

VILLAGE OF ESSEX JUNCTION
EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE

Be it ordained by the Board of Trustees of the Village of Essex Junction, Chittenden County, Vermont:

Section 1. Purpose.

A. This Educational Facilities Impact Fee Ordinance is enacted for the purpose of raising revenue to pay for the cost of making capital improvements to the primary schools of the Essex Junction School District (the "Improvements"). These recently completed Improvements have substantially expanded the capacity of these facilities, making possible the accommodation of additional students. It is the intent of this Ordinance that those who benefit from the use of this newly created capacity should pay an appropriate portion of the cost of this construction.

Section 2. Authority.

A. This ordinance is enacted pursuant to 24 V.S.A. Chapter 131. This ordinance shall be a criminal ordinance within the meaning of 24 V.S.A. Chapter 59.

Section 3. Legislative Findings.

The Board of Trustee of the Village of Essex Junction, Chittenden County, Vermont, finds, determines and declares that:

A. The Improvements have been required to expand its educational facilities in order to maintain the existing level of service and the objectives defined in the Essex Junction School District Capital Plan if new development is to be accommodated; This must be done in order to promote and protect the public health, safety and welfare.

B. The improvements, their projected expenses, the method of financing, the recommended time schedule, the estimated annual costs of operation and maintenance and the necessity for these improvements have been incorporated in the Essex Junction School District Capital Plan adopted by the Prudential Committee of the Village of Essex Junction and the Board of Trustees for purposes of this Impact Fee Ordinance pursuant to Chapter 117 of Title 24, Vermont Statutes Annotated;

C. The imposition of impact fees is a fair method of ensuring that future development bears a proportionate share of the costs of the Improvements benefiting such development. This must be done in order to promote and protect the public health, safety and welfare;

D. The fees established in this ordinance are derived from, are based upon, and do not exceed the projected costs of financing the Improvements to the extend that these improvements benefit new development;

E. The development of Residential Dwelling units may reasonably be expected to place additional students in the elementary schools of the Essex Junction School District;

F. The recipients of permits for the development of Residential Dwelling Units will benefit from the Improvements;

G. The report entitled "Technical Memorandum: Determination of School Impact Fees, Essex Junction, Vermont," dated March 7, 1997, sets forth a reasonable method for determining the benefits received from the Improvements by the developers of new Residential Dwelling Units attributable to the continued maintenance of the existing level of service and the achievement of the objectives of the Essex Junction School District's Capital Plan and the allocating of an appropriate share of the costs of creating these benefits.

H. Exemptions:

- a. Residential units that have less than two bedrooms and are less than 650 square feet shall be exempt from the school impact fee. Appeals of the decision of the administrative officer may be made to the Board of Trustees.
- b. Dormitory uses shall be exempt from school impact fees
- c. Congregate housing shall be exempt from the school impact fees.
- d. Housing restricted to only residents 55 and older shall be exempt from school impact fees and shall be a condition of planning commission approval in order to be exempt from school impact fees.
- e. The uses mentioned above shall be as approved by the village.

Section 4. Definitions

A. "Residential Dwelling Unit" shall mean a structure or portion thereof, constructed or used as living quarters for one family and which includes facilities for food preparation, sleeping and sanitation.

B. "Family" shall mean one or more persons occupying a dwelling and living as a single housekeeping unit. Family may include a group of not more than six (6) unrelated persons living as a single housekeeping unit or foster children living with one or more unrelated persons.

C. "Development" shall mean the carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, a change in the intensity of use of land, or the filling of land or the dividing of land into two or more parcels.

D. "Bedroom" shall mean a room intended for, or capable of, being used for sleeping and that is at least 70 square feet in area.

Section 5. Imposition of the Educational Facilities Impact Fee.

A. Any person who, after the effective date of this Ordinance, seeks to develop land within the Village of Essex Junction by obtaining: a residential zoning permit; a permit for the installation of a residential mobile home; an extension of a residential zoning permit issued prior to the effective

date of this Ordinance; an extension of a permit for residential mobile home installation issued prior to the effective date of this Ordinance; a permit to make an improvement to land or building which may reasonably be expected to place additional students in the public schools of the Village of Essex Junction; is hereby required to pay an Educational Facilities Impact Fee in the manner and amount set forth in this ordinance;

B. No permit of the type described in the preceding paragraph shall be issued unless and until the required Educational Facilities Impact Fee has been paid. No extension of a pre-existing permit of the type described in the preceding paragraph whether the pre-existing permit was issued prior to or after the effective date of this Ordinance, shall be granted unless and until the Educational Facilities Impact Fee hereby required has been paid in the manner and amount set forth in this Ordinance.

Section 6. Computation of the Amount of the Educational Facilities Impact Fee.

A. The amount of the Impact Fee shall be determined by multiplying the number of dwelling units by the impact fee effective for the year in which the permit is issued according to the following table:

	Cumulative past tax credit/dwelling unit	Cumulative Future Tax Credit	Impact Fee: Cost – credits
1996	\$3.12	\$840.34	n/a
1997	\$6.17	\$776.43	\$1,575.40
1998	\$9.15	\$714.48	\$1,634.37
1999	\$12.06	\$654.49	\$1,691.44
2000	\$14.91	\$596.49	\$1,746.60
2001	\$17.67	\$540.96	\$1,799.37
2002	\$20.36	\$487.86	\$1,849.78
2003	\$22.97	\$437.15	\$1,897.87
2004	\$25.50	\$388.60	\$1,943.70
2005	\$25.50	\$342.00	\$1,990.50
2006	\$25.50	\$296.79	\$2,035.71
2007	\$25.50	\$253.20	\$2,079.30
2008	\$25.50	\$211.26	\$2,121.24
2009	\$25.50	\$171.00	\$2,161.50
2010	\$25.50	\$132.45	\$2,200.05
2011	\$25.50	\$103.19	\$2,229.31
2012	\$25.50	\$75.31	\$2,257.18
2013	\$25.50	\$48.82	\$2,283.67
2014	\$25.50	\$23.72	\$2,308.78
2015	\$25.50	\$ 0.00	\$2,332.50

B. In the case of a change of use, redevelopment, expansion or modification of an existing use which requires the issuance of a permit or certificate by the Village of Essex Junction and which may reasonably be likely to lead to an increase in the number of students in the elementary school of the Essex Junction School District, the impact fee shall be based upon the Administrative Officer's determination of the likely net positive increase in the number of dwelling units in the development as compared to the previous use.

Section 7. Payment of Fee.

A. The fee payer shall pay the Educational Facilities Impact Fee required by this Ordinance to

the Village Treasurer, who shall issue a receipt certifying payment for presentation to the Zoning Administrator or his/her designee (The Administrative Officer) prior to, and as a condition of, the issuance of a zoning permit.

Section 8. Administrative Appeal of the Impact Fee Assessed.

A. Any individual required to pay an impact fee imposed under this Ordinance may appeal the imposition of such fee by filing a written Notice of Appeal with the Village Clerk stating the basis of the Appellant's challenge of the fee within (ten) 10 days of payment of the fee or at any time prior to payment. Within sixty (60) days of the receipt of the Notice of Appeal, the Board of Trustees shall notify the appellant of the time and place when the Appellant may present oral and written evidence and arguments to the Board. The Board shall, within forty-five (45) days of the conclusion of the hearing, provide the Appellant with a written decision addressing the issues raised by the appeal. No permit shall be issued by the Village or become effective during the pendency of the appeal.

Section 9. All Impact Fees Collected Pursuant to This Ordinance shall be Collected by the Village Treasurer and Turned Over to the Essex Junction School District for deposit in a Separate, Interest-Bearing Account.

A. The Village Treasurer shall maintain a register of the date of payment of each fee collected, the amount paid, the development activity for which such fee was paid and the name of the payer;

B. The Board of Trustees of the Village of Essex Junction hereby attach the following conditions to the disbursement to the Essex Junction School District of the funds collected pursuant to this Ordinance:

1. At least once each fiscal period or upon request, the Essex Junction School District shall present to the Village Treasurer an accounting of the use of the impact fees collected, including the source of each fee, the amount and the date of expenditure together with the amount of accrued interest, if any;

2. Funds collected by the Village under this ordinance and remitted to the Essex Junction School District shall be used solely for the purpose of financing the Improvements;

3. Funds shall be expended in the order in which they are collected;

4. In the event that funds collected pursuant to this Ordinance are not expended by the Essex Junction School District in the manner prescribed by this Ordinance within six years from the date of collection, the Essex Junction School District shall refund to the Village impact fees so collected and remitted.

C. The current owner of the property for which such fee was paid may apply in writing to the Village for a refund of such fee with accrued interest within six months of the sixth anniversary of the date upon which such fee was paid. Thereafter, any claim for refund shall be deemed waived and therefore barred.

Section 10. Enforcement.

A. It shall be a violation of this ordinance for any person to commence any activity for which an Educational Facilities Impact Fee is required without first paying the fee.

B. The Administrative Officer shall issue a written "Notice of Violation" to any person believed to be in violation of this Ordinance. Such Notice of Violation shall:

1. Describe the activity which violates this Ordinance;
2. Identify the provisions of this Ordinance which have been violated;
3. State the specific action required to cure the violation;
4. State that if the violation is not cured within seven (7) days of the Notice of Violation, the Village may institute court proceedings to obtain a court order directing compliance with the Ordinance and awarding fines up to fifty dollars (\$50) per day for each day that the violation continues from the date of the notice; and
5. State that the Notice of Violation may be appealed to the Board of Adjustment in accordance with the procedures of the Village of Essex Junction Land Development Code.

C. Upon failure of any person to cure a violation of this Ordinance after receipt of a Notice of Violation, the Administrative Officer shall institute an appropriate court action on behalf of the Village.

Section 11. Severability.

A. If any section, phrase, 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 portions thereof;

B. This Ordinance shall not be construed to repeal, modify or amend any existing Ordinances of the Village of Essex Junction.

Section 12. Effective Date

A. This ordinance shall become effective on March 11, 2006.

Passed and duly adopted this 10th day of January 2006.

VILLAGE OF ESSEX JUNCTION BOARD OF TRUSTEES

Lawrence C. Yandow, Jr., Village President

Deborah A. Billado, Trustee

Peter Gustafson, Trustee

Timothy Jerman, Trustee

John Lajza, Trustee

This ordinance shall become effective on March 11, 2006 unless 5% of the qualified voters of the Village by written petition filed with the Village Clerk no later than February 24, 2006, request that

School impact fee ordinance

village by written petition filed with the village clerk no later than February 24, 2006, request that the voters of the Village disapprove the ordinance at a duly warned annual or special meeting.

Attest: Susan M. Hill, Village Clerk

(amended 2/28/06)