

LINCOLN BOARD OF SELECTMEN'S

APPROVED

MEETING MINUTES

JULY 11, 2022 – 5:30PM

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

(THE RECORDING OF THIS MEETING CAN BE FOUND ON YOUTUBE)

Board of Selectmen Present: Chairman OJ Robinson, Vice Chair, Tamra Ham and Jack Daly

Staff Present: Town Manager, Carina Park and Executive Assistant Jane Leslie

Public Present: Fire Chief Ron Beard, Cliff Dauphine, Debbie Celino and Jim Welsh

Public Present via Zoom Video Conferencing: Deputy Fire Chief, Ryan Fairbrother, Michael Weden, Al Poulin, Paul Beaudin II and David Tomaso

I. CALL TO ORDER

Chairman Robinson called the meeting to order at 5:30 pm.

II. APPROVAL OF MEETING MINUTES FROM PREVIOUS MEETING

MOTION: "To approve the BOS meeting minutes of June 20, 2022 as presented."

Motion: Tamra Ham

Second: Jack Daly

All in favor.

MOTION: "To approve the BOS Non-public meeting minutes of June 20, 2022 as presented."

Motion: Tamra Ham

Second: Jack Daly

All in favor

III. CONTRIBUTION ASSURANCE PROGRAM FY 2024-2026 (Property Liability)

Carina presented the Board with a Contribution Assurance Program agreement (CAP) from the Town's Property & Liability insurer (Primex) which is designed specifically for its members who have demonstrated a long-term commitment to the Workers Compensation and Property & Liability coverage programs. CAP provides members the assurance of predictable contributions for multiple years (3 coverage period years 2024-2026). The annual contribution increase will not exceed seven percent (7%) of the prior year's contribution. After a brief discussion, the following motion was made:

MOTION: "To hereby accept the offer of the NH Public Risk Management Exchange (PRIMEX) to enter into its Property & Liability Contribution Assurance Program (CAP) as of the date of the adoption of this resolution, and to be contractually bound to all of the terms and conditions of Primex risk management pool membership during the term of the Property & Liability Contribution Assurance Program (CAP). The coverage provided by Primex in each year of membership shall be as then set forth in the Coverage Documents of Primex."

Motion: OJ Robinson

Second: Tamra Ham

All in favor

"I attest that the foregoing is a true copy of the Resolution of the Governing Board of the Town of Lincoln adopted on July 11, 2022."

IV. 2021 ABATEMENTS

2021 Abatement Requests:

David & Elizabeth Kaplan, 52 Bunker Lane, #1 (Map/Lot 118-004-000-02-00005)

The Taxpayer feels that their value is high compared to other condos in this development, and due to the fact that the unit was furnished and included 2 newer snowmobiles. It is typical of condo units to sell furnished, and those of higher value typically have higher valued furnishings, which unless you have an appraiser value them, it is difficult to place an accurate value (snowmobiles are considered personal property). This condo was one of the sales during the reval, and prior to its sale the previous owner completely renovated the unit with high-quality components which was not known until the sale occurred. This generated a change in grade and condition for the renovations. Upon the Assessors review, they found that no inventory of property transfer (Form PA-34) was completed at the closing. This form is a document that the Assessors use in verifying the sale because it allows the taxpayer to list facts about the sale such as having snowmobiles included. The real estate market has been on a steady increase, and when that happens, market trends have to be applied to sales used for the revaluation. 1% per month was applied to Lincoln sale properties to determine what a sale that took place in the 2-years prior to 4/01/21 would sell for on 4/01/21. That being said, the sale price of \$870k would trend to approximately \$910k for 4/01/21. There was another sale a month after this sale of an interior unit for \$902,533. Assessor recommends adjusting the value of the condo in light of this new information regarding the inclusion of the snowmobiles. **Previous Assessment: \$906,700 – Revised Assessment: \$815,000.**

MOTION: “To grant the abatement for the revised assessment of \$815,000 based on the Assessors recommendation.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

David & Elizabeth Kaplan, 12 Hay Hill Road (Map/Lot 130-082-000-00-00000)

The Taxpayer has filed an abatement request as they feel the value for their land should be the purchase price of \$149,900. After reviewing the area, three of the abutting properties sold in the similar timeframe; the prices range from \$149,900 to \$275k. Assessors look at averages, individual property characteristics, and the most equitable assessment based off sales in a particular area. An adjustment has been made for topography, giving the adjusted value of \$160,200 which Assessor feels is a fair assessment. **Previous Assessment: \$179,100 – Revised Assessment: \$160,200.**

MOTION: “To grant the abatement for the revised assessment of \$160,200 based on the Assessors recommendation.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

7-Eleven Inc., 36 Main Street (Map/Lot 112-007-000-00-00000)

The taxpayer has filed an abatement for both properties and considered both in the overall opinion of value. In review of the property with the representative, we discussed some recent commercial land sales. At this time, the Assessors are recommending no change. **Previous Assessment: \$468,100 – Revised Assessment: \$468,100.**

MOTION: “To deny the abatement request.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

7-Eleven Inc., 36 Main Street (Map/Lot 112-006-000-00-00000)

The taxpayer filed an abatement request as they feel that their property is over-assessed based on their tax representative replacement cost numbers. In review of the property with the representative, we discussed ages of the tanks, condition of the canopy, and found their opinion of value did not include the pumps. Recent commercial sales were also discussed, and Assessor recommends applying more depreciation to the tanks, pumps and canopy based on their varying ages. **Previous Assessment: \$1,122,300 – Revised Assessment: \$1,073,300.**

MOTION: “To grant the abatement for the revised assessment of \$1,073,300 based on the Assessors recommendation.”

Motion: Jack Daly

Second: Tamra Ham

All in favor.

Duc & Jill Powers, 36 Lodge Road, #L303, (Map/Lot 117-121-000-0L-00303)

The taxpayer is requesting a review as they feel the value should be more comparable to the unit next to them. Although this is a unique unit in the building, upon the Assessor speaking with the taxpayer, he indicated that this unit is on the parking lot side, and not the river side. Assessors are recommending adjusting the unit with the parking lot side factor. **Previous Assessment: \$195,700 – Revised Assessment: \$159,800.**

MOTION: “To grant the abatement request for the revised assessment of \$159,800 based on the Assessors recommendation.”

Motion: Jack Daly

Second: Tamra Ham

All in favor.

Matthew & Jill Smith, 55 Ramshorn Drive (Map/Lot 126-022-000-04-000E8)

The taxpayer abatement request is based on the value being increased due to the COVID 19 Pandemic. In NH there is no provision in the statute for a situation such as this, and Assessors are required to set values based on the sales availability during the reval time period. Assessor spoke with the property owner and went over the property and it appears to be accurately listed, therefore, Assessor is recommending no change at this time. **Previous Assessment: \$809,700 – Revised Assessment: \$809,700.**

MOTION: “To deny the abatement request based on the Assessors recommendation.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

John & Kim Prokos TTES, 82B Coolidge Falls Road (Map/Lot 123-032-000-00-00000)

The taxpayer filed an abatement request because they felt that their sketch was incorrect compared to some of the other units. Assessor spoke with taxpayer and has made a correction to story height area over the garage, as the front section has nothing above it, and the rear section is only a ¼ story not ½. The units throughout this development vary in style and desirability of location on the mountain. Many have been updated or upgraded which causes the values to vary. In the assessor’s recent review in the field, it seems that there are more full-time people, and this area now has much more traffic as it is on the main road, and Assessor recommends applying a similar adjustment as the 5 buildings below them on the main entrance as well. **Previous Assessment: \$988,200 – Revised Assessment: \$885,600.**

Upon review of this unit on Selectman Ham’s laptop computer, she recommended a motion to deny based on her visual observations of this unit. After a brief discussion, the following motion was made:

MOTION: “To approve the abatement request provided this property allows an onsite inspection and is flagged for a 2023 pick-up.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

Thomas & Monica Healey Jr., 9 Rampasture Lane, #D4 (Map/Lot 126-021-000-03-000D4)

The taxpayer has filed an abatement because they feel that their condo was not equitably assessed with other properties in town. Each property is assessed according to their class and location such as Condominium, Residential, Commercial, Mobile Home, vacant land etc. In prior revals, these buildings showed higher sales prices than the inner buildings. There were no sales of these units at the 2021 reval, so the factor was adjusted to be in line with the difference of the last reval. Upon additional review, there have been no sales of these units since the 2021 reval, and the Assessor is recommending adjusting the location factor to be similar to that of Building H. Also, in speaking with the taxpayer, they have added 2

direct vent units which the Assessor did not have record of, therefore, these have been added to the assessment. **Previous Assessment: \$1,408,000 – Revised Assessment: \$1,272,700.**

The Board had a brief discussion about the *previous* and *revised* assessment amounts due to the significant difference (\$135,300). Selectman Ham supported denying this abatement request, and the following motion was made:

MOTION: “To grant the abatement request for the revised assessment of \$1,272,700 based on the Assessors recommendation, and to flag this unit for pick-up in 2023.”

Motion: Jack Daly Second: OJ Robinson Motion carries.

Nay: Tamra Ham

Harold Kaplan, 9 Rampasture Lane, #D3 (Map/Lot 126-021-000-03-000D3)

The taxpayer has filed an abatement because they feel that their increase is too high. In speaking with the taxpayer, the unit has not been updated, so the Assessor has adjusted the condition to “average.” In this development, Buildings D, G & H have been adjusted for their proximity to the slopes. In prior revals, these buildings showed higher sales prices than the inner buildings. There were no sales of these units at the 2021 reval so the factor was adjusted to be in line with the difference from the last reval. Buildings D & G had a different factor than Building H. Upon additional review there have been no sales of these units since the 2021 reval, and the Assessor is recommending adjusting the location factor to be similar to that of Building H. **Previous Assessment: \$1,408,000 – Revised Assessment: \$1,186,000.**

The Board had a brief discussion about the *previous* and *revised* assessment amounts due to the significant difference (\$222,300). Selectman Ham again supported denying this abatement request, and the following motion was made:

MOTION: “To grant the abatement request for the revised assessment of \$1,186,000 based on the Assessors recommendation, and to flag this unit for pick-up in 2023.”

Motion: Jack Daly Second: OJ Robinson Motion carries.

Nay: Tamra Ham

Christopher & Ashlee Konow, 23 Brookside Road, #2 (Map/Lot 127-082-000-00-00000)

The taxpayer has filed an abatement requesting the value be lowered to \$410k, however, Assessor believes they meant \$305,680 as stated in their attachment. This unit was one of the sales used to set the values in the Village of Loon. Prior to the sale, the previous owners had upgraded heating; new flooring, and upgraded the master bath, and the condition was listed as “Very Good”, however, the kitchen and one bathroom did not get much of an update, so Assessor is recommending adjusting the condition to “Good”. **Previous Assessment: \$327,600 – Revised Assessment: \$321,900.**

MOTION: “To grant the abatement request for the revised assessment of \$321,900 based on the Assessors recommendation.”

Motion: Tamra Ham Second: OJ Robinson All in favor.

Kevin & Lisa Weldon Jr., 6 Bourassa Road (Map/Lot 117-081-000-00-00000)

The taxpayer has filed an abatement request because they feel that their property is over assessed compared to some other properties they indicate as comparable. As part of a revaluation, Assessors must divide towns and cities into valuation neighborhoods. Those neighborhoods isolate locational difference and/or influences. The taxpayer is in Residential 2 neighborhood, which are more of the in-town side street lots. The taxpayer comparable(s) are in Residential 1 neighborhood which is the outskirts of town headed up to Route 3. The two neighborhoods have different land values. In addition, the comparable(s) were mobile

homes ranging in age from 1960 to 1987, and the taxpayer's home was built in 2015. A better comp for land would be neighboring lots within the same valuation neighborhood. There are 5 abutting & neighboring lots that are also .27 acres and have the same assessed land value. As part of the revaluation there were 31 improved lots within this neighborhood used to set this value. Assessor recommends no change at this time. **Previous Assessment: \$194,400 – Revised Assessment: \$194,400**

MOTION: “To deny the abatement request.”

Motion: Tamra Ham

Second: Jack Daly

All in favor.

Dorsey Family Trust, 100 Woodland Loop, #2 (Map/Lot 114-078-000-02-00014)

The taxpayer has filed an abatement request because they feel that their property is over assessed compared to another similar unit. In review of both units, this unit was updated prior to the sale with granite counters throughout, and laminate flooring. Unit #3 has not had the same upgrades so it has a lower grade. The units sold just 3-months apart from each other, and this unit which was upgraded sold for \$350k, and the unit #3 sold for \$328k. The flooring in the unit was listed as hardwood, but is a laminate flooring so Assessor has made that change, and also recommended adjusting the physical depreciation to account for age of the upgrades which had been done several years ago. **Previous Assessment: \$420,300 – Revised Assessment: \$408,100**

MOTION: “To grant the abatement request for the revised assessment of \$408,100 based on the Assessors recommendation.”

Motion: Jack Daly

Second: Tamra Ham

All in favor.

VI. OLD/NEW BUSINESS

Town Manager's Report

Grant Updates – EOC Police & Fire Safety Services Building:

The Town has been formally notified that FEMA was unable to accept the Town's House Appropriation from Representative Annie Kuster's Office due to the fact that the Town could not justify how the grant money was going to be spent, and the Town did not have designs or cost estimates available for the EOC (Emergency Operation Center) portion of the building. Kuster's Office fully supports the project and will express the same in writing for future grant applications. Kuster also encourages the Town to reapply when the project develops further, and additional details specific to the EOC have been established. Kuster suggested the Town apply for a USDA Rural Development Community Facilities grant when the 2023 funding is released.

Scenic Byways Grant:

The Town was notified by NH-DOT that the proposed “Old Hole Project” was not selected by the Scenic Byways Committee (only one project was selected in the state). DOT expressed that along with North Country Council (NCC), they are committed to helping review potential funding sources, and recommended two (2) other grant programs. It was also suggested that the Town collaborate with the North Country Council in the future to improve the strength of the overall project(s) combined (NCC also applied for this grant) and to have a stronger application.

West Street – Citizen Request:

The property owner of 44 West Street would like the Town to build up the base of her driveway, as the new roads edge sits higher than her driveway, and creates puddling at the base of her driveway. Carina informed the property owner that she would bring this matter before the Board of Selectmen, however, explained that she did not foresee the Board agreeing to making such improvements as the Town would

then be required to do so for all of the property owners on West Street. Additionally, the budget for the West Street Project had already been exceeded, and the Town did not have the funds available to complete the work. Paul Beaudin commented that the Town should at a minimum collaborate with property owners (split costs) that are having drainage issues resulting from town projects in an effort to be fair, because property owners are expected to not incite drainage issues on to town roadways, and he feels that the Town should do the same in return with issues resulting from town road/repair projects. After a brief discussion, Chairman Robinson recommended tabling this discussion and doing a site visit to West Street with Director Hadaway to visually observe the issues being discussed so that the Board has a better idea of the problem(s).

West Street Gate & Signage:

The West Street gate has been installed (not connected to electricity yet). Speed Limit signage has not been installed, and according to DPW Director Hadaway there had never been speed limit signage on West Street. Hadaway expressed reservations about putting signs up because they would have to be posted at 30 mph which is too fast for West Street. Jim Welsh questioned if a vehicle is driving 35 mph on West Street, and there are no speed signs posted, would the police still be able to pull them over? The Board responded that any vehicle driving over the speed limit could essentially be cited for speeding (whether there are signs or not) because the State dictates both minimum and maximum speed limits on town roads (30 mph). Paul Beaudin asked if *Children at Play* signage could be posted if speed limit signs are not. Selectman Ham suggested Director Hadaway may have signs at the Public Works garage that could be used.

South Peak Water Storage Tank – Update:

The easement has been signed and the survey data collected. Sam Kenney (Weston & Sampson) is currently working to pull everything together for submittal to the US Forest Service (USFS) for later on this month. The Town should be on track to be included on the USFS Small Projects Meeting List this coming fall.

RSA 674:21 Innovative Land Use Controls:

This RSA (see attached) proves the guideline for “Inclusionary Zoning” which provides incentives to property owners who produce housing units that are affordable and available to low-to-moderate income persons/families; includes density bonuses, growth control exceptions, and a streamlined application process. This RSA also covers “Impact Fees” and denotes which type of municipal operations they can be assessed for.

Grafton County Senior Citizens Council (GCSCC):

The Board of Selectmen are invited to help celebrate the GCSCC’s 50th Anniversary on July 14th from 11:30am-12:30pm at the Community Center.

Legal Update:

Jeannine Wood’s attorney has filed a Motion to Reconsider the most recent decision that was favorable to the Town of Lincoln. The Town will now have to await this decision to be rendered by the court.

Upcoming Meeting with Town Counsel:

The Selectmen will be meeting with Town Counsel on Thursday, July 21st at 12:30pm at Town Hall. This will be a non-meeting and not open to the public.

2nd Quarter Financials:

Carina informed the Board that she has received the 2nd Quarter financials, and reiterated that there is going to be a problem with the heating fuel and electricity (rates doubling in August) line items, and although the rest of the budget is fine, these two-line items are going to go over due to current trends nationwide.

NEW BUSINESS:

4th of July Parade:

Selectman Ham said that the 4th of July Parade was amazing and had 46 entrants this year. Ham said that the fireworks were wonderful as well and all had a great time.

Public Participation:

Cliff Dauphine commented that time and time again when the Lincoln Fire Department personnel are driving their personal vehicles to the Fire Station to respond to emergency calls, they are driving way too fast on Main Street and someone is going to get hurt. Mr. Dauphine explained that he had discussed this with Chief Beard previously, yet this continues. Chief Beard responded that he has discussed this with his department several times, and will discuss again at their next meeting.

Jim Welsh asked if the Town was trying to make Deputy Fire Chief Ryan Fairbrother the new Fire Chief. Selectman Ham responded that this is the first she is hearing about this, and furthermore, the Town has a Fire Chief, Ron Beard. Jim responded that Al Poulin, who was the Fire Chief in Manchester and has years of experience/qualifications and now resides in Lincoln would like to be Fire Chief, and if there was any chance the Selectmen would consider Al Poulin. Robinson responded that when the time comes to replace the Fire Chief, the Board will be open to any qualified applicants, and although Ron has left his full-time job with the Town, he is still the Fire Chief (part-time). Mr. Dauphine commented that Al Poulin had submitted an application to join Lincoln Fire Department, and it was turned down and he questioned why? Robinson responded that they do not discuss personnel issues in public session.

Paul Beaudin asked the Board if they had any idea on how long it will take, or a timeline for the South Peak water storage tank to be up and running. Robinson responded that the next step is to get on the USFS's small projects list, and if that happens, they will then be able to develop a timeline based on the approval process with the USFS (tank will be on their land). Paul questioned the financial aspect of the water tank and whether or not funds will need to be appropriated. Robinson explained that the Town has received a grant from Northern Border Regional Commission (NBRC) and the match for that has been appropriated by the town [\$500k + \$500k = \$1M]. Robinson explained that the South Peak Developer will be contributing towards the tank, and the balance will come from water tap fees.

Jim Welsh commented that he was not aware that Ron Beard was going to continue working as the Fire Chief part-time when he heard that he took a job with Waterville Estates, and asked the Board if they would consider Al Poulin when the time comes that Chief Beard is no longer the Fire Chief. Carina responded that when the time comes, they will entertain any/all qualified candidates for this position. Chief Beard commented that this was how it was when he worked for DOT, and was the appointed Fire Chief. When he began full-time employment with the Town, he took on the Code Enforcement and Health Officers duties to create the full-time position.

VI. NON-PUBLIC Session Pursuant to RSA 91-A:3(III) (c) Personnel

MOTION: "To go into Non-public session pursuant to RSA 91-A:3 (III) (c) Two Personnel issues."

Motion: OJ Robinson

Second: Tamra Ham

All in favor.

The BOS went into Non-public session at 6:52 p.m.

MOTION: "To re-enter public session."

Motion: OJ Robinson

Second: Jack Daly

All in favor.

The Board reconvened public session at 7:40 p.m.

VII. ADJOURNMENT

After review of the weekly payables, and with no further business to attend to, the Board made the following motion:

MOTION: "To adjourn."

Motion: OJ Robinson

Second: Tamra Ham

All in favor.

The meeting adjourned at 7:41 p.m.


Respectfully Submitted,
Jane Leslie

Approval Date: July 25, 2022


Chairman O.J. Robinson


Tamra Ham


Jack Daly

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Zoning

Section 674:21

674:21 Innovative Land Use Controls. –

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.
- (l) Impact fees.
- (m) Village plan alternative subdivision.
- (n) Integrated land development permit option.

II. An innovative land use control adopted under RSA 674:16 may be required when supported by the master plan and shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.

III. Innovative land use controls must be adopted in accordance with RSA 675:1, II.

IV. As used in this section:

- (a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.
- (b) "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other

conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

V. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space. No later than July 1, 1993, all impact fee ordinances shall be subject to the following:

(a) The amount of any such fee shall be a proportional 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.

(b) In order for a municipality to adopt an impact fee ordinance, it must have enacted a capital improvements program pursuant to RSA 674:5-7.

(c) 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.

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

(e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

(f) Unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

(g) The ordinance may also provide for a waiver process, including the criteria for the granting of such a waiver.

(h) The adoption of a growth management limitation or moratorium by a municipality shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that

development.

(i) Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance.

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

(k) Revenue from impact fees imposed upon development and collected by a municipality under RSA 674:21, V for construction of or improvement to municipal road systems may be expended upon state highways within the municipality only for improvement costs that are related to the capital needs created by the development. Such improvements may include items such as, but not limited to, traffic signals and signage, turning lanes, additional travel lanes, and guard rails. No such improvements shall be constructed or installed without approval of the state department of transportation. In no event shall impact fees be used for any improvements to roads, bridges, or interchanges that are part of the interstate highway system. Nothing in RSA 674:21, V shall be construed as allowing or authorizing additional impact fees merely by virtue of having approved the expenditure of collected fee revenue for construction of or improvement of state highways, nor shall it be construed as allowing the adoption of new impact fees devoted to assessing impacts to state highways.

(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for 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 annual 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.

VI. (a) In this section, "village plan alternative" means an optional land use control and subdivision regulation to provide a means of promoting a more efficient and cost effective method of land development. The village plan alternative's purpose is to encourage the preservation of open space wherever possible. The village plan alternative subdivision is meant to encourage beneficial consolidation of land development to permit the efficient layout of less costly to maintain roads, utilities, and other public and private infrastructures; to improve the ability of political subdivisions to provide more rapid and efficient delivery of public safety and school transportation services as community growth occurs; and finally, to provide owners of private property with a method for realizing the inherent development value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the political subdivision's property tax base.

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a

parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall grant to the municipality within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses, and shall specify that the restrictions contained in the easement are enforceable by the municipality. Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

(c) The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision. Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the department of environmental services shall apply to the developed portion of a village plan alternative subdivision, but lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations, shall not apply.

(1) The total density of development within a village plan alternate subdivision shall not exceed the total potential development density permitted a conventional subdivision of the entire original lot unless provisions contained within the political subdivision's land use regulations provide a basis for increasing the permitted density of development within a village plan alternative subdivision.

(2) In no case shall a political subdivision impose lesser density requirements upon a village plan alternative subdivision than the density requirements imposed on a conventional subdivision.

(d) If the total area of a proposed village plan alternative subdivision including all roadways and improvements does not exceed 20 percent of the total land area of the undeveloped lot, and if the proposed subdivision incorporates the total sum of all proposed development as permitted by local regulation on the undeveloped lot, all existing and future dimensional requirements imposed by local regulation, including lot size, shall not apply to the proposed village plan alternative subdivision.

(e) The approving authority may increase, at existing property lines, the setback to new construction within a village plan alternative subdivision by up to 2 times the distance required by current zoning or subdivision regulations, subject to the provisions of subparagraph (c).

(f) Within a village plan alternative subdivision, the exterior wall construction of buildings shall meet or exceed the requirements for fire-rated construction described by the fire prevention and building codes being enforced by the state of New Hampshire at the date and time the property owner of record files a formal application for subdivision approval with the political subdivision having jurisdiction of the project. Exterior walls and openings of new buildings shall also conform to fire protective provisions of all other building codes in force in the political subdivision. Wherever building code or fire prevention code requirements for exterior wall construction appear to be in conflict, the more stringent building or fire prevention code requirements shall apply.

VII. In this section, "integrated land development permit option" means an optional land use control to allow a project to proceed, in whole or in part, as permitted by the department of environmental services under RSA 489.

Source. 1983, 447:1. 1988, 149:1, 2. 1991, 283:1, 2. 1992, 42:1. 1994, 278:1. 2002, 236:1, 2. 2004, 71:1, 2; 199:2, 3. 2005, 61:1, 2. 2008, 63:1. 2012, 106:1, 2. 2013, 270:5, 6. 2015, 31:1, eff. July 6, 2015. 2016, 6:3, 4, eff. June 1, 2017.