

Scarborough Town Council Meeting

Council Meeting Date: May 1, 2024

ACTION ITEM: Order No. 24-042

SUBJECT:

First reading and schedule a public hearing and second reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance with an effective date of July 1, 2024. *[Planning Director, Town Engineer]*

PURPOSE:

To review ordinance amendments to consolidate existing impact fees into one chapter, create a new recreation impact fee, repeal three Payne Road Impact fees and establish two new roadway impact fees with an effective date of July 1, 2024.

BACKGROUND:

State Statute 4354 Impact Fees (1987) authorizes municipality's to require construction of off-site capital improvements or the payment of impact fees instead. A municipality may impose an impact fee either before or after completing the infrastructure improvement.

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.

Applicable Infrastructure Facilities May Include:

- Wastewater collection and treatment facilities
- Municipal water facilities
- Solid waste facilities
- Public safety equipment and facilities
- Roads and traffic control devices
- Parks & other open space or recreational areas, and
- School facilities

Impact fees are intended to pay for the portion of new capital improvements that are needed to service growth. Fees must be reasonably related to the development's share of the cost of infrastructure or, if the improvements were constructed prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. Fees are designed to pay for capital improvements, not maintenance, operating costs or service delivery.

Impact fee funds must be segregated from general revenues and a schedule to use the funds consistent with the capital investment component of the comprehensive plan must be established. A mechanism to refund impact fees that exceed costs or that were not used must also be established.

EXISTING ORDINANCES

Scarborough began imposing impact fees on development in 1990 with traffic/roadway improvement fees that applied to the Payne Road corridor, which was part of a PACTS Regional approach to the corridor. Additional traffic impact fees have been added over the last 30 years.

The School Impact Fee was added in 2002. Many existing fees are outdated, or soon will be, as the improvements contemplated as the basis for the fee will be completed

- Chapter 415 Impact Fee Ordinance (2002, 2020)
 - Chapter 1 - General Provisions
 - Chapter 2 - School Impact Fees
- Chapter 415 A – Dunstan Corner Capital Improvement District (2006, 2011)
- Chapter 415 B – Haigis Parkway / Route One Capital Improvement District (2011)
- Chapter 410 Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement District (1990, 2017)

PROPOSED AMENDMENTS

- Chapter 415 – Impact Fee Ordinance
 - Section I - General Provisions - Combined from all
 - Section II – School Impact Fees
 - Section III – Recreation Impact Fees (New)
 - Section IV - Reserved for Open Space
 - Section V - Roadway Impact Fees –
 - General Roadway Impact Fee Standards – Consolidated
 - Dunstan Corner District (MOVED)
 - Haigis Parkway / Route One District (MOVED)
 - Payne Road Area District 5 (MOVED)
 - Payne Road / Ginn Road District (NEW)
 - Payne Road / Nonesuch River District (NEW)
- Repeal Chapter 415 A – Dunstan Corner Capital Improvement District
- Repeal Chapter 415 B – Haigis Parkway / Route One Capital Improvement District
- Repeal Chapter 410 Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement District (includes Area 1, 2, and 3)

NEW TRANSPORTATION IMPACT FEE ANALYSIS

As presented, the draft ordinance will require new development to pay 50% of the overall design and construction costs associated with capacity improvements along two areas on the Payne Road corridor. The existing Traffic Impact Fee Ordinance does not require new development to pay towards the significant traffic that is anticipated to utilize the Maine

Turnpike Exit 42 to travel north on Payne Road to Scarborough's new developments. Improvements within Payne Road Districts 1, 2, 3 and 4 will soon be complete, and these Districts will be repealed. Impact fees from the development community will now shift to the next pinch points in our transportation network along this essential corridor.

Requiring a Traffic Impact Fee that is 50% of the estimated overall design and construction costs for the two new Payne Road Traffic Impact Fee Districts is based on the following factors:

- 1) It is anticipated that projects of this magnitude would require funding through a combination of Developer, Town, State, and Federal funding sources. Responsibility of the equitable share from each stakeholder would be based on the impacts that the development or other factors have on the districts.
- 2) The business community has voiced concerns that the Town should not only look to new development to fund the cost of services that benefit all residents or which have external factors of commuting thru-traffic on our local roadways.
- 3) Staff looked at initial cost estimates for necessary mitigation work associated with the Scarborough Downs development. The Maine Department of Transportation issued a Traffic Movement Permit outlining offsite projects to mitigate impacts from the approximately 3,000 trips generated by this new development. Analysis of the breakdown of the cost share for this project showed that the developer paid for 59% of the total project cost. The cost estimates for this work were developed in 2021 and totaled \$14,000,000. Actual project costs have been significantly higher than the 2021 estimates, therefore the 59% cost share for the developer is considered extremely low. This analysis is considered conservative when predicting the cost of project design and construction.

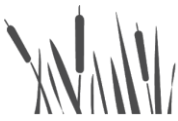
FISCAL IMPACT: TBD

STATUS / PROCESS TO DATE:

- Town Council Workshop: October 4, 2023
- Ordinance Committee: March 13, 2024
- SEDCO Presentation: March 21, 2024
- Transportation Committee Review: March 26, 2024
- Town Council First Reading: May 1, 2024
- SEDCO Developer Forum: TBD
- Town Council Public Hearing: May 15, 2024
- Town Council Second Reading: June 5, 2024

PROPOSED ACTION:

Move approval of the first reading to repeal in its entirety Chapter 415A Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District; repeal in its entirety Chapter 415B Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District, repeal in its entirety Chapter 410 Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts; and replace with amended Chapter 415 Impact Fee Ordinance, and schedule a public hearing and second reading for Wednesday, May 15, 2024.



ATTACHMENTS:

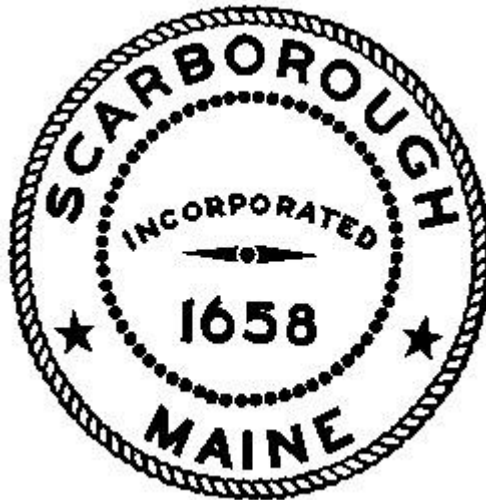
- Proposed Chapter 415 Impact Fee Ordinance
- Repealed Chapter 410
- Repealed Chapter 415A
- Repealed Chapter 415B
- Recreation Impact Fee Methodology
- Impact Fee Calculations – Payne Road and Ginn Road
- Impact Fee Calculations – Payne Road Nonesuch River
- Traffic Impact Fee Comparison

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415 Town of Scarborough Impact Fee Ordinance is amended as recommended by the Planning Director.

CHAPTER 415

TOWN OF SCARBOROUGH

IMPACT FEE ORDINANCE



ADOPTED JANUARY 02, 2002; EFFECTIVE JANUARY 03, 2002
AMENDED MARCH 3, 2003; UPDATED FEBRUARY 01, 2020
UPDATED xx, 2024

DRAFT

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**CHAPTER 415
TOWN OF SCARBOROUGH
DEVELOPMENT IMPACT FEE ORDINANCE**

SECTION 1. IMPACT FEE GENERAL PROVISIONS ~~CHAPTER I – General Provisions~~

A. Authority.

This ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 4354 and 30-A M.R.S.A. § 3001.

B. Purpose.

The Scarborough Town Council, ~~having commissioned and reviewed an Impact Fee Feasibility Analysis dated September 2001,~~ has determined that new development creates demands on municipal government to provide new public facilities and to expand, improve or replace existing public facilities. The Town Council concludes that in order to provide an equitable source of funding for such new, expanded, improved or replacement facilities, it is appropriate to establish a program of development impact fees and to charge a proportionate share of the costs of new, expanded, improved or replacement facilities to the developers and/or occupants of the developments which make the new, expanded, improved or replacement infrastructure necessary.

C. Definitions.

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in Chapter 405, Zoning Ordinance of the Town of Scarborough, Maine. ~~(“Zoning Ordinance”). The following terms shall have the following meanings:~~

~~**Affordable Housing Unit:** A dwelling unit developed by a governmental agency or by a non-profit housing corporation (as defined in 30-A M.R.S.A. § 5002) which is permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy only by lower income households, as that term is defined in 30-A M.R.S.A. § 5002.~~

D. Use of Impact Fees.

~~D.~~

Impact fees collected by the Town pursuant to this ordinance may be used only for financing facility improvements which the Town Council has determined are made necessary by new development. The Town Council has determined that fees imposed by schedules in subsequent ~~chapters~~ sections of this ordinance are reasonably related to the demands created by new development and are reasonably related to the portion or percentage of existing infrastructure used by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and shall not be used for operational expenses. The Town of Scarborough shall expend funds collected from impact fees solely for the purposes for which they were collected.

E. Segregation of Impact Fees from General Revenues.

Impact fees collected pursuant to this ordinance shall be maintained by the Town Treasurer in a separate impact fee account and shall be segregated from the Town's general revenues. The Town Treasurer shall deposit impact fees in special non-lapsing accounts dedicated for funding of the improvements for which the fee is collected.

F. Collection of Impact Fees.

a. — Payment of Impact Fees

The Code Enforcement Officer of the Town of Scarborough shall not issue any building permit required under the Zoning Ordinance until the applicant has paid any impact fees required by this ordinance ~~or has recorded an agreement for deferral of impact fees pursuant to Chapter 1, Section 6, Subsection (b) below.~~ Upon collecting such impact fee, the Code Enforcement Officer shall remit the funds to the Town Treasurer who shall deposit the funds as required in Section E5 above. The Code Enforcement Officer shall make a record of the name and mailing address of the applicant paying the impact fee, the tax map and lot numbers of the property for which the impact fee is collected, the amount collected, and the date the impact fee is received, and shall maintain such record in the files relating to the property for which the impact fee was paid.

~~**b. — Deferral of Impact Fees**~~

~~Where the applicant for a building permit is over 55 years of age, has owned and occupied an existing single-family dwelling in Scarborough at any time during the previous 12 months and seeks the building permit in order to construct a new single-family dwelling which the applicant will own and occupy in place of the existing dwelling, the Town treasurer may enter into an agreement to defer collection of all or part of the impact fees imposed by this ordinance until such time as ownership of the new dwelling is transferred to any person except a person who is a surviving joint tenant or heir of the applicant and is both over 55 years of age and a resident of the dwelling at the time of the transfer. Such agreement shall be in writing, shall be joined by all owners of the property, including mortgagees and lien holders of record at the time of execution of the agreement, shall by its terms create a consensual lien on the property, shall be binding on the applicant's heirs, successors and assigns, and shall be recorded in the Cumberland County Registry of Deeds by the applicant prior to the issuance of the building permit.~~

I.G. Refund of Unused Impact Fees.

Impact fees collected pursuant to this ordinance shall be utilized by the Town according to the schedules specified in subsequent ~~sections chapters~~ of this ordinance for the completion of specific capital improvements, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so utilized and any impact fees collected which exceed the Town's actual costs of implementing the infrastructure improvements for which such fees were collected ~~may shall~~ be refunded. The process for requesting refunds is outlined in each subsequent impact fee section. ~~Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.~~

J.H. Amendment of Fees.

The impact fees established in this ordinance are based upon the Town Council's best estimates of the costs of the construction of the facilities for which the fees are collected and, where appropriate, upon estimates of state and/or federal funding contributions. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

H.I. A. Inflation Adjustment.

The School and Recreation impact fees established by the Town Council in this ordinance shall be adjusted annually by the Town Treasurer to account for inflation. Commencing on February 1, 2003 and on each February 1st thereafter, the Treasurer shall increase each impact fee by the dollar amount (rounded to the nearest ten dollar increment) obtained by multiplying the amount of the fee then-in-effect by the inflation rate. As used in this paragraph, the term "inflation rate" means the percentage increase, if any, during the previous calendar year in the Consumer Price Index – All Urban Consumers, Northeast Urban Area, All Items, base period 1982-84 = 100 (not seasonally adjusted) published by the United States Department of Labor Bureau of Labor Statistics. If there has been no such increase, there shall be no adjustment under this paragraph. Each year on February 1st, the Treasurer shall publish a schedule of impact fees adjusted pursuant to this paragraph (the "adjusted impact fees") and provide a copy of such schedule to the Code Enforcement Officer. The adjusted impact fees shall apply to all building permits issued on or after March 5 in the calendar year 2003 and on or after February 1st of each calendar year thereafter, whether or not the applications for building permits were filed prior to such dates. ~~[March 3, 2003].~~

I.J. Impact Fee Not Required for Replacement Dwelling Units.

An impact fee shall not be required for:

1. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which was located on the same lot at any time between January 3, 2000 and January 3, 2002;
2. the placement on a mobile home park site of a mobile home which replaces a mobile home which was located on the same site at any time between January 3, 2000 and January 3, 2002;
3. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which is or was located on the same lot and for which an impact fee has already been paid under this ordinance; or
4. the placement on a mobile home park site of a mobile home which replaces an existing mobile home which is or was located on the same site and for which an impact fee has already been paid under this ordinance.

K. Schedule of Fees.

All impact fee and charges established herein shall be specified in Chapter 311 Schedule of License, Permit and Application Fees established by the Town Council.

J.L. Severability.

Should any section or provision of this ordinance be determined in a court to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

SECTION II. SCHOOL IMPACT FEES

CHAPTER II – School Impact Fees

I.A. Use of School Impact Fees.

The fees collected under this ~~section chapter~~ of this ordinance shall be used to fund one or more of those projects identified in the major capital improvement applications submitted to the Maine Department of Education, dated July 26, 2001, for the Scarborough Middle School, the Scarborough High School, the Wentworth Intermediate School and the primary schools, the Town Council having determined that a portion of the costs of such school projects is made necessary by the projected increases in enrollment due to anticipated new residential housing construction. Those improvements are scheduled to be completed by January 3, 2012, unless the completion dates are extended by order of the Town Council.

M.B. Calculation and Collection of School Impact Fees. [Updated 02/26/2020]

Prior to the issuance of a building permit for any new dwelling unit, the Code Enforcement Officer shall collect a school impact fee according to the following schedule:

Type of Dwelling	Amount
Single family dwelling	\$4,630
Two-family dwelling	\$1,770 per unit
Multiplex	\$1,150 per unit
Mobile home in a mobile home park	\$1,150
Affordable housing unit	\$2,330

N.C. Exemptions.

~~+~~ A school impact fee is not required for a dwelling unit within a development consisting of three or more dwelling units all of which are permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy by elderly households only. For this purpose, “elderly household” means a household which includes at least one person aged 55 or older and no occupant less than 55 years of age other than a full-time caregiver to or a spouse or companion of the elderly person(s).

O.D. Impact Fees to Terminate Upon Completion of Projects.

When the school projects identified in Chapter ~~415H~~, Section ~~II-1~~~~above~~ have been completed and all debt incurred in connection therewith has been repaid, the Town Council shall amend this ordinance either by repeal of this chapter, or by amendment of this chapter if circumstances at the time warrant the continuation of school impact fees.

SECTION III. RECREATION IMPACT FEES

A. Use of Recreation Impact Fees.

Impact fees collected under the provisions of this ordinance shall only be used to pay for the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities as identified in the Parks and Facilities Master Plan accepted March 1, 2023, by the Scarborough Town Council. Those improvements are scheduled to be completed by June 30, 2034, unless the completion dates are extended by order of the Town Council. No portion of the fee shall be used for routine maintenance or operation activities.

B. Applicability.

This Ordinance shall apply to the issuance of any building permit for a new residential structure within the Town of Scarborough with the following exceptions:

1. This Ordinance shall not apply to the issuance of a building permit for the repair, replacement or reconstruction of a residential structure that was unintentionally damaged or destroyed by fire, flood or other natural disaster, provided the number of dwelling units is not increased.
2. This Ordinance shall not apply to additions to residential structures existing at the time of the adoption of this ordinance.

C. Calculation and Collection of Recreation Impact Fees.

The amount of the recreation impact 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.

The recreation impact shall be based upon the number of bedrooms per residential unit, and shall be based upon the Town's impact fee calculation methodology. This methodology has been adopted by the Town Council and is on file and available for review in the Town Planner's office.

Prior to the issuance of a building permit for any new dwelling unit, the Code Enforcement Officer shall collect a recreation impact fee according to the following schedule:

<u>Type of Dwelling</u>	<u>Amount</u>
<u>Single Family Dwelling</u>	<u>\$400 per bedroom, not to exceed \$1,600</u>
<u>Two-Family Dwelling</u>	<u>\$400 per bedroom, per unit</u>
<u>Multifamily</u>	<u>\$400 per bedroom</u>

<u>Senior Housing Unit</u>	<u>\$400 per bedroom</u>
<u>Affordable Housing Unit</u>	<u>\$400 per bedroom</u>

D. Waiver of Impact Fees.

The Town Council may, by formal vote following a public hearing, waive the payment of a required Recreation Impact fee, in whole or in part, if it finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct an improvement for which the impact fee would be collected, or an equivalent improvement approved by the Town Council.
2. The developer of a subdivision offers to dedicate and/or improve public lands or recreational amenities and the Town Council finds these public lands or recreational amenities to be of town-wide benefit.

E. Refund of Fees.

1. If a building permit or other relevant 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 of its issuance. A request for a refund shall be made in writing to the Town Planner, and shall occur within ninety (90) days of the expiration of the permit.
2. If the funds collected annually are not expended or obligated by contract for their intended purpose by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid, the prorated share of the funds shall be returned to the current owner of the property for which the fee was paid, provided that a request is made in writing to the Town Planner within one hundred eighty (180) days of the expiration of the ten (10) year period.

SECTION IV. RESERVED

SECTION V. ROADWAY IMPACT FEES

A. Roadway Impact Fee Applicability

This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval, when the proposed development, whether located within or outside of a designated Roadway Impact Fee District generates additional traffic within said district.

B. Roadway Impact Fee Exemptions

The following development and construction shall be exempt from this ordinance:

1. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
2. Construction of accessory buildings or structures which do not generate additional vehicle trips.
3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

C. Roadway Impact Fee Procedures

1. Any person who seeks a permit or approval for any development, activity or use described in Section V(A) of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
2. Preliminary determinations regarding whether a proposed development will generate traffic within a designated Roadway Impact Fee District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis in accordance with Section V(D) of this ordinance, which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

D. Roadway Impact Fee Calculations

A roadway impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within a designated Roadway Impact Fee District. Impact fees are structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for impact fee calculation is as follows:

1. As per Section V(C) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through a designated Roadway Impact Fee District in the P.M. peak commuter hour.
2. The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers "Trip Generation" Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).

3. The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through a designated Roadway Impact Fee District within the P.M. peak commuter hour. All new trips that pass through a designated Roadway Impact Fee District, regardless of whether they pass through the specific intersections, shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.
4. For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to the specific roadway impact fee district, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.
5. For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to the specific roadway impact fee district.
6. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

E. Roadway Impact Fee Payment

The roadway impact fee amount, as determined in accordance with the specific roadway impact fee district of this ordinance, shall be paid to the Town according to the payment schedule established under Section V(D), except as follows:

1. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

F. Use of Roadway Impact Fee Funds

1. Funds generated by this ordinance will be used for the purpose of completing the capital improvements identified in the specific master plan for roadway infrastructure improvements within each Roadway Impact Fee District.
2. No funds shall be used for periodic or routine maintenance.
3. In the event that bonds or similar debt instruments are issued for advanced provision of capital improvements for which roadway impact fees may be expended, impact fee funds may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section V(F.1) of this ordinance.
4. Funds may be used to provide refunds in accordance with Section V(G) below.
5. Funds shall not be used to pay for any site specific geometry improvements at a developments entrance, etc., that are required of a development project that is proposed and constructed within a public right-of-way or on any lot abutting a roadway section within a designated Roadway Impact Fee District. Such project and site specific improvements shall be the responsibility of the developer.

G. Refund of Roadway Impact Fees

1. If a building permit, site plan, subdivision plan, private way or extractive industries plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the specific roadway impact fee paid as required by this ordinance. The developer must submit a formal application request for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan, private way or extractive industries approval.
2. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following twenty (20) years from the date the fee was paid shall, upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the twenty (20) year period.

H. Roadway Impact Fee District - Dunstan Corner District

1. **Purpose.** Dunstan Corner is one of Scarborough's town centers within which four locally and regionally significant roads intersect. The capacity of Route One, and its intersections with Pine Point Road (Route 9), Broadturn Road and Payne Road, are critical to the mobility of regional vehicular traffic through Dunstan Corner and the access of local vehicular traffic to destinations within Dunstan Corner. In order for Dunstan Corner to continue to serve and evolve as a town center, while also maintaining and increasing vehicular mobility and access,

the area was in need of adequate roadway infrastructure to support future development and the accompanying traffic generation and demands.

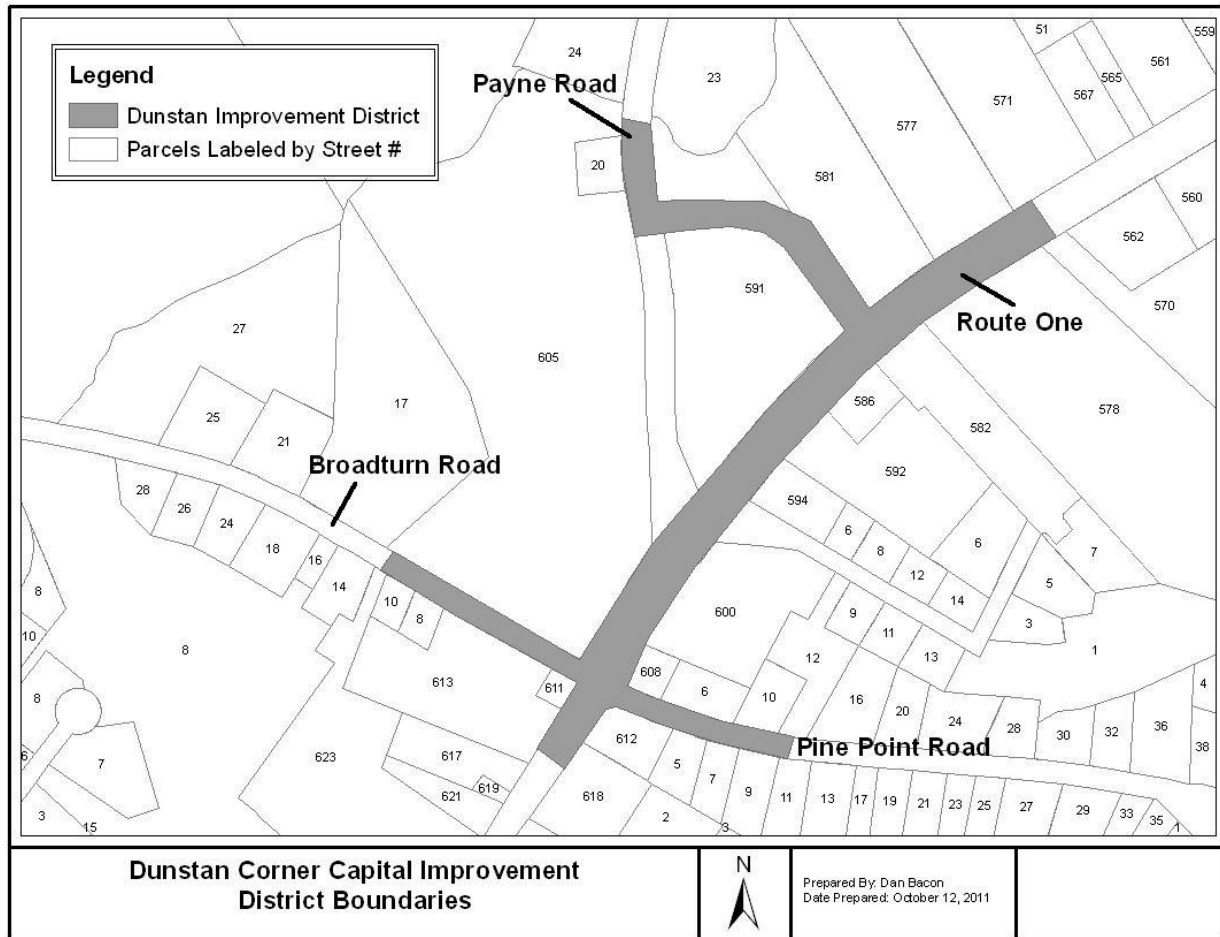
2. **Master Plan.** The Town has completed a master plan for roadway infrastructure improvements that accommodates the traffic growth projected through 2026 which established the additional vehicular capacity and adequate levels of service necessary to serve, accommodate and benefit new development. The purpose of the Dunstan Corner District is to procure the Town's share of the cost of implementing these roadway infrastructure improvements from future development projects that are benefiting from the increased capacity. The remaining roadway infrastructure improvement costs were funded through cost sharing between PACTS (Portland Area Comprehensive Transportation System) and the Maine Department of Transportation.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

- a. Dunstan Corner, Scarborough, Maine, PIN 17343.00, September 28, 2011, Preliminary Design Scale 1" - 40', HNTB Corporation. (amended 11/16/2011)
- b. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

3. **Dunstan Corner District Boundaries.** The Dunstan Corner District is depicted on the map below and encompasses the following sections of roadway:

- a. Route 1 beginning 550 feet south of Broadturn Road extending northerly 2000 feet.
- b. Pine Point Road beginning at its intersection with Route 1 extending easterly 850 feet.
- c. Payne Road beginning at its proposed relocated intersection with Route 1 extending 1550 feet to align with the existing Payne Road.
- d. A proposed roadway beginning at Route 1 opposite the relocated Payne Road, westerly to Higgins Street.
- e. All of Harlow Street and Higgins Street.



4. Dunstan Corner District Fee. The Dunstan Corner District fee determination shall be based on the following:

- a. The Town cost of the master plan for roadway infrastructure improvements in the Dunstan Corner District will amount to \$1,430,000, which is to be funded from this impact fee ordinance. (amended 02/07/2007)(amended 11/16/2011)
- b. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1020 trip ends in the P.M. peak commuter hour of traffic.
- c. Each additional trip generated by new development will benefit from the 1020 trip ends of capacity and will utilize one trip end of that additional capacity.
- d. The fee per trip, therefore, shall be \$1,402. This fee per trip equals \$1,430,000 / 1020 trip ends. (amended 02/07/2007)(amended 11/16/2011)

5. Impact Fee Trust Funds. There is hereby established a Dunstan Corner District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general

revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

I. Roadway Impact Fee District – Haigis Parkway / Route One District

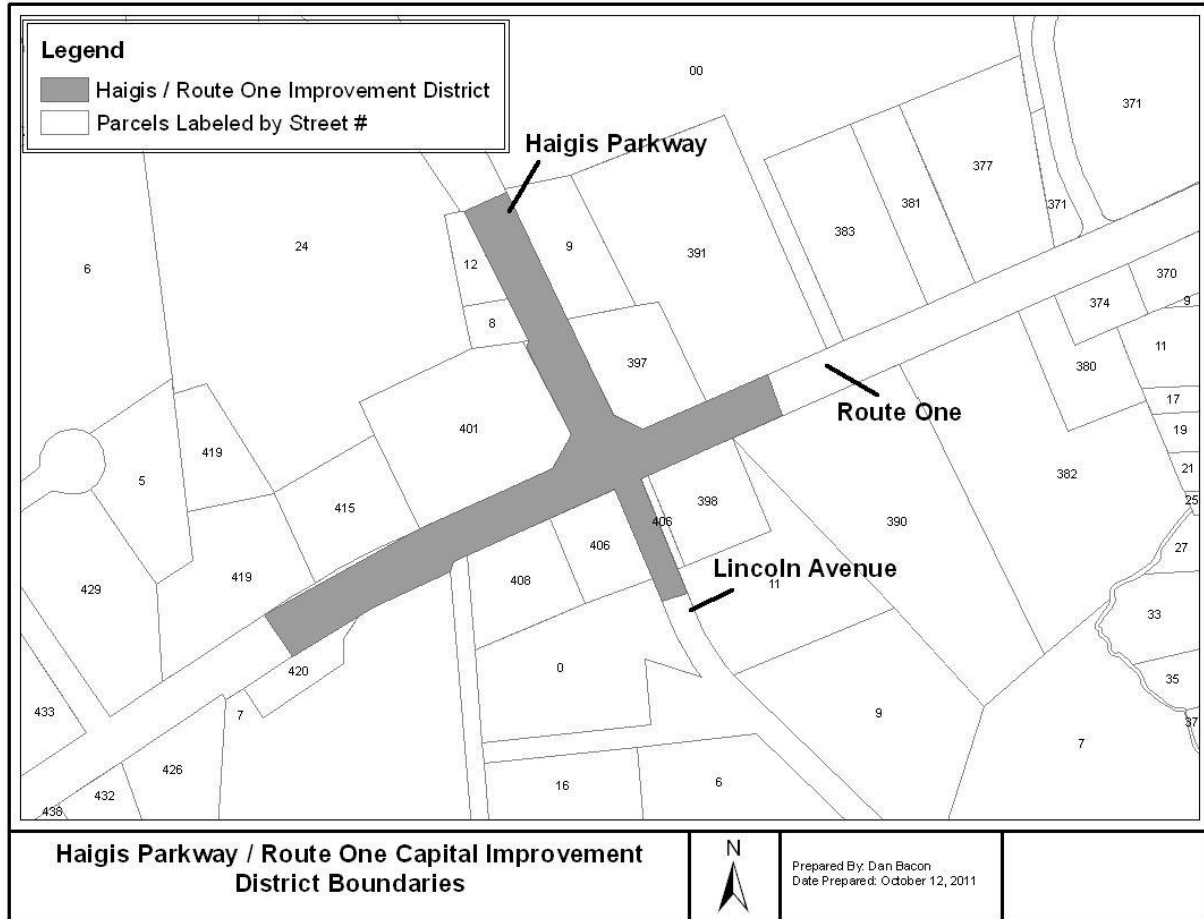
1. **Purpose.** The Haigis Parkway / Route One / Lincoln Avenue intersection is one of the most significant intersections in the Town of Scarborough and is critical to the current and future mobility of local and regional motorists. This intersection currently serves local and regional travel on Route One, the Haigis Parkway, and Lincoln Avenue and provides important connections to Payne Road, the Maine Turnpike and the Scarborough industrial park. In addition, this intersection is an important facility for managing future traffic demands, both to provide an alternative to the high traffic volumes on Payne Road as well as to accommodate the future growth and development that is planned for land accessible from the Haigis Parkway and Route One.

In order for the Haigis Parkway / Route One / Lincoln Avenue intersection to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and the accompanying traffic generation and demands, roadway infrastructure improvements were warranted. These improvements are highlighted in the Town-Wide Transportation Study and in the Transportation Policy Objectives of the Town’s Comprehensive Plan.

2. **Master Plan.** To that end the Town has completed a master plan for roadway infrastructure improvements that accommodates the traffic growth projected through 2026 and which established the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. These roadway infrastructure improvements also include provisions for pedestrians in order to enhance the walk-ability and pedestrian safety of this section of Route One. The purpose of the Haigis Parkway / Route One District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

- a. Drawing Name: “Intersection Improvements Route 1 & Haigis Parkway, Scarborough, Maine, Cumberland County” dated August 2010 and prepared by Gorrill-Palmer Consulting Engineers, Inc.
3. **Haigis Parkway / Route One District Boundaries.** The Haigis Parkway / Route One District is depicted on the map below:



4. Haigis Parkway / Route One District Fee. The fee determination shall be based on the following:

- a. The Town cost of the master plan for roadway infrastructure improvements in the Haigis Parkway / Route One District amounts to \$1,005,000, which is to be funded from this impact fee ordinance. *(This cost total is less than the total project cost for the Fiscal Year 2010 CIP Project because the improvements associated with the Dunstan Corner intersection plan, the Southgate intersection plan, landscaping enhancements, and the Haigis/Scottow Hill Rd. and Route One/Enterprise Dr. improvements were not included).
- b. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1015 trip ends in the P.M. peak commuter hour of traffic.
- c. Each additional trip generated by new development will benefit from the 1,015 trip ends of capacity and will utilize one trip end of that additional capacity.
- d. The fee per trip, therefore, shall be \$990.00. This fee per trip equals \$1,005,000 / 1,015 trip ends.

5. **Impact Fee Trust Funds.** There is hereby established a Haigis Parkway / Route One District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

J. Roadway Impact Fee District – Payne Road District 5

1. **Purpose.** The Town must expand and maximize the efficiencies of its road system in order to provide adequate levels of service in the Payne Road Area of the Town so that new development in the Payne Road, Gorham Road, and County Road Area and elsewhere that affects traffic in the Payne Road Area is to be accommodated safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare.

2. **Master Plan.** The report entitled “Scarborough, Maine Road Computation Procedure-Payne Road Area Impact Fee”, dated September 11, 1990, sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional rights-of-way, road construction and road improvements, and traffic signal upgrades in the Town. Further refinement of the District scope of work has taken place through public engagement, as well as with State and Regional Agencies, which is incorporated into the preliminary design included in the “North Scarborough Three Intersection Design, Draft Preliminary Design” dated August 2019, which alleviates constraints on the Gorham Rd and ultimately on the Payne Rd District. A portion of the improvements are being paid for by a private developer through their individual Traffic Movement Permit requirements with the Maine Department of Transportation.

3. **Payne Road District 5 Boundaries.** The Payne Road District 5 encompasses the following sections of roadway:

a. **District 5** - Route 114, between Maine Turnpike and Beech Ridge Road, which are directly impacted by the two County Road intersections at Saco St and Gorham Rd.

4. **Payne Road District 5 Fee.** At the option of the developer, the amount of the road impact fee may be determined by a fee schedule established by the Town Council. The provisions of this paragraph shall govern the setting of the impact fee schedule by the Town Council and the computation of impact fees by the Town, except as expressly provided elsewhere in this Ordinance.

a. The amount of the impact fee to be paid shall be determined in accordance with the schedule of fees approved by order of the Town Council.

b. Where a development involves a mixed use, the fees shall be determined in accordance with the applicable schedule by apportioning space to uses specified on the applicable schedule.

- c. Where a development involves an activity not specified on the applicable fee schedule, the Town shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.
 - d. Where an extension is sought for a building permit, the amount of the fee shall be the difference between the fee applicable at the time of the extension and any amount previously paid pursuant to this ordinance.
 - e. Impact fees for change of use, redevelopment, or expansion or modification of an existing use which has previously paid an impact fee or which did not require payment of an impact fee when originally approved and which requires the issuance of a building permit shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.
5. **Impact Fee Trust Funds.** There is hereby established a Payne Road District 5 Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

K. Roadway Impact Fee District – Payne Road / Ginn Road District

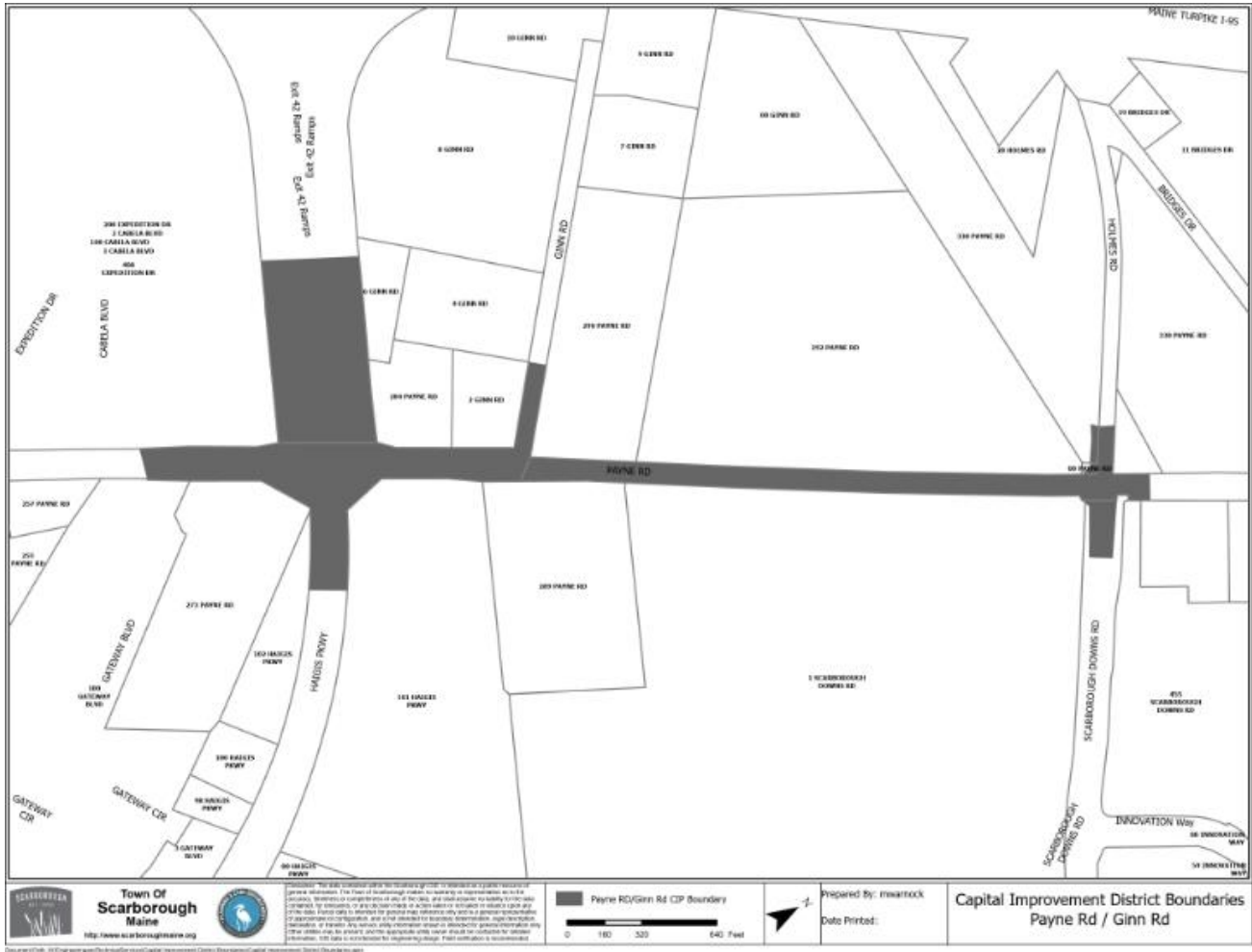
1. **Purpose.** The intersection of Payne Road at Ginn Road is a critical intersection along the Payne Road corridor for future roadway improvements. Payne Road is an important North/South corridor in the Town, and is particularly valuable as an alternative corridor to Route 1 and mitigating traffic on the Route 1 corridor. It is also important to the future development of the Scarborough Downs neighborhood and in connecting Haigis Parkway and Exit 42 from the Maine Turnpike to Scarborough Downs and the Maine Mall area.

In order to accommodate future development and pedestrian, cyclist, and traffic growth needs in the Town of Scarborough, the intersection of Payne Road and Ginn Road will need to be improved to support multimodal traffic along this corridor. The proposed improvements are included in the 2024 Town Wide Transportation Study.

2. **Master Plan.** To that end the Town has finalized a Master Plan for roadway infrastructure improvements that will accommodate future traffic growth and will provide space for pedestrians and cyclists to safely travel along Payne Road. These improvements will benefit new development on and around the Payne Road corridor, as well as alleviating some of the congestion on Route 1.

As per Section V (F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the "Payne Road Conceptual Plan" prepared by Barton & Loguidice, dated December 2023, which following master plan: sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for costs of additional rights-of-way, road construction and road improvements in the Town.

3. Payne Road / Ginn Road District Boundaries. The Payne Road / Ginn Road District Boundary is depicted on the map below:



4. Payne Road / Ginn Road District Fee. The fee determination shall be based on the following:

- a. The Town cost of the master plan for roadway infrastructure improvements in the Payne Road / Ginn Road District will amount to \$9,832,898, which is to be funded from this impact fee ordinance.
- b. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1,766 trip ends in the P.M. peak commuter hour of traffic.
- c. Each additional trip generated by new development will benefit from the 1,766 trip ends of capacity and will utilize one trip end of that additional capacity.

d. The total fee per trip, therefore, shall be \$5,568. The developer portion for the fee per trip shall be 50% of the total per trip cost or \$2,784.

5. **Impact Fee Trust Funds.** There is hereby established a Payne Road / Ginn Road District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

L. Roadway Impact Fee District – Payne Road / Nonesuch River District

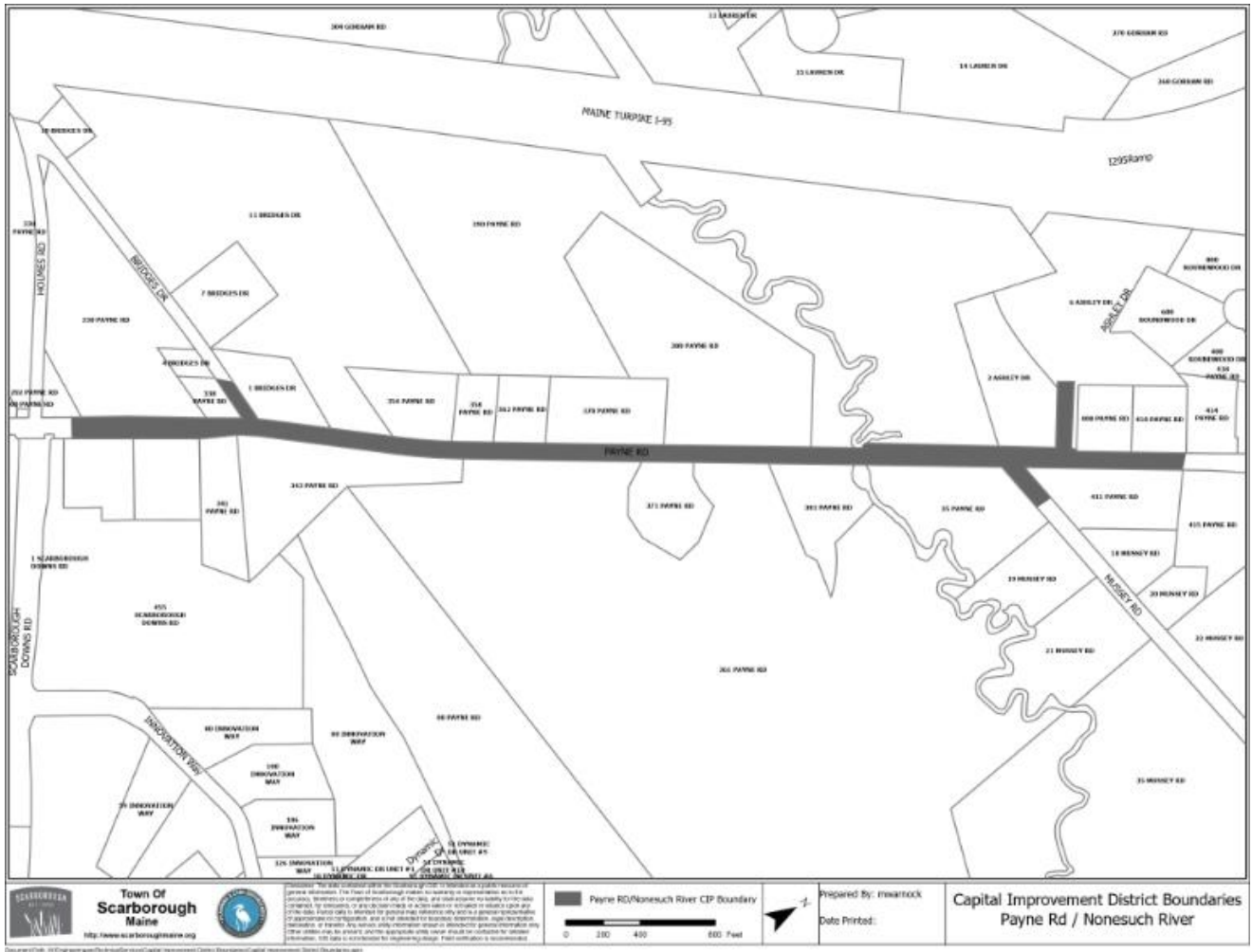
1. **Purpose.** Libby Bridge on Payne Road over the Nonesuch River, and the associated approaches to the bridge, is a critical segment of the Payne Road corridor for future roadway improvements. Payne Road is an important North/South corridor in the Town, and is particularly valuable as an alternative corridor to Route 1 and mitigating traffic on the Route 1 corridor. It is also important to the future development of the Scarborough Downs neighborhood and in connecting Haigis Parkway and Exit 42 from the Maine Turnpike to Scarborough Downs and the Maine Mall area.

In order to accommodate future development and pedestrian, cyclist, and traffic growth needs in the Town of Scarborough, Libby Bridge and the approaches to Libby Bridge will need to be improved to support multimodal traffic along this corridor. The proposed improvements are included in the 2024 Town Wide Transportation Study.

2. **Master Plan.** To that end the Town has completed a Master Plan for roadway infrastructure improvements that will accommodate future traffic growth and will provide space for pedestrians and cyclists to safely travel along Payne Road. These improvements will benefit new development on and around the Payne Road corridor, as well as alleviating some of the congestion on Route 1.

As per Section V(F1) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the "Payne Road Conceptual Plan" prepared by Barton & Loguidice, dated December 2023, which sets forth in more detail a reasonable methodology and analysis for the determination of the impact of new development on the need for costs of additional rights-of-way, road construction and road improvements in the Town.

3. **Payne Road / Nonesuch River District Boundaries.** The Payne Road / Nonesuch River District Boundary is depicted on the map below:



4. Payne Road / Nonesuch River District Fee. The fee determination shall be based on the following:

- a. The Town cost of the master plan for roadway infrastructure improvements in the Payne Road / Nonesuch River District will amount to \$23,913,345, which is to be funded from this impact fee ordinance.**
- b. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 3,337 trip ends in the P.M. peak commuter hour of traffic.**
- c. Each additional trip generated by new development will benefit from the 3,337 trip ends of capacity and will utilize one trip end of that additional capacity.**
- d. The total fee per trip, therefore, shall be \$7,166. The developer portion for the fee per trip shall be 50% of the total per trip cost or \$3,583.**

5. **Impact Fee Trust Funds.** There is hereby established a Payne Road / Ginn Road District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues. Funds withdrawn from this trust fund account shall be used in accordance with Section V(F) of this ordinance.

DRAFT

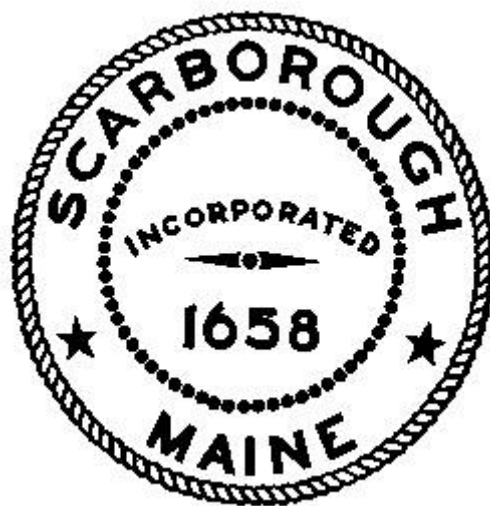
BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 410 Town of Scarborough Roadway Impact Fee Ordinance: Payne Road Area Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

CHAPTER 410

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

PAYNE ROAD AREA CAPITAL IMPROVEMENT DISTRICTS



ADOPTED OCTOBER 17, 1990
AMENDED SEPTEMBER 6, 1995
AMENDED DECEMBER 7, 2011
AMENDED NOVEMBER 1, 2017

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**CHAPTER 410
TOWN OF SCARBOROUGH
ROAD IMPACT FEE ORDINANCE**

**BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF
SCARBOROUGH, MAINE, IN TOWN COUNCIL ASSEMBLED:**

Section One: Purpose

This Ordinance imposes an impact fee on land development requiring review under the Town's subdivision or site plan regulations for providing new roads and related facilities necessitated by new development that impacts traffic in the Payne Road Area of the Town as defined herein. It also provides for the placement of impact fee revenues into road impact fee trust funds established for that purpose and for the administration of the impact fee ordinance, including the expenditure of funds derived from road impact fees and the refunds of unexpended funds.

Section Two: Legislative Findings

The Town Council of Scarborough, Maine finds, determines and declares as follows:

A. The Town must expand its road system in order to provide adequate levels of service in the Payne Road Area of the Town if new development in the Payne Road Area and elsewhere that affects traffic in the Payne Road Area is to be accommodated safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare;

B. 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;

C. 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 the Town and the capital improvements necessary to accommodate such development are identified in the Town's Comprehensive Plan and capital improvements program.

D. New development generates additional traffic, necessitating the acquisition of rights-of-way, road construction and road improvements;

E. The fees established by Section Six hereof are derived from, are based upon, and do not exceed the costs of providing additional rights-of-way, road construction and road improvements necessitated by the new developments for which the fees are levied.

F. The report entitled "Scarborough, Maine Road Computation Procedure-Payne Road Area Impact Fee", dated September 11, 1990, sets forth in more detail a reasonable methodology

and analysis for the determination of the impact of new development on the need for an costs of additional rights-of-way, road construction and road improvements in the Town.

Section Three: Title, Authority, and Applicability

A. Title.

This Ordinance shall be known and may be cited as the “Scarborough Road Impact Fee Ordinance”.

B. Authority.

The Town Council of the Town of Scarborough, 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 ordinance shall apply to all new development seeking subdivision or site plan approval or the extension of previously approved subdivisions or site plans or to any change in use when the proposed development impacts traffic in the “Payne Road Area” if a building permit is issued on or after the date this Ordinance is enacted.

Section Four: Definitions

A. “Developer”

Is a person commencing a land development activity which generates or attracts traffic in the Payne Road Area and which requires subdivision or site plan approval from the Town of Scarborough.

B. “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 road construction project, including but not limited to:

- (1) construction of new through lanes
- (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

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

C. "Development"

Means any change in land use or any construction of buildings or structures or any change in the use of any structure that procedures vehicle trips within the Payne Road Area.

D. "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.

E. "Roads"

Means and includes arterial streets and transportation facilities associated with the arterial and state-aid highway network within the Payne Road Area of the Town and under the jurisdiction of the Town or the State of Maine.

F. "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
- (4) traffic control measurers for those roads and driveways

G. "Independent Fee Calculation Study"

Means the traffic engineering and/or economic documentation prepared by a developer to allow the determination of the impact fee other than by the use of the methodology outlined in Section Six of this Ordinance.

H. "Mandatory or Required right-of-way dedications and/or roadway improvements"

Means such non-compensated dedications and/or roadway improvements required by the Town during subdivision or site plan review.

I. "Payne Road Area"

Means the area of Scarborough, including Payne Road and State Route 114 as follows:

District 1 - Payne Road, South Portland line to I-295 Bridge

District 2 - Payne Road, I-295 Bridge through Route 114 intersection

District 3 - Payne Road, South of Route 114 to Holmes Road

District 4 - This District was repealed by the Scarborough Town Council on December 7, 2011, because the improvements in this district were accomplished.

District 5 - Route 114, between Maine Turnpike and Beech Ridge Road

Section Five: Imposition of Road Impact Fee

A. Any person who, after the effective date of this ordinance, seeks to develop land by applying for subdivision or site plan approval, or for an extension of subdivision or site plan approval issued prior to the effective date hereof, to make an improvement to land or to change the use of any land or building which will generate additional traffic in the Payne Road Area, regardless of whether the development itself is located within the Payne Road Area is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. Preliminary determinations regarding whether a proposed development will generate traffic in the Payne Road Area shall be made by the Town Planner and the Town's consulting traffic engineer. Actual impacts shall be determined by a traffic study prepared by a traffic engineer at the developer's expense and approved by the Town's consulting engineer, unless the developer agrees with the Town's determination.

B. No new building permit for any activity requiring payment of an impact fee pursuant to this Ordinance shall be issued or renewed unless and until the road impact fee hereby required has been paid.

C. No extension of a building permit issued prior to the effective date of this ordinance, for any activity requiring payment of an impact fee pursuant to this Ordinance shall be granted unless and until the road impact fee hereby required has been paid.

Section Six: Computation of Road Impact Fee

A. At the option of the developer, the amount of the road impact fee may be determined by a fee schedule established by the Town Council. The provisions of this paragraph shall govern the setting of the impact fee schedule by the Town Council and the computation of impact fees by the Town, except as expressly provided elsewhere in this Ordinance.

(1) The amount of the impact fee to be paid shall be determined in accordance with the schedule of fees approved by order of the Town Council.

(2) Where a development involves a mixed use, the fees shall be determined in accordance with the applicable schedule by apportioning space to uses specified on the applicable schedule.

(3) Where a development involves an activity not specified on the applicable fee schedule, the Town shall use the fee applicable to the most nearly comparable type of land use on the fee schedule.

(4) Where an extension is sought for a building permit, the amount of the fee shall be the difference between the fee applicable at the time of the extension and any amount previously paid pursuant to this ordinance.

(5) Impact fees for change of use, redevelopment, or expansion or modification of an existing use which has previously paid an impact fee or which did not require payment of an impact fee when originally approved and which requires the issuance of a building permit shall

be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

B. Alternative method for computation of fees

A developer may prepare and submit an independent fee calculation study for the land development activity. The independent fee calculation shall be prepared and presented by professionals and shall establish to a reasonable certainty that the impact of the proposed activity differs substantially from other land use activity for which fees have been established. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town shall consider the documentation submitted by the developer but is not required to accept any documentation which it deems to be inaccurate or unreliable and may require the developer to submit additional or different documentation for consideration. If the independent fee calculation study is approved, the Town shall adjust the fee in accordance with that calculation. Appeals of action of the Town pursuant to this section may be taken to the Town Manager by filing a written request within 10 days of final determination.

Section Seven: Payment of Fee

A. The developer shall pay the road impact fee required by this ordinance to the Building Inspector or her/his designee prior to the issuance of a building permit. [amended 11/01/17]

B. All funds collected shall be properly identified by road impact fee district and promptly transferred for deposit in the appropriate Road Impact Fee Trust Fund to be held in separate accounts as determined in Section Nine of this Ordinance and used solely for the purposes specified in this Ordinance.

Section Eight: Road Impact Fee Districts

A. There are hereby established four (4) road impact fee districts as defined in Section 4(I) of this Ordinance.

Section Nine: Road Impact Fee Trust Funds Established

A. There are hereby established four (4) separate Road Impact Fee Trust Funds, one for each road impact fee district established by Section Eight of this Ordinance.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of Section Ten of this Ordinance.

Section Ten: Use of Funds

A. Funds collected from road impact fees shall be used for the purpose of capital improvements to and expansion of transportation facilities associated with the Payne Road Area.

B. No funds shall be used for periodic or routine maintenance.

C. Funds shall be used exclusively for capital improvements or expansion within the road impact fee district, including district boundary roads, as identified in the Report entitled Computation Procedure, from which the funds were collected or for projects in other road impact districts which are of benefit to the road impact district from which the funds were collected. Funds shall be expended in the order in which they are collected.

D. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which road 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 paragraph A of this section and are located within the appropriate impact fee districts created by this Ordinance or as provided in paragraph C of this section.

E. At least once each fiscal period the Town Manager shall present to the Town Council a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the several Road Impact Fee Trust Funds to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Road Impact Fee Trust Funds until the next fiscal period except as provided by the refund provisions of this Ordinance.

F. Funds may be used to provide refunds as described in Section Eleven.

Section Eleven: 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 Town shall retain three (3) percent of the impact fee paid to offset a portion of the costs of collection. The developer must submit an application for such a refund to the Code Enforcement Officer not later than fifteen (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 ten (10) years from the date the fee was paid shall, upon application of the developer, be returned to the developer, provided that the developer submits an application for a refund to the Code Enforcement Officer within 180 days of the ten (10) year period.

Section Twelve: Exemptions

A. Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips shall be exempt from payment of the traffic impact fee.

B. Construction of accessory buildings or structures which do not generate additional vehicle trips shall be exempt from the payment of traffic impact fees.

C. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use shall be exempt from the payment of the impact fee.

Any claim of exemption shall be made prior to the time for payment of the impact fee. Any claim not so made shall be deemed waived.

Section Thirteen: Credits

A. Credit for the dedication of land for rights of way shall be valued at the most recent assessed value by the Town Assessor or by fair market value established by private appraisers acceptable to the Town. Credit for the dedication of land shall be provided when property has been conveyed at no charge to, and accepted by, the Town in a manner satisfactory to the Town Council.

B. Credit for construction of capital improvements shall be given only where:

(1) the Town and applicant agree in writing that it would be more cost effective or expeditious for the applicant to construct improvements authorized for funding under this Ordinance, or

(2) for the cost of constructing capital improvements as a condition of Planning Board approval under the Site Plan or subdivision ordinance of the Town, provided such capital improvements would be eligible for designation by the Town Council for funding under this Ordinance. In such cases, the applicant shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town which shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates, if the Town determines that estimates submitted by the applicant are either unreliable or inaccurate. Upon final determination of all credits, the Town shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate and return such signed document to the Town before credit will be given. The failure of the applicant to sign, date and return such document with the balance of the impact fees and building permit fees within 60 days shall nullify the credit.

C. Except as otherwise provided in subparagraph D, credit against impact fees otherwise due will remain provisional until:

(1) construction is completed and accepted by the Town or the State, whichever is applicable, and

(2) a suitable maintenance and warranty bond is received and approved by the Town, were applicable.

D. Security shall be given for provisional credit in the form of a performance bond, irrevocable letter of credit or escrow agreement posted with and approved by the Town Manager and Town Attorney in an amount determined by the Town Manager. If the Project will not be constructed within two years of the acceptance of the offer by the Town, the amount of the

security shall be increased by 10% compounded for each year of life of the security. If the construction project is not to be completed within five years of the date of the developer's offer, the Town Council must approve the construction project and its scheduled completion date prior to the acceptance of the offer by the Town. The security or replacement shall state the date for commencement of the project and the time period for estimated completion. This date and/or time period may be extended by the Town for good cause shown conditioned upon extension of the security.

E. Credit may also be given for the costs of constructing capital improvements required as a condition of Planning Board subdivision approval or a Department of Environmental Protection Site Location of Development License if the development was approved prior to enactment of this ordinance but building permits are issued after enactment. Credit shall be in an amount determined by the Planning Board, based upon the scope of the development approved by the Planning Board and/or DEP and the value of the capital improvements actually constructed. Credit shall be given only to the extent that the traffic impact of the proposed development, as determined at the time of construction, does not exceed the impacts anticipated by the subdivision or site location of development approval. The developer shall have the burden of establishing the cost of capital improvements constructed.

F. Any claim for credit must be made prior to the time for payment of impact fees. Any claim not so made shall be deemed waived.

G. Credits shall not be transferred from one project or development to another without the approval of the Town Council.

H. Determination pursuant to this Paragraph may be appealed to the Town manager by filing a written request with the Town Manager within 30 days of the determination

ORDER SETTING IMPACT FEES

AND DESIGNATING APPROVED PROJECTS

BE IT ORDERED by the Scarborough Town Council that pursuant to the Town of Scarborough Road Impact Fee Ordinance, the fees and charges shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council for development from the Highway Impact Fee Trust Fund.

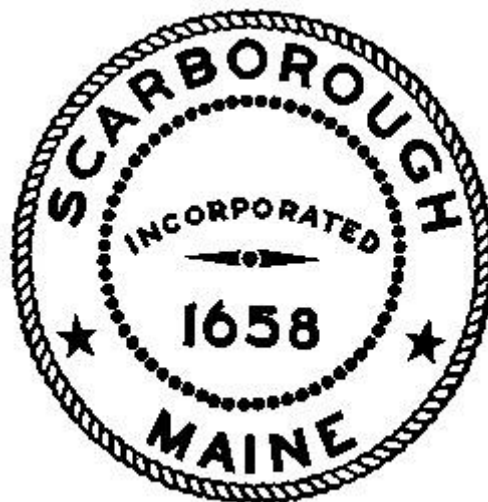
BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415A Town of Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

CHAPTER 415A

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT



**ADOPTED AUGUST 16, 2006
AMENDED FEBRUARY 7, 2007
AMENDED NOVEMBER 16, 2011**

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**ROADWAY IMPACT FEE ORDINANCE:
DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT
TOWN OF SCARBOROUGH**

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Dunstan Corner Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

Dunstan Corner is one of Scarborough’s town centers within which four locally and regionally significant roads intersect. The capacity of Route One, and it’s intersections with Pine Point Road (Route 9), Broadturn Road and Payne Road, are critical to the mobility of regional vehicular traffic through Dunstan Corner and the access of local vehicular traffic to destinations within Dunstan Corner. In order for Dunstan Corner to continue to serve and evolve as a town center, while also maintaining and increasing vehicular mobility and access, the area is in need of adequate roadway infrastructure to support future development and the accompanying traffic generation and demands.

The Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next twenty years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate and benefit new development. The purpose of the Dunstan Corner Capital Improvement District is to procure the Town’s share of the cost of implementing these roadway infrastructure improvements from future development projects. The remaining roadway infrastructure improvement costs will be funded through cost sharing between PACTS (Portland Area Comprehensive Transportation System) and the Maine Department of Transportation. (amended 02/07/2007)(amended 11/16/2011)

Section III. Applicability

- A.** This ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, all new extractive industry operations, and to any change in use requiring site plan approval when the proposed development, whether located within or without the Dunstan Corner Capital Improvement District, generates additional traffic within the Dunstan Corner Capital Improvement District. (amended 02/07/2007)

- B.** The following development and construction shall be exempt from this ordinance:
 - 1.** Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.

 - 2.** Construction of accessory buildings or structures which do not generate additional vehicle trips.

3. The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A. Any person who seeks a permit or approval for any development, activity or use described in Section III(A) of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance. (amended 02/07/2007)
- B. Preliminary determinations regarding whether a proposed development will generate traffic within the Dunstan Corner Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V of this ordinance), which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Dunstan Corner Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for this impact fee calculation is as follows:

- A. As per Section IV(B) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the Dunstan Corner Capital Improvement District in the P.M. peak commuter hour.
- B. The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers "Trip Generation" Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).
- C. The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the Dunstan Corner Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District, regardless of whether they pass through the Dunstan Corner or

Payne Road/Route One intersections, shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.

D. The fee determination shall be based on the following:

1. The Town cost of the master plan for roadway infrastructure improvements in the Dunstan Corner Capital Improvement District will amount to \$1,430,000, which is to be funded from this impact fee ordinance. (amended 02/07/2007)(amended 11/16/2011)
2. The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1020 trip ends in the P.M. peak commuter hour of traffic.
3. Each additional trip generated by new development will benefit from the 1020 trip ends of capacity and will utilize one trip end of that additional capacity.
4. The fee per trip, therefore, shall be \$1,402. This fee per trip equals \$1,430,000 / 1020 trip ends. (amended 02/07/2007)(amended 11/16/2011)

E. For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

F. For any development not requiring Planning Board review but requiring the payment of an impact fee under this ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.

G. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment (amended 02/07/2007)

The impact fee amount, as determined in accordance with Sections IV and V of this ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Dunstan Corner Capital Improvement District Boundaries

The Dunstan Corner Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A and encompasses the following sections of roadway:

- Route 1 beginning 550 feet south of Broadturn Road extending northerly 2000 feet.
- Pine Point Road beginning at its intersection with Route 1 extending easterly 850 feet.
- Payne Road beginning at its proposed relocated intersection with Route 1 extending 1550 feet to align with the existing Payne Road.
- A proposed roadway beginning at Route 1 opposite the relocated Payne Road, westerly to Higgins Street.
- All of Harlow Street and Higgins Street.

Section VIII. Impact Fee Trust Fund

- A. There is hereby established a Dunstan Corner Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this ordinance from the Town's general revenues.
- B. Funds withdrawn from this trust fund account shall be used in accordance with Section IX of this ordinance.

Section IX. Use of Impact Fee Funds

- A. Funds generated by this ordinance will be used for the purpose of completing the capital improvements identified in the master plan for roadway infrastructure improvements within Dunstan Corner Capital Improvement District.
- B. No funds shall be used for periodic or routine maintenance.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of capital improvements for which road impact fees may be expended, impact fee funds may be used to pay debt service on such bonds or similar debt instruments to the extent that

the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section IX(A) of this ordinance.

- D. Funds may be used to provide refunds in accordance with Section X.
- E. Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section within the Dunstan Corner Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

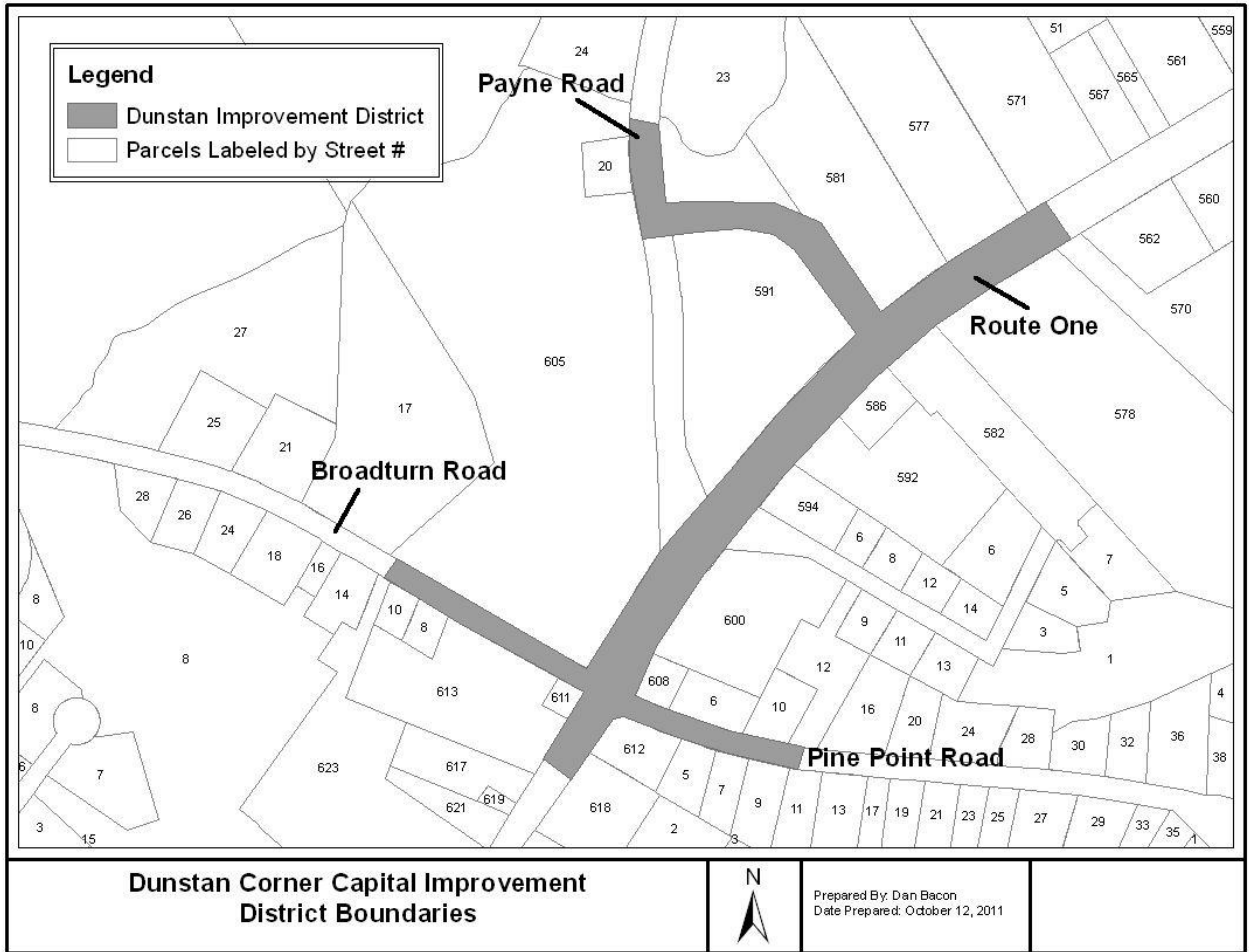
- A. If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

Section XI. Master Plan for Roadway Infrastructure Improvements

- A. As per Section IX(A) of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Dunstan Corner, Scarborough, Maine, PIN 17343.00, September 28, 2011, Preliminary Design Scale 1" = 40', HNTB Corporation. (amended 11/16/2011)
- B. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

Appendix A.



BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following Chapter 415B Town of Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement Districts is hereby repealed in its entirety and is replaced with amendments to Chapter 415 Town of Scarborough Impact Fee Ordinance as recommended by the Planning Director.

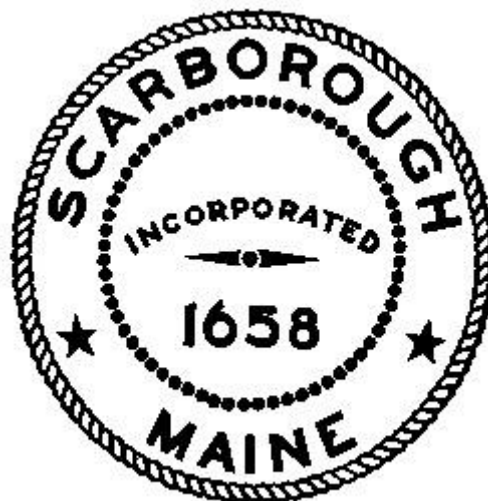
CHAPTER 415B

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT

DISTRICT



ADOPTED November 2, 2011

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**HAIGIS PARKWAY / ROUTE ONE CAPITAL IMPROVEMENT DISTRICT
TOWN OF SCARBOROUGH**

Section I. Title

This Ordinance shall be known and may be cited as the “Scarborough Roadway Impact Fee Ordinance: Haigis Parkway / Route One Capital Improvement District”. It is adopted under the authority of Title 30-A M.R.S.A., § 4354, and the Town’s statutory and constitutional home rule powers.

Section II. Purpose

The Haigis Parkway / Route One / Lincoln Avenue intersection is one of the most significant intersections in the Town of Scarborough and is critical to the current and future mobility of local and regional motorists. This intersection currently serves local and regional travel on Route One, the Haigis Parkway, and Lincoln Avenue and provides important connections to Payne Road, the Maine Turnpike and the Scarborough industrial park. In addition, this intersection is an important facility for managing future traffic demands, both to provide an alternative to the high traffic volumes on Payne Road as well as to accommodate the future growth and development that is planned for land accessible from the Haigis Parkway and Route One.

In order for the Haigis Parkway / Route One / Lincoln Avenue intersection to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and the accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are highlighted in the Town-Wide Transportation Study and in the Transportation Policy Objectives of the Town’s Comprehensive Plan.

To that end the Town has completed a master plan for roadway infrastructure improvements that will accommodate the traffic growth projected for the next fifteen years and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. These roadway infrastructure improvements also include provisions for pedestrians in order to enhance the walk-ability and pedestrian safety of this section of Route One. The purpose of the Haigis Parkway / Route One Capital Improvement District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

Section III. Applicability

- A. This Ordinance shall apply to all new development seeking subdivision or site plan approval, the expansion of previously approved subdivisions or site plans, new development enabled by land divisions exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), all new extractive industry operations, and to any change in use when the proposed development, whether located within or

outside the Haigis Parkway / Route One Capital Improvement District, generates additional traffic within the Haigis Parkway / Route One Capital Improvement District.

- B.** The following development and construction shall be exempt from this ordinance:
- 1.** Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips.
 - 2.** Construction of accessory buildings or structures which do not generate additional vehicle trips.
 - 3.** The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.

Section IV. Impact Fee Procedures

- A.** Any person who seeks a permit or approval for any development, activity or use described in Section III.A of this Ordinance is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
- B.** Preliminary determinations regarding whether a proposed development will generate traffic within the Haigis Parkway / Route One Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined through a traffic analysis (in accordance with Section V. of this ordinance), which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board, or the Planning and Code Enforcement Department when applicable.

Section V. Impact Fee Calculations

An impact fee shall be applied to development projects located in whole or in part within the Town of Scarborough that generate additional traffic within the Haigis Parkway / Route One Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A., §4354. The process for this impact fee calculation is as follows:

- A.** As per Section IV(B) above, a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by

additional vehicle trips to be generated by a development project that pass through the Haigis Parkway / Route One Capital Improvement District in the P.M. peak commuter hour.

- B.** The impact fee calculation for individual development projects shall use generally accepted standards, such as the most current Institute of Transportation Engineers “Trip Generation” Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the P.M. peak commuter hour of traffic (between 3:00 and 6:00 PM on a weekday).
- C.** The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the Haigis Parkway / Route One Capital Improvement District within the P.M. peak commuter hour. All new trips that pass through the District shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment.
- D.** The fee determination shall be based on the following:
 - 1.** The Town cost of the master plan for roadway infrastructure improvements in the Haigis Parkway / Route One Capital Improvement District amounts to \$1,005,000, which is to be funded from this impact fee ordinance.
*(This cost total is less than the total project cost for the Fiscal Year 2010 CIP Project because the improvements associated with the Dunstan Corner intersection plan, the Southgate intersection plan, landscaping enhancements, and the Haigis/Scottow Hill Rd. and Route One/Enterprise Dr. improvements were not included).
 - 2.** The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 1015 trip ends in the P.M. peak commuter hour of traffic.
 - 3.** Each additional trip generated by new development will benefit from the 1015 trip ends of capacity and will utilize one trip end of that additional capacity.
 - 4.** The fee per trip, therefore, shall be \$990.00. This fee per trip equals \$1,005,000 / 1015 trip ends.
- E.** For any development requiring subdivision review, site plan review or other Planning Board review, the Planning Board shall determine the total impact fee for the development calculated pursuant to Section V, subsections A through D above, and then shall establish a payment schedule which apportions the impact

fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, a building, a dwelling unit (as defined in the Scarborough Zoning Ordinance), a unit of occupancy (as defined in the Scarborough Zoning Ordinance), or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development.

- F.** For any development not requiring Planning Board review but requiring the payment of an impact fee under this Ordinance, the Town Engineer shall determine the impact fee and payment schedule, pursuant to Section V, subsections A through E above.
- G.** If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development, then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

Section VI. Impact Fee Payment

The impact fee amount, as determined in accordance with Sections IV and V of this Ordinance, shall be paid to the Town according to the payment schedule established under Section V, except as follows:

- A.** For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.
- B.** For a new residential dwelling(s) proposed on a lot(s) created by a land division(s) exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), the impact fee amount shall be paid prior to the issuance of a building permit for construction.

Payments shall be tendered to the Town Engineer. Upon determining that the payment is in the correct amount, the Town Engineer shall issue a receipt for the payment and deliver the payment to the Town Treasurer.

Section VII. Haigis Parkway / Route One Capital Improvement District Boundaries

The Haigis Parkway / Route One Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A.

Section VIII. Impact Fee Trust Fund

- A.** There is hereby established a Haigis Parkway / Route One Capital Improvement District Trust Fund to segregate the impact fee revenue generated by this Ordinance from the Town's general revenues.
- B.** Funds withdrawn from this trust fund account shall be used in accordance with Section IX. of this ordinance.

Section IX. Use of Impact Fee Funds

- A.** Funds generated by this ordinance will be used for the purpose of financing the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District.
- B.** No funds shall be used for periodic or routine maintenance.
- C.** Given that bonds may be issued to finance the implementation of the capital improvements identified in the master plan for roadway infrastructure improvements within the Haigis Parkway / Route One Capital Improvement District, impact fee funds may be used to pay debt service on such bonds to the extent that the improvements provided are a component of the master plan for roadway infrastructure improvements, as per Section IX. A. of this ordinance.
- D.** Funds may be used to provide refunds in accordance with Section X.
- E.** Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section within the Haigis Parkway / Route One Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer.

Section X. Refund of Impact Fees

- A.** If a building permit or site plan is surrendered or expires without commencement of construction; or a subdivision plan or extractive industries approval expires without recordation of the plan at the registry of deeds, the developer shall be entitled to a refund, without interest, of the impact fee paid as required by this ordinance. The developer must submit an application for such a refund to the Town Engineer not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan or extractive industries approval.
- B.** Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall,

upon application for a refund by the developer, be returned to the developer without interest, provided that the developer submits an application for a refund to the Town Engineer within 180 days after expiration of the ten (10) year period.

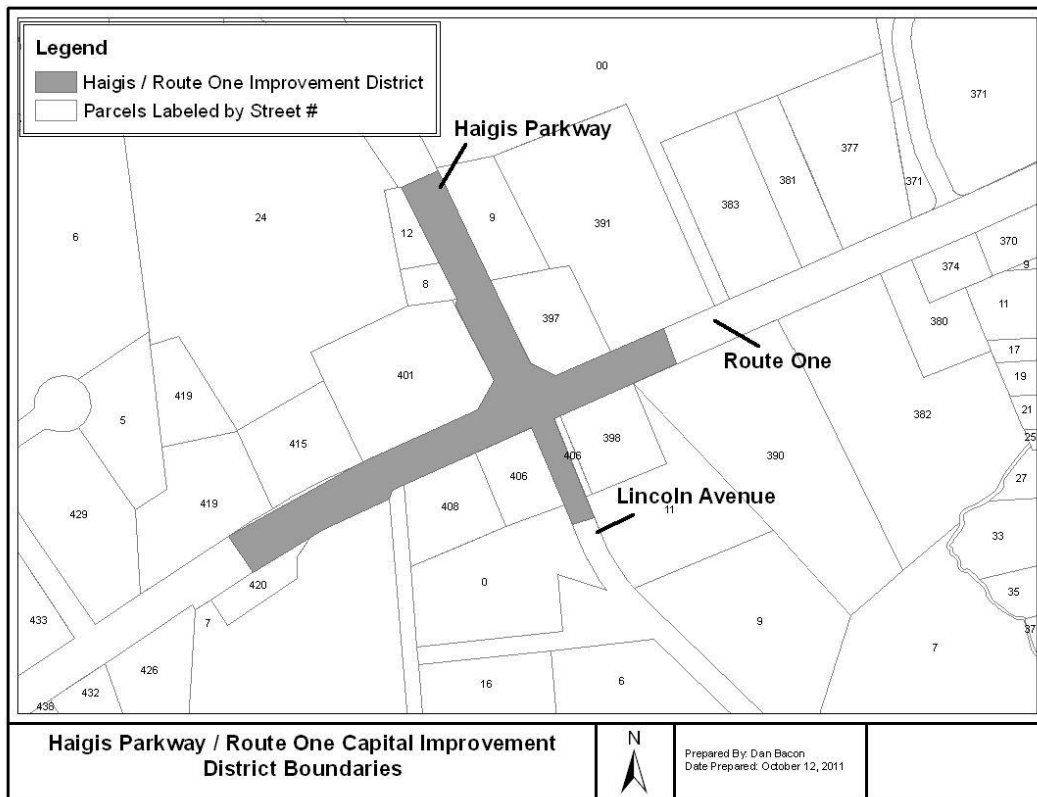
Section XI. Master Plan for Roadway Infrastructure Improvements

- A. As per Section IX. A. of this ordinance, the funds generated by this ordinance will be used to accomplish the improvements identified in the following master plan:

Drawing Name: "Intersection Improvements Route 1 & Haigis Parkway, Scarborough, Maine, Cumberland County" dated August 2010 and prepared by Gorrill-Palmer Consulting Engineers, Inc.

- B. The above cited plans may be amended by the Town Council, in accordance with Chapter 302, Scarborough Town Council Rules, Policies and Procedures Manual, if the amendments to the master plan are consistent with and further the purpose of this ordinance.

Appendix A.



TOWN OF SCARBOROUGH RECREATION IMPACT FEE METHODOLOGY

This methodology sets out the procedure for determining the impact fee that should be paid by development for recreational facilities and open space.

The amount of the recreation impact 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.

Parks and Facilities Master Plan Applicable Cost: \$10,859,900

New Projects:	\$5,262,700
Expansion Projects:	\$526,500
Replacement Projects:	\$5,070,700

Percentage of Total Cost Assigned to New Development: 20% - \$2,171,980

Total Units Per Year (10 years) – 2,610
Total Bedrooms Per Year (10 years)(assumes 3 br and under) – 5,330
Total Cost Per Bedroom (10 Years) - \$408
Total Persons per Year (10 Years) – 5,234
Total Cost Per Person (10 Years) - \$415

Recreation Impact Fee: \$400 per bedroom

Total Potential Captured (10 years): \$2,132,000

Summary of Calculation Assumptions:

Permit Allocation Estimates Based on 2023 Rate of Growth	Average Annual Permits	3 Bedroom Limits	3 Bedroom Allowed
Area 1 Rural outside of Growth Areas - 25 per year	25	None	25
Area 2 In Designated Growth Areas 210 per three years	70	35%	25
Area 3 In Designated Growth Area, The Downs - 400 per three years	133	35%	47
Affordable & Workforce 100 per three years	33	20%	7

Permit Allocation Estimates by Bedroom Size			
	0-1 Bedroom	2 Bedroom	3+ Bedrooms
Area 1 Rural outside of Growth Areas - 25 per year	0%	0%	100%
Area 2 In Designated Growth Areas 210 per three years	35%	30%	35%
Area 3 In Designated Growth Area, The Downs - 400 per three years	34%	36%	30%
Affordable & Workforce 100 per three years	40%	45%	15%
Annual Totals	0-1 Bedroom	2 Bedroom	3+ Bedrooms
Total Units Per Year	83	81	97
Household Size Per Unit Type	1.41	2.13	2.42
Persons Per Year	117.03	172.53	234.74

10 Year Totals	
Permits 10 years	2,610
Persons 10 Years	5,243
2021 ACS Population	21,539
Population Percentage of New	20%

Impact Fee Area 1: Intersection of Payne Road and Ginn Road
Scarborough, Maine
Preliminary Cost Estimate
February 2024

Item Number	Item Description	Unit	Quantity	Cost/Unit	Total Cost
1	Roadway	SF	79,762.65	\$ 14.00	\$ 1,116,677.10
2	Sidewalk	SF	28,277.27	\$ 6.00	\$ 169,663.62
3	Esplanade	SF	14,802.11	\$ 5.00	\$ 74,010.55
4	Curb Type 1	LF	2,981.29	\$ 200.00	\$ 596,258.00
5	Pedestrian Traffic Items	LS	1.00	\$ 72,000.00	\$ 72,000.00
6	Clearing	AC	1.02	\$ 26,000.00	\$ 26,520.00
7	Minor Items (10% of Above)	LS	1.00	\$ 205,512.93	\$ 205,512.93
8	Right of Way	SF	45,823.58	\$ 13.00	\$ 595,706.54
				Subtotal	\$ 2,856,348.74
9	Mobilization (10%)	LS	1.00	\$ 285,634.87	\$ 285,634.87
10	Maintenance of Traffic (10%)	LS	1.00	\$ 285,634.87	\$ 285,634.87
11	Erosion Control (5%)	LS	1.00	\$ 142,817.44	\$ 142,817.44
12	Contingency (20%)	LS	1.00	\$ 571,269.75	\$ 571,269.75
				Subtotal	\$ 4,141,705.67
13	Engineering Design (10%)	LS	1.00	\$ 414,170.57	\$ 414,170.57
14	Construction Engineering (10%)	LS	1.00	\$ 414,170.57	\$ 414,170.57
15	Traffic Signals Design by Sebago	LS	1.00	\$ 779,045.00	\$ 779,045.00
				Project Total	\$ 5,749,091.80

Construction Cost Estimate Projected to 2035			
Annual % difference	Decimal	Cost in 2024	Cost in 2035
5.00%	0.05	\$ 5,749,091.80	\$ 9,832,897.98

Per Trip Impact Fee Summary					
Annual % Difference	Cost in 2035	Existing Trips	Proposed Trips	Change in Trips	Cost Per Trip
5.00%	\$9,832,897.98	2611	4377	1766	\$ 5,567.89

Funding of Improvements - Cost Sharing			
Anticipated Funding Source	Percentage	Cost per Trip	Total Contribution
State and Local Contribution	50%	\$ 5,567.89	\$ 2,783.95
New Development	50%	\$ 5,567.89	\$ 2,783.95

* Note that these costs do not include any considerations for bonding or outside funding sources as part of the project total, the projected costs, or the cost per trip.

**Impact Fee Area 2: Payne Road Nonesuch River
Scarborough, Maine
Preliminary Cost Estimate
February 2024**

Item Number	Item Description	Unit	Quantity	Cost/Unit	Total Cost
1	Roadway	SF	192,789.32	\$ 14.00	\$ 2,699,050.48
2	Sidewalk	SF	59,215.49	\$ 6.00	\$ 355,292.94
3	Esplanade	SF	25,175.99	\$ 5.00	\$ 125,879.95
4	Curb Type 1	LF	6,135.99	\$ 200.00	\$ 1,227,198.00
5	Curb Type 5	LF	4,379.36	\$ 75.00	\$ 328,452.00
6	Paved Median	SF	1,266.03	\$ 12.00	\$ 15,192.36
7	Grassed Median	SF	18,337.10	\$ 10.00	\$ 183,371.00
8	Clearing	AC	2.96	\$ 26,000.00	\$ 76,960.00
9	Minor Items (10% of Above)	LS	1.00	\$ 501,139.67	\$ 501,139.67
10	ROW - Bridges to Mussey	SF	75,598.26	\$ 4.50	\$ 340,192.17
11	ROW - Mussey to Gorham	SF	12,526.59	\$ 16.00	\$ 200,425.44
				Subtotal	\$ 6,053,154.01
12	Mobilization (10%)	LS	1.00	\$ 605,315.40	\$ 605,315.40
13	Maintenance of Traffic (10%)	LS	1.00	\$ 605,315.40	\$ 605,315.40
14	Erosion Control (5%)	LS	1.00	\$ 302,657.70	\$ 302,657.70
15	Contingency (20%)	LS	1.00	\$ 1,210,630.80	\$ 1,210,630.80
				Subtotal	\$ 8,777,073.32
16	Engineering Design (10%)	LS	1.00	\$ 877,707.33	\$ 877,707.33
17	Construction Engineering (10%)	LS	1.00	\$ 877,707.33	\$ 877,707.33
18	Bridge Estimate	LS	1.00	\$ 3,449,150.00	\$ 3,449,150.00
				Project Total	\$ 13,981,637.98

Construction Cost Estimate Projected to 2035			
Annual % difference	Decimal	Cost in 2024	Cost in 2035
5.00%	0.05	\$ 13,981,637.98	\$ 23,913,345.73

Per Trip Impact Fee Summary					
Annual % Difference	Cost in 2035	Existing Trips	Proposed Trips	Change in Trips	Cost Per Trip
5.00%	\$23,913,345.73	2833	6170	3337	\$ 7,166.12

Funding of Improvements - Cost Sharing			
Anticipated Funding Source	Percentage	Cost per Trip	Total Contribution
State and Local Contribution	50%	\$ 7,166.12	\$ 3,583.06
New Development	50%	\$ 7,166.12	\$ 3,583.06

* Note that these costs do not include any considerations for bonding or outside funding sources as part of the project total, the projected costs, or the cost per trip.

**TRAFFIC IMPACT FEES COMPARISON
Scarborough, Maine**

AR Building Development Project on Mussey Road (120 housing units)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ 5,940.00	\$ 5,940.00	\$ -	0%
Dunstan District Fee	\$ 8,412.00	\$ 8,412.00	\$ -	0%
Oak Hill Mitigation Fee	\$ 13,590.00	\$ 13,590.00	\$ -	0%
Payne Rd District #1 Fee	\$ 448.29	\$ -	\$ (448.29)	-100%
Payne Rd District #2 Fee	\$ 5,263.56	\$ -	\$ (5,263.56)	-100%
Payne Rd District #3 Fee	\$ 4,491.45	\$ -	\$ (4,491.45)	-100%
Payne Rd District #5	\$ 15,367.80	\$ 15,367.80	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ 25,055.55	\$ 25,055.55	100%
Payne Rd - Nonesuch District Fee	\$ -	\$ 32,247.54	\$ 32,247.54	100%
	\$ 53,513.10	\$ 100,612.96	\$ 47,099.79	88%

Note: Cost per Unit with new Ordinance will be \$838.44

Oak Hill Plaza Apartment Bldg (approved in 2019)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ 11,880.00	\$ 11,880.00	\$ -	0%
Dunstan District Fee	\$ 8,412.00	\$ 8,412.00	\$ -	0%
Oak Hill Mitigation Fee	\$ 14,345.00	\$ 14,345.00	\$ -	0%
Payne Rd District #1 Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #2 Fee	\$ 584.84	\$ -	\$ (584.84)	-100%
Payne Rd District #3 Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #5	\$ 2,049.04	\$ 2,049.04	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ -	\$ -	0%
Payne Rd - Nonesuch District Fee	\$ -	\$ -	\$ -	0%
	\$ 37,270.88	\$ 36,686.04	\$ (584.84)	-2%

Mussey Road Hotel (126 units)				
Impact Fee Districts	Current Ordinance Impact Fee	Proposed Ordinance Impact Fee	Difference	% Increase
Haigis District Fee	\$ -	\$ -	\$ -	0%
Dunstan District Fee	\$ -	\$ -	\$ -	0%
Oak Hill Mitigation Fee	\$ -	\$ -	\$ -	0%
Payne Rd District #1 Fee	\$ 1,344.87	\$ -	\$ (1,344.87)	-100%
Payne Rd District #2 Fee	\$ 3,509.04	\$ -	\$ (3,509.04)	-100%
Payne Rd District #3 Fee	\$ 7,485.75	\$ -	\$ (7,485.75)	-100%
Payne Rd District #5	\$ 3,073.26	\$ 3,073.26	\$ -	0%
Payne Rd - Ginn Rd District Fee	\$ -	\$ 38,975.30	\$ 38,975.30	0%
Payne Rd - Nonesuch District Fee	\$ -	\$ 50,162.84	\$ 50,162.84	0%
	\$ 15,412.92	\$ 92,211.40	\$ 76,798.48	498%

Note: Cost per Unit with new Ordinance will be \$731.84

Downs Development Traffic Movement Permit Required Improvements				
Impact Fee Districts	Total Cost of Offsites	Approx Trips Covered by TMP	Cost per trip**	Cost Sharing %
Cost of Offsite Improvements*	\$ 14,000,000.00	3,000	\$ 4,666.67	
DOT Share of Project	\$ 3,000,000.00			21%
Town Share	\$ 2,800,000.00			20%
Developer Share	\$ 8,200,000.00			59%

** Engineers Estimate of Downs Development Offsite Improvements in 2021*

*** Downs Development still paying for Impacts to Dunstan and Haigis Parkway Districts in addition to these numbers*

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 1, 2024
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 24-043. Move approval on the request from the Police Chief and the Community Services Director to accept grants on behalf of the VIPS [Volunteer in Police Service] and Community Services in the amount of \$2,500 each from the Scarborough Chamber of Commerce. [*Police Chief/Director of Community Services*]

Police Chief/Director of Community Services

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

05/01/2024 – Vote:

Second Reading/Final Approval/Vote