

## CHAPTER VII – IMPACT FEES

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## **CHAPTER VII IMPACT FEES<sup>1</sup>**

### **SECTION I GENERAL**

#### **A. PURPOSE**

The purpose of these impact fee provisions is to ensure that new development in Gorham 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 development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.

#### **B. AUTHORITY**

These impact fee provisions are adopted by the Town under the authority of 30A M.R.S.A. §4354 and its statutory and constitutional home rule provisions.

#### **C. PAYMENT OF IMPACT FEES**

The impact fees provided for under this chapter shall be determined in accordance with the provisions for calculation of each impact fee as established by the Town Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid by any development, the amount of the fee shall be determined by the Planning Board based upon the fee calculation methodology for that fee and the recommendation of the Town Planner. The impact fee shall be paid to the Town of Gorham in care of the Planning Department. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the development subject to the fee. The Town Council may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.

#### **D. IMPACT FEE ACCOUNTS**

All impact fees collected under the provisions of this chapter 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:

- 1) Middle School Facilities Impact Fee<sup>2</sup>
- 2) Recreational Facilities and Open Space Impact Fee<sup>3</sup>
- 3) Fort Hill Water Main Extension Impact Fee<sup>4</sup>

#### **E. USE OF IMPACT FEES**

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

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<sup>1</sup> Amended June 4, 2002

<sup>2</sup> Amended August 6, 2002

<sup>3</sup> Amended November 11, 2003

<sup>4</sup> Amended June 2, 2004

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

- 1) Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement,
- 2) The actual construction of the improvement including, without limitation, property acquisition costs, demolition costs, clearing and grading of the land, and necessary capital equipment,
- 3) Mitigation costs,
- 4) Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
- 5) Debt service costs including interest if the Town borrows for the construction of the improvement,
- 6) Relocation costs, and
- 7) Similar costs that are directly related to the project.

**F. REFUND OF IMPACT FEES**

- 1) If a building permit is surrendered or lapses without commencement of construction, the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. In the case of a refund, the Town shall retain four (4) percent of the impact fee paid to offset a portion of the administrative cost of collection. A request for a refund shall be made in writing to the Town Planner and shall occur within ninety (90) days of the lapse or expiration of the permit.
- 2) Any fees collected that are not spent or obligated by contract for the specified improvement by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned to the developer or its designee without interest.

**G. WAIVER OF IMPACT FEES**

The Town Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:

- 1) The developer voluntarily agrees to construct the improvement for which the impact fee would be collected, or
- 2) The developer 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, or
- 3) The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use.

**H. REVIEW AND REVISION**

The Town Council shall periodically review each impact fee established under this chapter at least once every five years. If the Council 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 Council may propose changes in the impact fee. Any changes adopted 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 II MIDDLE SCHOOL FACILITIES IMPACT FEE #1**

### **A. DESCRIPTION OF THE IMPROVEMENT**

The Gorham School Department is constructing a new middle school serving grades 6 through 8 to replace the current Shaw School. The new Gorham Middle School will create the capacity for 900 students in grades 6 through 8. Part of the capacity in the new middle school is needed to serve the students that live in (or will live in) the current housing stock of the community. The other part of the capacity will be available to accommodate middle school students who will live in new housing units that will be built in the future. The Middle School Facilities Impact Fee is intended to apply to the share of the new middle school capacity that is available to accommodate students from new residential development. Based upon an analysis of various development scenarios and enrollment projections, 600 of the 900-student capacity in the new middle school will be needed to meet the needs of the residents of the Town's existing housing stock and the balance of 300 is the incremental capacity available to serve enrollment growth resulting from residential development. This incremental capacity for 300 students in the new middle school is the "facility" upon which the impact fee is based. The analysis is detailed in the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002.

### **B. NEED FOR THE IMPROVEMENT**

The Shaw School is an older facility that was last expanded in the late 1970's. The facility has a current capacity for 309 students based upon state space standards. The facility is inadequate to meet current and projected enrollments. Expansion of the current facility is not financially feasible. In October of 1991, there were 472 students in grades 6 through 8. Over the past decade, middle school enrollment has grown steadily. As of October 1, 2002, the Gorham School Department had 683 students in grades 6 through 8. Most of this growth has been the result of net in-migration in the school system since the number of births to Gorham families has remained relatively stable over the past 15 years. Much of the in-migration is related to new housing rather than to turnover in the existing housing stock. The new middle school will provide adequate capacity for projected enrollment growth.

### **C. ACTIVITIES SUBJECT TO THE FEE**

The need for additional capacity at the new middle school is the result of residential development in the community. Therefore, any residential development activity anywhere in Gorham that may potentially have middle school aged children living in the units will be subject to the impact fee. This shall include the construction of new dwelling units whether or not such units are part of a subdivision, the conversion of an existing building that creates or increases the number of dwelling units in the building, or the expansion or alteration of an existing building that increases the number of dwelling units in the building or an increase in the number of bedrooms in a dwelling unit for which an impact fee has been paid. In the case of a development activity that increases the number of dwelling units in a building, only the new dwelling units shall be subject to the impact fee.

In the situation where the number of bedrooms within any dwelling unit for which an impact fee has been paid is being increased within twenty-four (24) months of the issuance of a certificate of occupancy, the impact fee due shall be the difference, if any, between the impact fee that would be due based upon the proposed utilization of the dwelling unit prior to the change. (For example, an existing two bedroom single-family home is being converted into a four-bedroom home. The required impact fee for a four

bedroom home would be calculated and the fee paid for the existing two bedroom single-family home subtracted from this amount to determine the amount of the additional impact fee due.)

**D. CALCULATION OF THE FEE**

The amount of the impact fee is proportional to the average number of middle school students that typically live in a particular type of housing (single-family home, mobile home, apartment, retirement housing). The amount of the impact fee charged to each residential unit is based upon the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002. In determining the impact fee payable for each dwelling unit, the fee shall be based upon the number of bedrooms in the unit. For the purpose of the impact fee calculation, a bedroom shall include any room designated as a bedroom on the building plans and any other private room in the dwelling unit that is larger than one hundred (100) square feet, meets the bedroom egress requirements of the building code, is separable from other rooms by a door or door frame that can accommodate a standard door, and does not have facilities or furnishings for cooking, eating, or laundering and is not solely a bathroom, living room, family room, kitchen, dining room, laundry room, or a utility room for central heating/cooling equipment.

1) The impact fee per dwelling unit for the following types of residential units shall be:

Bedrooms Per Dwelling Unit	Single-Family, Manuf. Housing Unit, or Modular Home on a Lot	Detached Condo Unit	Attached Condo Unit	Apartment Unit	Mobile Home Manuf. Housing Unit in Mobile Home or Manf. Housing Park
1 bedroom	-0-	-0-	-0-	-0-	-0-
bedrooms	\$ 727.50	\$ 727.50	\$ 291.00	\$ \$291.00	\$291.00
3 bedrooms	\$2,182.50	\$2,182.50	\$ 727.50	\$1,455.00	\$727.50
(in duplex)			\$1,455.00	\$ 727.50	
4 bedrooms	\$2,182.50	\$2,182.50	\$ 727.50	\$ 727.50	\$727.50
5 or more bedrooms	\$2,911.00	\$2,910.00	\$ 727.50	\$ 727.50	\$727.50

- 2) For any other type of residential use or where the application of the fee schedule is unclear, the Planning Board shall determine the applicable impact fee based upon the anticipated number of middle school students that would typically be expected to live in the residential use and a base impact fee of \$15,750 per middle school student.
- 3) Any residential use that is permanently limited to occupancy by residents that are at least sixty-five years of age by binding legal restrictions shall be exempt from the Middle School Facilities Impact Fee.
- 4) Any residential use that is permanently limited to occupancy by residents that are at least fifty-five years of age by binding legal restrictions that are consistent with the Federal Fair Housing provisions shall be exempt from ninety (90) percent the Middle School Facilities Impact Fee that would otherwise be applicable to the use.
- 5) In the situation where the number of dwelling units in an existing building is being increased, the impact fee due shall be the difference between the impact fee that would be due based upon the proposed utilization of the building minus the fee that would have been charged based upon the utilization of the building prior to the change. (For example, an existing single-family home is being

converted into a multifamily building with four, two-bedroom apartments. The required impact fee for the four apartments would be calculated and the required fee for a single-family home subtracted from this amount to determine the amount of the impact fee due.)

**E. EFFECTIVE DATES**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law, this ordinance, when enacted, shall govern any plan or application for permits or approvals under the Land Use Code submitted on or after June 5, 2002, and any such plan or application submitted before that date, but which had not received at least one substantive review, within the meaning of § 302, on or before that date, by the Town board or official having authority to grant any such permit or approval.

### **SECTION III RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE #2<sup>5</sup>**

#### **A. DESCRIPTION OF THE IMPROVEMENTS**

The Town is planning to expand the recreational facilities in the community to serve the needs of a growing population. The Town will use the revenue generated from the recreational facilities portion of this impact fee to undertake the following improvements to expand the supply of community-wide outdoor recreation facilities:

- 1) Continue to develop the so-called Chick Property as a multi-purpose community recreational complex substantially in accordance with the June 2001 Feasibility Study conducted by DeLuca-Hoffman Associates and the Chick Property Master Plan approved by the Town Council on June 6, 2000.
- 2) Undertake Phase 2 of the recreational facilities development at the new Gorham Middle School as outlined in the conceptual site plan for that facility.
- 3) Prepare a master plan for the reuse and development of the Weeks Road property and a Master Plan for the so-called Gorham Savings Bank property and then begin to develop recreational facilities in accordance with the approved Master Plans.
- 4) Prepare a plan and design for the Little Falls Recreation area to increase the number of playing fields and to begin developing those fields.<sup>6</sup>
- 5) The open space portion of the impact fee will be used to acquire land, conservation easements and or/development rights, and improve conservation land to protect significant natural resources, conserve scenic values, preserve the community's agricultural heritage, conserve the remaining supply of viable farmland, and provide areas for low-intensity recreational activities such as walking, bird-watching, cross-country skiing and similar activities that are consistent with the primary use of the property as open space or farmland.

#### **B. NEED FOR THE IMPROVEMENT**

The need for community recreation facilities, parks, and open space is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, facilities, playgrounds, natural areas, and open space. The Town's adopted Comprehensive Plan identifies the need to expand the supply of recreational facilities and open space to serve a growing population. Similarly, the 1999 Long Range Facility Plan prepared by PDT Architects identifies the need for expanded recreational facilities to serve a growing population (see Impact Fee Methodology dated June 16, 2003).

The Town has 0.0127 acres of park and recreation land per capita as of May 2003. The recreational facilities portion of the fee is designed to allow the Town to maintain the current ratio of land and park and recreational facilities as the population grows and creates the need for the expanded facilities.

Gorham has a total of 622 acres of community open space or a ratio of 0.0438 acres of community open space per capita as of May 2003. The open space portion of the fee is designed to allow the Town to maintain this ratio as the Town's population grows.

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<sup>5</sup> Amended November 11, 2003

<sup>6</sup> Amended November 13, 2007

**C. ACTIVITIES SUBJECT TO THE FEE**

Any residential development activity that creates new dwelling units shall pay this impact fee based upon the expected population of the project considering typical occupancy rates. The following occupancy factors shall be used as a base for calculating the fee:

Single family dwellings and mobile homes	3.2 people/unit
Dwelling unit in a two-family or multi-family dwelling with:	
a. one bedroom	1.2 people/unit
b. two bedrooms	2.0 people/unit
c. three or more bedrooms	3.0 people/unit
Dwelling unit in elderly or congregate housing	1.2 people/unit housing

This fee shall apply to the construction of any new dwelling unit whether or not such unit is part of a subdivision. It shall apply to conversion or alteration of an existing building that creates or increases the number of dwelling units in the building. In the case of a development activity that increases the number of dwelling units in a building, the impact fee shall apply only to the new dwelling units.

**D. CALCULATION OF THE FEE**

The recreational facilities and open space impact fee is the sum of the per capita cost of providing additional recreational facilities and the per capita cost of providing additional open space multiplied by the anticipated number of residents in the dwelling unit. The adjusted per capita recreational facilities fee is \$457 (see Impact Fee Methodology dated June 16, 2003). The adjusted per capita open space facilities fee is \$79. Combining the two portions of the fee results in an impact fee of \$536 per capita.

- 1) The impact fee per dwelling unit for the following types of residential units shall be:

A single family dwelling including a manufactured or modular housing unit placed on a single-family lot, a mobile home or manufactured housing unit in a mobile home park, or a detached condominium unit	\$1,715
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A dwelling unit in a two-family or multi-family dwelling including attached condominium units with:

a. one bedroom	\$ 643
b. two bedrooms	\$1,072
c. three or more bedrooms	\$1,608

A dwelling unit in elderly or congregate housing	\$ 643
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- 2) For any other type of residential use or where the application of the fee schedule is unclear, the Planning Board shall determine the applicable fee based upon the number of occupants that would be typically expected to live in the dwelling unit and the impact fee of \$536 per capita.

- 3) In the situation where the number of dwelling units in an existing building is being increased, the impact fee due shall be the difference between the impact fee that would be due based upon the proposed utilization of the building minus the fee that would have been charged based upon the utilization of the building prior to the change.

**E. EFFECTIVE DATES**

Notwithstanding the provisions of 1 M.R.S.A. §302 or any other law, this ordinance, when enacted, shall govern any plan or application for approval or permits under the Land Use and Development Code submitted on or after November 11, 2003, and any such plan or application submitted before that date, but which had not received at least one substantive review, within the meaning of §302, on or before that date, by the Town board or official having authority to grant any such permit or approved.

## **SECTION IV FORT HILL WATER MAIN EXTENSION IMPACT FEE<sup>7</sup>**

### **A. DESCRIPTION OF THE IMPROVEMENTS**

The Town plans to cooperate with the Portland Water District to install a sixteen (16) inch water main in the Fort Hill Road from Mercier Way to the intersection with the Huston Road, a distance of approximately 8,000 feet.

### **B. NEED FOR THE IMPROVEMENT**

Development in the Fort Hill corridor north of the current terminus of the water main has relied on groundwater supplies provided through private wells. These wells provide limited supplies. Periodically, there have been some issues with the quality of these groundwater supplies.

North of the current terminus of the water main, the Fire Department has access to only 2 all-season supplies in the Fort Hill area – the fire pond at the back side of the Fort Hill Farms development and a fire pond at the end of Long View Drive in the Martin Subdivision. These supplies leave much of the area between the terminus of the existing main and Huston Road, especially the area along Route 114, and to the west of Route 114, with almost no available supply of water for fire suppression.

Most of Gorham Village is served by public water including hydrants for fire protection water supplies. The “Village water system” is a branch of the Portland Water District with a single connection via a pump station located near Main Street in the vicinity of Libby Avenue. This results in the entire “Village water system” being a long dead end with only a single source of supply.

As a result of this configuration, fire flows and pressures within Gorham Village are limited. While these limitations have not presented serious problems in terms of providing fire protection to the existing development in Gorham Village, continued growth in and around the Village will tax the ability of the current system to provide adequate flows and pressure for fire protection.

The Portland Water District is planning to construct a new pumping station on the Huston Road. The long range plan of the District anticipates that this pump station will eventually be connected to Gorham Village through the construction of a water main in Fort Hill Road. The Water District proposes to install an oversized 16 inch main. This improvement, when and if it occurs, will provide public water service in the Fort Hill corridor from the terminus of the current main to the Huston Road intersection. This improvement will also provide a second source of supply for the “Village water system”. This interconnection will substantially improve fire flows and pressure in the portion of Gorham Village served by the existing water mains thereby providing capacity for new users in and around the Village. The planned resurfacing/reconstruction of the Fort Hill Road by the Maine Department of Transportation during 2004 combined with the Water District's funding constraints make it unlikely that this improvement would be undertaken in the near future even with the development pressures in the area and the limited fire protection water supplies in the Village.

The Town of Gorham proposes to work with the Portland Water District to accelerate the planned extension of the Fort Hill Road water main from its terminus in the vicinity of the Gordon Farm Subdivision northerly approximately 8,000 feet to the intersection with the Huston Road. This will enable the main to be installed in 2004 prior to the planned reconstruction of the Fort Hill Road. This will enable this main to be connected to the new Huston Road pumping station in the near future. Fire hydrants will be provided upon the length of the extension.

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<sup>7</sup> Section added June 1, 2004

C. ACTIVITIES SUBJECT TO THE FEE

Any development within the Fort Hill Water Main Extension Impact Fee Benefit District as shown on the map of said district dated April 26, 2004 on file with the Town Clerk shall be subject to the fee whether or not such use utilizes the Portland Water District system (see Fort Hill Water Main Extension Impact Fee Methodology dated April 27, 2004). This includes residential and nonresidential uses as well as additions to existing buildings that increase the water use of the property based upon design sewage flows from the Maine State Plumbing Code.

D. CALCULATION OF THE FEE

The base impact fee shall be \$650 per new single-family dwelling unit in Area A of the Benefit District and \$200 per new single-family dwelling unit in Area B as shown on the Fort Hill Water Main Extension Impact Fee Benefit District map dated April 26, 2004 (see Fort Hill Water Main Extension Impact Fee Methodology dated April 27, 2004). New nonresidential buildings and structures, other new residential uses, and expansions of existing buildings that increase their water use shall be charged an impact fee based upon their likely water use, or increase in water use for existing buildings, based upon the design sewage flows from the Maine State Plumbing Code and base fees of \$650 and \$200 per 300 gallons per day of design flow. The impact fee shall be set at \$650 for Area A and \$200 for Area B for development that is subject to the fee in Fiscal Year 2003-04 and 2004-05 and the fee adjusted by 3% per year to account for the potential rate of inflation. This adjustment results in the following schedule of impact fees per single-family home or 300 gallons per day of design sewage flow for all other uses:

Fiscal Year (7/1 to 6/30)	Area A	Area B
2003-04	\$650	\$200
2004-05	\$650	\$200
2005-06	\$670	\$206
2006-07	\$690	\$212
2007-08	\$710	\$219
2008-09	\$732	\$225
2009-10	\$754	\$232
2010-11	\$776	\$239
2011-12	\$799	\$246
2012-13	\$823	\$253
2013-14	\$848	\$261
2014-15	\$874	\$269
2015-16	\$900	\$277
2016-17	\$927	\$285
2017-18	\$955	\$294
2018-19	\$983	\$303

If the impact fee continues beyond 2018-19, the fee shall continue to increase at 3% per year.

E. EFFECTIVE DATES

Notwithstanding the provisions of 1 M.R.S.A. §302 or any other law, this ordinance, when enacted, shall apply to any project for which an application for a building permit under the Land Use and Development Code or other Town ordinance is submitted on or after June 1, 2004.

The Fort Hill Water Main Extension Impact Fee shall terminate when the Town has collected \$249,000 in impact fees under this provision.

