

Town of Richmond, Vermont

Impact Fee Ordinance

Adopted September 20, 2004

Effective, unless public vote required after petition, on November 20, 2004

Richmond Selectboard

TOWN OF RICHMOND
IMPACT FEE ORDINANCE

The Selectboard of the Town of Richmond hereby ordains:

1. Authority

This ordinance is enacted pursuant to the specific authority granted municipalities to establish impact fees contained in 24 V.S.A. Chapter 131, the Charter of the Town, and the general authority granted municipalities to enact ordinances contained in 24 V.S.A Chapter 59.

2. Purpose

It is the purpose of this ordinance to establish impact fees for new development in the Town that will appropriately allocate the cost of constructing capital projects. To the extent that new facilities are necessitated by new development and will benefit such new development, it is appropriate that these new residents and owners should bear an appropriate portion of the cost of constructing these new improvements. Further, insofar as current residents of the Town have contributed to the cost of existing facilities through payment of taxes and other contributions to the Town, it is appropriate that they should be relieved from payment for an appropriate portion of the cost of construction of these new facilities.

3. Definitions

For purposes hereof, the following terms shall have the following meanings:

- 3.1. Impact Fee - A fee levied as a condition of issuance of a zoning permit which will be used to cover any portion of the costs of an existing or planned capital project that will benefit or is attributable to the users of the development or to compensate the municipality for any expenses it incurs as a result of construction. The fee may be levied to recoup costs for previously expended capital outlay for a capital project that will benefit the users of the development.
- 3.2. Capital Project - any physical betterment or improvement including furnishings, machinery, apparatus or equipment for such physical betterment or improvement; any preliminary studies and surveys relating to any physical betterment or improvement land or rights in land; or any combination of these.
- 3.3. Dwelling Unit - the term "dwelling unit" shall mean any room or group of rooms located within a building and forming a single housekeeping unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating needs.
- 3.4. Single Family Dwelling - the term "single family dwelling" shall mean a single structure containing one (1) dwelling unit.

3.5. Multi-Family Dwelling - the term “multi-family dwelling” shall mean a single structure containing two (2) or more dwelling units, whether such dwelling units are rented or owned as a condominium or other form of ownership.

3.6. Mobile Home - the term “mobile home” shall mean a prefabricated dwelling unit which:

- i. is designed for long term and continuous residential occupancy;
- ii. is designed to be moved on wheels, as a whole or in sections;
- iii. on arrival at site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure.
- iv. meets all other criteria and standards established by rule of the State of Vermont Agency of Natural Resources for distinguishing mobile homes from other types of residential units.

The term “mobile home” shall be interpreted consistently with the definition of “mobile home” in 10 V.S.A. 6201(1).

3.7. Non-Residential Building - The term “nonresidential building” means any building, which is not a single-family dwelling unit, multi-family dwelling, or mobile home, except for buildings used for agricultural purposes.

4. Impact Fee Schedules

The following impact fees are hereby imposed:

School Impact Fee Schedule:

- 4.1 Single family dwelling - \$ 3,759.00
- 4.2 Multi-family dwelling - \$ 1,623.00 per dwelling unit
- 4.3 Mobile home - \$ 2,389.00
- 4.4 Non-residential building - \$ 0.00

Fire Impact Fee Schedule:

- 4.5 Single family dwelling - \$ 218.70
- 4.6 Multi-family dwelling - \$ 153.09 per dwelling unit
- 4.7 Mobile home - \$ 153.09
- 4.8 Non-residential building - \$218.70 for each 2,000 gross square feet of floor area or portion thereof. The term "gross floor area" shall mean the sum of the gross horizontal areas measured between the exterior faces of exterior walls of the several floors of a building, including interior walls, balconies, mezzanines, hallways, wells, and including the area of roofed porches, patios and carports having more than one (1) wall, but excluding basements and cellars.

Highway Impact Fee Schedule:

- 4.9 Single family dwelling - \$ 722.90
- 4.10 Multi-family dwelling - \$ 506.03 per dwelling unit
- 4.11 Mobile home - \$ 506.03
- 4.12 Non-residential building - \$ 722.90 for each five (5) peak hour trip ends generated by the building. A "trip end" shall mean each vehicle trip to the property on which the building is located, plus each trip from the property where the building is located. The term "peak hour" shall mean that hour during the day of highest traffic generation from the business or businesses in the building. In making the determination of trip generation, the then current "Trip Generation" Edition published by the Institute of Traffic Engineers ("ITE") shall be used, except that (i) if such publication does not contain data for a specific use, or (ii) if a use contains unique characteristics that causes it to differ from national traffic estimates, or (iii) if the peak hour of a use does not coincide with the peak hour of such ITE publication, then estimates from other sources may be used, including but not limited to local traffic counts and traffic counts of comparable businesses.

5. Increases in non-residential buildings

5.1 If a nonresidential building existing on the effective date hereof is subsequently increased thereafter in gross floor area, or if a nonresidential building for which a zoning permit is issued after the effective date hereof is increased in gross floor area, the Fire Impact Fee shall be payable under Section 4 for the increased gross floor area.

5.2 If there is a change of use of a nonresidential building existing on the effective date hereof, resulting in an increase in traffic generation, or if there is a change of use of a nonresidential building for which a zoning permit is issued after the effective date hereof, resulting in an increase in traffic generation, the Highway Impact Fee shall be payable under Section 4 for the increased peak hour trip ends generated.

6. Payment of Fees

6.1 Any impact fees established pursuant to this ordinance shall be paid to the Town Treasurer prior to issuance of any zoning permit under the Richmond Zoning Regulations for the construction of any improvements subject to payment of impact fees. Except as provided in subparagraph 6.2 and 6.3 hereunder, the Administration Officer for the Town shall not issue any zoning permit for the construction of such improvements without first receiving proof of payment of required impact fees from the Town Treasurer.

6.2 The Selectboard may accept off site mitigation in lieu of an impact fee or as compensation for damage to important land such as prime agricultural land or important wildlife habitat.

6.3 Upon application to and approval by the Selectboard impact fees may be paid in installments at a reasonable rate of interest determined by the Board.

6.4 The Selectboard may require a letter of credit to guarantee future payment of an impact fee or off site mitigation.

7. Waiver or Reduction of Fee

An individual or entity required to pay an impact fee imposed under this ordinance may request a waiver or reduction thereof by filing a written notice of appeal with the Selectboard of the Town within 30 days of written notification of the impact fee imposed on the development. Said notice of appeal shall state the factual basis for the appellant's claim that the fee is inapplicable or excessive. Within 60 days of receipt of the notice of appeal, the Selectboard shall hold a public hearing thereon. The Selectboard shall take oral and written testimony from the appellant, the Town and/or its agents, and Town School District representatives. Within 45 days after the conclusion of the hearing, the Board shall notify the appellant of its decision.

8. Accounting Provisions

All impact fees collected pursuant to this ordinance shall be maintained by the Town Treasurer in a separate, interest bearing account. The Town Treasurer shall maintain a register of the date of payment of each fee collected, the amount paid and the name of the payer.

9. Expenditure of Impact Fees

9.1 All impact fees collected pursuant to this ordinance and accrued interest shall be expended only for the specifically identified improvement project, which was the basis for the fee. Such fees and accrued interest shall be expended for such improvement project within such time period as required by Vermont statute, as the same may be from time to time amended.

9.2 The Town Treasurer shall pay expenses associated with an identified improvement project as they become due and upon receipt of appropriate documentation regarding such expenses.

10. Refunds

10.1 If the actual cost to the Town of construction of a capital project to be funded in part by impact fees is less than originally calculated or if an impact fee is reduced after fees have been collected, the Town shall refund that portion of any impact fee which is in excess of the appropriate portion due the then owner of the property for which the fee was paid.

10.2 If the Town shall fail to expend any collected impact fee within the time required by Paragraph 7.A. hereof, the Town shall refund that portion of any impact fee to the then owner of the property for which said fee was paid.

11. Basis for fees

The foregoing impact fees are based upon the Town of Richmond Capital Budget and Program adopted June 21, 2004 pursuant to 24 V.S.A. 5203.

12. Repeal of Richmond Impact Fee Ordinance and School Impact Fee Schedule

The Town of Richmond Impact Fee Ordinance, which was adopted by the Town Selectboard on March 5, 1990 and amended in 1994 are hereby repealed as of the effective date of this ordinance; provided however, that any zoning permit application pending as of the effective date of this ordinance shall be controlled by and subject to the impact fees imposed by the 1990 School Impact Fee Ordinance and 1994 School Impact Fee Schedule.

13. Enforcement

Any individual who undertakes development in the Town of Richmond without first paying any required impact fees imposed pursuant to this ordinance shall be subject to a penalty of \$500 per week for each week that construction or use of such improvements continues without payment of said fees, as well as such injunctive and other relief as a court may order in a civil action commenced by the Town.

14. Exemptions

The Selectboard may exempt certain types of development from any part or all of the impact fee assessed, provided that the exemption achieves other policies or objectives clearly stated in the Town Plan. The policies or objectives may include, but are not limited to, the provision of affordable housing and the retention of existing employment or the generation of new employment.

15. Invalidity

In the event any provision of this ordinance is for any reason invalid, such invalidity shall not affect the remaining provisions, which can be given effect without the invalid provision.

16. Effective Date

This ordinance shall become effective 60 days after its adoption by the Selectboard, except as provided in 24 V.S.A. Section 1973.

Richmond Selectboard

Jared Katz, Chair

Frances Thomas, Vice-Chair

Thomas Carpenter

K. Peter Parent

Erik Filkorn

Received for recording on this _____ day of September 2004 by the Richmond Town Clerk.

Richmond Town Clerk

I hereby certify that the Richmond Selectboard adopted the above ordinance on the _____ day of _____ 2004 and that no voter petition was filed within the time period thereafter prescribed 24 V.S.A. 1973.

Richmond Town Clerk

Date