

AN ORDINANCE PERTAINING TO TRAFFIC IMPACT FEES

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 66 of the Code of Ordinances of the City of Lewiston, Maine, is hereby repealed as follows:

CHAPTER 66

STREETS AND SIDEWALKS

~~ARTICLE VI. OUTER LISBON STREET TRAFFIC IMPACT FEE~~

~~Sec. 66-160. Purpose.~~

~~This article imposes an impact fee on land development requiring development review under Appendix A, Article XIII of the City of Lewiston's Zoning and Land Use Code. These fees will be used to upgrade roads and related facilities necessitated by new development that impacts traffic along Outer Lisbon Street, as defined herein. It also provides for the placement of impact fee revenues into a traffic impact fee trust fund established for that purpose and for the administration of the Outer Lisbon Street Traffic Impact Fee Ordinance, including the expenditure of funds derived from traffic impact fees and the refunds of unexpended funds.~~

~~Sec. 66-161. Legislative findings.~~

~~The Lewiston City Council finds, determines and declares as follows:~~

- ~~(1) — The city will need to upgrade and expand road infrastructure along Outer Lisbon Street as a result of expected development in the area. To maintain adequate levels of service along Outer Lisbon Street, the existing road system must be expanded to accommodate future traffic increases safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare;~~
- ~~(2) — The State of Maine has authorized municipalities to adopt impact fees for various purposes, including the construction of off site capital improvements such as roads and traffic control devices, pursuant to 30-A M.R.S.A. § 4354;~~
- ~~(3) — The imposition of impact fees is a preferred method of insuring that new development bears a proportionate share of the cost of capital investments necessary to accommodate such development. Appropriate locations for new development in Lewiston and the capital improvements necessary to accommodate such development are consistent with the city's comprehensive plan and capital improvements program;~~
- ~~(4) — New development generates additional traffic, necessitating the acquisition of rights of way, road construction and road improvements;~~
- ~~(5) — The impact fee has been derived from the city's determination that development along Outer Lisbon Street will require that road capacity is~~

~~expanded by widening it to five lanes or through similar infrastructure upgrades. The city anticipates funding ten percent of the necessary road improvements, with remaining funding provided by state and federal sources. The city's effort to seek alternative sources of funding will reduce the amount of the impact fee sought under this article to five percent of the cost of impacts created by new development.~~

~~Sec. 66-162. Title, authority, and applicability.~~

- ~~(a) *Title.* This article shall be known and may be cited as the "Outer Lisbon Street Traffic Impact Fee Ordinance."~~
- ~~(b) *Authority.* The Lewiston City Council has the authority to enact this ordinance pursuant to 30-A M.R.S.A. § 4354 and its statutory and constitutional home rule powers.~~
- ~~(c) *Applicability.* This article shall apply to all development requiring a traffic movement permit issued on or after August 9, 2005 that would require an expansion of road capacity along Outer Lisbon Street based on the four lane alignment that existed on August 9, 2005.~~

~~Sec. 66-163. Definitions.~~

~~As used in this article, the following terms shall have the meanings indicated:~~

~~"Capital improvement" includes transportation planning, preliminary engineering, engineering design studies, land surveys, right of way acquisition, engineering, permitting and construction of all the necessary features for any public infrastructure, including but not limited to:~~

- ~~(1) Construction of new through~~
- ~~(2) Construction of new turn lanes;~~
- ~~(3) Construction of new bridges;~~
- ~~(4) Construction of new drainage facilities in conjunction with new roadway construction;~~
- ~~(5) Purchase and installation of traffic signalization (including new and upgraded signalization);~~
- ~~(6) Construction of curbs, medians, and shoulders;~~
- ~~(7) Relocating utilities to accommodate new roadway construction;~~
- ~~(8) Construction of public utilities to accommodate new development;~~
- ~~(9) Construction or implementation of interim measures to address increased transportation capacity needs or demands created by new development during the period prior to construction of permanent improvements.~~

~~Capital improvements do not include site-related improvements defined herein.~~

~~"Developer" is a person or entity commencing a land development activity which generates or attracts traffic on Outer Lisbon Street and which requires a traffic movement permit.~~

~~"Development" is any change in land use or any construction of buildings or structures or any change in the use of any structure along Outer Lisbon Street which requires a traffic movement permit.~~

~~"Expansion of road capacity" means all road and intersection capacity enhancements, including but not limited to: extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges.~~

~~"Mandatory or required rights of way dedications and/or roadway improvements" means such non-compensated dedications and/or roadway improvements as required by a traffic movement permit.~~

~~"Outer Lisbon Street" includes all land serviced by Lisbon Street, from its intersection with Pleasant Street to the Lewiston/Lisbon town line;~~

~~"Roads" means and includes arterial streets and transportation facilities associated with the arterial and state aid highway network along Outer Lisbon Street and under the jurisdiction of the city or the State of Maine.~~

~~"Site related improvements" are capital improvements and right of way dedications for direct access improvements to and/or within the development in question. Direct access improvements include but are not limited to the following:~~

- ~~(1) — Access roads leading to the development;~~
- ~~(2) — Driveways and roads within the development;~~
- ~~(3) — Acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways; and~~
- ~~(4) — Traffic control measures for those roads and driveways.~~

~~"Traffic movement permit" is a permit obtained from the City of Lewiston or Maine Department of Transportation for any development that generates 100 or more passenger car equivalents at peak hour.~~

~~Sec. 66-164. Imposition of traffic impact fee.~~

- ~~(a) — Any developer who, on or after August 9, 2005, requires a traffic movement permit along Outer Lisbon Street is hereby required to pay a traffic impact fee in the manner and amount set forth in this article. Preliminary determinations regarding whether a proposed development will generate traffic along Outer Lisbon Street shall be made by the developer and provided to the city's department of planning and code enforcement and, if necessary, the city's traffic engineer at the developer's expense. Actual impacts shall be determined by a traffic study prepared by a traffic engineer at the developer's expense and approved by the city's consulting engineer, unless the developer agrees with the city's determination.~~
- ~~(b) — No traffic movement permit or building permit for any activity requiring payment~~

~~of an impact fee pursuant to this article shall be issued unless and until the traffic impact fee hereby required has been paid.~~

~~Sec. 66-165. Computation of traffic impact fee.~~

- ~~(a) — Any development requiring a traffic movement permit, which, in the city's judgment, requires the creation of a fifth travel lane shall pay a traffic impact fee equal to five percent of the cost of upgrading Outer Lisbon Street's four lane configuration existing as of August 9, 2005 to five lanes (four travel lanes and an center turning lane) sufficient to address impacts created by the development, based on a traffic engineering study and the size and nature of the development.~~
- ~~(b) — Planning and code enforcement staff shall apply the impact fee to the development and shall make a final determination as to the amount of the fee to be imposed, net of any applicable credits. Staff may request additional information from the developer if necessary to apply the fee. The developer may submit its own calculation of costs and any other information related to the impact of the development on Outer Lisbon Street. Staff shall consider information submitted by the developer, but is not required to accept information it deems to be inaccurate or unreliable.~~

~~Sec. 66-166. Payment of fee.~~

- ~~(a) — The developer shall pay the traffic impact fee required by this article to the department of planning and code enforcement prior to the issuance of a traffic movement permit or building permit.~~
- ~~(b) — All funds collected shall be properly identified as traffic impact fees and promptly transferred for deposit in the traffic impact fee trust fund to be used solely for the purposes specified in this article.~~

~~Sec. 66-167. Traffic impact fee trust fund established.~~

- ~~(a) — There is hereby established a traffic impact fee trust fund, to be used to accomplish the goals of this article, in accordance with section 66-168 of this article.~~

~~Sec. 66-168. Use of funds.~~

- ~~(a) — Funds collected from traffic impact fees shall be used for the purpose of capital improvements to, and the expansion of, transportation facilities associated with Outer Lisbon Street.~~
- ~~(b) — No funds shall be used for periodic or routine maintenance.~~
- ~~(c) — Funds shall be used exclusively for capital improvements within the traffic impact fee area.~~
- ~~(d) — In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which traffic impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (a) of this section.~~

~~Sec. 66-169. Refund of fees.~~

- ~~(a) — If a building permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain three percent of the impact fee paid to offset a portion of the costs of collection. A request for a refund shall be made in writing to the department of planning and code enforcement not later than 15 days after the expiration of the permit.~~
- ~~(b) — Any funds not expended or obligated by contract by the end of the calendar quarter immediately following 15 years from the date the fee was paid shall, upon application of the developer, be returned to the developer, provided the developer submits an application for refund of the fee to the city planning and code enforcement department within 180 days of the end of the 15 year period.~~

~~Sec. 66-170. Credits~~

- ~~(a) — A credit against the impact fee otherwise due may be given when a developer is required to make road improvements other than an expansion from a four lane to five-lane configuration pursuant to a traffic movement permit. Credit shall be limited to road improvements associated with Outer Lisbon Street intersections, pursuant to the traffic movement permit. In no event shall credit be given for site related improvements, as defined in this article.~~
- ~~(b) — Credit shall be calculated in the following manner for the above referenced road improvements as required by the aforementioned traffic movement permit: 50 percent of the value of required road improvements as determined pursuant to section 66-165 may be applied as credit against the impact fee. In no event shall the credit exceed the amount of the otherwise applicable impact fee, or be applied against unrelated impact fee items.~~
- ~~(c) — The developer shall provide documentation indicating the cost of the improvements required for the project versus the impact fee. The city shall consider the documentation submitted by the developer but is not required to accept any documentation which it deems to be inaccurate or unreliable.~~
- ~~(d) — A credit under this section will be made up to the amount of the impact fee otherwise due, and will not result in any payment of funds to the developer in the event the credit due under this section exceeds the impact fee assessed.~~

~~Sec. 66-171. Severability.~~

~~If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.~~

NOTE: Additions are underlined; deletions are ~~struck out~~.