

CHAPTER 7 – IMPACT FEES

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CHAPTER 7 IMPACT FEES

SECTION 7-1 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
- 2) Recreational Facilities and Open Space Impact Fee
- 3) Fort Hill Water Main Extension Impact Fee

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.

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 within a twenty (20) year period for the specific impact fee account by the end of the calendar quarter shall be returned to the developer or its designee without interest.
- 3) If a developer paid an impact fee pursuant to this Chapter prior to the effective date of July 1, 2019, but would have been eligible for a waiver of the fee pursuant to Section 7-1.G.4 at the time of construction of the replacement dwelling unit, the developer may apply for a refund of the impact fee paid. Such application must be made in writing to the Director of Community Development within five years of the date of construction of the replacement dwelling unit, and must go to the Town Council for a formal vote following a public hearing. If approved, the refund of the impact fee shall be paid to the developer 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, or
- 4) The residential development activity will not result in a net addition of new dwelling units because the new dwelling unit will replace a demolished dwelling unit that was previously owned and occupied by the developer.

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 7-2 MIDDLE SCHOOL FACILITIES IMPACT FEE #1

A. DESCRIPTION OF THE IMPROVEMENT

In 2002, the Town of Gorham and the Gorham School Department identified the need to construct a new middle school to serve grades 6 through 8 and to replace the former Shaw School. The Shaw School was an older facility that was last expanded in the late 1970s and further expansion of the facility was not financially feasible. The facility had a capacity for 309 students based upon state space standards and was inadequate to meet projected enrollments. In October of 1991, there were 472 students in grades 6 through 8. From 1991 through 2002, middle school enrollment grew steadily. As of October 1, 2002, the Gorham School Department had 683 students in grades 6 through 8. Most of this growth was the result of net in-migration in the school system since the number of births to Gorham families remained relatively stable from 1987 - 2002. Much of the in-migration during that period was related to new housing rather than to turnover in the existing housing stock.

In 2003, the new Gorham Middle School was constructed with a capacity for 900 students, which was more than adequate to serve the enrollment growth projected at that time. Part of the capacity in the new middle school was intended to serve the students that lived in the existing housing stock of the community. The remaining capacity was intended to be available to accommodate middle school students who live in new housing units that have since been built or will be built in the future. Based upon an analysis of various development scenarios and enrollment projections, 600 of the 900-student capacity in the new middle school was needed to meet the needs of the residents of the Town's existing housing stock and the balance of 300 was the incremental capacity available to serve enrollment growth resulting from new residential development. This incremental capacity for 300 students in the new middle school and the share of the new middle school capacity that was available to accommodate students from new residential development were the "facilities" upon which the Middle School Facilities Impact Fee established in 2002 was based. The analysis of the establishment of that impact fee was detailed in the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002.

In anticipation of the new middle school construction project, the Town issued debt in 2002 in the amount of \$21,225,000, \$20,375,000 of which was for the purpose of constructing a new middle school. The Town began to pay debt service on the bonds in 2003 and will continue to pay debt service through 2022. The Town also began collecting fees under the Middle School Facilities Impact Fee Ordinance in 2002, but repealed the Middle School Facilities Impact Fee in 2009 due to growing concern regarding the increasing cost to develop new homes within the community and the impacts of the economic recession beginning in 2007. The total amount of Impact Fees collected between 2002 and 2009 was \$1,063,488.20. 100% of those Impact Fees were applied to the payment of the debt service on the bonds.

The middle school enrollment in the Town was at a peak in 2002 with 694 students and experienced a slight overall decline to a middle school enrollment of 618 by the year 2010. However, the trend in school enrollment in Town between 2002 and 2009 was relatively stable according to the School District's records. In 2015, the Town experienced a spike in school enrollment and current projections through 2029 show a continued increase in overall school enrollment within the Town. The middle school enrollment as of the current school year (2018-19) is 627 and is projected to reach 824 by the 2028-29 school year. In addition, the overall trend in increasing school enrollment since 2015 has required the School Department to shift resources in a way that has placed a greater burden on the new middle school than originally anticipated when the school was constructed. For example, the enrollment within the high school has increased from 783 students in 2002 to 868 students in the current school year (2018-19). In order to accommodate these

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additional students, the adult education and facilities management functions that were previously housed at the high school have been relocated to the middle school.

Since 2002, the Town has experienced the construction of 1,712 new units of residential development and such development in the Town of Gorham continues to trend in a positive direction. While there is still adequate capacity to serve the trend of increasing students at the middle school and to meet the projected capacity through at least 2029, the demonstrated trends of increasing residential development and increasing school enrollment necessitate the reenactment of this Ordinance.

B. ACTIVITIES SUBJECT TO THE FEE

Although housing development and the number of middle school students has fluctuated at times since 2002, there has been a consistent link between new residential development in Gorham and increasing school enrollment overall. The middle school has absorbed much of the impact of the increasing school enrollment within the Town and the debt service on the new facility continues to be paid from the Town's general fund. The Town seeks to offset the impact of the cost of the new middle school by imposing an impact fee on new residential development activity that has the potential to produce school aged children. Therefore, any residential development activity anywhere in Gorham that may potentially have 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.)

C. CALCULATION OF THE FEE

- 1) 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 and revised September 3, 2019. The Town Council of the Town of Gorham has determined that the methodology referenced herein establishes a fee that is reasonably related to the portion or percentage of the infrastructure (i.e., the middle school) that is made necessary by the new development to which this fee applies. * See Table of adopted fees on page 312C

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

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.

- 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 \$8,492 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.)

D. USE OF FEES COLLECTED

The Town adopted a Comprehensive Plan in 2016, which identified the Town's goal to establish a plan to finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development in the community. Among the policy objectives outlined in the 2016 Comprehensive Plan to meet that goal was the use of impact fees to minimize the cost to the taxpayers of providing expanded facilities to serve new development and to spread the costs of such improvements over the projects that benefit from them. In addition, a long range study conducted in 1999 identified the middle school as a priority project and the Capital Improvement Plan set forth in the 2016 Comprehensive Plan highlighted the completion of the priority projects identified in that study.

The impact fees collected under this Ordinance shall be deposited into a fund that is segregated from the Town's general revenues. Consistent with the goals identified in the 2016 Comprehensive Plan, impact fees collected under this Ordinance shall be expended for the sole purpose of paying debt service on the bonds issued to finance the construction of the Gorham Middle School in the amounts and for the time period associated with the debt service schedule of the bonds, plus a period of ten years beyond the expiration of debt service to account for the period of time during which this Ordinance was suspended and no impact fees were collected. Any impact fees collected under this Ordinance that exceed the Town's debt service payment on the bonds issued to finance the construction of the Gorham middle school shall be refunded on a prorated basis in the same manner as the fees are assessed under the Methodology referenced in Section D hereof.

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 October 3, 2019, 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.

ADOPTED FEES

Bedrooms Per Dwelling Unit	Single-Family, Manufactured Housing Unit, or Modular Home on a Lot
1 bedroom	0
2 bedrooms	\$424.60
3 bedrooms	\$1,273.80
4 bedrooms	\$1,273.80
5 or more bedrooms	\$1,698.40

Bedrooms Per Dwelling Unit	Apartment or Condo in Multi-Unit Building	Apartment or Condo in Two-Family Building	Mobile Home Manufactured Housing Unit in Mobile Home or Housing Park
1 bedroom	0	0	0
2 bedrooms	\$169.84 per unit	\$169.84 per unit	\$424.60 per unit
3 or more bedrooms	\$424.60 per unit	\$849.20 per unit	\$1,273.80 per unit

SECTION 7-3 RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE #2

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 and the Chick Property Master Plan approved by the Town Council.
- 2) Design and complete recreational facilities development at the Gorham Middle School.
- 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) Continue to plan and design for the Little Falls Recreation area to increase the number of playing fields and other recreational facilities and to begin developing those recreational facilities.
- 5) Prepare a plan for a multi-use trail network throughout the Town and begin development of those trails including acquisition of land or easements for trail.
- 6) Undertake a new recreational master plan for the Town of Gorham and to begin developing recreational facilities improvements outlined in the master plan.
- 7) Continue to plan, design, and build recreational facilities at Shaw and Robie Parks.
- 8) The open space portion of the impact fee will be used to acquire land, conservation easements and or/development rights, prepare a master plan which identifies properties for future conservation, 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, snow shoeing, biking, hunting, trapping 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.

The Town has 0.01069 acres of park and recreation land per capita as of June 2022. 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 911 acres of community open space or a ratio of 0.0497 acres of community open space per capita as of June 2022. The open space portion of the fee is designed to allow the Town to maintain this ratio as the Town's population grows.

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	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 \$801 (see Impact Fee Methodology dated July 13, 2022). The adjusted per capita open space facilities fee is \$179. Combining the two portions of the fee results in an impact fee of \$980 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	\$3,136
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A dwelling unit in a two-family or multi-family dwelling including attached condominium units with:

a. one bedroom	\$1,176
b. two bedrooms	\$1,960
c. three or more bedrooms	\$2,940

A dwelling unit in elderly or congregate housing	\$1,176
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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 \$980 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.

- 4) The recreational impact fee is due at the time of payment for the building permit where the dwelling units are located.

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 April 4, 2023, 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 7-4 FORT HILL WATER MAIN EXTENSION IMPACT FEE

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.

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.