

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE

July 21, 2016

To: Deborah S. Cabana, Town Manger
Gray Town Council

From: Doug Webster, Community Development

Cc. Kathy Tombarelli, Planner
Thomas Reinsborough, CEO

RE: New Proposed Chapter 408 Impact Fee Ordinance Language

SECTION 1 TITLE

This Ordinance shall be known and cited as the “Impact Fee Ordinance” of Gray, Maine (hereafter referred to as the “Ordinance”).

SECTION 2 AUTHORITY

The Town adopts this Ordinance under the authority of 30-A M.R.S.A §4354 and its statutory and constitutional home rule provisions.

SECTION 3 PURPOSE

A. The purpose of this Ordinance is to ensure that new development in the Town of Gray 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.

B. As applicable, payment of impact fee(s) shall also be required for public infrastructure constructed within the past five (5) years prior to the adoption of this ordinance that was specifically designed and constructed to create future reserved capacity.

SECTION 4 DEFINITIONS

Unless otherwise defined in this Ordinance, the terms used in this Ordinance shall have the same meaning as defined in Chapter 402, the Zoning Ordinance.

CHAPTER 408

IMPACT FEE ORDINANCE

TOWN OF GRAY MAINE

SECTION 5 APPLICABILITY

Any activity, development, construction, or change of use after the adoption or amendment to this ordinance shall be subject to one or more of the following impact fees:

[RESERVED]

SECTION 6 PAYMENT OF IMPACT FEES

The impact fees provided for under this Ordinance shall be determined annually by vote of the Town Council, as a part of its annual fee setting Order, after notice and hearing, in accordance with the provisions for the calculation of each impact fee as established by the Town Council and set forth below in SECTION 12. Impact fees may be reduced in whole or in part by the Town Council as specified in SECTION 11. The required impact fee(s) shall be paid to the Town of Gray 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.

SECTION 7 REPLACEMENT DWELLING UNITS OR STRUCTURES

An impact fee shall not be required to be paid for the replacement of a dwelling unit or other principal structure subject to an impact fee if the dwelling unit or principal structure existed as of the date of adoption of this ordinance or if an impact fee has been previously paid for the unit or structure being replaced.

SECTION 8 IMPACT FEE ACCOUNTS

All impact fees collected under the provisions of this ordinance shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question.

SECTION 9 USE OF IMPACT FEES

Impact fees collected under this Ordinance 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 operational activities.

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

- A. Acquisition of land or easements including conservation easements,
- B. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement,
- C. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment,

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE

D. Mitigation costs,

E. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,

F. Debt service costs including interest if the Town borrows for the construction of the improvement,

G. Relocation costs,

H. Additional costs that are directly related to the project; and

I. Additional capacity from appropriate public buildings or facilities built within the past five (5) years prior to the adoption of this ordinance.

SECTION 10 REFUND OF IMPACT FEES

Impact fees collected in accordance with this Ordinance shall be refunded in the following cases:

A. 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.

B. 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 one (1) percent per year from the date of the payment of the fee.

SECTION 11 MODIFICATION OF IMPACT FEES

The Town Council may by formal vote waive the payment of a required impact fee, in whole or in part, if it finds that:

A. 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 duly approved by the Planning Board and an appropriate surety received by the Town, and/or

B. 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;

Provided, however, in either instance, the application for such a waiver shall first be referred to the Town's Staff Review Committee for hearing and a recommendation back to the Town Council.

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE

SECTION 12 REVIEW AND REVISION OF IMPACT FEES

The Town Council shall periodically review each impact fee established under this Ordinance. If the Town 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 consider changes in the impact fee. Any changes adopted by the Town Council 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.

SECTION 13 SEVERABILITY

Should any section or provision of this Ordinance be determined in court to be unconstitutional, invalid, or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or the remainder of the ordinance as a whole.