

Chapter 235. Zoning

Article IVA. Impact Fees

§ 235-22.1. Authority.

These regulations are authorized by New Hampshire RSA 674:21, V, and other pertinent state law, as an innovative land use control. Under this authority, new development in the City of Laconia may be assessed impact fees in proportion to its demand on the public capital facilities of the City and the school district.

§ 235-22.2. Purpose.

The following regulations shall govern the assessment of impact fees for public capital facilities to accommodate the demands of new development on these facilities. These provisions are intended to:

- A. Assist in the implementation of the Master Plan and Capital Improvements Program;
- B. Provide for the public capital facilities necessitated by new development;
- C. Assess an equitable share of the cost of public capital facilities to new development in proportion to the facility demands of new development.

§ 235-22.3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ASSESSED PROPERTY

Any land or buildings comprising new development that is subject to an impact fee assessment under this article.

ASSESSMENT

With respect to an impact fee, a notification issued to an assessed property by the City of Laconia, its Planning Board, or its Building Inspector, stating the amount of an impact fee due and the conditions or schedule for its collection.

COLLECTION or COLLECTED

With respect to an impact fee, the actual delivery of payment of the fee to the City of Laconia on behalf of an assessed property.

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 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; stormwater, 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.

INFILL REHAB AND REUSE

Any vacant building on a lot or parcel within (zoning districts of C, P, CR, DR, BCI) where at least 80% of the land within a three-hundred-foot radius of the site has been developed and where water, sewer, streets, schools and fire protection are already provided and the property has been remodeled, interior and exterior, other than ordinary repair, and used for constructive activity. [Amended 1-9-2012 by Ord. No. 02.2012.02]

NEW DEVELOPMENT

With respect to an impact fee, an activity that results in:

- A. The creation of a new dwelling unit or units, or in the habitable portion of a residential building; or
- B. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of residential dwelling units; or
- C. Construction resulting in a new nonresidential building or a net increase in the floor area of any nonresidential building; or
- D. The conversion of a lawful existing use to another use if such change would result in a significant net increase in the demand on public capital facilities that are the subject of impact fee assessment; or
- E. New development shall not include the replacement of an existing manufactured housing unit or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.

OFF-SITE IMPROVEMENTS

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.

PUBLIC OPEN SPACE

With respect to an impact fee, a parcel of land essentially unimproved and available to the public only for passive recreational use or natural resource conservation. City parks which do not include public recreation facilities constitute public open space within the meaning of this article.

PUBLIC RECREATION FACILITIES

With respect to an impact fee, the land and facilities owned or operated by the City of Laconia, other than public open space, which are designed for the conduct of recreational sports, or other active leisure uses that include use of equipment, structures, or other improvements to the land to provide active indoor or outdoor public recreation programs or activities. Public recreation facilities shall include those portions of conservation or public open space lands which are improved with walking, hiking, or skiing trails for active recreation.

SCHOOL DISTRICT

The Laconia School District.

§ 235-22.4. 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 City Council shall have the authority to adopt and amend the impact fee ordinance to implement the provisions of this article and to delegate the administrative functions of impact fee assessment, collection and disbursement.

§ 235-22.5. Standards and basis of assessment.

- A. The amount of any impact fee shall be a proportional share of public facility improvement costs which are 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.
- B. The Planning Board may prepare, or amend studies, reports, or cost allocation procedures that are consistent with the above standards, and which define a basis for impact fee assessment for public capital facilities, and the impact fee assessment schedules therefore. Based on these documents, the Planning Board may then make a recommendation to the City Council for adoption of amendments.
- C. No methodology, cost allocation procedure, or other basis of assessment, nor related impact fee schedules, or changes in the basis of assessment or the fee schedules, shall become effective until it shall have been the subject of a public hearing before the Planning Board and approval by the City Council.
- D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use as compared to the highest impact fee that was or would have been assessed for the previous use in existence on or after the effective date of this article.
- E. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

§ 235-22.6. Review and change in assessment schedules.

The impact fee assessment schedules shall be reviewed annually by the Planning Board and approved by the City Council, along with the foundation documents that provide the basis for the assessment schedules, such as "Impact Fee Schedules, City of Laconia: Basis of Assessment and Alternative Fee Schedule," by BCM Planning, LLC, dated May 2, 2009. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as they affect the variables in the fee calculations. Changes in the impact fee assessment schedules shall be effective only where the change in the basis of assessment or the fee schedule is adopted following a public hearing on the proposed change.

§ 235-22.7. Assessment and collection of impact fees.

- A. Assessment of the impact fee shall be at 25% of the values recommended in the document "Impact Fee Schedules, City of Laconia: Basis of Assessment and Alternative Fee Schedule," by BCM Planning, LLC, dated May 2, 2009. This value and the assessment level of 25% may be reviewed at any time but shall be reviewed no later than July 1, 2016.
- B. Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board, minor site plan or administrative approval of a subdivision plat or site plan. In the case of structures over public waters, such as commercial boathouses or other structures, impact fees shall be assessed at the time the city receives notice of the Department of Environmental Services approval.
- C. In order to provide some predictability to the development community for what has been recently approved, when no Planning approval is required or approval has been given prior to the adoption

of the impact fee ordinance, no impact fees shall be assessed at the time of issuance of a certificate of occupancy. If, however, the approval of such previously approved development expires without extension granted by the Planning Board or is revoked by the Planning Board, any new development on that property shall be subject to impact fees, even if the new development is identical to the old one.

- D. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected at the time when the development is ready for its intended use.
- E. The Planning Board and the assessed property may establish an alternate, mutually acceptable schedule of payment of impact fees. If an alternate schedule of payment is established, the Planning Board may require the applicant to post security, in the form of a cash bond, letter of credit, or performance bond so as to guarantee future payment of assessed impact fees.

§ 235-22.8. Waivers.

At the time of a project's hearing from Conceptual review or Design review as permitted under RSA 676:4 (II) the Planning Board may discuss granting full or partial waivers of impact fees to an assessed property. The final granting of the waiver request shall be made at the time of application approval 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:

- A. The Planning Board may waive the impact fees for a property assessed with an impact fee if the developer has agreed to other contributions toward public capital facilities. The amount of such a waiver shall not exceed the value of land, facilities construction, or other contributions for public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver under this article. 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 City for the review of a proposed waiver, including consultant and counsel fees, shall be paid by the applicant.
- B. The Planning Board may waive up to 60% of the impact fees for a property assessed with an impact fee if after review of the project proposal and covenant documents the Planning Board decides that the project is affordable housing per RSA 674:58 and that targets low- and moderate-income families and which serves as a community asset with documented deed restrictions or other covenants that provide for the permanent affordability of the housing. Rental housing may also be considered under this provision if the rental price is similarly restricted to permanent affordability.
- C. Because of the urban nature of the City of Laconia and the need for inner-city revitalization and smart growth policies such as infill development, the Planning Board may waive up to 80% of the impact fees for a property assessed with an impact fee if after review of the project proposal and covenant documents the Planning Board decides that the project is 100% infill rehab and reuse.

§ 235-22.9. Appeals.

- A. A party aggrieved by a decision made by the Code Enforcement Officer relating to administrative decisions in the assessment or collection of impact fees authorized by this section may appeal such decision to the Planning Board.
- B. A party aggrieved by a decision of the Planning Board under this article may appeal such decision to the Belknap County Superior Court as provided by RSA 677:15, as amended.

§ 235-22.10. Administration of impact fees.

- A. All funds collected shall be properly identified and promptly transferred for deposit into an individual public capital facilities impact fee account for each of the categories under which impact fees are assessed, and shall be used solely for the purposes specified in this article. Impact fee revenues shall not accrue to the general fund.
- B. Impact fees shall be paid out or applied to the provision of public capital facilities only upon specific authorization by the City Council.
- C. The City shall record all fees paid, by date of payment, name of the person making payment, and the parcel, lot or building for which the fee has been paid. The City shall maintain an updated record of the current ownership, tax map and lot reference number of each property for which an impact fee has been paid and the amount of that fee for a period of at least nine years.
- D. Funds withdrawn from the public capital facilities impact fee accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping public capital facilities or improvements made within the individual categories established by the fee schedules and basis of assessment adopted by the Planning Board.
- E. In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this article, impact fees may be used to pay debt service on such bonds or similar debt instruments.

§ 235-22.11. Refund of fees paid.

- A. The 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 where:
 - (1) The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the final payment of the fee; or
 - (2) The City, or in the case of school impact fees the school district, has failed, within the period of six years from the date of the final payment of such fee, to appropriate the nonimpact fee share of related capital improvement costs.
- B. The City shall provide all owners of record who are due a refund, written notice of the amount due, including accrued interest.

§ 235-22.12. Other authority retained.

This article shall not be deemed to affect other authority of the City or the Laconia Planning Board over subdivisions or site plans, or rules and regulations pertaining to the City's water and sewer systems, including, but not limited to:

- A. The authority of the Planning Board 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); or
- B. The authority of the Planning Board to require the payment of exactions for off-site improvements for highway, drainage, sewer and water upgrades necessitated by the development, in accordance with the provisions of RSA 674:21, V(j); or
- C. Other authority of the City of Laconia to assess other capital investment fees or system development charges under the authority of other statutes, City ordinances, or through the Site Plan Review and Subdivision Regulations of the Laconia Planning Board.