



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Heather Shank, City Planner
DATE: December 27, 2016
SUBJECT: Ordinance Amending the CODE OF ORDINANCES, Title IV, Zoning Code;
Chapter 29.2, Public Capital Facilities Impact Fees Ordinance; Article 29.2-1-2,
Assessment and Collection

Recommendation

Accept this report and set the proposed amendment for a public hearing.

Background

The purpose of the amendment is allow impact fees to be paid prior to issuance of a certificate of occupancy, instead of requiring them prior to issuance of a building permit.

RSA 674:21(d) sets forth requirements for the assessment and collection of impact fees. The statute states as follows:

All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

In accordance with this statute, the City of Concord's impact fee ordinance requires the Planning Board *to assess* impacts fees prior to the time of a building permit, or if no building permit is required, at the time of approval of the new development by the applicable city board or administrative official, or if no approval is required, the time of the initial use or occupancy of the new development.

However, the impact fee ordinance also requires an applicant *to pay* impact fees prior to issuance of a building permit. As a result, the cost to begin construction is higher than it would be if impact fees were paid at a later stage in the development process.

Staff recommends amending the ordinance to require the collection of impact fees prior to the issuance of a certificate of occupancy, when funds may be more readily available from the sale of units and/or securing contracts with tenants. Amending the ordinance to allow payment prior to issuance of a certificate of occupancy would reduce the funds needed by the applicant to begin construction. Importantly, amending the ordinance as recommended will also make the City's ordinance consistent with RSA 674:21, V,(d), which states that impact fees shall be collected at the time a certificate of occupancy is issued.

The impact fee ordinance also currently allows a financial surety to be required between the date of assessment and the date of payment (if later than the date of the issuance of the building permit). This provision makes sense while impact fees are due prior to the building permit stage, as it allows leeway for applicants who may have a financial hardship or other extenuating circumstance. However, in light of the extended deadline which would require the payment of impact fees at the certificate of occupancy stage, Staff recommends removing this provision.

It should be noted that the impact fee ordinance would still allow a mutually acceptable schedule of payment to be established by the Planning Board at the time of subdivision plat or site plan review. It is anticipated that such a schedule would be infrequently allowed.

Discussion

The changes are anticipated to make it financially easier to develop in Concord.