

Town of Brunswick

Ordinance Relating to Impact Fees

CHAPTER EIGHT: IMPACT FEES

801 PURPOSE

The purpose of these impact fee provisions is to ensure that new development in Brunswick will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the needs of the development through:

- 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or
- 2) the construction of appropriate improvements as provided for herein.

802 AUTHORITY

The Town under the authority of 30A M.R.S.A §4354 and its statutory and constitutional home rule provisions adopts these impact fee provisions.

803 PAYMENT OF IMPACT FEES

The impact fees provided for under this chapter shall be determined in accordance with the provisions for the calculation of each impact fee as established by the Town Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid in conjunction with any project, the amount of the fee shall be determined by the Planning Board, with the recommendation of the Town Planner, based upon the fee calculation methodology. Impact fees may be reduced in whole or in part by the Planning Board as specified in section 807. The Open Space impact fee may be reduced in whole or in part by the Conservation Commission. The impact fee shall be paid to the Town of Brunswick in care of the Code Enforcement Officer. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the project subject to the fee.

804 IMPACT FEE ACCOUNTS

All impact fees collected under the provisions of this chapter shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

- 1) Recreational Facilities Impact Fee Account
- 2) Open Space Impact Fee Account

805 USE OF IMPACT FEES

Impact fees collected under the provisions of this chapter shall only be used to pay for the capital cost of the infrastructure improvements specifically associated with the fee as described below. No portion of the fee shall be used for routine maintenance or operation

activities. The following costs may be included in the capital cost of the infrastructure improvement:

- 1) Acquisition of land or easements including conservation easements,
- 2) Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement,
- 3) The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment,
- 4) Mitigation costs,
- 5) Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
- 6) Debt service costs including interest if the Town borrows for the construction of the improvement,
- 7) Relocation costs, and
- 8) Additional costs that are directly related to the project.

806 REFUND OF IMPACT FEES

Impact fees shall be refunded in the following cases:

- 1) If the 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 Manager and shall occur within ninety (90) days of the lapse or the expiration of the permit.
- 2) Any fees collected that are not spent or obligated by contract for the specified improvements by the end of the calendar quarter immediately following 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 together with interest calculated at three (3) percent per year from the date of the payment of the fee.

807 MODIFICATION OF IMPACT FEES

A. The Planning Board may by formal vote waive the payment of a required impact fee, in whole or in part, if it finds that:

- 1) 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 approved by the Planning Board, or
- 2) 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 improvement to be funded by the impact fee.

B. The Conservation Commission may by formal vote waive the payment of a required impact fee, in whole or in part, if it finds that:

- 1) 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 approved by the Conservation Commission, or
- 2) 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 improvement to be funded by the impact fee.

C. Standards for recreation facilities and open space impact fee credits are stated in section 519.2.

808 REVIEW AND REVISION

The Town Council shall periodically review each impact fee established under this chapter. If the Council 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 Council may adopt changes in the impact fee. Any changes adopted 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.

809 RECREATION IMPACT FEE

[Note: The section of this ordinance specific to a Recreation Impact Fee has been omitted for the purposes of this document. Full text can be found at:

<http://www.brunswickme.org/planning/index.htm>.]

810 OPEN SPACE IMPACT FEE

810.1 Description of the Improvements

The Town is planning to expand the publicly owned open space in the community to serve the needs of a growing population. The Town will use the revenue generated from the open space impact fee to acquire and improve conservation land to expand the supply of open space available for community use as set forth in the Parks, Recreation, and Open Space Plan and other studies of priorities for open space preservation.

810.2 Need for the Improvements

The need for publicly owned open space is a function of the size of the community's population and the supply of private open space. As the community grows and develops, it needs more preserved open space that is available to the public. The Town's adopted Parks, Recreation, and Open Space Plan identifies the need to expand the supply of open space to serve a growing population. The action plan proposes creating a Land for Brunswick's Future program that would acquire and preserve open space and that would be funded in part with an impact fee.

The supply of approximately 25 acres of town-owned open space per thousand residents in 2004 is adequate for current needs. As the Town grows, this ratio of open space per capita will need to be maintained and serves as the basis for the open space impact fee.

[Explanatory Note: The determination of “adequacy” as included in 810.2 above is based on the results of a survey conducted during the crafting of the Brunswick Open Space Plan that demonstrated a fairly even split between respondents who felt that the current supply of green space within walking distance to their homes was adequate vs. those who felt more was necessary. The Committee who drafted the Impact Fee amendments felt that maintaining the current ratio of open space / resident was an easier case to make than increasing that ratio based on open space plan survey responses. Many communities may determine that the ratio should increase overtime especially as privately owned green space declines with development pressures.]

810.3 Activities Subject to the Fee

Any residential construction that creates one or more new dwelling units shall pay this impact fee based upon the expected population of the project considering typical occupancy rates. This includes single-family homes that are not part of a subdivision, conversions of non-residential buildings to residential use, and modifications to existing buildings that increase the number of dwelling units. In the case of an activity that increases the number of dwelling units in a building, the impact fee shall apply only to the new dwelling units.

810.4 Amount of the Fee

The open space impact fee shall be the adjusted per capita cost of providing additional open space (\$82.50) as determined in the Open Space Impact Fee Methodology, dated November 2, 2004, multiplied by the anticipated number of residents in the unit. Based upon national studies of occupancy levels of various types of housing in the northeast and the Maine State Planning Office’s [Impact Fee Handbook](#), the following occupancy factors are applied to determine the impact fee per unit. This results in the following open space impact fee based upon the type of unit and the typical occupancy of that type of unit:

<u>Type of Housing</u>	<u>Occupancy</u>	<u>Impact Fee</u>
<u>Single-Family Home</u>		
<u>- 2 or less bedrooms</u>	<u>1.58 per/du</u>	<u>\$130</u>
<u>- 3 bedrooms</u>	<u>2.57 per/du</u>	<u>\$212</u>
<u>- 4 or more bedrooms</u>	<u>3.02 per/du</u>	<u>\$249</u>
<u>Attached or Multifamily Housing</u>		
<u>- 1 bedroom</u>	<u>1.17 per/du</u>	<u>\$97</u>
<u>- 2 bedrooms</u>	<u>1.85 per/du</u>	<u>\$153</u>
<u>- 3 or more bedrooms</u>	<u>2.14 per/du</u>	<u>\$177</u>
<u>Mobile Homes in a MH Park</u>		
<u>- 1 bedroom</u>	<u>1.39 per/du</u>	<u>\$115</u>
<u>- 2 bedrooms</u>	<u>1.93 per/du</u>	<u>\$159</u>
<u>- 3 or more bedrooms</u>	<u>3.29 per/du</u>	<u>\$271</u>

<u>Age Restricted Housing including Elderly Housing, Assisted Living, and Retirement Communities</u>		
--	--	--

<u>- 1 bedroom</u>	<u>1.05 per/du</u>	<u>\$87</u>
<u>- 2 or more bedrooms</u>	<u>1.50 per/du</u>	<u>\$124</u>

[Note: The following section is included in Brunswick's Development Plan Review Ordinance and serves to guide project applicants to the Impact Fee Ordinance. This section is intended to inform development review applicants when impact fees are required based on specifics of their proposed project.]

519 OPEN SPACE REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT

519.1 Provision of Facilities

Every residential development shall provide for recreational facilities and open space to meet the demand for additional facilities created by the residents of the development. This requirement shall be met by the payment of the Recreational Facilities Impact Fee and Open Space Impact Fee as set forth in Chapter Eight unless the Recreation Commission and/or Conservation Commission determines that the provision of recreational facilities and/or the protection of open space within the development will better address the need for expanded facilities generated by the development or better protect high value resources. The Recreation Commission may approve credit for the creation of on-site recreational facilities to reduce the payment of the Recreational Facilities Impact Fee and the Conservation Commission may approve credit for the preservation of open space to reduce the payment of the Open Space Impact Fee as part of the development.

The requirements for the payment of the Recreational Facilities Impact Fee and Open Space Impact Fee set forth above shall be in addition to any requirement for the establishment of common open space as part of an Open Space Subdivision.

[Explanatory Note: Open space offered by open space subdivisions often has legal and physical limitations for public access and recreational use. If an open space/conservation subdivision ordinance is not written carefully, the open space often consists of the left over fragments of undevelopable land (refer to the example Wildlife Habitat Overlay Ordinance included in the Beginning with Habitat Toolbox). By exempting these subdivisions from paying an impact fee, the identified public need for publicly accessible green space may not be met. There are other tools that may be more appropriate for encouraging the open space / conservation subdivision approach such as density bonuses.]

519.2 Standards for Allowing Impact Fee Credits

If the Recreation Commission and/or Conservation Commission believe that the requirement for additional recreational facilities and/or open space can be met in whole or in part within the development, the following standards shall apply. This may provide for a credit for all or a part of the required impact fees:

- A. An estimate of the number of anticipated residents of the development based on occupancy rates is submitted by the applicant.
- B. The Recreation Commission shall determine if the reserved land is suitable for recreational use and that the proposed facilities are

appropriate given community-wide recreation needs and the needs of the residents of the development.

1. The designation of the land for recreational facilities shall be indicated on the plan for the development. At least XXX square feet of land per anticipated resident of the development based upon the occupancy rates set forth in the Recreational Facilities Impact Fee in Chapter Eight shall be set aside and developed as recreational facilities.

2. The following are examples of appropriate improvements:

- a. Water access points;
- b. Multi-purpose fields;
- c. Playgrounds;
- d. Tennis and basketball courts; and
- e. Walking trail connections

C. The Conservation Commission shall determine if the reserved land is suitable for conservation use and that the land is appropriate to be preserved as open space given community-wide open space needs and the resource value of the land.

1. The designation of the land for open space shall be indicated on the plan for the development. At least XXXX square feet of land per anticipated resident of the development based upon the occupancy rates set forth in the Open Space Impact Fee in Chapter Eight shall be set aside and developed as open space.

2. In addition to conservation lands referenced in the Brunswick Parks, Recreation, and Open Space Plan, the following are examples of appropriate land conservation areas:

- a. Lands that are mapped as part of Wildlife Habitat Overlay districts;

[Explanatory Note: Subsection a. above references Brunswick's Wildlife Habitat Overlay Ordinance. This example ordinance can be found in the Beginning with Habitat Toolbox].

- b. Lands that support rare or regionally declining natural community types as defined by MNAP, and old fields that support grassland birds;

- c. Lands that protect rare, threatened, or endangered plant or animal habitat;

d. Lands that enhance required buffers to significant wildlife habitat; and

e. Lands that protect archeological resources.

D. The requirements for recreational facilities and open space set forth above shall be in addition to any requirement for the establishment of common open space as part of an Open Space Subdivision and the land area required to be set aside as open space within an Open Space Subdivision shall not be counted toward meeting the requirements of B or C above.

E. Any land or facilities provided to meet the requirements of B or C shall be open to the public subject to reasonable limitations related to the management and use of the facilities unless the Recreation Commission and/or Conservation Commission determine that such access is not required.