

**Town of Amherst**  
**Impact Fee Accounting, Reporting and Expenditure Policy**

**1. Impact Fees**

Amherst Impact Fees are collected for five purposes: Police, Fire/Rescue, Recreation, Schools, and Roads. This policy details the requirements for accounting, reporting on, and expending impact fees. The Board of Selectmen has separately established an Impact Fee Schedule establishing the impact fee rates to be assessed.

**2. Impact Fee Accounting and Reporting**

Impact Fees collected from each owner shall be tracked by the Finance Director as to the date and amount received in each of the five impact fee categories. Impact fees shall be accounted for separately and shall be segregated from the municipality's general fund. RSA 674:21 V(c). Each fee collected under a specific Impact Fee Schedule category shall not be commingled with any other impact fee category accounts or any other non-impact fee funds. See Zoning Ordinance 4.19 J.1. The Town Treasurer and Finance Director shall allocate interest earned on impact fees to such fees on a reasonable basis, with due regard for both the amount and time on deposit of a collected impact fee and administrative convenience and simplicity.

**2.1. Quarterly Reports.**

No later than 45 days following the end of a fiscal quarter, the Finance Director shall prepare a report listing the impact fee transactions (receipts and expenditures) that occurred in the previous fiscal quarter. For each impact fee category (Police, Fire/Rescue, Recreation, Schools, and Roads) the report shall identify the impact fees available at the end of the fiscal quarter for the category. The report shall also identify the amounts of impact fees in the category that, within the next six months, shall have been held by the Town for six years and will be due to be refunded if not expended. The report shall be provided to the Board of Selectmen, the Town Administrator, the Police Chief, the Fire Chief, the Recreation Director, the DPW Director, and the Superintendent of Schools.

**2.2. Annual Report.**

No later than 60 days following the end of the fiscal year, the Finance Director shall prepare a report listing all impact fees received in the prior fiscal year, all expenditures of impact fees during the prior fiscal year, identifying the capital improvement project for which the fees were assessed and stating the dates upon which the fees were assessed and collected. The report shall enable the public to track the payment, expenditure, and status of the individually collected fees to determine whether said fees were expended, retained, or refunded. (See RSA 674:21 V(l).) The report shall be provided to the Town Treasurer, the Town Administrator, and the Board of Selectmen as a draft report. As required by Zoning Ordinance 4.19.J.5, the Town Treasurer shall deliver a corresponding final report to the Board of Selectmen and the Planning Board, and shall ensure the report is made available to the public.

### 3. Expenditure of Impact Fees

The Town Treasurer shall disburse impact fees only upon the written order of the Board of Selectmen. Zoning Ordinance 4.19.J.5. Upon receipt of an order to expend impact fees, the Town Treasurer and Finance Director shall determine the oldest available impact fees in the applicable category and shall use the oldest fees for the approved expenditure, ensuring that the accounts and records of the Town properly reflect the expenditure of such funds.

Impact fees may be spent only on Public Capital Facilities, which are facilities and equipment with a useful life of at least five years. Further, such facilities must enhance the capacity or level of service provided by the capital facility being funded. Impact Fees may be spent on reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities. Impact Fees may not be spent on the operation, maintenance or repair of such facilities. Zoning Ordinance 4.19.C (definition of Public Capital Facilities).

Impact Fees collected for one purpose may be used only for that purpose. In other words, Impact Fees collected for Police may be used only for appropriate Police Public Capital Facilities and not, for example, for Roads or any other category of facilities.

Retention and Use of Impact Fees – Impact Fees may be retained (subject to the six year limitation) to pay for facilities at a future date. The Board of Selectmen may from time to time authorize in writing the expenditure of some or all of the retained impact fees in a category as payment towards an appropriate Public Capital Facility in that same category. The BOS may combine impact fees with other sources of funds to pay for the Public Capital Facility.

Recoupment of Costs Already Incurred – For Public Capital Facilities that are constructed or purchased before impact fees are collected, but that were made in anticipation of the needs for which impact fees are collected, the Board of Selectmen may authorize impact fees to be expended and treated as recouping the funds originally used to pay for the facility. In such cases the Board of Selectmen's written authorization to expend shall designate the project for which the impact fees are providing recoupment of costs and the amount of the impact fees being used for such recoupment.

Once designated as being used for recoupment, such impact fees may then be expended on any capital improvement to the facilities or equipment of the same department, provided that the improvement falls within the ordinance definition of Public Capital Facilities. In addition to providing information on the project for which the impact fees are providing recoupment of costs (see above), the Board of Selectmen's written authorization to expend shall document the Public Capital Facility for which the funds are actually expended.

Recoupment is limited to the actual costs incurred for the designated facility (including planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities). The Finance Director shall record the amount of the “recouped” project costs that have been paid by impact fees to ensure recoupment does not exceed the actual incurred costs of the project.

Debt Service – The debt service costs of facilities that could be (or could have been) appropriately funded by impact fees may be paid in whole or in part by impact fees upon Board of Selectmen authorization.

#### 4. Determination of Appropriate Uses of Impact Fees and Department Recommendations

Impact Fees have been collected based on Town needs caused by development growth. For each category of impact fee (Police, Fire/Rescue, Recreation, Schools, Roads), particular needs were identified for which impact fees were to be collected. Guidance on the subsequent expenditures of impact fees that would be appropriate has been prepared by the Town’s impact fee consultant, BCM Planning LLC, by letter dated April 27, 2022. That letter is attached to this policy and its guidance shall be followed by all Town Departments.

##### 4.1. Municipal Department Requests for Impact Fee Expenditures

Municipal Departments seeking Board of Selectmen approval to expend impact fees shall prepare a written request identifying the Public Capital Facility within the department for which the funds would be spent, together with a brief justification as to why such use of the funds would be appropriate based on the requirements of this policy and the BCM Planning guidance. The request shall state the amount of impact fees available in the department’s category. Requests to expend impact fees as recoupment shall also identify the project for which costs are being recouped, the total costs incurred on that project, and the impact fees expended and recouped to date on that project.

##### 4.2. School Requests for Impact Fee Expenditures

By law, impact fees may be spent only upon order of the *municipal* governing body. RSA 674:21 V(c). For impact fees collected for schools, the Board of Selectmen will order the transfer of a requested amount of impact fees to the control of the appropriate school district for expenditure only upon an authorized request approved by the appropriate school board. A request from the school district should identify the Public Capital Facility for which the funds would be spent, together with a brief explanation that allows the Board of Selectmen to determine that the use of the funds would be appropriate based on the requirements of applicable NH law, this policy and the BCM Planning guidance. Requests to expend impact fees as recoupment must also identify the project for which costs are being recouped, the total costs incurred on that project, and the impact fees expended and recouped to date on that project.

The role of the Board of Selectmen in approving school impact fee expenditure shall be limited to determining compliance with the applicable requirements for impact fee

expenditures. The Board of Selectmen has no role in determining the advisability of the proposed expenditure or in setting priorities for such expenditures. The Board of Selectmen will not determine any allocation of impact fees between school districts but will act on a request based on when it is received by the Board of Selectmen and whether the amount requested is consistent with the amounts and purposes for which school impact fees were collected.

#### 5. Refunds of Impact Fees

Impact Fees not expended within six years of collection shall be refunded with applicable accrued interest in accordance with the interest allocation protocol established by the Town Treasurer and Finance Director. See RSA 674:21 V(e), Zoning Ordinance 4.19.J.4. Refunds shall be made to the then-owner of the property as reflected in the Town's records, regardless of the identity of the owner at the time the impact fees were collected. Refunds shall also be made if the calculation of an impact fee was predicated upon some portion of capital improvement costs being borne by the Town, but the Town legislative body failed to appropriate the Town's share of the capital improvement costs within said six (6) year period. See RSA 674:21 V(e), Zoning Ordinance 4.19.J.4.



(207) 749-5217 bmayber1@maine.rr.com

April 27, 2022

Dean E. Shankle, Jr., Ph.D.  
Amherst Town Administrator  
2 Main Street  
Amherst, NH 03031

*Re: Guidance on Use of Amherst Impact Fees*

Dear Dean:

This letter provides an interpretation of the appropriate uses of impact fees in Amherst, based on the 2020 report in which fees were computed for five capital facility categories: Police, Fire-Rescue, Recreation, Schools, and Roads. General guidance for administration of impact fees is provided by (A) the impact fee section of the zoning ordinance; and (B) the standards and facility cost assumptions used to compute the proportionate impact fees that comprise your impact fee schedule.

#### **A. Review of Selected Impact Fee Provisions of Zoning Ordinance**

1. All impact fees must be applied to the cost of capital improvements. Impact fees cannot be used for maintenance or general operating expenditures. Your ordinance provisions contain a definition of Public Capital Facilities which describes this distinction: improvements funded should have a useful life of at least five years, and should provide enhancements to the capacity or level of service provided by the capital facility being funded.

Excerpt From Zoning Ordinance Section 4.19 Impact Fee Ordinance:

#### **C. Definitions**

Public Capital Facilities. Facilities and equipment which are owned and operated by the Town of Amherst, the Amherst School System, or cooperatively with other municipalities and which have a useful life of no less than five (5) years. Public capital facilities do not include the costs associated with the operation, maintenance, or repair of such facilities, or with facility replacements that do not increase the capacity or level of service, but do include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

2. Fees collected for one facility category cannot be spent on improvements within other facility categories. Fees that have been collected may represent a recoupment of past capital investments where there is adequate capacity to accommodate new development, or the fees may be collected to fund future improvements to support it. Impact fees can be used to offset debt service costs to fund those improvements.

Excerpt From Zoning Ordinance Section 4.19 Impact Fee Ordinance:

**J. Administration of Impact Fees.**

1. Accounting for Impact Fees. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Selectmen and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet. In the event that bonds or other debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments. Each fee collected under a specific Impact Fee Schedule shall not be commingled with any other impact fee accounts or any other funds. (3-10-09).

3. The Board of Selectmen must approve in writing the use of impact fees, and will need to issue annual reports showing how the impact fees were applied or retained for future use.

Excerpt From Zoning Ordinance Section 4.19 Impact Fee Ordinance:

**J. Administration of Impact Fees.**

5. Maintaining Records of Impact Fees and Related Projects - The Town Treasurer shall have custody of all accounts and shall pay out the same only upon written orders of the Board of Selectmen. At the end of each fiscal year, the Town Treasurer shall prepare a report, showing a full account of all impact fee transactions during the year and deliver same to the Board of Selectmen, the Planning Board, and the same shall be available to the public. (3-10-09)

**B. Guidance Based on Assumptions in 2020 Basis of Assessment Report**

1. Police and Fire Impact Fees

The Police and Fire Department impact fees were computed separately and constitute separate fee categories. The fee models for both departments presume that that their buildings and capital equipment, after the completion of budgeted improvements to the two safety buildings, would be sufficient to accommodate new development at least through the year 2040.

At the time of the impact fee study, a \$700,000 budget had been approved that would enable all the space within the Police Department building to be devoted to law enforcement functions. This involved the relocation of Rescue/Ambulance functions formerly housed in the Police Department building to improved space within the Fire-Rescue building. (That capital value was included within the total capital investment attributed to Public Safety buildings.) The first phase of the project was completed in 2021, and the second phase was scheduled to

be completed in the Spring of 2022. Both the Police and Fire-Rescue fees assumed the completion of those improvements, and both include the capital equipment associated with the buildings. The Fire-Rescue fee also incorporates the value of major vehicles and apparatus.

Both fees are based on the recoupment of a proportionate share of the Town's total capital investment in each department's buildings and capital equipment. Consequently, Police and Fire-Rescue impact fees could be spent on any capital improvement to the facilities or equipment of the departments, provided that the improvement falls within the ordinance definition of Public Capital Facilities. (A capital improvement or upgrade having a minimum useful life of five years, which contributes either enhances the capacity of related facilities, or that enables a higher level of service to be provided.) Fire-Rescue impact fees could also be used to purchase or re-fit vehicles and apparatus.

Examples of such expenditures might include, but are not limited to:

- Offsetting debt service costs, if any, for improvements completed
- Increasing the finished floor area of either or both public safety buildings
- Improvements or upgrades to the buildings, their systems, or equipment
- Improving facility space or equipment to accommodate personnel needs
- Acquiring new fire/rescue apparatus or refits/upgrades
- Improvements to communications and dispatch facilities or equipment

## 2. Recreation Facilities

The cost basis for the Recreation Impact Fee includes the existing capital value of recreation improvements, related buildings, the value of supporting land, plus certain anticipated costs identified in the Recreation Strategic Plan. Components of that Plan included the development of new recreation field space, resurfacing of the AMS tennis courts, upgrading/expanding the Recreation Office, and Phase 1 of a bicycle and recreation trails system. These items represented a projected expenditure of \$427,000.

Since part of the fee basis presumes that these future improvements will be made (or a comparable level of investment in recreation facilities will occur), it is recommended that the first priority for the use of Recreation Impact Fees would be to support the recreation improvements anticipated within the Recreation Strategic Plan.

Examples of such expenditures might include, but are not limited to:

- Development of new public recreational field space

- Rebuilding the tennis courts
- Expanding / upgrading the Recreation Department office
- Development of components of proposed bicycle / recreational trail system
- Other capital improvements that implement the Recreation Strategic Plan

### 3. Public Schools

As calculated in the 2020 impact fee report, using the capacity estimates available at that time, K-8 enrollment within the elementary and middle schools was 1,271 while their capacity was 1,589 (80% of capacity used). For the cooperative high school, enrollment was 750 and maximum capacity was 1,007 (74% of capacity used). Because there is capacity available to new development at the spatial standards applied, the school impact fee is a recoupment of prior capital investments that created that capacity.<sup>1</sup>

A proposed expenditure of \$83 million was considered by the voters in the 2022 Amherst School District meeting but public support fell short of the threshold for approval of bonded debt for new construction and renovations. Had the project been approved, a new set of capacity and space assumptions could have been used to update the school impact fee to a greater amount. If the project is approved at a future date, the impact fee could be updated because it would demonstrate support for higher spatial standards per pupil capacity at the schools and the related costs.

The school impact fees must fund school capital improvements only, and therefore should be transferred to one or both of the school districts serving the Town to support capital projects. The Amherst School District has outstanding bonded debt for improvements to the elementary and middle schools that will not be fully amortized until sometime in 2028. The capital cost basis for the fees includes the school buildings and the capital equipment within.

Under these conditions, the school impact fees could be applied to:

- Offset bond amortization payments for elementary and middle school facilities. This practice assures that the impact fees will be directly aligned with their purpose.
- Pay for other capital improvements to the facilities of the local and cooperative Districts, provided that the subject of funding meets the ordinance definition of Public Capital Facilities.

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<sup>1</sup> A different set of capacity and spatial standards may apply in the future if the Amherst School District should approve an expansion and renovation plan for elementary and middle school space. Proposed projects that were put forth for a District vote in 2022 did not achieve the threshold needed to approve bond financing for the proposed projects.



- Pay part of the Town's apportionment of capital costs for the Souhegan Cooperative District (the High School) to reduce the amount required from property taxes.
- Hold funds for up to 6 years from the date of collection and apply the revenue to support projects including new schools, facility expansion, or other improvements to the elementary and middle school facilities.
- Should new bonds be issued for new construction, expansion, or improvements, the impact fee revenue could be applied to offset a portion of new debt service costs. (In such case, it would also be advisable to update the school fee to recognize the change in spatial standards).

#### 4. Road Impact Fees

The road impact fee is based on the average reconstruction cost of the primary Class V (locally maintained) roads in Amherst. These include primary roads classified internally by the DPW as arterial or feeder roads of the Class V system.<sup>2</sup> The road impact fee represents the development's proportionate share of the cost to provide adequate roadway capacity within the primary roads of the Class V system. The Amherst Department of Public Works periodically rates each road segment as to the level of improvement needed.

The fee basis presumes an ongoing effort to periodically rebuild or reconstruct roads (sometimes in phases) to prolong the useful life of the primary roads of the Class V system. The impact fee acts to recoup a portion of the Town's ongoing investment in periodic road reconstruction of that system. Under the assumptions used to define the impact fee, appropriate use of road impact fees could include:

- Apply directly to fund a portion of annual reconstruction costs within the defined primary road network.
- Fund stages of road reconstruction in phases (rebuild or reclamation, pavement base course, topcoat).
- The scope of the fee is intended to apply to all components of road construction within the right of way including ditching, drainage, shoulders, etc.

Under NH RSA 674:21, V categories for which impact fees may be assessed are listed as "*including **and limited to***" the capital facilities listed. With respect to roads, the listed facility category is "*municipal road systems and rights-of-way*".

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<sup>2</sup> A list of the road segments comprising this network, totaling 46.1 miles of road, may be found on page 47 of the 2020 Impact Fee report.

Limited to the municipal road system, road impact fees cannot be used to support State or Federal highways. The fee category specifies “road systems and rights-of-way” only; there is no mention of other highway department capital costs. Therefore, road impact fees should not be applied to highway garages, salt sheds, maintenance trucks, plow blades, etc. These items do not constitute “roads and rights-of-way.”

### **C. Summary**

The impact fee methodologies contained in the 2020 fee calculations have already established the proportionate relationship between the amount of the fee, and its association with providing a reasonable capital facility benefit to new development.

Prior to approving the use of impact fees for a particular project, the Board of Selectmen should verify that the proposed improvement will:

- Meet the definition of a “Public Capital Facility” as defined in the impact fee section of the Zoning Ordinance (minimum 5-year useful life, increases or enhances capacity of level of service);
- Is reasonably consistent with the scope of the basis of assessment used to compute the fee for the facility category to which it is related.

A separate memo is attached to this letter which discusses the concept of impact fees as a “recoupment” of capital costs, and the use of impact fee revenue to fund improvements that include upgrades to existing facilities.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bruce Mayberry", written in a cursive style.

Bruce C. Mayberry  
Principal  
BCM Planning, LLC

*Also see attachment: Memo on Impact Fees regarding Recoupment and Use for Upgrades*



(207) 749-5217 email: bmayber1@maine.rr.com

To: NH Client Municipalities Using Impact Fees

Re: Discussion off “Upgrade” & “Recoupment” Issues with Impact Fees

This memo discusses the context of some of the statutory language of RSA 674:21, V and some of the potential conflicts that it seems to present for the reasonable use of impact fees where “upgrades” are involved, or where fees represent a recoupment of the cost of providing capital facilities, but where no debt service remains.

In reviewing the meaning of any particular part of the statute, we note that in at least two NH Supreme Court decisions on impact fees, the Court has emphasized the need to take into account the overall context and purpose of the statute, as read in its entirety, when interpreting selected language.

Two key sections of RSA 674: 21, V are cited below (with emphasis added in bold typeface). These particular provisions have frequently been at the center of discussions on the limitations of the use of impact fees.

#### 1. Proportionality of Fees and Limits on “Upgrades”

Under RSA 674:21, V (a):

The amount of any such fee shall be a **proportionate share** of municipal capital improvement costs which is **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. **Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.** [Emphasis added in bold]

#### Discussion:

There are two general types of proportionate standards found in various state enabling acts that permit impact fees and exactions for off-site improvements. These center on whether the proportionate standard for assessment reflects a “reasonably related” or “necessitated by” test. In New Hampshire, “reasonably related” is the standard applicable to impact fees, but “necessitated by” is the test for exactions. Therefore the impact fee computations related to proportionality require the demonstration of a proportionate relationship between a given category of development and its demand on a facility category. It is not a “threshold test”

under which the individual development triggers a project-specific improvement cost (though this might apply to an exaction for water, sewer, drainage or roads).

The excerpt from the statute dealing with use of fees for “upgrades” may be interpreted in different ways. Does the language mean that no existing facility or infrastructure can ever be upgraded using impact fees? Or does it mean that upgrading is permissible to the extent that the upgrade is also needed to accommodate new development? (That is, a proportional share of an upgrade *is related* to the need to provide new development with adequate capital facilities at the chosen level of service).

Many related capital improvement projects will involve a combination of upgrades, improvements, and expansion. In the realm of water and sewer, plant “upgrades” involve improving the level of treatment to meet applicable standards for service.<sup>3</sup> When this occurs, both existing and new development benefit from a facility that meets a new higher standard, and the facility cost at that higher standard becomes the cost basis for the fee. One would not choose to base the fee on a lower, substandard level of service.

Whether a project is termed an “upgrade” or “improvement” would not seem to be as relevant as whether the total cost basis for the fee (at whatever quality level is supported by the Town) is proportionately allocated to new development at the same standard or level of service. It seems unreasonable to assume that any capital expenditure that involves some type of upgrading in quality would be off-limits as part of the cost basis for an impact fee, as long as costs are proportionately assigned to new development.

I believe the “upgrade” language was intended to indicate that the fee should be based on a set of standards and costs that define a level of service or quality applicable to both existing and new development. This avoids the inequitable treatment that would occur if a series of random capital projects of benefit to the entire community were to be assessed solely to new development.

One particular NH Supreme Court decision seems to support the general discussion above, and provides guidance on this topic (see decision in Barry O. Upton v. Town of Hopkinton, issued April 8, 2008). This brief excerpt captures the basics of the decision’s finding relating to “upgrades” being paid for by impact fees:

*“ In context, the prohibition in RSA 674:21, V and the Town’s ordinance against imposing impact fees to pay for upgrades to existing facilities and infrastructures applies only when the need for such upgrades is not “reasonably related” to the new development. As long as the need for the upgrade is “reasonably related” to the new development, both the statute and the Town’s ordinance allow the Town to assess an impact fee to help pay for it.”*

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<sup>3</sup> Used as an illustrative example only. We do not recommend that utility costs be assessed through impact fees. They are best addresses as system development charges enabled under other NH statutory authority.

## 2. Concept of “Recoupment” in the Application of Impact Fees

RSA 674:21, V (c) states that (with emphasis added):

“Any impact fee shall be **accounted for separately, shall be segregated from the municipality’s general fund**, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of town moneys, and shall be used **solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements** made in anticipation of the needs which the fee was collected to meet.” *[Emphasis added in bold]*

### Discussion:

The paragraph then indicates two alternatives for the use of an impact fee, separated by the key word “OR”. Impact fees may be used either for: (1) the capital improvements for which they were collected **OR** (2) **to recoup the cost of capital improvements** made in anticipation of the needs it was collected to meet.

Recoupment is essential to all impact fee systems. Without the ability to recoup prior investments, fees would be assessed only prior to a capital facility being placed in service. In such case, the capital investment made in remaining available capacity could not be recovered from new development except to the extent that it would bear some future portion of outstanding debt service costs in the form of property taxes.

When there is remaining debt service on capital improvements, there is a clear means of linking the recoupment impact fee to relevant capital projects by applying the fee to offset debt service on the related facility or facilities. The ability to use impact fees to pay debt services is a provision included in many local impact fee ordinances.

But what is the appropriate use of an impact fee that is based on recoupment of prior investments when there is no remaining debt service on the related capital project(s)? If there is no remaining debt service, and the fee cannot be applied to the general fund, how might it be used? Let’s assume the following:

- The facility or facilities for which fees were collected have been placed in service;
- The related improvements have capacity to accommodate new development;
- RSA 674:21, V permits the recoupment of costs incurred to create those capital facilities;
- There is no outstanding debt service on the related facilities.

Given the above assumptions, it would seem consistent with the statutory provisions to spend “recoupment” impact fees on other capital projects or improvements of the same facility category under which they were originally assessed. Preferably, these improvements should be those having a long useful life, rather than a short term maintenance or repair purpose.

Recoupment means to recover or reimburse. In the above example the fee revenue from new development reimburses the Town (and its existing property owners or taxpayers) for a portion of the up-front investment made to accommodate the needs of new development.

New development will benefit from the capacity made available, but avenues of reimbursement do not appear to include allocation to the general fund. In the absence of outstanding debt, the only remaining mechanism for reimbursement would be to apply the funds to other capital improvement costs of the same facility category where those improvements (1) have a long useful life and (2) support the capability of the facility to accommodate demand from new development. This would allow recoupments to be applied to other facility improvements, rather than flow to the general fund.

At the point where available capacity no longer appears sufficient to accommodate new development, there would need to be a plan in place to provide sufficient capacity in the near future (likely to begin within 6 years) in order to sustain continued impact fee collections.

The foregoing discussion is based on my review of the principles and practices of impact fee calculations and assessment, and the challenges of computing proportionate impact fees for broad application to new development.

It does not constitute a legal analysis, and each municipality must rely on its legal counsel for related interpretations of the relevant statutory provisions as they pertain to the above issues.

A handwritten signature in black ink, appearing to read "Bruce Mayberry". The signature is fluid and cursive, with the first name "Bruce" and last name "Mayberry" clearly distinguishable.

Bruce C. Mayberry, Principal  
BCM Planning, LLC

*Last updated: June 3, 2020*