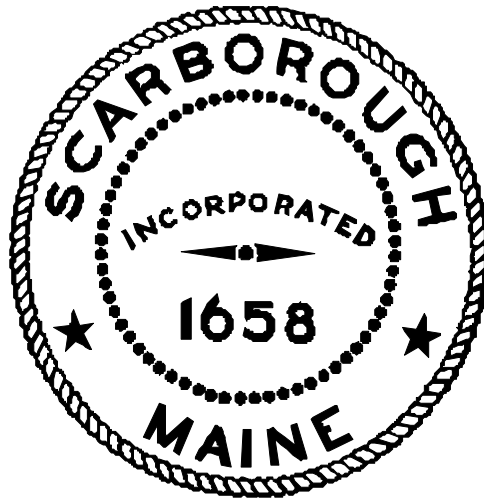


CHAPTER 415A

TOWN OF SCARBOROUGH

SCARBOROUGH ROADWAY IMPACT FEE ORDINANCE:

DUNSTAN CORNER CAPITAL IMPROVEMENT DISTRICT



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

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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 twenty-five percent (25%) of the cost of constructing these roadway infrastructure improvements from future development projects. The remaining roadway infrastructure improvement costs will be funded through cost sharing between an additional Town program and the Maine Department of Transportation. (amended 02/07/2007)

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 total cost of the master plan for roadway infrastructure improvements in the Dunstan Corner Capital Improvement District will amount to \$6,000,000, of which twenty-five percent (25%) or \$1,500,000, is to be funded from this impact fee ordinance. (amended 02/07/2007)
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 \$1,471. This fee per trip equals \$1,500,000 / 1020 trip ends. (amended 02/07/2007)

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:

Drawing Name - Concept 2, Project: Dunstan Corner, Scarborough, Maine, Client - PACTS, 68 Marginal Way, Portland, Maine 04101, Prepared by - Gorrill-Palmer Consulting Engineers, Inc. at a scale of 1"=80' and dated April 2006.

- 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.

