

Order 98-18/19

Passage: 8-0 (Ali absent) on 11/19/2018

Effective 12/19/2018

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE CHAPTER 14  
RE: IMPACT FEES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 14, Section 14-485 hereby amended to read as follows:*

**Sec. 14-485. Definitions.**

...

*Development fees means:*

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; impact fees; and administrative fees; and
- (b) Construction and permit fees as described in Chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

...

2 *That Chapter 14 of the Portland City Code is hereby amended by adding an Article to be numbered Article XVII, Sec. 14-1004 to 14-1017, which said sections reads as follows:*

**ARTICLE XVII**

**14- 1004. Authority.**

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

**14-1005. Purpose.**

The purpose of these impact fee provisions is to ensure that new development in the City of Portland bears a proportional or

reasonably-related share of the cost of new, expanded, or replacement infrastructure necessary to service that development through:

(a) The payment of impact fees dedicated to funding improvements made necessary by development; or

(b) The construction of improvements as provided for herein.

#### **14-1006. Applicability.**

The following shall be subject to impact fees, with the exception of municipal buildings, which shall be considered exempt.

(a) Any new building or addition to existing buildings which results in net new residential dwelling units, non-residential building square footage, or water/wastewater meters; and

(b) Any change of use which results in a net increase in impact fee per *Section 14-1007(f)*.

#### **14-1007. Calculation of Impact Fee.**

(a) *In General.* Impact fees shall be calculated based on the impact fee schedule in effect at the time of submittal of a complete application for a building permit.

(b) *Determination of Use.* The determination of the applicable land use category in the impact fee schedule shall be made by the Department of Permitting and Inspections with reference to the City of Portland's most recent *Impact Fee Study*. If the proposed development is of a type not listed in the impact fee schedule, then the impact fees applicable to the most nearly comparable type of land use listed in the impact fee schedule shall be used.

(c) *Mixed Use Development.* In the event that there is more than one use within a building, impact fees shall be calculated separately for each use.

(d) *Redevelopment.* In calculating the impact fee for a new building that involves the full or partial demolition of a building housing an existing, legally established use or uses, such new building shall be credited with an amount equal to the fee that would have been charged to the use or uses which occupied the structure at the time of demolition permit. If the

impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for demolitions for which a permit was issued more than 12 months prior to the complete application for a building permit.

TABLE 14-1007(e)1: Parks & Recreation and transportation impact fee schedule<sup>1</sup>

<u>Land Use Type</u>	<u>Unit of Measure</u>	<u>Parks/Recreation Impact Fee</u>	<u>Transportation Impact Fee</u>
<u>Single-family/Two-family</u>	<u>per unit</u>	<u>\$1,126</u>	<u>\$2,159</u>
<u>Multi-family (3+ units)</u>	<u>per unit</u>	<u>\$752</u>	<u>\$1,023</u>
<u>Retail/Service</u>	<u>per 1,000 SF GFA</u>	<u>\$534</u>	<u>\$8,248</u>
<u>Office</u>	<u>per 1,000 SF GFA</u>	<u>\$677</u>	<u>\$2,800</u>
<u>Industrial</u>	<u>per 1,000 SF GFA</u>	<u>\$363</u>	<u>\$1,130</u>
<u>Institutional</u>	<u>per 1,000 SF GFA</u>	<u>\$645</u>	<u>\$3,082</u>
<u>Hotel/Motel</u>	<u>per room</u>	<u>\$875</u>	<u>\$2,404</u>

<sup>1</sup> Land use types included in the impact fee schedule correspond to those in the City's most recent *Impact Fee Study*.

(e) Building Additions.

In calculating the impact fee for building additions, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of the addition of floor area. If the impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee.

TABLE 14-1007(e)2: WASTEWATER IMPACT FEE SCHEDULE

<u>Meter Size</u>	<u>Capacity Ratio</u>	<u>Impact Fee</u>
<u>5/8 inch</u>	<u>1.00</u>	<u>\$1,886</u>
<u>3/4 inch</u>	<u>1.50</u>	<u>\$2,829</u>
<u>1 inch</u>	<u>2.50</u>	<u>\$4,715</u>
<u>1 1/2 inches</u>	<u>5.00</u>	<u>\$9,430</u>
<u>2 inches</u>	<u>8.00</u>	<u>\$15,088</u>
<u>3 inches</u>	<u>16.00</u>	<u>\$30,176</u>
<u>6 inches</u>	<u>50.00</u>	<u>\$94,300</u>
<u>8 inches</u>	<u>80.00</u>	<u>\$150,880</u>

(f) Changes of Use. In calculating the impact fee for changes of use, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of application for building permit. If the impact fee calculation for the proposed use is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the proposed use is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for uses which have been discontinued for a period of 12 months or more prior to the complete application for a building permit.

**14-1008. Annual Adjustment of Impact Fee.**

To account for inflation, there shall be an automatic annual increase in the impact fee schedule reflected in this article every January 1 based on the change in the construction cost index as published by *Engineering News Record*. The fee adjustment shall be calculated by dividing the index amount published on January 1 of the current year by the index amount published on January 1, 2018 and multiplying the resulting ratio by each fee amount. Annual adjustments shall be made available for public reference.

**14-1009. Modification of Impact Fees.**

(a) A required impact fee may be modified, in whole or in part, by formal vote of the Planning Board in cases when an applicant is otherwise before the Planning Board, or by the Planning Authority in all other cases, if the reviewing authority finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to make infrastructure improvements for which the impact fee would be collected or an equivalent improvement approved by the reviewing authority; or

2. The developer or property owner is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements for which the impact fee would be collected or an equivalent improvement.

Credit amounts shall be determined based on plans, details, and cost estimates for the proposed infrastructure improvements for which the credit is requested. Such plans, details, and cost estimates shall be prepared by a licensed professional engineer and submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates. On-site or immediately adjacent improvements providing direct service to a site as required under subdivision or site plan regulations shall not be considered eligible under this section.

(b) The Planning Board may by formal vote modify the payment of a required impact fee, in whole or in part, if it finds that documentation is provided to demonstrate that a proposed use will impose no or substantially-reduced demands on capital facilities for which impact fees have been adopted. Such documentation shall be prepared by a licensed professional engineer and include a written analysis of the demand for capital facilities generated by the proposed use based on industry standards and the most recent *Impact Fee Study*. Documentation shall be submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates.

#### **14-1010. Reduction in Fees For Affordable Housing.**

Any residential development including low-income or workforce housing units and qualifying as an eligible project under Division 30 shall receive a reduction of fees in accordance with Section 14-486.

#### **14-1011. Collection of Impact Fee.**

The City of Portland shall not issue any certificate of occupancy required under the Land Use Code until the applicant has paid any impact fees required by this article.

#### **14-1012. Segregation of Impact Fees from General Revenues.**

Impact fees collected pursuant to this article shall be maintained in separate, non-lapsing impact fee accounts for each of the facilities for which impact fees are assessed, and shall be segregated from the City's general revenues. These accounts shall be dedicated for funding of the improvements for which the fee is collected, as determined through the City's most recent *Impact Fee Study*. Funds from these accounts shall be distributed to City departments solely for the purpose of capital projects identified in the City of Portland's most recent *Impact Fee Study*.

#### **14-1013. Use of Impact Fees.**

Impact fees collected by the City pursuant to this article may be used only for financing facility improvements which the City Council, through the City of Portland's most recent *Impact Fee Study*, has determined are made necessary by new development. The City Council has determined that fees imposed by schedules in this article are reasonably related to the demands created by new development. Impact fees collected pursuant to this article shall be used exclusively for capital improvements, and the City of Portland shall expend funds collected from impact fees solely for the purposes for which they were collected.

#### **14-1014. Refund of Unused Impact Fees.**

Impact fees collected pursuant to this article shall be used by the City according to the schedules for the completion of specific capital improvements as specified in the City of Portland's most recent *Impact Fee Study*, 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 used and any impact fees collected which exceed the City'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.

#### **14-1015. Review and Revision.**

The impact fees established in this article are based upon the best estimates of the costs of the construction of the facilities for which the fees are collected as determined through the City's most recent *Impact Fee Study*. The Council may, by amendments to this article, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

**14-1016. Administrative Rules and Regulations.**

The Planning Board is hereby authorized to develop rules and regulations governing the administration of impact fees collected pursuant to this article.

**14-1017. Effective Date.**

The provisions of this article shall apply to all building permit applications submitted following the effective date of this article, with the exception that any development for whom site plan approval has been granted at the time of the effective date of this article shall be considered exempt. Master Development Plan approval prior to the effective date shall not confer exempt status.