

Town of Brunswick, Maine
Impact Fee Ordinance
Adopted by Town Council on March 16, 2020
Effective on April 15, 2020

Chapter 20 – IMPACT FEES

ARTICLE I – GENERAL PROVISIONS

Sec. 20-101. Title.

This chapter shall be known and cited as the Impact Fee Ordinance of the Town of Brunswick, Maine (“Impact Fee Ordinance”).

Sec. 20-102. Authority.

The Town adopts this ordinance pursuant to the Charter of the Town of Brunswick, Maine and the authority granted in 30-A M.R.S.A §3001 and §4354.

Sec. 20-103. Purpose.

- a. The purpose of this ordinance is to ensure that new development or activities in the Town of Brunswick will bear a proportional or reasonably related share of the cost of new, expanded, or modified improvements necessary to service the needs resulting from the new development or activity. New development or activities may be required to contribute to the cost of improvements through either:
 1. the payment of impact fees, or
 2. the construction or acquisition of the improvements.
- b. Nothing in this ordinance may be construed to prohibit the Town, acting pursuant to the appropriate authority and finding that a proposed development or activity results in the need for a capital improvement(s), from requiring an applicant or property owner to construct or acquire the capital improvement(s).

Sec. 20-104. Definitions.

Unless otherwise defined herein, the terms used in this ordinance shall have the same meaning as defined in the Zoning Ordinance of the Town of Brunswick (“Zoning Ordinance”).

- a. Capital Improvement - is a developed, constructed, or acquired capital asset having a useful life greater than one year and a cost exceeding \$5,000. It includes items that are part of a larger network or system that when purchased individually may have a cost of less than \$5,000. The term shall be broadly interpreted but shall not include costs of routine maintenance or operational activities. The following costs may be included in the cost of the capital improvement:

1. Acquisition of the capital improvement or any portion thereof,
 2. Acquisition of land, easements, or buildings,
 3. The cost of developing and constructing the improvement including, without limitation, demolition costs, clearing and grading, mitigation costs, property assembly costs, relocation costs, and the cost of any required infrastructure, equipment, and fixtures.
 4. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement,
 5. Legal and administrative costs associated with the development, construction, or acquisition of the improvement,
 6. Other costs determined by the licensing or permitting authority, the town manager or the town's finance director to be directly related to the capital improvement or portion thereof,
 7. Debt service costs, to include principal, construction period interest, short-term interest, and long-term interest.
- b. Debt Service – is the repayment of principal and interest on funds borrowed to finance the capital improvement or portions thereof. It shall also include the cost of repaying the principal and interest of any advances, or internal borrowing or financing.
- c. Licensing or Permitting Authority – is the person, board, commission, or agency authorized by law, policy, or other authority, to issue a license or permit related to any activity that requires a license or permit. It includes, but is not limited to, the town council, planning board, and codes enforcement officer(s).

Sec. 20-105. Applicability.

- a. Any activity, development, construction, or change of use shall be subject to one or more of the fees as further described in this Impact Fee Ordinance.
- b. The impact fee levied shall be based on the fee in effect at the time an application is deemed complete by licensing or permitting authority.

Sec. 20-106. Calculation of Impact Fees.

- a. Impact fees shall be calculated in accordance with the formula(s) prescribed in this ordinance.
- b. Credit for Existing Use – In fee on an expansion of an existing activity or use, shall be calculated only on the expansion.
- c. Credits for Change of Use - In calculating the fee for changes of use, credit shall be given for the fee that would have been charged had the existing use been charged a fee. If the credit is greater than the calculated fee for the new use, no impact fee will be levied. Credits are not transferable to other properties in the same ownership as the applicant for the change of use. No credit shall be given for uses which have been discontinued for longer than one (1) year.
- d. Other Credits – Impact fees are levied to provide the capacity to serve new developments or activities. Credits may be given when the applicant demonstrates that the applicant has independently provided for the capacity associated with the fee, but only when the

applicant demonstrates, to the satisfaction of the licensing or permitting authority, that the applicant has a binding and non-revocable agreement for the capacity equal to the service capacity and life expectancy of the improvement that would be financed by the impact fee.

Sec. 20-107. Assessment of Fees.

- a. Applicant or Owner. Impact fees, as required by this ordinance, shall be assessed to the license or permit applicant or to the owner of the property at the time a license or permit application is deemed complete by the licensing or permitting authority.

Sec. 20-108. Payment of Impact Fees.

The required impact fee(s) shall be paid to the Town of Brunswick at the office of the treasurer. The impact fee shall be paid prior to the issuance of any building, plumbing, or any other license or permit required for the activity subject to the fee.

Sec. 20-109. Impact Fee Accounts

All impact fees collected under the provisions of this ordinance shall be segregated and accounted for in separate impact fee accounts designated for the particular capital improvements.

Sec. 20-110. Use of Impact Fees

Impact fees collected under this ordinance shall only be used to pay for the capital improvement, or the debt service related to those improvements, specifically associated with the fee as further described in this chapter. No portion of the fee shall be used for routine maintenance or operational activities.

Sec. 20-111. Refund of Impact Fees

Impact fees collected in accordance with this ordinance shall be refunded in the following cases:

- a. If the license, building, or other permit, is surrendered or lapses without commencement of construction, the permit holder or developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the Town within ninety (90) days of the lapse or the expiration of the permit.
- b. Any fees collected that are not spent or obligated by contract for the specified acquisitions or improvements within ten (10) years from the date the fee was paid shall be returned to the current owner of the property for which the fee was paid.

Sec. 20-112. Modification of Impact Fees

The licensing or permitting authority may waive the payment of a required impact fee, in whole or in part, if it finds that:

- a. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct the improvement for which the impact fee would be collected, or an equivalent improvement duly approved by the Town and for which a performance guarantee equal to 125 % of the estimated cost, as determined by the

Town, is provided in a form satisfactory to the Town. The performance guarantee shall be adjusted annually to account for construction inflation and to reflect portions of the project that are completed, and to reflect a new estimate of the cost remaining to complete the improvement. Unless an extension is approved by the Town Manager, all improvements must be completed within ten (10) years.

- b. The developer or property owner 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 improvements to be funded by the impact fee.

Sec. 20-113. Review and Revision of Impact Fees

The Town shall periodically review each impact fee established under this ordinance. If the Town 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 Town may consider changes in the impact fee. Any changes adopted by the Town 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.

Sec. 20-114. Severability

Should any section or provision of this ordinance be determined in court to be unconstitutional, invalid, or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or the remainder of the ordinance as a whole.

ARTICLE II - RECREATION IMPACT FEES

Sec. 20-201. General Standard

As required by the Zoning Ordinance of the Town of Brunswick, new dwelling units shall pay a recreation facilities impact fee or reserve land for recreational use to avoid the creation of additional burdens on the Town's ability to provide recreational services.

ARTICLE III – SOLID WASTE IMPACT FEES

Sec. 20-301. General Standard

The Town of Brunswick is currently collecting a solid waste impact fee from applicants to be used for capital improvements already constructed at the Graham Road Landfill. The Landfill is currently scheduled to be closed beginning in May of 2021 and as a result, the assessment of the Solid Waste Impact Fee shall end on May 1, 2020.

ARTICLE IV – COOK'S CORNER TRANSPORTATION CORRIDOR ROADWAY IMPACT FEE

Sec. 20-401. General Standard

This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval when the proposed development, whether located within or outside the Cook's Corner Transportation Corridor, generates additional traffic to the Cook's Corner District. For the purposes of this ordinance the Cook's Corner Transportation Corridor shall be defined as:

- Bath Road from Merrymeeting Plaza to Medical Center Drive
- Gurnet Road from Bath Road to Landing Drive

Sec. 20-402. Specific Standards

Any person who seeks a permit or approval for any development, activity or use described in Section 20-401 of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.

The following development and construction shall be exempt from this ordinance:

- a. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
- b. Construction of accessory buildings or structures which do not generate additional vehicle trips.
- c. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster, with a new building or structure of the same size or use which does not generate additional vehicle trips.

Preliminary determinations regarding whether a proposed development will generate traffic within Cook's Corner shall be made by the town engineer. Actual traffic generation, impacts, and the corresponding fee shall be determined through a traffic analysis (in accordance with Section 20-

403 of this ordinance), which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Licensed Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the town engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning Department when applicable.

Sec. 20-403. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Brunswick that generate additional traffic within the Cook's Corner Transportation Corridor. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development. The process for this impact fee calculation is as follows:

- a. As per Section 20-402 above, a traffic analysis shall be conducted by a Licensed Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that passes through the Cook's Corner Transportation Corridor in the P.M. peak commuter hour.
- b. The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers "Trip Generation" Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).
- c. The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the Cook's Corner Transportation Corridor within the P.M. peak commuter hour. All new trips that pass through the Corridor, regardless of whether they pass through the Cook's Corner Transportation Corridor, shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.
- d. The fee determination shall be based on the following:
 1. For any development requiring subdivision review, site plan review or other Planning Board review, the Town engineer shall determine the total impact fee for the development calculated pursuant this Article, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Brunswick Zoning Ordinance), a unit of occupancy (as defined in the Brunswick Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

2. For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule.
3. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Proposed to Town Council: February 18, 2020

Public Hearing: March 16, 2020

Adopted by Town Council: March 16, 2020