

New Concord Impact Fee Ordinance

Details

Written by Peter F. Imse

The City of Concord recently adopted a new impact fee ordinance after two years of work and over ten years of discussions.

The Concord impact fee ordinance is based, in part, on an impact fee ordinance adopted by the City of Nashua five years ago. It is a comprehensive ordinance that addresses all aspects of the assessment, collection, and administration of municipal impact fees. The new ordinance requires all new developments to pay impact fees for both transportation and recreation facilities, and for the first time, the City will also collect school impact fees. At current fee levels, an average single family residence will now pay a total impact fee of approximately \$3,000.

The drafting of the new ordinance presented numerous challenges. Several groups, both within City government and in the community at large, had specific issues and ideas that they wished to be addressed in the ordinance. As the lawyer-members of the consulting team, Kim Burgess and I were able to advise all parties concerning legal restrictions on the content of impact fee ordinances, and we strived to guide the discussions to a point of consensus, and then to draft language satisfactory to all parties.

A significant attribute of the new ordinance that helped win community approval is the use of a uniform fee structure throughout the City. This uniformity of fees addresses local developers' long-standing complaint that impact fees under the old ordinance were unpredictable and unevenly assessed across the city.

The new ordinance also includes special provisions that were added to preserve the fairness of the impact fee ordinance as it is applied to uniquely situated projects. These special provisions include credits for off-site improvements constructed by an applicant, waivers of the school fees for certain elderly housing projects, and an independent negotiation of impact fees in the Tax Increment Financing Districts. The ordinance also allows applicants to conduct their own impact fee studies to support a request for a lower impact fee.

The final passage of Concord's new impact fee ordinance was notable for the lack of community opposition. While impact fee ordinances are usually opposed by business interests, representatives of the Concord-area business, real estate, and development communities supported the Concord ordinance. The secret to the support was the City Council's willingness to listen and respond to community concerns, and the consultants' efforts to help the interested parties find common ground, and then to draft language that accurately reflected the agreements.

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(Peter Imse and Kimberlee Burgess were part of the consulting team, led by Sulloway & Hollis's client, Applied Economic Resources, Inc., that assisted the city with the preparation and adoption of the impact fee ordinance. Mr. Imse and Ms. Burgess had previously drafted the Nashua impact fee ordinance on which the Concord ordinance is partly based.)