

### §4354. Impact fees

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A municipality may impose an impact fee either before or after completing the infrastructure improvement. [PL 1991, c. 722, §8 (RPR); PL 1991, c. 722, §11 (AFF).]

**1. Construction or fees may be required.** The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

A. For the purposes of this subsection, infrastructure facilities include, but are not limited to:

- (1) Waste water collection and treatment facilities;
- (2) Municipal water facilities;
- (3) Solid waste facilities;
- (4) Public safety equipment and facilities;
- (5) Roads and traffic control devices;
- (6) Parks and other open space or recreational areas; and
- (7) School facilities. [PL 1999, c. 776, §11 (AMD).]

[PL 1999, c. 776, §11 (AMD).]

**2. Restrictions.** Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. [PL 1991, c. 18, §3 (AMD).]

B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital investment component of the comprehensive plan. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The ordinance must establish a mechanism by which the municipality shall refund impact fees, or that portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 562, §17 (AMD).]

E. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 562, §18 (RP).]

[PL 1991, c. 18, §2 (AMD).]

**3. Deposit fees in trust fund.** Municipalities that are part of a school administrative district or other single or multicomunity school district may deposit collected impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.

[PL 2001, c. 38, §1 (NEW).]

## SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 562, §§16-18 (AMD). PL 1991, c. 18, §§2,3 (AMD). PL 1991, c. 236, §2 (AMD). PL 1991, c. 722, §8 (AMD). PL 1991, c. 722, §11 (AFF). PL 1999, c. 776, §11 (AMD). PL 2001, c. 38, §1 (AMD).

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