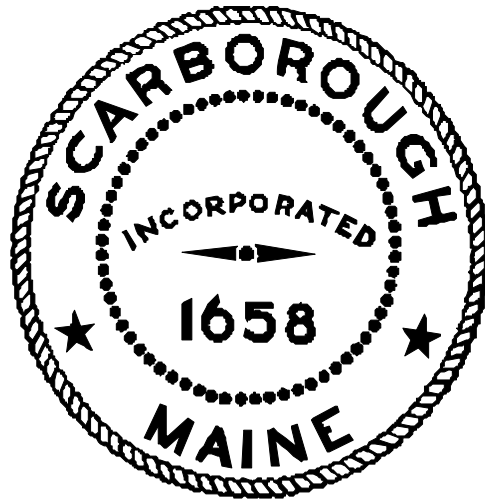


**CHAPTER 415**

**TOWN OF SCARBOROUGH**

**IMPACT FEE ORDINANCE**



**ADOPTED JANUARY 02, 2002; EFFECTIVE JANUARY 03, 2002**  
**AMENDED MARCH 3, 2003**

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

**CHAPTER I - General Provisions**

**1. 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.

**2. 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.

**3. Definitions.**

Unless otherwise defined in this ordinance, terms used in this ordinance shall have the same meanings as defined terms in 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.

**4. Use of Impact Fees.**

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 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.

**5. 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.

## **6. 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 5 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.

## **7. 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 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 shall be refunded. 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.

## **8. 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.

**8.A. Inflation Adjustment.**

The 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 1<sup>st</sup> 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 1<sup>st</sup>, 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 1<sup>st</sup> of each calendar year thereafter, whether or not the applications for building permits were filed prior to such dates. [March 3, 2003]

**9. Impact Fee Not Required for Replacement Dwelling Units.**

An impact fee shall not be required for:

- (a) 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;
- (b) 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;
- (c) 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
- (d) 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.

**10. 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.

## **CHAPTER II - School Impact Fees**

### **1. Use of School Impact Fees.**

The fees collected under this 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.

### **2. Calculation and Collection of School Impact Fees.**

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:

<b>Type of Dwelling</b>	<b>Amount</b>
Single family dwelling	\$3,200
Two-family dwelling	\$1,200 per unit
Multiplex	\$800 per unit
Mobile home in a mobile home park	\$800
Affordable housing unit	\$1,600

### **3. Exemptions.**

1. 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).

### **4. Impact Fees to Terminate Upon Completion of Projects.**

When the school projects identified in Chapter II, Section 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.