

ARTICLE 12 IMPACT FEES

The Planning Board shall require as a condition of the approval of any land development permit the payment of impact fees for the purpose of financing infrastructure improvements in the area. Such fees shall be applied to projects (and any associated expenses) within an Area Capital Investment District in proportion to the development project's share of infrastructure costs necessitated by the development and as provided by 30-A M.R.S.A. § 4354.

- A. Assessment of such fees may include infrastructure facilities, such as:
 - 1. Wastewater and stormwater collection, pumping, and treatment facilities;
 - 2. Municipal water facilities;
 - 3. Solid waste facilities;
 - 4. Police and fire protection facilities and equipment;
 - 5. Roads and traffic control devices;
 - 6. Public transportation;
 - 7. Public Parks and other open space or recreation areas;
 - 8. Public Schools

- B. Such fees shall be collected for projects indicated in the city's Capital Improvement Program for the Area Capital Investment District in which the proposed development is located and shall be maintained in separate accounts for such projects. This Capital Improvement Program shall be prepared and submitted by the City Manager to the City Council for approval, and may be amended from time to time by the Council upon recommendation by the City Manager.

- C. Impact fees will be determined on the basis of infrastructure needs in the service area, the proportionate share generated by the development project and the timing of proposed infrastructure improvements. The formula for assessing said fees for each Area Capital Investment District will be prepared and submitted by the City Manager to the City Council for approval, and may be amended periodically by the Council with or without a recommendation by the City Manager. (#28)

- D. Project impact on infrastructure facilities shall be determined on a case-by-case basis by the Planning Board. However, impacts in all cases will be computed on the same basis as nearly as possible to result in an equitable assignment of cost sharing between projects. There shall be no prohibition against the pre-funding of a capital project by any single applicant if provisions are made to reimburse such applicant costs attributable to other projects in a manner acceptable to such an applicant.

- E. The assignment of costs of capital facilities to individual development projects will use generally accepted standards, such as Institute of traffic Engineers traffic generation data for highway impacts and per capita or floor area comparisons for other facilities. The exact standards to be used in each instance will be based on

the requirements and merits of specific projects, as determined by the City Manager, in consultation with the City Planner.

- F. The Planning Board shall apply the impact fee formulas established by the City Council to every project within an Area Capital Investment District brought before the Board, and fees will be charged accordingly. The Planning Board and/or the City Planner may require the applicant to provide information necessary to apply the formulas, including but not limited to the preparation of an analysis of the impact of any project on the area's infrastructure or any specific facility impacted by the development to provide the basis of any fee to be assessed. A minimum of fifty percent of the assessed impact fee shall be paid prior to receiving a building permit. The entire assessed impact fee shall be paid prior to receiving an occupancy permit. (#2)
- G. Impact fees may be used to pay the principal, interest, and other costs of bonds, notes, and other obligations issued or undertaken by or on behalf of the City to finance such improvements, as well as costs associated with the use of expert or contract assistance in the determination of an appropriate funding formula for specific fees, as required.
- H. Upon recommendation by the City Manager and at the discretion of the City Council, a property owner who dedicates land or otherwise contributes funds for a capital improvement identified in the Capital Improvement Plan for the Area Capital Investment District may be eligible for a credit for such contribution against the impact fee otherwise due from that property owner. Said credit may only be allowed (but will not necessarily be allowed) by the City Council if the contribution: (1) meets capital improvement needs for which the particular impact fee has been imposed, and (2) will substitute for or otherwise reduce the need for capital improvements anticipated to be provided with impact fee funds. Any application for credit must be submitted at least ten days before the time of the development project approval is expected, must be provided in a form acceptable to the City, and must declare (and provide necessary and relevant documentary evidence) that which may qualify the property owner for the credit. The decision of the City Council shall be final and may not be appealed. (#12)
- I. A person or business may appeal the imposition of a fee upon them pursuant to this article filing, with the City Clerk within ten days following a decision on the amount of the fee by the Planning Board by providing a written notice of appeal with a full statement of the grounds, and an appeal fee of two hundred dollars (\$200.00), or such other amount as may be fixed from time to time by resolution of the City Council. The City may continue processing the development application if the notice of appeal is accompanied with a bond or other security in an amount equal to the impact fee. The appellant bears the burden of proof to demonstrate that the amount of the fee was not calculated according to the procedures established in this article and/or using the formula for said fees established by the City Council. The City Council, through the City Manager,

shall fix a time and place for hearing the appeal and the City Clerk shall mail notice of hearing to the appellant at the address given in the notice of appeal. The hearing shall be conducted by the Council at the time and place stated in the notice and the determination of the Council shall be announced at the conclusion of the hearing or at the next regular meeting of the Council. The determination of the City Council shall be final and may not be appealed.

- J. Upon a finding of significant public purpose or benefit, the City Council may reduce or waive payment of an impact fee associated with a specific project. Such a finding of significant public purpose or benefit by the Council shall be based on the needs of the City at that time, along with a determination as to the positive effects that a specific development project will have on the community, including but not limited to job creation, environmental remediation, slum or blight removal, historic preservation, or tax base growth, and a finding that said effects justify such a reduction or waiver. A developer wishing to obtain such an impact fee waiver for their project must submit an application to the City Manager no later than ten days after the Planning Board establishes the impact fee for said project, identifying and quantifying the public purpose or benefit from the project as proposed. The City Council will review the waiver application, and will make a determination on said application at the next City Council meeting. The City Council's determination shall be final and may not be appealed.
- K. Any funds collected which are not used and for which a contract has not been let after a ten-year period shall be returned to the applicant upon receipt of a written request within one year of their lapsing.
- L. The boundary(ies) of the Area Capital Investment District(s) in the City of Brewer are as follows: (#2)
 - 1. Beginning at the intersection of Wilson Street and Parkway South, head south along Parkway South to I-395. Follow I-395 east until it reaches Route 1-A (Outer Wilson Street). The line will proceed across 1-A following the I-395 infrastructure and continuing until the line reaches a point 800 feet to the north of 1-A. Then take the boundary west paralleling Wilson Street (800 feet off of Wilson) to the easterly boundary of Brewer Tax Map 3, Lot 27. Then following said lot line in a northeasterly direction until you reach Felts Brook. Then following Felts Brook in a northwesterly direction until it reaches the northwesterly sideline of said lot. Then following said lot line in a southwesterly direction to a point being the intersection with a line 400 feet southwesterly of southwesterly sideline of Bennett Road extended easterly. Then northwesterly, parallel to and 400 feet southwesterly of said Bennett Road until it reaches the northwesterly sideline of Brewer Tax Map 8, Lot 71. Then following said lot line in a southwesterly direction to a point being 1,600 feet from Wilson Street. Then northwesterly parallel to and 1,600 feet from Wilson Street to a point being 100 feet easterly of the northwesterly sideline of Brewer Tax Map 8, Lot 69. Then southwesterly, parallel to and 100 feet

from said lot line to a point being 800 feet from Wilson Street. Then northwesterly, parallel to and 800 feet from Wilson Street until you reach Chamberlain Street. Follow Chamberlain Street south back to Wilson Street. Then, proceed east on Wilson Street to the intersection of Wilson and Parkway South (to the point of origin). The Brewer Tax Map and Lots described in this description are as shown on the 2001 Brewer Tax Maps.

- M. In the event of a conflict between the provisions of this article and the provisions of any other ordinance or resolution, the provisions of this article shall govern.