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CHAPTER 52

TOWN OF FREEPORT

IMPACT FEE ORDINANCE

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**CHAPTER 52
TOWN OF FREEPORT
DEVELOPMENT IMPACT FEE ORDINANCE**

**CHAPTER I
General Provisions**

1. Authority.

This ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 4354 and 30-A M.R.S.A. § 3001.

2. Purpose.

The Freeport Town Council has determined that new development creates demands on municipal government to provide new public facilities and to expand, improve or replace existing public facilities and/or infrastructure. The Town Council concludes that in order to provide an equitable source of funding for such new, expanded, improved or replacement facilities and/or infrastructure, it is appropriate to establish a program of development impact fees and to charge a proportionate share of the costs of new, expanded, improved or replacement facilities and/or infrastructure to the developers and/or occupants of the developments which make the new, expanded, improved or replacement infrastructure necessary.

3. Definitions.

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in Zoning Ordinance of the Town of Freeport, Maine ("Zoning Ordinance"). The following terms shall have the following meanings:

Affordable Housing Dwelling Unit: A dwelling unit developed by a governmental agency or by a non-profit housing corporation (as defined in 30-A M.R.S.A. § 5002) which is permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy only by lower income households, as that term is defined in 30-A M.R.S.A. § 5002.

4. Use of Impact Fees.

Impact fees collected by the Town pursuant to this ordinance may be used only for financing facility improvements which the Town Council has determined are made necessary by new development. The Town Council has determined that fees imposed by schedules in subsequent chapters of this ordinance are reasonably related to the demands created by new development and are reasonably related to the portion or percentage of existing infrastructure used by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and shall not be used for operational expenses. The Town of Freeport shall expend funds collected from impact fees solely for the purposes for which they were collected.

5. Segregation of Impact Fees from General Revenues.

Impact fees collected pursuant to this ordinance shall be maintained by the Town Treasurer in a separate impact fee account and shall be segregated from the Town's general revenues. The Town Treasurer shall deposit impact fees in special non-lapsing accounts dedicated for funding of the improvements for which the fee is collected.

6. Collection of Impact Fees.

a. Payment of Impact Fees

No person shall commence construction of any building requiring a building permit under the Zoning Ordinance or commence construction of a road until such person has paid any impact fees required by this ordinance or has recorded an agreement for deferral of impact fees pursuant to Chapter 1, Section 6, Subsection (b) below. Upon collecting such impact fee, the Code Enforcement Officer shall remit the funds to the Town Treasurer who shall deposit the funds as required in Section 5 above. The Town Treasurer shall make a record of the name and mailing address of the applicant paying the impact fee, the tax map and lot numbers of the property for which the impact fee is collected, the amount collected, and the date the impact fee is received. The Code Enforcement Officer shall maintain such record in the files relating to the property for which the impact fee was paid.

b. Deferral of Impact Fees

The Town treasurer may enter into an agreement to defer collection of all or part of the impact fees imposed by this ordinance in the following circumstances:

1. If the fee is greater than \$10,000, collection of the portion over \$10,000 may be deferred until the road is substantially completed, or until a certificate of occupancy is issued.

Such agreement shall be in writing, shall be joined by all owners of the property, including mortgagees and lien holders of record at the time of execution of the agreement, shall by its terms create a consensual lien on the property, shall be binding on the applicant's heirs, successors and assigns, and shall be recorded in the Cumberland County Registry of Deeds by the applicant prior to the issuance of the building permit.

7. Refund of Unused Impact Fees.

Impact fees collected pursuant to this ordinance shall be utilized by the Town according to the schedules specified in subsequent chapters of this ordinance for the completion of specific capital improvements, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so utilized and any impact fees collected which exceed the Town's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

8. Amendment of Fees.

The impact fees established in this ordinance are based upon the Town Council's best estimates of the costs of the construction of the facilities for which the fees are collected and, where appropriate, upon estimates of state and/or federal funding contributions. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

8A. Inflation Adjustment.

The impact fees established by the Town Council in this ordinance shall be adjusted annually by the Town Treasurer to account for changes in the cost of bituminous pavement. Commencing on April 1, 2007 and on each April 1st thereafter, the Treasurer shall increase each impact fee by the dollar amount (rounded to the nearest ten dollar increment) resulting from the annual pavement bid coordinated by the Greater Portland Council of Governments for the Freeport Region. If there has been no such increase, there shall be no adjustment under this paragraph. Each year on April 1st, the Treasurer shall publish a schedule of impact fees adjusted pursuant to this paragraph (the "adjusted impact fees") and provide a copy of such schedule to the Code Enforcement Officer. The adjusted impact fees shall apply to all building permits issued on or after April 5 in the calendar year 2007 and on or after April 1st of each calendar year thereafter, whether or not the applications for building permits were filed prior to such dates.

8. Severability.

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

CHAPTER
Pavement Maintenance Impact Fees

1. Use of Pavement Maintenance Impact Fees.

The fees collected under this chapter of this ordinance shall be used to fund one or more of those projects identified in the Freeport Road Surface Management Program as updated annually. The fees shall be specifically used for pavement that is deemed a necessary improvement to roads listed in that Program.

2. Calculation and Collection of the Pavement Maintenance Impact Fees.

Prior to the issuance of a building permit for any new dwelling unit or an addition to a dwelling unit, or a new commercial or industrial building or an addition to an existing commercial or industrial building or prior to the commencement of construction of any new road the Code Enforcement Officer shall collect a pavement maintenance impact fee according to the following schedule. For projects with multiple buildings, the fees shall be calculated on a per building basis, regardless of how many buildings are on a building permit.

Size of building or addition	Amount
(residential, commercial, or industrial)	
< 1,000 gross floor area	No fee
1,000 – 1,500 gross floor area	\$300
1,501 – 1,750 gross floor area	\$600
1,751 – 2,000 gross floor area	\$900
2,001 – 2,250 gross floor area	\$1,200
2,251 – 2,500 gross floor area	\$1,500
For each additional 250 gross floor area	Add \$300
No fee for an individual building may exceed \$30,000	
Length of new road construction	Amount
(includes cul-de-sacs and turn arounds)	
< 250'	No fee
250' – 500'	\$1,200
501' – 750'	\$2,400
751' – 1,000'	\$3,600

1,001 – 1,250'	\$4,800
For each additional 250' of road	Add \$1,200

2. Exemptions.

1. A pavement maintenance impact fee is not required for a dwelling unit that is an "affordable housing dwelling unit" as described herein.
2. Construction undertaken by the Town of Freeport.