

## **ARTICLE 14 IMPACT FEES**

### **Section 1. Purpose**

The purpose of these impact fee provisions is to ensure that new development in Kennebunk will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the needs of the development through: 1) the payment of impact fees that will be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.

### **Section 2. Authority**

The Town under the authority of 30A M.R.S.A §4354 and its statutory and constitutional home rule provisions adopts these impact fee provisions.

### **Section 3. Payment of Impact Fees**

The impact fees provided for under this article shall be determined in accordance with the provisions for the calculation of each impact fee as established by the Board of Selectmen and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid in conjunction with any project, the amount of the fee shall be determined by the Board of Selectmen, with the recommendation of the Town Planner, based upon the fee calculation methodology. Impact fees may be reduced in whole or in part by the Board of Selectmen as specified in Section 7. The impact fee shall be paid to the Town of Kennebunk in care of the Code Enforcement Officer. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the project subject to the fee.

### **Section 4. Impact Fee Accounts**

All impact fees collected under the provisions of this article shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

- A. West Kennebunk Fire Station Impact Fee
- B. Bicycle Facility Improvements Impact Fee
- C. Reserved

### **Section 5. Use of Impact Fees**

Impact fees collected under the provisions of this article shall only be used to pay for the capital cost of the infrastructure improvements specifically associated with the fee as described below. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs may be included in the capital cost of the infrastructure improvement:

- A. Acquisition of land or easements including conservation easements,
- B. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement,
- C. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment,

- D. Mitigation costs,
- E. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
- F. Debt service costs including interest if the Town borrows for the construction of the improvement,
- G. Relocation costs, and
- H. Additional costs that are directly related to the project.

#### **Section 6. Refund of Impact Fees**

Impact fees collected in accordance with this article shall be refunded in the following cases:

- A. If the building or other permit is surrendered or lapses without commencement of construction, the permit holder or developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the Town Manager and shall occur within ninety (90) days of the lapse or the expiration of the permit.
- B. Any fees collected that are not spent or obligated by contract for the specified improvements by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned to the current owner of the property for which the fee was paid together with interest calculated at three (3) percent per year from the date of the payment of the fee.

#### **Section 7. Modification of Impact Fees**

The Board of Selectmen may, by formal vote, waive the payment of a required impact fee, in whole or in part, if it finds that:

- A. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct the improvement for which the impact fee would be collected or an equivalent improvement approved by the Planning Board, or
- B. The developer or property owner is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee.

#### **Section 8. Review and Revision**

The Board of Selectmen shall periodically review each impact fee established under this chapter. If the Board finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Board may recommend changes in the impact fee. Any changes adopted by Town Meeting as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

#### **Section 9. West Kennebunk Fire Station Impact Fee**

- A. Description of the improvements

The West Kennebunk Fire Station Impact Fee will be used to partially fund the construction of a new West Kennebunk Fire Station. The new station will be a six-bay facility with

approximately 10,140 square feet of floor area plus a small storage mezzanine. The facility will include crew quarters, offices and support space, a training room, and storage areas. The new West Kennebunk Fire Station has been designed to address both current deficiencies and to provide excess capacity to allow the community to expand its fire protection service in the western portion of the Town in the future. Approximately 4,060 square feet of the new facility are excess capacity designed to allow for the future expansion of the station's capabilities as demand grows with new development. This excess capacity includes two plus additional equipment bays (2,600 SF), additional office space (260 SF), and crew quarters including rest/locker rooms (1,200 SF).

B. Need for the improvements

The current West Kennebunk Fire Station is inadequate for both current and projected needs. The facility cannot accommodate additional equipment, there are no crew quarters, and storage and support space is very limited. There has been a significant increase in the demand for fire services in the western part of the Town including the area west of the Turnpike. In 1988, there were approximately 603 dwelling units in the portion of the station's service area west of the Turnpike. This has grown to 1242 in 2005. As a result, the Fire Department is planning on adding a tanker to the West Kennebunk station to increase the amount of "water on wheels" available. In addition, the Department is considering moving one of the Town's rescue units to West Kennebunk. Neither of these can be accommodated in the current facility.

As development continues in the western part of Kennebunk, the Fire Department envisions that it will need to increase the amount of equipment available in West Kennebunk and re-evaluate its staffing needs. Therefore, the new building is designed to provide excess capacity beyond what is currently needed to allow for increased service as development occurs within the station's service area.

C. Activities subject to the fee

Any project involving the construction of a new building in the portion of Kennebunk within the service area of the West Kennebunk Fire Station is subject to the impact fee (see attached map of the impact fee area). This includes both residential and non-residential buildings. In addition, any project that increases the amount of habitable area in a building for which an impact fee has been paid, shall be subject to an impact fee for any incremental increase in habitable area for a period of five (5) years after the payment of the initial impact fee. In addition, any project that increases the habitable area of a residential or nonresidential building by more than four hundred (400) square feet that has not paid an impact fee or that paid the initial impact fee more than five years previous, shall be subject to the impact fee for the incremental increase in habitable area.

D. Amount of the fee

The amount of the West Kennebunk Fire Station Impact Fee is \$0.42 (forty-two cents) per square foot of habitable area to be created as determined by the Code Enforcement Officer based upon a review of the development plans and the approach used for determining the area of the building for application of the Building Permit Fee Schedule. For residential properties, the habitable area is the sum of 100% of the residential area and 100% of any garage area based upon this methodology. For nonresidential buildings, the habitable area is 100% of the usable area based upon the methodology. The amount of the fee is based upon the Impact Fee Methodology for the West Kennebunk Fire Station dated September 1, 2006.

E. Effective date of the fee

The West Kennebunk Fire Station Impact Fee shall be paid for any project that has not received a building, plumbing, electrical, or other permit for the proposed project or that has not been approved by the Planning Board or Site Plan Review Board as of September 5, 2006. The fee shall remain in effect until the Town has collected \$953,700 in fees and then shall expire.

**Section 10. Bicycle Facility Improvements Impact Fee**

A. Description of the improvements

The Bicycle Facility Improvements Impact Fee will be used to partially fund the construction of paved shoulders to accommodate bicycle movement as set forth in the Town's Comprehensive Plan and Bicycle Facility Improvements Plan (see Bicycle Facility Improvements Impact Fee Methodology dated April 11, 2006). This includes improvements in the following areas: Alewife Road, High Street, Cole Road, Maguire Road, Port Road, Factory Pasture Lane and Depot Street, Cat Mousam Road and Mill Street, Ross Road, Thompson Road, and Western Avenue. The proposed improvements are described in more detail in the methodology.

B. Need for the improvements

Traffic volumes on the town's primary road network continues to grow as a result of continuing growth and development in Kennebunk as well as development in surrounding communities that results in traffic on Kennebunk's roads. Many of these roads lack paved shoulders or any provisions to accommodate bicyclists or pedestrians. Residential growth creates more bicycle movements that increase conflicts between bicyclists and motor vehicles on the primary road network resulting in safety concerns. To address this concern, the Town's Comprehensive Plan recommends that the Town develop a network of bicycle facilities along major roads.

C. Activities subject to the fee

All new residential development shall be subject to the impact fee. Any activity, including modifications to existing structures, which results in the creation of a new dwelling unit shall pay the fee.

D. Amount of the fee

The base impact fee for the bicycle improvements is \$450 per dwelling unit. The amount of the base fee is based upon the Bicycle Facility Improvements Impact Fee Methodology dated April 11, 2006.

The base impact fee shall be adjusted to account for changes in the cost of construction. The impact fee shall be adjusted based upon the change in the ENR Construction Cost Index between June 2006 and the month in which the impact fee is paid. The amount of the fee shall be calculated as follows:

Impact fee to be paid per dwelling unit = Base impact fee X (ENRCCI for the month in which fee is paid/ENRCCI for June 2006) where ENRCCI is the national construction cost index published by ENR (Engineering News Record).

E. Effective date of the fee

The Bicycle Facility Improvements Impact Fee shall be paid for any project that has not received a building, plumbing, electrical, or other permit for the proposed project or that has not been approved by the Planning Board or Site Plan Review Board as of April 24, 2006. The fee shall remain in effect until the Town has collected \$1.3 million in fees (as adjusted for construction cost inflation) or until July 1, 2026 whichever comes first unless such time is extended by vote of the Town Meeting.

**Section 11. Reserved**