

CITY OF CONCORD

In the year of our Lord two thousand and seventeen

AN ORDINANCE amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 29.2, Public Capital Facilities Impact Fees Ordinance.

The City of Concord ordains as follows:

SECTION I: Amend 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; by amending section (a)(2), Assessment of Impact Fees, as follows:

(a) *Assessment of Impact Fees.*

- (1) Any person or entity, which seeks to undertake new development within the City of Concord, shall pay impact fees to the City in the manner and in the amounts set forth in this ordinance.
- (2) ~~[A building permit shall not be issued for any new development and no]~~ **No** new development shall be used or occupied by any party unless and until the applicable impact fees have been paid.
- (3) Impact fees shall be assessed by the Clerk prior to the issuance of a building permit for new development that requires a building permit. If no building permit is required for the new development to proceed, impact fees shall be assessed by the Clerk at the time of the 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.

SECTION II: Amend 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; by deleting in its entirety paragraph (c), Sureties For Payment as follows:

~~{(c) *Sureties for Payment.* Between the date of the assessment of an impact fee by the Clerk of the Planning Board and the date of payment (if later than the date of the issuance of the building permit), the applicant shall post a bond, letter of credit, or other guaranty of payment satisfactory to the City Solicitor to assure that the impact fees will be paid when due. In lieu of providing such security, applicant may, at any time, prepay the impact fees assessed with respect to new development. However, in such cases, the time periods set forth in Section 29.2-1-3(c), Use of Funds, will not be deemed to begin to run until the applicant has been issued a building permit for the respective portions of the new~~

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~~development, or if the new use does not require a building permit, the applicant has commenced the new use of the new development.~~

SECTION III: Amend 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; by relettering and modifying paragraph (d), and relettering paragraphs (e) and (f) as follows:

~~[(d)](c)~~ ***Payment of Impact Fees.*** The applicant shall pay the impact fees required by this ordinance to the City of Concord prior to the issuance of a ~~[building permit]~~ ***certificate of occupancy*** for new development, ~~[that requires a building permit]~~ or prior to the use and occupancy of new development that does not require a ~~[building permit]~~ ***certificate of occupancy***. Where new development consists of discrete parts that individually contribute to the need for impact fees (e.g., multi-lot subdivision), the impact fees shall be paid on an allocable basis at the time of the issuance of the ~~[building permit]~~ ***certificate of occupancy*** with respect to, or the use and occupancy of, each portion of the new development. ~~[However, the Clerk may require the impact fees to be paid in advance of that date of the building permit or use of the new development for any reason set forth in RSA 674:21, V.]~~ ***An alternate, mutually acceptable schedule of payment may be established by the Planning Board at the time of subdivision plat or site plan approval.***

~~[(e)](d)~~ ***Credits Against Payment of Impact Fees.***

- (1) Applicants shall not receive a credit against impact fees for site-related improvements.
- (2) An applicant may request a credit against all or a portion of transportation facilities impact fee otherwise due or to become due with respect to a project or development by offering to construct or dedicate non-site-related improvements to the City. The applicant must specifically request a transportation facilities impact fee credit prior to the Planning Board public hearing associated with the application. The construction of such improvements must be in accordance with City or state design standards, whichever are applicable. The issuance of a credit shall be at the discretion of the Clerk and shall be determined and provided in the following manner:
 - a. The proposed right-of-way or other real property dedication and the proposed non-site-related improvements must be part of the City's approved Capital Improvement Program.

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- b. Credits for the dedication of non-site-related rights-of-way or other real property to the City shall be valued at the equalized assessed value of the dedicated property for real estate tax purposes, or, at the option of the applicant, at the fair market value of the dedicated property established by real estate appraisals completed by a licensed New Hampshire real estate appraiser acceptable to the City. Credit for the dedication of non-site-related rights of way shall be provided when the property has been conveyed at no charge to the City, and accepted by the Planning Board and, when necessary, the City Council.
 - c. Credits for non-site-related improvements shall equal the cost to design and construct the improvements. Applicants for credit for design and construction of non-site-related improvements shall prepare and submit acceptable engineering drawings and specifications, and construction cost estimates to the Clerk.
 - d. The Clerk shall consult with the City Engineer regarding the acceptability of the documentation. The Clerk shall consider the engineering drawings and specifications and construction cost estimates submitted by the applicant. The Clerk may require the applicant to submit additional or different documentation for consideration.
 - e. If acceptable documentation is submitted, the Clerk may grant the applicant a credit up to the total value of right-of-way dedications or actual costs of the non-site-related improvements as determined in this ordinance. If the applicant fails to submit acceptable documentation to the Clerk, the applicant shall pay the transportation facilities impact fee set forth in Sections 29.2-1-3(b) and 29.2-1-3(c).
 - f. All costs incurred by the City to review the applicant's documentation (including the cost to hire an outside consultant to review the documentation) shall be paid by the applicant in advance.
- (3) An applicant may, likewise, apply for a credit against all or a portion of the school facilities or recreational facilities impact fees by dedicating land or constructing improvements for such purposes after approval by the Clerk following the same procedures as is set forth in subsection (2), above, with respect to transportation facilities impact fee credits.
- (4) Where new development is part of a project for which the applicant has already paid an impact fee, exaction, or other assessment with respect to the cost of providing public facilities capital improvements prior to the adoption of this ordinance, the Clerk shall provide the applicant with a credit against the impact fees owed with respect to each

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class of public facilities capital improvements. The credits shall equal the pro rata value of such prior to credits for impact fees, exactions or other assessments for such specific class of public facilities capital improvements that is applicable to the portion of the project or development in question. Credit shall not be given for the cost of site-related improvements.

- (5) Credits against impact fees for one type of public capital facility (e.g., school, transportation, or recreation) shall not exceed the amount of the impact fees paid or payable by the applicant with respect to that type of public capital facility. Credits shall not be transferable from one project or development to another.
- (6) Credits against the impact fee assessed with respect to one type of public capital facility (e.g., school, transportation, or recreation) shall not be applied against the impact fee owed by the applicant with respect to another type of public capital facility.
- (7) If an applicant cannot agree with the Clerk as to the proper credit to be given against impact fees, the applicant may request a hearing before the Planning Board on the determination of the proper credit. The Planning Board's decision on the amount of the credit shall be final.

~~(f)~~(e) *Waivers.*

- (1) An applicant may apply for a waiver of all or part of the impact fees that are payable with respect to new development or redevelopment, as provided in this Section. The applicant must request a waiver prior to the date of the determination of the impact fee by the Clerk.
- (2) An applicant may request from the Clerk a full or partial waiver of the school facilities impact fee for new development of Senior Housing. The applicant shall provide the Clerk with a draft of age restricted covenants or binding federal housing program agreements at the time of the application for the waiver. Only the percentage of age restricted dwelling units, as set forth in the covenant or federal agreement, may be eligible for a full or partial waiver of the school facilities impact fee. Covenants accepted by the City shall be recorded prior to issuance of any building permits for the development. Any change in use, from Senior Housing to any other residential use without an age restriction, will result in revocation of the waiver. The owner of the property on the date of the change in use shall be required to pay the school facilities impact fee in effect at the time of the change in use, whether or not Planning Board approval is required for the change in use.

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- (3) Waiver for the development of market rate housing within the Central Business Performance (CBP) District.
 - a. An applicant may request a waiver of the transportation facilities impact fees and the school facilities impact fees for the development of market-rate housing from a permitted residential or nonresidential use, as set forth in Article 28-2-4(j), Table of Principal Uses, within existing buildings in the Central Business Performance (CBP) District.
 - b. This waiver also applies to the development of market rate housing from permitted uses established by special exception under the provisions of Article 28-9-3(b), Special Exception, and previously permitted but lapsed uses.
 - c. This waiver does not apply to any new construction or building addition.
- (4) If an applicant cannot agree with the Clerk regarding the qualification of new development or redevelopment for an impact fee waiver or regarding the amount of a waiver, the applicant may request a hearing before the Planning Board on determination of the qualification for and amount of a waiver. The Planning Board's decision on qualification for and amount of a waiver shall be final.

SECTION IV: This ordinance shall take effect upon its passage.

Explanation: Matter added to the current ordinance appears in ***bold italics***.
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].