

ARTICLE XV Community Facilities Impact Analysis - Draft

15.1. Purpose of Program

The Town of Berwick finds that new development places demands on municipal government to provide new services and expand and improve public facilities. In order to provide an equitable source of funding for these new services and facilities, the Town of Berwick has established a municipal infrastructure facilities improvement program. Under this program, persons or entities will be charged for an amount of the costs for creating and maintaining infrastructure, facilities, and other improvements in proportion to the degree said persons are responsible for the need for such infrastructure, facilities and improvements.

15.2 Authority

This section of the Berwick Land Use Ordinance is adopted pursuant to 30-A M.R.S. § 4354 *et seq.*

15.3 Use of Impact Fees

A. Impact fees may only be used for financing infrastructure facilities improvements needed due to demand caused by new growth.

B. Impact fees may not be used for any of the following

1. Operations and maintenance costs, such as but not limited to paying salaries, day-to-day operational costs or replacement of existing equipment,
2. The costs to improve infrastructure facilities to meet existing deficiencies, such as but not limited to relieving existing congestion or overcrowding

15.4 Applicability

A. The Code Enforcement Officer shall require the applicant for a Building Permit to participate in the municipal infrastructure facilities improvement program and pay a development impact fee at the rate currently in effect. The total impact fee shall be paid separately from any other fees required by this Ordinance and shall be paid at the time the Occupancy Permit is issued

B. The Board of Selectmen shall establish the initial impact fee schedule and shall review and revise, if necessary the impact fee schedule at least annually to reflect changes in planned improvements current budget levels and compliance with the Town of Berwick Comprehensive Plan and the Town's Capital Improvement Program. Prior to the establishment or revision of the impact fee schedule, the Board of Selectmen shall hold two public hearings on the proposed fee schedule. Notice of the public hearings shall be published in a newspaper of general circulation within the Town at least twice. The first notice shall be published no more than thirty (30) days in advance of the hearings and the second no less than seven (7) days in advance of the hearings.

C. The impact fee schedule shall indicate the improvements to be financed, the anticipated schedule for construction, and the characteristic of new development by which the fee shall be

calculated (e.g., a fixed rate multiplied by the number of bedrooms, a per unit per square foot, amount of traffic generated, etc.

D. The amount of the fee shall be reasonably related to the development's share of the cost of the infrastructure facilities improvements made necessary by the development or, if the improvements were previously constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the improvement used by the development.

15.5 Segregation of Impact Fees from General Fund

A. The Code Enforcement Officer shall record the name of the individual paying the impact fee. The Tax Assessor's map and lot numbers for the property for which the impact fee is being paid, the amount of the fee paid for the facility for which fees are collected, and the date the impact fee was paid.

B. Upon collection of an impact fee, the Code Enforcement Officer shall transfer the funds to the Municipal Treasurer who shall deposit the impact fee in special non lapsing accounts dedicated for funding the improvements for which the fee is collected.

C. Impact fee funds shall be maintained separately from and shall not be combined with other municipal revenues.

D. Funds collected as impact fees shall be expended only for the infrastructure improvement for which the fee was collected.

15.6 Refund of Impact Fees

The Town shall refund any Impact fees (or portion thereof) that exceed the Town's actual costs or which have not been expended within ten (10) years of the date they were first collected.

The Board of Selectmen shall establish the procedure for refunding such impact fees. Unexpended fees shall be returned to the owner of record at the time a refund is issued, regardless of when said impact fees were received.