

**IMPACT FEE ORDINANCE
For the
Town of Hinesburg, Vermont**

October 5, 2009

HINESBURG IMPACT FEE ORDINANCE

Section 1. Authority.

This ordinance is enacted pursuant to the specific authority granted to municipalities to establish impact fees contained in 24 V.S.A., Chapter 131. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

Section 2. Purpose.

It is the purpose of this ordinance to establish impact fees to pay portions of the cost of constructing capital facilities for new development in the Town of Hinesburg that will be served by such facilities. To the extent that new capital facilities are necessitated by new development and such facilities benefit the new development, it is appropriate that the new residents and owners bear an appropriate portion of the costs of constructing the new facilities.

Section 3. Establishment of Fees.

A. Fire Protection Fee: Except as provided in Section 8 of this ordinance, any land development as described in subparagraph (1) which is issued a permit under the Town of Hinesburg Zoning Regulations after the date this Impact Fee Ordinance provision becomes effective shall pay a Fire Protection Impact Fee determined in accordance with the formula set forth in subparagraph (2).

(1) This impact fee shall apply to any land development that results in an increase in total value of property at risk in the Town (including structures and contents), as described in the report entitled "TOWN OF HINESBURG: FIRE PROTECTION IMPACT FEE ANALYSIS" (The Fire Fee Report) prepared by Michael J. Munson, Ph.D., FAICP, and dated August 12, 2009, which is incorporated into this ordinance by reference

(2) Formulae for determination of Fire Protection Impact fees: For all structures, the base fire protection impact fee shall be \$3.20 per \$1,000 estimated value at risk, including the value of all proposed structures and contents. Estimates of structure value, contents value, raw land value, and total post-construction assessed value shall be developed according to the procedures set forth in the Fire Fee Report

(a) For residential development the base fire protection fee shall be computed as described in Section V-A of the Fire Fee Report. From the base fee shall be deducted credits as described in Section VI-A of the Fire Fee Report. This shall yield the net fire protection fee per dwelling unit. If applicable, special credits, as described in Section VII of the Fire Fee Report shall also be deducted.

(b) For non-residential development the base fire protection fee shall be computed as described in Section V-B of the Fire Fee Report. From the base fee shall be deducted credits as described in Section VI-B of the Fire Fee Report. This shall yield the net fire protection impact fee for the proposed development. Where applicable, special credits, as described in Section VII of the Fire Fee Report, shall also be deducted.

(3) Impact fees collected pursuant to this ordinance provision shall be used to pay costs associated with the following fire protection improvement projects which are described in the Fire Fee Report:

- (a) Expansion of the Fire Station
- (b) Acquisition of Aerial ladder Truck

(4) A credit of up to ten percent of the base impact fee may be awarded to non-residential developments that include installation of a sprinkler system designed to meet the guidelines of the Insurance Rating Organization with no more than 25 deficiency points.

B. Police Protection Fee: Except as provided in Section 8 of this ordinance, any land development as described in subparagraph (1) which is issued a permit under the Town of Hinesburg Zoning Regulations after the date this Impact Fee Ordinance provision becomes effective shall pay a Police Protection Impact Fee determined in accordance with the formula set forth in subparagraph (2).

(1) This impact fee shall apply to any land development that results in additional residential dwelling units in the Town or any additional floor area of non-residential building space in the Town. The fee shall be calculated as described in the report entitled "TOWN OF HINESBURG: POLICE PROTECTION IMPACT FEE ANALYSIS" (The Police Fee Report) prepared by Michael J. Munson, Ph.D., FAICP, and dated August 20, 2009, which is incorporated into this ordinance by reference.

(2) Formulae for Determination of Police Protection Impact Fees.

(a) For residential development, the base police fee for each proposed dwelling unit shall reflect the base cost of \$156.45 per expected resident. The base fee per dwelling shall be as shown in Table PP-2 of the Police Fee Report. From the base fee shall be deducted credits as described in Section III-A of the Police Fee Report. This shall yield the net police fee for each proposed dwelling.

(b) For non-residential development, the base fee shall reflect the base cost of \$223.50 per 1,000 square feet of proposed building space, as described in Section II-B of the Police Fee Report. From the base fee shall be deducted credits as described in Section III-B of the Police Fee Report. This shall yield the net police protection impact fee for the proposed development.

(3) Impact fees collected pursuant to this ordinance provision shall be used to pay costs associated with the construction of a new police station facility as described in the Police Fee Report.

- C. Reserved.
- D. Reserved.
- E. Reserved.

Section 4. Payment of Fees

Impact fees levied under this ordinance shall be paid to the Town Treasurer prior to the issuance of any permits under the Hinesburg Zoning Regulations for the construction of any development subject to the payment of impact fees. The Zoning Administrator shall not issue any zoning permit for the construction of such developments without first receiving proof of payment of the required impact fees from the Treasurer.

Section 5. Accounting and Register of Payment.

- A. Impact fees collected pursuant to this Ordinance shall be placed by the Treasurer in separate interest bearing accounts for each type of impact fee established.
- B. The Treasurer shall maintain a register for each account indicating the date of payment of each fee, the amount paid, and the name of the payer.
- C. The Treasurer shall prepare an annual accounting of all fees paid into and withdrawn from each account, showing the source and amounts collected, and the amounts expended and the projects for which such expenditures were made.

Section 6. Refunds.

- A. If the actual expense to the Town of a project to be funded at least in part by impact fees is less than the fees collected or to be collected, the Town shall refund to the then owner of the property for which the fee was paid, that portion of any impact fee, with accrued interest, which is in excess of the appropriate amount due to the Town. The Town shall provide this refund within one year of the date it completes or terminates construction of the project.
- B. If the Town reduces the amount of an impact fee after some fees have been collected, the Town shall refund to the then owner of the property for which a fee was paid, that portion of any impact fee, with accrued interest, which is in excess of the appropriate amount due to the Town. The Town shall provide this refund within one year of the date it reduces the impact fee.
- C. If the Town does not expend an impact fee within six years of the date it is paid, the then owner of the property for which the fee was paid may apply for and receive a refund of the fee, provided the request for refund is filed within one year of the expiration of the six year time period.
- D. A person who pays an impact fee established under this ordinance and subsequently abandons the project (allows the zoning permit to expire) without commencing construction of the land development on which the impact fee was based, may request and receive from the Town a refund of the impact fee in full. Any accrued interest shall be retained by the Town to offset administrative costs. A person who receives a refund under this provision shall not commence construction of the land development for which the refund was made without repaying the required impact fees.

Section 7. Expenditure Restrictions.

A. All impact fees collected pursuant to this ordinance, and accrued interest, shall be expended only for the specifically identified projects which were the basis for the fees. Such fees and accrued interest shall be expended within six years of the date they are received by the Treasurer.

B. The Treasurer shall pay, from the appropriate account, expenses associated with the designated projects as they become due and upon receipt of appropriate documentation regarding such expense.

C. The Treasurer shall reimburse the Hinesburg School District for expenditures associated with School District projects funded by education impact fees, upon receipt of appropriate documentation.

Section 8. Exemptions:

In accordance with the provisions of 24 V.S.A., Section 5205, The Select Board may waive all or part of the impact fees levied under this ordinance for developments which advance policies or objectives clearly stated in the current Hinesburg Municipal Plan. This may include, but is not limited to, affordable housing developments, municipal facilities for which needs are identified in the Municipal Plan, or school facilities for which needs are identified in the Municipal Plan. Before granting any request for such exemptions or waivers, the Selectboard shall warn and conduct a public hearing on the matter.

Section 9. Credits for "In-Kind" Contributions.

A. "In-Kind" contribution shall mean provision, by a person subject to payment of an impact fee, of land or equipment or construction of facilities that are included in the impact fee analyses and computations, and which are included in or consistent with the Town's Comprehensive Plan.

B. Upon recommendation of the Development Review Board, the Selectboard may approve a credit against any impact fee levied under this ordinance for the value of "In-Kind" contributions. The amount of credit for an "In-Kind" contribution shall be based on the actual cost to the person requesting the credit of providing or creating the facilities. The Development Review Board shall indicate the basis on which the amount of credit is determined. The amount of credit for an "In-Kind" contribution shall not exceed the total amount of the impact fee for that type of facility which would otherwise be levied on the proposed development.

Section 10. Appeals.

An individual or entity required to pay an impact fee under this ordinance may challenge the imposition of such fee, or the amount of the fee, by filing a written notice of appeal with the Town Clerk, which appeal shall not be filed later than thirty days after payment of the impact fee. Said notice of appeal shall state the basis of the appellant's challenge to the fee. Within sixty days of the filing of a notice of appeal, the Selectboard shall hold a public hearing to receive oral and written evidence and argument from the appellant and Town representatives. Within forty-

five days after the conclusion of the hearing, the Selectboard shall notify the appellant of its decision in writing.

Section 11. Enforcement.

A. Any individual or entity who undertakes land development in the Town of Hinesburg without first paying a required impact fee imposed pursuant to this ordinance shall be subject to a civil penalty of up to five hundred dollars per day for each day that such land development continues without payment of said fee. The Administrative Officer shall be authorized to act as the issuing municipal official to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint. The Administrative Officer is authorized to recover a waiver fee of not less than \$50 and not more than \$150 for each violation and a civil penalty of not less than \$100 and not more than \$500 for each violation.

B. In addition to the enforcement procedures set forth above, the Administrative Officer is authorized to commence a civil action to obtain injunctive and other appropriate relief

Section 12. Severability.

In the event any provision of this ordinance is for any reason invalid, such invalidity shall not affect the remaining provisions which can be given effect without the invalid provision.

Adopted this ____ day of _____, 2009.

Town of Hinesburg Selectboard

Jonathan S. Trefry, Chair

Kenneth Brown

Andrea Morgante

Howard E. Russell

Randall C. Volk

Received and recorded this ____ day of ____, 2009

Melissa Ross, Town Clerk