

ASSESSMENT AND COLLECTION OF IMPACT FEES - WEBSTER

The Webster Impact Fee Ordinance was adopted November 8, 2005 at a special Town Meeting, enabling the Planning Board to adopt methods of assessment and related impact fee schedules.

The first Webster Impact Fee Schedule was adopted by the Planning Board on November 30, 2006, as contained in a special report providing a basis of assessment for the fees. This makes November 30, 2006 the first possible point at which new development could be assessed an impact fee, even though the ordinance was adopted earlier (prior to this date, there was no fee schedule).

A. Assessment of Fee

Impact fee assessment constitutes a notification, typically applied as a condition of development approval, which specifies an amount to be paid to the Town as an impact fee. Actual payment takes place later, usually at the Certificate of Occupancy (C. O.) stage. (This is analogous to the difference between a property tax *assessment* (setting a valuation and issuing a tax bill) and a tax *payment* (made subsequently)).

In practice, development on new lots created after the effective date of adoption of the fee schedule will be assessed at the time of subdivision approval, which establishes the amount of the fee that will be due not later than when a certificate of occupancy (C. O.) is issued. That amount remains in effect for all lots subsequently developed, but only for a period of 4 years, after which the fee schedule then in effect can be applied.

In general, the approach to assessment should presume that all building permits will be subject to an impact fee assessment (payable when construction is complete), *unless certain circumstances apply to the particular development*.

NO FEE CAN BE ASSESSED from the 11/30/06 adopted schedule where any of the following conditions apply:

1. Where the particular type of development is not subject to assessment according to the fee schedule itself; or
2. Where the Planning Board has specifically waived the fee under the specific terms and conditions allowed in the impact fee ordinance; or
3. Where the construction is to take place on a lot that was part of a subdivision plat or site plan approved by the Planning Board from December 1, 2002 through November 30, 2006 (4 years prior to the adoption of the fee schedule); **except:**
 - o *If more than four years have elapsed* since the date of such subdivision plat or site plan approval, an impact fee may be assessed based on the schedule in effect at the time the building permit is issued.

For new subdivisions approved after the fee schedule was adopted on November 30, 2006, the assessment (determination of amount of fee per unit) will be made at the time of subdivision approval.

It is recommended that impact fee assessments applicable to a new subdivision be recorded on the subdivision plat, with notation of the applicable fees per unit of development; notification that applicable fees will be invoiced when a building permit is issued for construction, and that the fees will be collected when the structure is ready for occupancy or for its intended use (or prior to issuance of a C. O. if applicable). The amount assessed per unit to new development within the plat will remain in effect for four years (even if the schedule is amended).

However, once four years elapse after the date of plat approval, the Town may assess impact fees to new construction on any remaining undeveloped lots based on the fee schedule in effect at the time the building permit is issued.

Summary of Assessment Process:

1. Subdivisions Approved Prior to Effective Date of Fee Schedule

The fees adopted on 11/30/2006 will not apply to development on lots within plats approved by the Planning Board from December 1, 2002 to November 30, 2006 for a period of four years from the date of plat approval.

If, after that four year period elapses, there remain lots that have not been built upon, development on those lots may be assessed the impact fee in effect at the time the building permit is issued. (This fee amount may differ from the one in effect when the subdivision approval was issued.)

2. New Subdivisions – Approved After November 30, 2006

For new subdivisions (plats approved after the date of adoption of the fee schedule) the assessment is made at the time of subdivision or site plan approval. The assessed amount remains in effect for development within that plat for a period of four years from the subdivision approval date. The same “grandfathering” provisions then apply to the subdivision as outlined in #1 above with respect to the adoption of any new fees or changes in the fee amounts.

Note that RSA 674:21, V provides that the assessed party and the municipality may establish an alternative, mutually acceptable schedule of payment of the fees in effect at the time of subdivision or site plan approval. Such an agreement could supersede the standard provisions of the statute.

3. All Other Lots of Record

For all other lots of record, or any other new development that does not require an approval by the Planning Board, the impact fee assessment is made at the time a building permit is issued, and actual collection takes place as a condition of the C. O.

4. Recommended Procedure

For new subdivisions and site plans, record in the Planning Board minutes and on plats the applicable impact fees per unit of development, with notations that after four years, building permits may be subject to a revised fee schedule in effect at the time the permit is issued. This information should be provided as part of any information package provided to the applicant for seeking Planning Board approval.

Include on all building permit applications (or in an attachment thereto) and on the actual permit issued, notification to the applicant (and acknowledgement by the applicant), of the applicable fees OR a finding that, due to specific circumstances of approval, the fee will not apply to the construction to be authorized by the permit.

The permit form, or attachment, should essentially constitute an invoice for the impact fees that are to be paid no later than completion of the development or prior to issuance of a C. O. where applicable.

B. Collection of Fees

Collection means the actual payment of the fee by the responsible party to the Town. The fee to be collected should be the same as the amount assessed in the building permit or attachment.

The collection of the fee normally takes place at the time a C.O. is issued. If a C.O. is not required, then the fee may be collected when the development is “ready for its intended use” (statutory language). The timing of the collection may differ (sooner or later) where the Town and the fee payer have mutually agreed to an alternative schedule of payments.

For simplicity, the party paying the fee may issue a single check as payment for all impact fees due the Town per the amounts shown in the building permit. However, the Town will need to allocate the fee payment into separate capital facility accounts for the various categories of assessment.

C. Record Keeping

Impact fee payments will need to be assigned to appropriate capital facility impact fee accounts. (Fees cannot “cross over” between categories of impact fee assessment – if fees are collected for public safety, they must be applied to facilities of that type, and not to recreation, school or other capital facilities).

The Town will need to track impact fee payments and disbursements or transfers of impact fees to the school districts or to municipal capital projects or related debt service in the case of non-school impact fees. Accurate record keeping is also important in the event a refund is required. It is recommended that fee payments be recorded showing data including but not limited to:

- Property identification (plat number, map-lot ID, street address, fee payer)
- Plat approval date if applicable to lot

- Building permit number
- C. O. number
- Fee payer
- Property owner
- Fee categories or facility account ID(s)
- Amounts of fee allocated to each facility category
- Date fee assessed to subdivision by Planning Board if applicable
- Date building permit issued (fee invoiced)
- Date fee(s) received by Town
- Date C. O. issued or completion certified by Town
- Date fee encumbered/transferred
- Description of how fee was applied

Once an impact fee receipt has “aged” 6 years, a refund may be required if the Town or School District has failed to appropriate the necessary funds to accomplish the related capital improvement.

Please bear in mind that opinions may differ on the validity of application of the above procedures. The Town should consult its municipal attorney for verification that the assessment and collection process is supportable under the particular circumstances of specific developments.

Bruce C. Mayberry
Planning Consultant
03-05-07

Attachments: Draft forms for assessment

**IMPACT FEE ASSESSMENT FOR SUBDIVISION OR SITE PLAN
TOWN OF WEBSTER, NEW HAMPSHIRE**

Date of Assessment: _____

Land Owner: _____

Applicant for Development _____

Plat Reference Number: _____ Tax Map and Lot Reference: _____

Description of Development: _____

Date of Planning Board Approval : _____

Authority
Impact fee assessments are authorized by an impact fee ordinance incorporated into the Webster Zoning Ordinance in Section XI. The impact fee ordinance was adopted at a Special Town Meeting November 8, 2005.

School impact fees may be waived by the Planning Board for residential units that are lawfully restricted to occupancy by senior citizens age 62 or older under conditions established by the ordinance.

Other waivers may be granted by the Planning Board only under the terms provided in the ordinance.

Amount of Assessment
Except where subject to waiver, the following amounts are hereby assessed as impact fees to the above named development. Payment of all fees are due upon completion of each residential unit or the completion of each non residential building except where the applicant and the Planning Board have mutually agreed to an alternative schedule for payment.

The impact fee assessment schedule and associated basis of assessment applicable to this development are summarized in the following schedule as adopted by the Webster Planning Board on November 30, 2006. This fee schedule is subject to amendment by the Planning Board. A revised fee schedule may be applicable to portions of the development that remain unbuilt four years after the date of this assessment.

RESIDENTIAL DEVELOPMENT - IMPACT FEE ASSESSMENT			
Capital Facility Category	Impact Fee Per Dwelling Unit	x Number of Dwelling Units Subject to Assessment (see notes 1,2)	= Fee Assessment by Category
Public Schools	\$3,725		
Public Safety - Building	\$838		
Municipal Office	\$377		
Solid Waste Facilities	\$366		
Total Fee Per Unit	\$5,306		\$

NON - RESIDENTIAL DEVELOPMENT - IMPACT FEE ASSESSMENT			
Capital Facility Category	Impact Fee Per Square Foot	x Gross Sq. Ft. Added by New Non-Residential Development (see note 2)	= Fee Assessment by Category
Public Safety - Building	\$0.21		
Municipal Office	\$0.09		
Total Fees	\$0.30		\$

(1) The number of units to which school impact fees apply should exclude the number of units for which waivers have been granted by the Planning Board based on age restricted occupancy.

(2) In the event that other waivers have been granted based on other approved payments or contributions approved by the Planning Board, those residential units or non-residential floor area should be excluded from the assessment.

Documentation of any waivers of impact fees that have been approved by the Planning Board for this development should be attached to this form.

**IMPACT FEE ASSESSMENT (ATTACH TO BUILDING PERMIT)
TOWN OF WEBSTER, NEW HAMPSHIRE**

Date of Building Permit Application: _____ Date Building Permit Issued: _____

Permit Number/Reference: _____

Land Owner: _____

Applicant: _____

Plat Reference Number: _____ Tax Map and Lot Reference: _____

Date of Planning Board Approval of Subdivision Plat or Site Plan (if applicable) : _____

Authority
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Other waivers may be granted by the Planning Board only under the terms provided in the ordinance.

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Capital Facility Category	Impact Fee Per Square Foot	x Gross Sq. Ft. Added by New Non-Residential	= Fee Assessment by Category
Public Safety - Building	\$0.21		
Municipal Office	\$0.09		
Total Fees	\$0.30		\$

TOTAL IMPACT FEE ASSESSED: _____ **\$**

(1) The number of units to which school impact fees apply should exclude the number of units for which waivers have been granted by the Planning Board based on age restricted occupancy.

(2) In the event that other waivers have been granted based on other approved payments or contributions approved by the Planning Board, those residential units or non-residential floor area should be excluded from the assessment.

Documentation of any waivers of impact fees that have been approved by the Planning Board for this development should be attached to this form.

The applicant hereby acknowledges this impact fee assessment, and that payment must be made to the Town of Webster prior to or as a condition of receiving a certificate of occupancy or at the time the Town determines that the construction is sufficiently complete to be ready for its intended use.

Name: (Printed) _____

Date _____

Signature _____