurate or recent projections, data and figures.

2104.06 Relationship to the Capital Improvements Program

Whenever an impact fee or off-site improvement is assessed in accordance with this ordinance, the project shall become part of the Capital Improvements Program (CIP) as an administrative adjustment. The CIP, when modified by the Town, shall include all projects that are funded through impact fees and all off-site improvements / exactions.

2105.00 Off-site Improvements / Exactions

2105.01 Ability to assess off-site improvements / exactions

An improvement that is required by the Planning Board for either a site plan or subdivision that is necessary for the project to operate properly shall be considered to be an off-site improvement or exaction. Off-site improvements for site specific applications shall be assessed on a case by case basis and shall be in addition to other impact fees imposed pursuant to this ordinance. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that such an improvement is necessary for the proper functioning of the project, the Planning Board shall so notify the applicant and the applicant may be required to present to the Board a study which identifies the proportionate share of the cost of such improvement that the applicant's project necessitates. The Board may, at the expense of the applicant, refer such study to a consultant of its own to determine the reliability of the findings which shall be considered by the Board to arrive at a resolution of this issue. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but that the applicant, for whatever reason, is determined to contribute more than its proportionate share to the improvement under this section, and, therefore, that the improvement will also accommodate other future development, the Town, at the request and expense of the applicant, may establish a separate project related impact fee that assesses other future site plans or subdivision for their proportionate share of the improvement to reimburse the applicant for such disproportionate share of the improvement to reimburse the applicant for such disproportionate contribution. Such impact fees shall be provided to the original applicant with any interest.

2106.00 Administration

2106.01 Accounting

In accord with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Selectboard, and shall be used solely for the capital improvements for which they are collected, or to recoup the cost of capital improvements made in anticipation of the needs for which the fees were collected to meet.

2106.02 Assessment

All impact fees imposed pursuant to this section shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development, as determined by the Planning Board. The amount of the impact fee to be imposed is that which is in place at the time of subdivision *approval*, site plan approval, *or issuance of a building permit*.

2106.03 Reserved

2106.04 Collection

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 a municipality has appropriated the necessary funds to cover such portions of the work for which it will be responsible, that municipality may advance the time of collection of the impact fee to the issuance of a building permit. Nothing in this section shall prevent the Planning Board and the assessed party from establishing an alternate, mutually acceptable schedule of payment.

2106.05 Refund

Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected, shall be refunded, with any accrued interest, to the assessed party or successor in interest:

- a. When the subdivision or site plan approval expires under the respective rules of the Planning Board, or under the terms of the decision, without having become vested under RSA 674:39, and without any extension being granted by the Planning Board; OR
- b. When such approval is revoked under RSA 676:4-a; OR
- c. Six years after its collection, or, if any extension of approval is granted by the Planning Board, six years after such extension is granted; OR
- d. Six years after its collection, whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, and the Legislative Body of the Town has failed to appropriate the Town's share of the capital improvement costs.

2107.00 Appeals

In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 677:15.