

**IMPACT FEE ORDINANCE
TOWN OF CANAAN, NEW HAMPSHIRE**

SECTION I. PURPOSE

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

Promote public health, safety, convenience, welfare, and prosperity;

Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Canaan;

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;

Provide for the harmonious development of the municipality and its environs;

Ensure the proper arrangement and coordination of streets; and,

Ensure streets of sufficient width to accommodate existing and prospective traffic.

SECTION 2. AUTHORITY

2.1 The Planning Board may, as a condition of approval of any subdivision [or 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.

2.2 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

SECTION 3. ASSESSMENT METHODOLOGY

3.1 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.

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

SECTION 4. ADMINISTRATION

4.1 Accounting In accord with RSA 673: 16,11 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 Board of Selectmen, 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 which the fee was collected to meet.

4.2 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.

4.3 Security: In the interim between assessment and collection, the Planning Board may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees.

4.4 Collection: Impact fees shall be collected as a condition for the issuance of 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.

4.5 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:

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

When such approval is revoked under RSA 676:4-a; OR

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

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.

SECTION 5. 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.

SECTION 6. DEFINITIONS

IMPACT FEES: 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.

SECTION 7. EFFECTIVE DATE

This ordinance was adopted by the Legislative Body of the Town of Canaan, acting at its duly warned annual meeting on March 12, 2002.