

From: Bill Klubben, Director  
Community Development

Subject: Planning Board Agenda of 7/22/10 - Notice of Public Hearing  
on proposed amendment to the Zoning Ordinance

Date: July 8, 2010

The below notice should be posted as soon as practical. If you have any questions, please call me at 225-3008. Thank you.

## NOTICE OF PUBLIC HEARINGS

Planning Board  
Town of Bow

A public hearing will be held at 7:00 PM on Thursday, July 22, 2010 at the Bow Municipal Building, 10 Grandview Road. The purpose of the hearing is to consider an amendment to Article 16 - Impact Fee Ordinance - of the Zoning Ordinance to authorize the Planning Board to abolish previously adopted impact fees and to clarify that the Planning Board has the authority to determine which impact fees are appropriate for adoption.

The proposed revisions are available for review – see below.

- A. 16.01 Abolition or Suspension of Impact Fees. Add new 16.01 E 4 and M to clarify Planning Board authority to adopt and to authorize the Planning Board to abolish or suspend an adopted impact fee methodology.

draft dated 7-1-10

## **ARTICLE 16. IMPACT FEES**

### **16.01 Impact Fee Ordinance**

#### **A. Applicability of Article**

The Town of Bow (the Town) has developed a methodology for the assessment of impact fees for capital facilities of the Town and Bow School District (the District). On the basis of this methodology, new development in Bow shall be assessed an impact fee that represents its proportional share of demand on the capacity of the capital facilities of the Town or District. The following regulations shall govern the assessment of impact fees for public facilities in order to accommodate increased demand on the capacity of these facilities due to new development . These regulations are authorized by RSA 674:21, V, and other pertinent state law, as an innovative land use control. The administration of these regulations shall be the responsibility of the Board of Selectmen.

#### **B. Findings**

In view of its school enrollment growth, the public school capacity available to Bow from the District, and its anticipated growth in population and economic activity, the Town of Bow hereby finds that:

1. Each type of new residential development in Bow, with the exception of those having lawfully restricted occupancy that will exclude school age children, will create a need for the construction, equipping, or expansion of the public capital facilities of the District to provide adequate public education for Bow pupils.
2. Recent and anticipated growth rates in the Town of Bow and associated improvement and renovation costs would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare.
3. Recent and anticipated growth rates in public school enrollment and associated improvement and renovation costs would necessitate an excessive expenditure of public funds in order to maintain adequate school facility standards and to promote and protect the public health, safety, and welfare.
4. The assessment of impact fees is one of the methods available to ensure that public expenditures are not excessive and that new development will bear a proportionate share of the cost of public capital facility costs necessary to accommodate such development.

5. The impact fee methodology entitled Methodology for the Calculation of School Impact Fees in the Town of Bow, NH (dated September 27, 2000, and as amended) prepared for the Town of Bow, represents a reasonable, rational and proportional method for the assessment of growth-related school facility costs to new residential development that will provide for partial funding of the capital costs of the District. Based on this methodology, school impact fees will not exceed the costs of:
  - a. Providing additional, improved, or expanded public capital facilities necessitated by new residential development in Bow; and/or
  - b. Compensating the District for school facility capacity that it provided in anticipation of new residential growth and development in Bow.
  
6. An impact fee methodology for the calculation of other impact fees in the Town of Bow, NH, to be prepared for the Town of Bow under the supervision of the Planning Board, may establish a reasonable, rational, and proportional method for the assessment of growth-related facility costs to new development that will provide for partial funding of the capital costs of the Town. Based on such future methodology, other public facility impact fees will not exceed the costs of:
  - a. Providing additional public capital facilities necessitated by new development in Bow; and/or
  - b. Compensating the Town for public facility capacity that it provided in anticipation of new growth and development in Bow.
  
7. An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Bow.

### **C. Definitions**

District: The Bow School District.

Feepayer: The applicant for the issuance of a building permit which could create new development.

New Development: An activity which results in:

- a. The creation of a new dwelling unit or units; or
- b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units.
- c. The construction of new non-residential facilities, additions to existing non-residential facilities, or changes to existing facilities which affect capital facilities

for which an impact fee methodology has been prepared and adopted by the Planning Board.

- d. Subdivisions and site plans.

Capital Facilities. Any equipment, structures, and related durable items used to deliver or support public services including water treatment and distribution; wastewater collection, treatment, and disposal; storm water, drainage, and flood control; public road systems, rights of way; municipal administrative or maintenance services; public schools; public safety services; solid waste collection, transfer, recycling, processing, and disposal; public libraries; public recreation; and a proportionate share of cooperative or regional services. Initial training of personnel may be included in capital facilities, but public open space may not be included.

#### **D. Assessment of Impact Fees**

1. Impact fees shall be assessed to new development to compensate the Town of Bow for the proportional share of the capital facility costs of the District or Town generated by new development in Bow, including public school or other capital facilities to be constructed, or which were constructed in anticipation of new development.
2. Any person who seeks a building permit for new development is hereby required to pay a public school capital facility impact fee upon adoption of this article in the manner set forth herein.
3. Any person who seeks a building permit for other new development is hereby required to pay a public capital facility impact fee upon adoption of this article in the manner set forth herein.
4. - 6. >> left out to save space <<

#### **E. Computation of Impact Fee**

1. The amount of each school facility impact fee shall be assessed in accordance with the report, in effect at the time the building permit is requested, entitled Methodology for the Calculation of School Impact Fees in the Town of Bow, NH (dated September 27, 2000, and as amended), prepared for the Town of Bow and as adopted for the purposes of impact fee assessment by the Planning Board.
2. In case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Ordinance.

3. The amount of other public facility impact fees shall be assessed in accordance with the report, in effect at the time the building permit is requested, for the calculation of other impact fees in the Town of Bow, NH, to be prepared for the Town of Bow under the supervision of the Planning Board, to establish a reasonable, rational, and proportional method for the assessment of growth-related facility costs to new development. Such report shall be adopted for the purposes of impact fee assessment by the Planning Board after a public hearing, noticed in accordance with RSA 675:7.
4. The Planning Board shall not establish a method for the assessment of growth-related facility costs to new development unless it finds that adoption of such method is consistent with section B Findings and is in the best interests of the District or Town.

#### **F. Payment of Impact Fee**

No building permit shall be issued for new development until the impact fee has been assessed and the applicant has acknowledged his or her obligation to pay the impact fee. No certificate of occupancy shall be issued for new construction, nor shall such new construction be occupied, until the impact fee has been paid in full.

#### **G. Appeals** >> left out to save space <<

#### **H. Administration of Funds Collected** >> left out to save space <<

#### **I. Refund of Fees Paid** >> left out to save space <<

#### **J. Impact Fees on Subdivisions and Site Plans**

The Town of Bow finds that in addition to the impact of new development on capital facilities as set forth above, subdivisions and site plans may place an extraordinary burden on capital facilities owned or operated by the municipality that are necessary to specifically benefit the particular subdivision or site plan. In such cases the Planning Board shall impose an impact fee on the subdivision or site plan as a condition of approval to pay the proportional share of municipal capital improvement costs which are reasonably related to the capital needs created by the development and to the benefits accruing to the development from the capital improvements financed by the fee.

Impact fees under this section of the Ordinance shall be assessed by the Planning Board in accordance with RSA 674:21. The impact fees collected shall be administered in accordance with Section H. The decision of the Planning Board to impose an impact fee under this Section, may be appealed to Superior Court in accordance with RSA 677:15.

#### **K. Scattered or Premature Development**

Nothing in this article shall be construed so as to limit the existing authority of the Bow Planning Board to deny new proposed development which is scattered or premature,

requires an excessive expenditure of public funds, or otherwise violates the Town of Bow Zoning Ordinance, the Bow Site Plan Review Regulations, the Land Subdivision Regulations, or which may otherwise be lawfully denied.

#### **L. Review and Change in Method of Assessment**

The Methodology for the Calculation of School Impact Fees in the Town of Bow, NH (dated September 27, 2000, and as amended) and other methodologies adopted in conformance with this article and the associated fee schedule(s) shall be reviewed periodically by the Planning Board. Such review shall take place not more than five years from the initial adoption of this ordinance, nor more frequently than annually. The review by the Planning Board may result in recommended adjustments to the methodology and related fees based on the most recent data as may be available. Such report shall be adopted for the purposes of impact fee assessment by the Planning Board after a public hearing, noticed in accordance with RSA 675:7.

After a public hearing on December 18, 2003, the Planning Board adopted the update *Public School Impact Fees – Bow, New Hampshire – Basis of Assessment – 2003 Update* dated October 2, 2003 to replace the methodology dated September 27, 2000.

#### **M. Abolition, Suspension, and Amendment of Adopted Method of Assessment**

After a public hearing, noticed in accordance with RSA 675:7, and where the Planning Board makes findings that a duly adopted impact fee assessment methodology is not consistent with section B Findings or is no longer in the best interests of the Town, the Planning Board may amend, suspend, or abolish such methodology. Impact fees previously collected under the methodology shall not be subject to refund. An impact fee that has been assessed, but is not yet payable under section F. above, shall not be required.

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