

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
MONDAY, JUNE 18, 2001**

***** SPECIAL MEETING *****

- I. Call to order in the Cumberland Town Hall Council Chambers at 6:30 p.m.
- II. Swearing in of newly elected Town Councilors
- III. Election of Chairman and Vice-Chairman
- IV. Adjourn meeting to Workshop in the East Conference Room – Impact Fees

MEMBERS OF THE TOWN COUNCIL

Stephen Moriarty (Chair)	829-5095	Donna Damon	846-5140
Mark Kuntz	829-6482	Harland Storey	829-3939
John Lambert, Jr.	781-5282	Peter Bingham	829-5713
Jeffrey Porter	829-4129		

Town of Cumberland web site: www.cumberlandmaine.com

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
MONDAY – JUNE 18, 2001**

***** SPECIAL MEETING MINUTES *****

Councilors Present: Stephen Moriarty, Peter Bingham, Jeffrey Porter, Harland Storey, Mark Kuntz, John Lambert, Donna Damon

I. Call to order at the Cumberland Town Hall at 6:30 p.m.

II. Swearing-in of newly elected Town Councilors.

Town Clerk, Klara Norton swore in re-elected Town Councilor – Stephen Moriarty and elected Town Councilor – Donna Damon.

III. Election of Chairman and Vice-Chairman.

Councilor Storey moved to nominate Councilor Moriarty as Chairman of the Cumberland Town Council.

Seconded by Councilor Kuntz

Councilor Storey moved that nominations cease.

Seconded by Councilor Bingham

VOTE: UNANIMOUS (6)

VOTE on original motion: IN FAVOR (5)

ABSTAINED (1) Moriarty

Councilor Lambert arrived at 6:32 pm

Councilor Bingham moved to nominate Councilor Porter as Vice-Chairman of the Cumberland Town Council.

Seconded by Councilor Storey

Chairman Storey moved that nominations cease.

Seconded by Councilor Bingham

VOTE: UNANIMOUS (7)

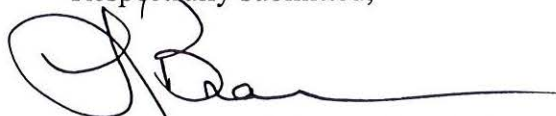
VOTE on original motion: IN FAVOR (6)

ABSTAINED (1) Porter

IV. Adjourn

Chairman Moriarty moved to adjourn the meeting at 6:35 p.m. and move to a workshop in the East Conference Room to discuss 'Impact Fees'.


Respectfully submitted,



Lisa Brown, Administrative Assistant

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
MONDAY – JUNE 18, 2001**

*** SPECIAL MEETING ***

Councilors Present: Stephen Moriarty, Peter Bingham, Jeffrey Porter, Harland Storey, Mark Kuntz, John Lambert, Donna Damon
Councilors Excused: 

6:30

I. Call to order at the Cumberland Town Hall at 7:00 p.m.

II. Swearing-in of newly elected Town Councilors.

Town Clerk, Klara Norton swore in re-elected Town Councilor – Stephen Moriarty and elected Town Councilor – Donna Damon.

III. Election of Chairman and Vice-Chairman.

Councilor Storey moved to nominate Steve as Chairman of the Cumberland Town Council.

Seconded by Kuntz *Cease Storey and Bingham*
VOTE: UNANIMOUS (7) *1 Extension*

IV. Town Council Assignments FY 2000 – 2001.

Councilor Bingham moved to nominate Harland as Vice-Chairman of the Cumberland Town Council.

Seconded by Storey *Jeff*
VOTE: UNANIMOUS (7) ?? *Extension*

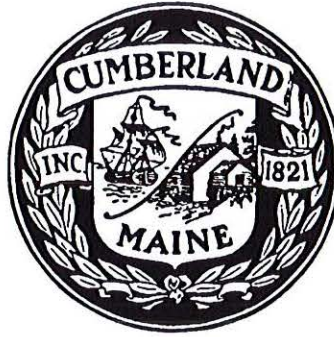
~~Chairman~~ Storey moved that nominations cease.

Seconded by Bingham
VOTE: UNANIMOUS (7)

V. Adjourn

6:35

Chairman Moriarty moved to adjourn the meeting at 8:30 p.m. and move to a workshop in the East Conference Room to discuss 'Impact Fees'.



PUBLIC HEARING

TOWN OF CUMBERLAND

TOWN COUNCIL

PUBLIC HEARING

The Cumberland Town Council will hold a Public Hearing to discuss a proposal for the Cumberland Housing Authority to purchase nine (9) acres of land on Greely Road (currently owned by Portland Water District adjacent to Val Halla) for a possible future Senior Housing project. The Public Hearing will be held on Monday, June 25, 2001 at 7:00 p.m. in the Council Chambers at the Cumberland Town Offices, 290 Tuttle Road, Cumberland Center.

Stephen Moriarty, Council Chairman

TO: TOWN MANAGER'S OFFICE:

FROM: Klara Norton, Town Clerk

DATE: April 30, 2001

Special Town Council Meeting

June 18, 2001

6:30 pm

AGENDA ITEMS

00 - Swearing in of newly elected Town Councilors.

00 - Election of Chairman and Vice-Chairman

TOWN OF CUMBERLAND
Official Return of Votes
June 12, 2001 Municipal Election

County of Cumberland, ss.

State of Maine

**At a legal meeting of the inhabitants of the Town of
Cumberland, held on Tuesday, June 12, 2001, there were 1,177
votes cast as follows:**

Mainland: 996
Chebeague Island: 181

(out of 5038 registered voters)

MAINLAND ISLAND TOTAL

COUNCILOR AT LARGE

Sally A. Merrill	338	41	379
Stephen W. Moriarty	624	127	751

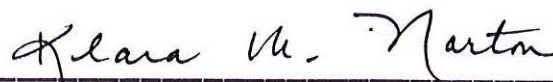
COUNCILOR- CHEBEAGUE ISLAND

Samuel S. Ballard	114	39	153
Donna Miller Damon	438	99	537
Karen M. Hamilton	208	41	249

DIRECTOR M.S.A.D. #51 (2)

Betty J. Gorsky	537	79	616
Henry R. Kennedy	521	33	554
April E. Ross	353	76	429
Dale E. Storey	341	82	423

**A TRUE COPY,
ATTEST:**



Klara M. Norton, Town Clerk

MEMORANDUM: IMPACT FEES

Date 11 June, 2001

To Town Council
Bob Benson, Town Manager
Barbara McPheters, Town Code Enforcement Officer
Ken Cole, Town Attorney
Mark Eyerman, Planning Decisions

From Andy Fillmore, Town Planner

Subject Ongoing Impact Fees Discussion

At our last Impact Fee workshop, the planning department was directed to retain the services of Mark Eyerman of Planning Decisions to expand upon the work he did in his 2000 "Fiscal Impact of Residential Development" report. The intent of this new work was to assign a dollar amount to the impact of residential development, thereby satisfying the State's enabling legislation and allowing Cumberland to safely enact an Impact Fee Ordinance. I am pleased to report that Mr. Eyerman's work achieves its intent and makes a strong link between residential "impact" and "fee."

Planning Decisions' research also reveals that exacting impact fees on non-residential construction is much harder to support, and would therefore be much more susceptible to legal challenge. The planning department shares this view as exacting commercial impact fees is contradictory of the Town's stated goal of attracting commercial development along the Route One corridor. As such, the current draft of the ordinance excludes exactions for non-residential construction, and the fee burden is borne solely by new residential construction and by additions to existing buildings that contain bedrooms.

This is still a draft ordinance and it, along with the other attached materials, are strictly for discussion purposes only.

Attached materials:

- *Cover letter (e-mail) from Mark Eyerman outlining the documents he has prepared*
- *"Overview of Impact Fees" prepared by Planning Decisions*
- *"Impact Fee Methodology" prepared by Planning Decisions*
- *Current draft of Impact Fee Ordinance reflecting the new research*
- *Previous draft of Impact Fee Ordinance as reviewed by Council on 31 May, 2001*

Respectfully submitted,



Andy Fillmore, Town Planner

Andy Fillmore

From: Mark Eyerman [meyerman@maine.rr.com]
Sent: Wednesday, June 06, 2001 3:52 PM
To: afillmore@cumberlandmaine.com
Subject: Re: attachment detached



01-182 Impact Fee
Methodology ...



~~01-182 Impact Fee
Methodology ...~~



01-182 Overview of
Impact Fees...



~~01-182 Overview of
Impact Fees...~~

Andy,

Here are the files for the overview and the methodology. In the methodology, the impact fee is calculated on a per capita basis. In some work on impact fees that we have looked at, there seems to be some agreement that this is the most appropriate for these types of facilities. I have used the SCORP per capita ratio and the existing per capita supply of open space as the benchmarks for determining future need. I feel this is defensible. I then used some average costs for developed recreational areas and open space acquisition to get a cost per person. This is then discounted to reflect the decreasing population in the older housing stock to get a proposed per capita fee. This fee can then be applied on a per bedroom or per square foot basis. You should review this. I consider this a draft subject to further discussion and refinement if necessary.

Mark

OVERVIEW

PREPARED BY PLANNING
DECISIONS

June 6, 2001

OVERVIEW OF IMPACT FEES CUMBERLAND RECREATIONAL FACILITIES AND OPEN SPACE

This overview discusses impact fees and how they can be used in Cumberland to offset the costs of the development of additional recreational facilities and the preservation of open space required to meet the needs of a growing population.

1. What is an impact fee?

An impact fee is a one time charge paid by new development to cover a share of the costs for new or expanded facilities needed to service the development. It is a fee and not a tax. The impact fee shifts some or all of the cost of providing facilities needed to service new development from the general property taxpayer to the development creating the need for the new facilities.

2. What can impact fees be used for?

The use of impact fees is governed by state law. Impact fees can only be used for municipal or school infrastructure. The state law lists facilities such as waste water facilities, water facilities, solid waste facilities, fire protection facilities, roads, parks, open space, schools, etc.

Impact fees can be used to pay for facilities that have already been built or for facilities that are planned to be built in the future as long as they create capacity to service new development.

3. What can impact fees not be used for?

Impact fees cannot be used for maintenance or operations. They cannot be used to replace existing facilities unless there is an expansion in the capacity of the facility and then only the cost of the increased capacity is appropriate for fees. Impact fees cannot be used to correct existing deficiencies.

4. What limits does the state place on the use of impact fees?

State law in Maine is reasonably restrictive in terms of how impact fees can be used. The limits include:

- the fee must be related to the cost of an improvement necessary to serve the development
- the fee must be proportionate to the share of the new or expanded capacity used by a development
- the fee must be used for specific identified improvements
- the fee must go into a separate account and be used only for the purpose collected
- the improvement for which the fee is collected must be made in a timely manner in accordance with the Town's Capital Improvement Plan

- the impact fee must be refunded if the improvement is not constructed within a reasonable period typically ten years

5. What are the key tests for the legal use of impact fees?

The use of impact fees must generally meet three key tests:

1. *The fee must be used to pay for capacity that is needed to accommodate growth and development.* For example, an impact fee to pay for the development of a new recreational area to accommodate growing demand for youth league fields due to increased participation as a result of residential development is probably appropriate but a fee to build a parking lot and concession stand/rest rooms at an existing recreational area that does not expand the capacity of the facility probably is not.
2. *The amount of the fee must be proportionate to the share of the capacity used by the development.* If the Town used impact fees to say upgrade a sewer pump station to increase its capacity from 10 cfs to 20 cfs, a development that used 1 cfs of this additional capacity should pay 10% of the cost of the upgrade since it is using 10% of the new capacity.
3. *The development paying the impact fee must benefit from the improvement made with the fee.* If a subdivision on the Foreside pays an impact fee for recreation facilities, the improvement must be of benefit to them. For example, a townwide facility such as a sports fields or a recreation complex would probably be OK but a playground on Chebeague would probably not meet this benefit test.

6. Does the Town have to base the impact fee on the full cost of the improvement?

No, but the fee needs to be proportionate to the share of the improvement capacity used by the use paying the fee. If there is a clear, direct relationship between the development and the need for and use of the improvement, basing the fee on the full cost is probably reasonable. If, however, the relationship is less direct, basing the fee on a portion of the cost may be appropriate.

7. Who should pay an impact fee?

The basic principle of impact fees is that the development activity that is creating the need for the new or expanded capacity should pay the impact fee. For example, an impact fee to pay for expanded school capacity should be paid by residential uses but not by non-residential uses. And residential uses such as elderly housing that do not generate school enrollments should probably not be subject to such a school impact fee. An impact fee for an upgraded sewer pump station should be paid by any development that generates new or increased sewage flows that would go through the pump station but a development that has an on-site disposal system or is located on the other side of town and does not use the pump station should not. In the case of recreational facilities and open space, any residential development that does not provide an equivalent amount of recreational area or open space should pay the fee.

8. How can Cumberland use impact fees to help fund the expansion of recreation facilities and the preservation of open space?

The need for community recreation facilities and open space is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, facilities, playgrounds, natural areas, and open spaces. The City's adopted Comprehensive Plan identifies the need to expand the supply of recreational facilities and open space to serve a growing population and suggests exploring impact fees for this purpose. To some extent, need can also be a function of the demographics of the community – a family population creates a need for more fields and playgrounds while an older population creates different needs. The Town can use impact fees to raise money to be used for expanding the supply of recreational facilities or for acquiring open space. To meet the tests outlined above, these impact fees probably need to be used for community-wide facilities unless only development in a certain area is charged the fee. The attached impact fee methodology lays out a possible approach for calculating a recreational facility and open space impact fee.

File: 01-182 Overview of Impact Fees 6-6-01.wpd

METHODOLOGY - PREPARED BY PLANNING DECISIONS

Draft June 6, 2001

TOWN OF CUMBERLAND RECREATIONAL FACILITIES AND OPEN SPACE 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. In developing the fee, we looked at the potential need for new or expanded infrastructure to meet the need for recreation and open space to identify possible areas for the creation of impact fees. For each area, we looked at whether there is a need for expanded capacity to accommodate growth resulting from development, if so, the type of new or expanded facilities that would be needed, the possible cost of the expanded capacity, the share of the capacity available to accommodate growth, who should pay an impact fee, and how the fee should be calculated. Here is a summary of that analysis:

1. **The Need for Expanded Facilities** – The need for community recreation facilities and open space is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, facilities, playgrounds, natural areas, and open spaces. The Town's adopted Comprehensive Plan identifies the need to expand the supply of recreational facilities and open space to serve a growing population and proposes the use of impact fees to fund some of this cost. This is repeated in the Town's Open Space Plan and in the Long Range Plan for Chebeague Island.

The state's most recent State Comprehensive Outdoor Recreation Plan (SCORP) reports that the typical Maine community with a population of more than 2,500 residents had 14-15 acres of municipal recreational areas per 1,000 residents or approximately 0.015 acres per capita. This ratio serves as a reasonable basis for estimating future needs for recreational facilities created by population growth in Cumberland. A population growth of 1,000 residents will create a need for 15 acres of additional municipal recreation facilities.

There is no state or national standard for the amount of open space that is appropriate for a community. In Cumberland, there are a number of sources of permanent open space including Town owned conservation land and easements, the Town forest, state conservation land/easements, and conservation land and easements owned by the land trust. Cumberland currently has approximately 600 acres of permanent open space or 0.084 acres per capita based upon a 2000 population of 7,159. This ratio serves as a reasonable standard for additional open space as the Town's population grows.

2. **The Estimated Cost for Expanded Facilities** – The development costs for recreational facilities can range from \$20,000 per acre to \$100,000 per acre

depending on the type of facility and the site with an average cost of \$50,000 per acre. The estimated cost for acquiring open space land based upon recent acquisitions in Southern Maine is \$2,000 - \$3,000 per acre assuming that some portion of the land acquired is developable.

3. The Share of Need Attributable to Growth – The existing housing stock accommodates a relatively stable population although decreasing household size appears to be reducing this population somewhat. Turnover in the existing housing stock is unlikely to increase the Town's population. New residential development is, however, adding to the population that must be served with recreational facilities and open space. This growth is partially offset by the declining population in the existing housing stock thereby reducing the effective need for additional recreational facilities and open space. Therefore, residential development is responsible for the only a portion of the need for increased recreational facilities based upon the acreage per person standard. Between 1990 and 2000, the population of Cumberland grew by 1,323 while the number of households increased by 527. The survey of new households conducted in 1999 suggests that these new households have an average of 3.6 people. This means that the new households added approximately 1,900 residents. This was offset by a decline in the population living in the pre 1990 housing stock of 574 residents. Therefore only 70% of the new residents generate a need for additional recreational and open space with the balance offset by decreases in the occupancy of the pre-existing housing stock. To account for this, the impact fee should be established at 70% of the fee that would apply using the per capita basis and estimated costs.

4. Who Should Pay The Fee – Any residential development activity that does not include an equivalent amount of improved recreational area and/or open space as part of the development should pay this impact fee based upon the expected population of the project considering typical occupancy rates. Based upon national studies of occupancy levels of various types of housing in the northeast and the Town's housing survey, the following occupancy factors should be used as a base with the ability of the developer to present other data:

Single family dwelling with:	
a. three or fewer bedrooms	3.4 people/unit
b. four or more bedrooms	3.8 people/unit
Dwelling unit in a two-family or multi-family dwelling including condos with:	
a. one bedroom	1.2 people/unit
b. two bedrooms	2.0 people/unit
c. three or more bedrooms	3.0 people/unit
Dwelling unit in elderly housing	1.2 people/unit

There does not appear to be any justification for charging non-residential development an impact fee for recreation and open space facilities. Typically, non-residential uses do not generate a direct demand for these types of facilities and thus, should not be charged a fee.

5. Calculation of the Fee – The recreational facilities and open space impact fee should be the sum of the per capita cost of providing additional recreational facilities and the per capita cost of providing additional open space adjusted by 70% to account for the share of the need created by new residential development multiplied by the anticipated number of residents in the project.

The recreational facilities portion of the fee should be calculated by multiplying the average estimated development cost per acre of recreational facilities or \$50,000/acre by 0.015 acres per capita for a base per capita fee of \$750. This base fee should be adjusted by the 70% need factor resulting in an adjusted per capita recreational facilities fee of \$525. Any residential unit that is not part of a development that has provided an equivalent amount of recreational facilities should be subject to this fee.

The open space portion of the fee should be calculated by multiplying the estimated average per acre cost of acquiring open space or \$2,500/acre by 0.084 acres per capita for a base per capita fee of \$210. This base fee should be adjusted by the 70% need factor resulting in an adjusted per capital open space facilities fee of \$147. Any residential unit that is not part of a development that has provided an equivalent amount of open space would be subject to this fee.

Combining the two portions of the fee results in an impact fee of \$672 per capita. With this fee, a new, three bedroom single family home that has not provided recreational facilities or open space would be charged a fee of approximately \$2,285 (\$672/person X 3.4 persons/unit) while a four bedroom home would be charged \$2,554 (\$672/person X 3.8 persons/unit). A unit in an elderly complex would be charged about \$806 (\$672/person X 1.2 persons/unit).

The proposed fee could be charged on a per bedroom basis reflecting typical occupancy or the fee could be translated into a per square foot fee based upon the average size of new single-family homes built in the community.

6. Handling and Use of the Fee – The two portions of the fee should be accounted for separately and should be credited to the appropriate impact fee account and used for the purposes set forth in the ordinance.

DRAFT

For Town Council Discussion Purposes ONLY – 11 June, 2001

ASSESSMENT OF IMPACT FEES ORDINANCE OF THE TOWN OF CUMBERLAND, MAINE

ARTICLE I. GENERAL PROVISIONS

1.1 Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A, MRSA, Section 3001 and Section 4354.

1.2 Short Title

This Ordinance shall be known and may be cited as the "Assessment of Impact Fees Ordinance of the Town of Cumberland, Maine", and will be referred to herein as "this Ordinance".

1.3 Purpose

The general purposes of this Ordinance are to maintain the Town's financial capacity and to provide adequate public services. The specific purpose of this Ordinance is to establish a fair and equitable process by which to enable the Town to provide for the needs of its present and future residents with regard to the acquisition and development of additional recreation lands and facilities and for the acquisition and preservation of open space for the future use and enjoyment of the town's residents.

1.4 Applicability

A. This Ordinance shall apply to the issuance of any building permit for a new residential structure within the Town of Cumberland, including additions to existing structures where such additions will contain a bedroom or bedrooms.

B. No building permit shall be granted for any residential construction activity described herein that requires payment of an impact fee under this Ordinance until the impact fees hereby required have been paid.

1.5 Definitions

Impact fees are charges or assessments imposed by the Town of Cumberland against new residential construction to help with the acquisition and development of additional recreation lands and facilities and for the acquisition and preservation of open space for the future use and enjoyment of the town's residents.

DRAFT

For Town Council Discussion Purposes ONLY – 11 June, 2001

Developer is a person who has received an approval for residential construction under either the subdivision or site plan ordinance, or a person who has otherwise applied for a residential building permit for any activity described herein.

Gross floor area shall include the floor area measured from the outside of exterior walls, including all interior partitions and spaces whether finished or not, but shall exclude garage areas intended for the storage of automobiles, but shall include any finished or unfinished area on a floor above a garage. Gross floor area may be measured by calculating the area of the foundation footprint and multiplying any portions thereof by the number of stories above.

1.6 Payment of fees

- A. The impact fees required by this Ordinance shall be paid to the Town of Cumberland prior to the issuance of a building permit
- B. All funds collected shall be segregated from the Town's general revenue and be deposited in appropriate funds, and shall be used solely for the purposes specified in this article.

1.7 Use of funds

- A. Fees paid under this Ordinance shall be used to maintain the Town's financial capacity and to provide adequate public services.
- B. Each fee collected by the Town of Cumberland shall be deposited in an account separate from the town's general fund to be used solely for the acquisition and development of additional recreation lands and facilities and for the acquisition and preservation of open space.
- C. The Town Manager, Town Council and Town Planner will establish an administrative, capital improvement planning and accounting system sufficient to meet the requirements of this Ordinance.

1.8 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 of its issuance. The developer must submit to the Town an application for such a refund not later than thirty (30) days after the expiration of the building permit.
- B. If the funds collected annually are not expended for their intended purpose after a period of ten (10) years, the prorated share of the funds shall be returned to those from whom the funds derived, provided that the developer submits to the Town an application for a refund within one hundred eighty (180) days of the expiration of the ten (10) year period.

1.9 Calculation of fees

The impact fee shall be assessed at the time of issuance of a building permit for the construction of any residential structure within the Town of Cumberland. The schedule of assessment shall be as follows:

[IN PROGRESS: This schedule of fees can either be based on bedroom count as outlined by Planning Decisions, or can be translated into a "per square foot" fee based upon the average size of new single-family homes built in the community.]

DRAFT

For Town Council Discussion Purposes ONLY – 11 June, 2001

Non-residential Buildings:

[Omitted from fee exaction per Planning Decisions' analysis]

ARTICLE II. ADMINISTRATIVE PROVISIONS

2.1 Validity and Severability

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

2.2 Conflict with Other Ordinances

Should any section, phrase, sentence or portion of this Ordinance be found to be in conflict with other local, state or federal Ordinances or regulations, the more stringent section or provision shall prevail. Existing provisions for building permit fees are to be held separate from the impact fees described herein and are not affected by this Ordinance.

2.3 Amendments

These regulations may be amended by the Town Council of the Town of Cumberland at an annual or special town meeting. A public hearing shall be held prior to the adoption of any amendment. Notice of such public hearing shall be in accordance with state and local requirements.

2.4 Effective Date

This Ordinance shall take effect upon its adoption by a majority of the eligible voters present at the (date) Town Council Meeting. The effective date of this Ordinance is (date).

DRAFT

For Town Council Discussion Purposes ONLY – 31 May 2001

ASSESSMENT OF IMPACT FEES ORDINANCE OF THE TOWN OF CUMBERLAND, MAINE

ARTICLE I. GENERAL PROVISIONS

1.1 Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A, MRSA, Section 3001 and Section 4354.

1.2 Short Title

This Ordinance shall be known and may be cited as the "Assessment of Impact Fees Ordinance of the Town of Cumberland, Maine", and will be referred to herein as "this Ordinance".

1.3 Purpose

The general purposes of this Ordinance are to maintain the Town's financial capacity and to provide adequate public services. The specific purposes of this Ordinance are to establish a fair and equitable process to enable the Town to provide for the needs of its present and future residents in regards to the retirement of the Twinbrook Recreation Facility debt and the acquisition and development of land for the future use and enjoyment of the town's residents.

1.4 Applicability

- A. This Ordinance shall apply to the issuance of any building permit for a new structure within the Town of Cumberland, including additions to existing structures where such additions will contain a bedroom or bedrooms.
- B. No building permit shall be granted for any activity described herein that requires payment of an impact fee under this Ordinance until the impact fees hereby required have been paid.

1.5 Definitions

Impact fees are charges or assessments imposed by the Town of Cumberland against new construction to help finance the retirement of the Twinbrook Recreation Facility debt, and to help the Town of Cumberland with its acquisition and development of land for the future use and enjoyment of the town's residents

DRAFT

For Town Council Discussion Purposes ONLY – 31 May 2001

Developer is a person who has received an approval under either the subdivision or site plan Ordinance, or a person who has otherwise applied for a building permit for any activity described herein.

Gross floor area shall include the floor area measured from the outside of exterior walls, including all interior partitions and spaces whether finished or not, but shall exclude garage areas intended for the storage of automobiles, but shall include any finished or unfinished area on a floor above a garage. Gross floor area may be measured by calculating the area of the foundation footprint and multiplying any portions thereof by the number of stories above.

1.6 Payment of fees

- A. The impact fees required by this Ordinance shall be paid to the Town of Cumberland prior to the issuance of a building permit
- B. All funds collected shall be segregated from the Town's general revenue and be deposited in appropriate funds, and shall be used solely for the purposes specified in this article.

1.7 Use of funds

- A. Fees paid under this Ordinance shall be used to maintain the Town's financial capacity and to provide adequate public services.
- B. Of each fee collected by the Town of Cumberland 50% shall be deposited in a Twinbrook Recreation Facility Debt Retirement Fund and 50% shall be deposited in a Town of Cumberland Land Acquisition Fund.
- C. The Town Manager, Town Council and Town Planner will establish an administrative, capital improvement planning and accounting system sufficient to meet the requirements of this Ordinance.

1.8 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 of its issuance, except that the Town shall retain five percent (5%) of the sum to offset a portion of the costs of collection. The developer must submit to the Town an application for such a refund not later than thirty (30) days after the expiration of the building permit.
- B. If the funds collected annually are not expended for their intended purpose after a period of ten (10) years, the prorated share of the funds shall be returned to those from whom the funds derived, provided that the developer submits to the Town an application for a refund within one hundred eighty (180) days of the expiration of the ten (10) year period.

1.9 Calculation of fees

The impact fee shall be assessed at the time of issuance of a building permit for the construction of any structure or building within the Town of Cumberland. The schedule of assessment shall be as follows:

Residential Buildings or Buildings Accessory to Residential Buildings:

Mobile home only:

Flat fee

\$250.00*

DRAFT

For Town Council Discussion Purposes ONLY – 31 May 2001

Up to and including 1500 sq. ft. of gross floor area:

Flat fee \$500.00*

1501 sq. ft. gross floor area and greater:

First 1500 sq. ft., flat fee \$500.00*

Plus 1501 sq. ft. and greater \$ 1.00/sq. ft.*

Non-residential Buildings:

Gross floor area \$ 0.50/sq. ft.*

Additions to existing structures that include a bedroom or bedrooms:

For additions that include bedrooms, the impact fee shall be calculated on the rate applicable to the total gross floor area of the building (including the addition) times the gross floor area of the addition.

* NOTE: All dollar amounts are provisional, pending a complete fiscal analysis. _

ARTICLE II. ADMINISTRATIVE PROVISIONS

2.1 Validity and Severability

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

2.2 Conflict with Other Ordinances

Should any section, phrase, sentence or portion of this Ordinance be found to be in conflict with other local, state or federal Ordinances or regulations, the more stringent section or provision shall prevail. Existing provisions for building permit fees are to be held separate from the impact fees described herein and are not affected by this Ordinance.

2.3 Amendments

These regulations may be amended by the Town Council of the Town of Cumberland at an annual or special town meeting. A public hearing shall be held prior to the adoption of any amendment. Notice of such public hearing shall be in accordance with state and local requirements.

2.4 Effective Date

This Ordinance shall take effect upon its adoption by a majority of the eligible voters present at the (date) Town Council Meeting. The effective date of this Ordinance is (date).

DRAFT - TOWN OF CUMBERLAND

31 May, 2001 - Impact Fee Schedule and Sample Worksheet*

SCHEDULE OF FEES:

Residential Buildings or Buildings Accessory to Residential Buildings:

Mobile home only:	
Flat fee	\$250.00
Up to and including 1500 sq. ft. of gross floor area:	
Flat fee	\$500.00
1501 sq. ft. gross floor area and greater:	
First 1500 sq. ft., flat fee	\$500.00
Plus 1501 sq. ft. and greater	\$1.00/sq. ft.

Non-residential Buildings:

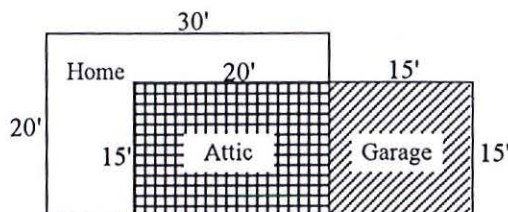
Gross floor area	\$0.50/sq. ft.
------------------	----------------




Additions to existing structures that include a bedroom or bedrooms:

For additions that include bedrooms, the impact fee shall be calculated on the rate applicable to the total gross floor area of the building (including the addition) times the gross floor area of the addition.

Definition of Gross Floor Area: includes the floor area measured from the outside of exterior walls, including all interior partitions and spaces whether finished or not, but shall exclude garage areas intended for the storage of automobiles, but shall include any finished or unfinished area on a floor above a garage. Gross floor area may be measured by calculating the area of the foundation footprint and multiplying any portions thereof by the number of stories above.

EXAMPLE: A two story home with a full basement, garage and an unfinished attic:



	1 story home =	$20' \times 30' = 600 \text{ s.f.} \times 3 \text{ stories} =$	1,800 s.f.
	w/ full basement	(includes basement)	
	1 story garage =	$15' \times 15' = 225 \text{ s.f.} \times 1 \text{ story} =$	excluded
	unfinished attic =	$15' \times 20' = 300 \text{ s.f.} \times 1 \text{ story} =$	300 s.f.

Gross Floor Area = 2,100 s.f.

Please provide sketch
and gross floor area
calculations on back

1500 s.f. = Flat Fee	=	\$500 .00
$600 \text{ s.f.} \times \$1.00 / \text{s.f.}$	=	\$600 .00
1,725 s.f. total		

TOTAL IMPACT FEE = \$1,100 .00

* NOTE: All dollar amounts are provisional, pending a complete fiscal analysis.



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

June 12, 2001

Dear Resident:

The Portland Water District has offered property on Greely Road to the Town of Cumberland. The Cumberland Housing Authority and Town Council are considering purchase of this property as a possible site for a Senior Housing project. Because of your proximity to the this parcel (shown on the enclosed map), the Council felt you should receive this notice. The Public Hearing will be held on June 25, 2001 in the Council Chambers at the Cumberland Town Offices. If you have any questions prior to the meeting, please contact me at 829-2205.

Sincerely,

Robert Benson
Town Manager



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

June 14, 2001

Dear Cumberland Common Resident:

The Town Council will be holding a public hearing on July 9th to present some preliminary designs for landscaping on the Common. The designs include flower and tree plantings, pathways, benches, possible water fountain, etc. The plan would likely be funded and implemented in phases over a few years. The Town Council would like to hear your ideas and comments. The meeting begins at 7:00 p.m. in the Town Council Chambers at the Town Office. If you are unable to attend, the meeting will be televised. If you wish, you can call Carla Nixon, Assistant Town Manager at 829-2205 or email your questions, comments or suggestions to her at cnixon@cumberlandmaine.com

We hope to see you there.



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

June 12, 2001

Dear Resident:

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Sincerely,

Robert Benson
Town Manager

MEMORANDUM: IMPACT FEES

Date 18 June, 2001

To Cumberland Town Council
Bob Benson, Town Manager
Ken Cole, Town Attorney
Mark Eyerman, Planning Decisions

From Andy Fillmore, Town Planner

Subject Impact Fee Workshop, Town Offices – June 18, 2001

The Town Council has expressed a wish to have a complete Impact Fee ordinance upon which to vote at its June 25 meeting. This evening's workshop is the last step toward reaching that goal.

To aid the workshop in proceeding as efficiently and productively as possible, the following list of discussion points has been prepared. If we can address each of these points, as well as any others that arise, the planning department will have the information necessary to present a completed ordinance to the Council by the end of this week, for consideration prior to a vote on June 25.

*K.C. Use Rld's permit
becomes a development
fee - Not town fee*

1. Calculation of the fee based on square feet of new construction vs. bedroom count.
charge fee when occupancy permit is issued - vs Rld's permit.
2. Inclusion of unbuilt homes in already approved subdivisions.
3. Section 7.5 (a) of the Subdivision Ordinance (page 19) which reads: "...may require the developer to provide up to 10% of his total area for recreation."
4. Separation of funds into separate accounts (ie.: 1. open space, 2. recreation, 3. retirement of debt incurred by capacity expansion at Twinbrook.) or just one single account.
5. Addition to the ordinance *no - exempt addition to existing homes* of a description of particular improvements to be made, See section 1602-1 "Description of Improvements" of the sample ordinance for Saco, provided by Mark Eyerman.
6. Addition to the ordinance of a list particular capital costs to be paid for by the fee. See section 1601-5 "Use of Impact Fees" of the sample ordinance for Saco, provided by Mark Eyerman.
7. Addition of a fee waiver clause. See section 1601-7 "Waiver of Impact Fees" of the sample ordinance for Saco, provided by Mark Eyerman.
8. Expand proposed "Amendments" clause to more clearly outline the reasons for future possible fee increases. See section 1608-1 "Review and Revision" of the sample ordinance for Saco, provided by Mark Eyerman.
9. A general revamping of the proposed ordinance to more closely resemble the structure of the Saco ordinance, as it was conceived with the particular intent of open space and recreation in mind.

10. Expansion of the Impact Fee ordinance to fund improvements beyond recreation. (ie.: roads, sidewalks, public infrastructure, etc.) It should be noted that adding additional improvements to the ordinance would significantly delay its adoption.

11. Other issues.

Respectfully submitted,

Andy Fillmore, Town Planner

E:\Data Files\Planning\Imp-Fees\Memo_06-18-01.doc

MEMORANDUM: IMPACT FEES

REDISTRIBUTED 14 JUNE, 2001

Date 11 June, 2001
To Town Council
Bob Benson, Town Manager
Barbara McPheters, Town Code Enforcement Officer
Ken Cole, Town Attorney
Mark Eyerman, Planning Decisions
From Andy Fillmore, Town Planner
Subject Ongoing Impact Fees Discussion

At our last Impact Fee workshop, the planning department was directed to retain the services of Mark Eyerman of Planning Decisions to expand upon the work he did in his 2000 "Fiscal Impact of Residential Development" report. The intent of this new work was to assign a dollar amount to the impact of residential development, thereby satisfying the State's enabling legislation and allowing Cumberland to safely enact an Impact Fee Ordinance. I am pleased to report that Mr. Eyerman's work achieves its intent and makes a strong link between residential "impact" and "fee."

Planning Decisions' research also reveals that exacting impact fees on non-residential construction is much harder to support, and would therefore be much more susceptible to legal challenge. The planning department shares this view as exacting commercial impact fees is contradictory of the Town's stated goal of attracting commercial development along the Route One corridor. As such, the current draft of the ordinance excludes exactions for non-residential construction, and the fee burden is borne solely by new residential construction and by additions to existing buildings that contain bedrooms.

This is still a draft ordinance and it, along with the other attached materials, are strictly for discussion purposes only.

Attached materials:

- Cover letter (e-mail) from Mark Eyerman outlining the documents he has prepared
- "Overview of Impact Fees" prepared by Planning Decisions
- "Impact Fee Methodology" prepared by Planning Decisions
- Current draft of Impact Fee Ordinance reflecting the new research
- Previous draft of Impact Fee Ordinance as reviewed by Council on 31 May, 2001

Respectfully submitted,



Andy Fillmore, Town Planner

Andy Fillmore

From: Mark Eyerman [meyerman@maine.rr.com]
Sent: Thursday, June 07, 2001 4:02 PM
To: afillmore@cumberlandmaine.com
Subject: Re: attachment detached

Andy,

There are two other pieces to the puzzle that we need to think about:

1. Ordinance -- This is in your hands. I looked at it quickly. I am faxing you some ordinance language we have been using in Saco. Use it if it is helpful.

2. Subdivision Coordination -- Many subdivision ordinances have an open space or recreational area set aside or dedication provision. I couldn't put my hands on your subdivision provisions in our library -- they must be in a project file. I seem to recall that there is a provision for open space dedication and mandatory clustering in some areas. If this is the case, we need to look at how the subdivision requirements interface with the impact fee provisions and how that needs to be addressed in both the ordinance and the subdivision provisions. You also need to think about how homes in already approved subdivisions will be treated -- do they pay the fee or not? I will also fax you revisions we made to the Saco Subdivision Regs to integrate the two. Again this is just an example.

I will talk to you next week. I have also taken your spreadsheet and extracted the "open space" and written up a sheet on the 70% factor. I will send both of those along for your files.

Mark

Town of Cumberland Open Space Inventory

Add Down 43 acres

Town Owned Open Space	Acreage	Totals	Open Space (per Eyerman)
Twin Brook Rec Ctr.	242.00		142
Val Halla	142.00		95
Town Forest	95.00		73
Vacant Woodland Lots	72.52		33
Small's Brook Open Space	33.10		18
Town Cemeteries	20.67		7
Sunnyfield Farm	18.45		5
West Cumb. Rec. Ctr.	6.98		4
Sr. Housing Open Space	6.73		
Library	5.38		
Cumberland Common	4.90		
"The Civic Lot"	4.36		
TOTAL		652.09	
Town Conservation Easements		48.10	48
Cumberland Mainland & Islands Trust			
Owned	39.98		
Conservation Easements	81.02		
TOTAL		121.00	121
Department of Inland Fish & Wildlife			
Conservation Easements		52.00	52
GRAND TOTAL		873.19	598

NOTE:

This is an unofficial open space inventory is to be used for study purposes only.

Share of Growth Creating Demand for Additional Recreational Facilities and Open Space

Town of Cumberland

	Population Household HH Size		
1990	5,836	2,021	2.88
2000	7,159	2,548	2.8
Change	1,323	527	

Estimated population in 527 new households/housing units

HH	527
HH Size from Housing Survey	3.6
Total	1,897

Share of new housing population creating demand for facilities

New HH	1,897
Town increase	1,323
Share	0.697417 or 70%



**PLANNING
DECISIONS**

Research & Planning

Facsimile

To: **ANDY FILMORE**

Fax Number: **829-2219**

From: **MARK EYERMAN**

Pages: **10**, including this cover sheet.

Date: **6/7/01**

Message:

**IMPACT FEE MATERIALS - SET
EMAIL.**

Planning Decisions, Inc.
P.O. Box 2414
22 Cottage Road
South Portland, Maine 04116-2414
207-799-2226
Fax: 207-767-6432
email: info@planningdecisions.com

Revised May 3, 2001

**PROPOSED RECREATIONAL FACILITIES AND
OPEN SPACE IMPACT FEE PROVISIONS
CITY OF SACO**

**Proposed Amendment to the Zoning Ordinance
to Create a New Article 16, Impact Fees**

1. Amend the Zoning Ordinance by creating a new Article 16 dealing with impact fees which shall read as follows:

**"ARTICLE 16
IMPACT FEES**

SECTION 1601 GENERAL PROVISIONS FOR IMPACT FEES

1601-1. PURPOSE

The purpose of these impact fee provisions is to ensure that new development in Saco will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.

1601-2. AUTHORITY

These impact fee provisions are adopted by the City under the authority of 30A M.R.S.A §4354 and its statutory and constitutional home rule provisions.

1601-3. PAYMENT OF IMPACT FEES

The impact fees provided for under this chapter shall be paid to the City of Saco in care of the Code Enforcement Department.

1601-4. IMPACT FEE ACCOUNTS

All impact fees collected under the provisions of this article shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

1. Recreational Facilities Impact Fee Account

2. Open Space Facilities Impact Fee Account

1601-5.

USE OF IMPACT FEES

Impact fees collected under the provisions of this article shall be used only to pay for the capital cost of the infrastructure improvements specifically associated with the fee as identified below. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs may be included in the capital cost of the infrastructure improvement:

1. acquisition of land or easements including conservation easements.
2. engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement.
3. the actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment.
4. mitigation costs.
5. legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project.
6. debt service costs including interest if the City borrows for the construction of the improvement.
7. relocation costs, and
8. similar costs that are directly related to the project.

1601-6.

REFUND OF IMPACT FEES

Impact fees shall be refunded in the following cases:

1. If a building permit is surrendered or if a subdivision or site plan approval lapses without commencement of construction, the permit holder or developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the City Planner and shall occur with ninety (90) days of the lapse of the approval or the expiration of the permit.
2. Any fees collected that are not spent or obligated by contract for the specified

improvements by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned to the current owner of the property for which the fee was paid together with interest calculated at three (3) percent per year from the date of the payment of the fee.

1601-7. WAIVER OF IMPACT FEES

The City Council may, by formal vote following a public hearing, waive the payment of a required 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 the improvement for which the impact fee would be collected or an equivalent improvement approved by the City Council, or
2. The developer or property owner is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee.
3. The project subject to the impact fee involves the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development or the Maine State Housing Authority. If only part of the project is affordable housing, the Council may waive only the portion of the fee attributable to the affordable units.

1601-8. REVIEW AND REVISION

The City Council shall periodically review each impact fee established under this chapter. If the Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Council may adopt changes in the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

SECTION 1602 RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE

1602-1. DESCRIPTION OF THE IMPROVEMENTS

This project involves the acquisition of land for and the development of new community-wide recreational facilities and the acquisition of land or conservation easements for use as substantially undeveloped open space and the related development of these parcels to facilitate their role and use as open space. The recreational facilities portion of this impact fee may be used for the following

improvements:

1. The development of the City's former landfill on the Foss Road into a multi-purpose community recreational complex.
2. The development of a skating area at Pepperell Park or another location.
3. The construction of a baseball field at the Middle School Recreational area.
4. The construction of pedestrian and bicycle trails including the City's share of the cost of the development of the Eastern Trail.
5. The acquisition of land for the future development of community recreation facilities, and/or
6. The development of other community recreational facilities that expand the City's supply of recreational areas or facilities.

The open space facilities portion of this impact fee may be used for the following improvements:

1. The acquisition of land or conservation easements for use as substantially undeveloped open space and the related development of these parcels to facilitate their role and use as open space.

1602-2. NEED FOR THE IMPROVEMENTS

The need for community recreation facilities and open space is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, playgrounds, natural areas, and open spaces. The City's adopted Comprehensive Plan identifies the need to expand the supply of recreational facilities and open space to serve a growing population. The need for the specific improvements is set out in the City of Saco's Recreational Facilities and Open Space Impact Fee Methodology.

1602-3. ACTIVITIES SUBJECT TO THE FEE

Any construction that involves the creation of a new dwelling unit as defined by the zoning ordinance including single family homes, apartments units, manufactured housing units, and mobile homes shall be subject to the payment of an impact fee for this project unless the unit is located in a residential subdivision or other residential development that has provided recreational facilities and/or open space in accordance with the requirements of the City's Subdivision Regulations.

1602-4. CALCULATION OF THE FEE

The recreational facilities and open space impact fee shall be a per capita fee established by the City Council as part of the recreation fee schedule and shall be based upon the City's Impact Fee Calculation Methodology. The amount of the fee paid by a development project shall be determined by multiplying the per capita fee by the number of people expected to reside in the project. The following occupancy ratios shall be used in determining the fee unless the applicant provides verifiable written documentation from an independent, objective source demonstrating other occupancy levels:

- | | | |
|----|---|------------------------|
| 1. | <u>Single family dwellings and mobile homes</u> | <u>3.2 people/unit</u> |
| 2. | <u>Dwelling unit in a two-family or multi-family dwelling with:</u> | |
| | a. <u>one bedroom</u> | <u>1.2 people/unit</u> |
| | b. <u>two bedrooms</u> | <u>2.0 people/unit</u> |
| | c. <u>three or more bedrooms</u> | <u>3.0 people/unit</u> |
| 3. | <u>Dwelling unit in elderly congregate housing</u> | <u>1.2 people/unit</u> |

ASSISTED
LIVING
← IS THIS A
FAIR FEE?
1602-5.

COLLECTION OF THE FEE

The Code Enforcement Officer shall collect the impact fee prior to the issuance of any building, plumbing, or other permit for residential construction that is subject to the fee. The amount of the fee shall be based upon the procedure set out in subsection 1602-4 above. The City Administrator may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.

1602-6. EFFECTIVE DATES

This impact fee shall be applicable to activities subject to the impact fee that commence on or after July 1, 2001.

File: recimpactfeesmay3,2001.wpd

To: Peter Morelli

From: Mark Eyerman

Date: May 3, 2001

Re: Coordination of Impact Fees with Subdivision Regulations

Attached is a rewrite of the Open Space/Recreation provisions of the Subdivision Regulations. It provides for the following:


1. Dedication of open space in all subdivisions according to the sliding scale.
2. Waiver of this requirement with payment of the open space portion of the impact fee.
3. Payment of the recreation portion of the impact fee for subdivisions with less than 20 lots.
4. Payment of the recreation impact fee or improvement of 50% of the required open space as active recreation areas/facilities for subdivisions of 20 lots or more.

Look this over and see what you think.

Proposed Amendments
to
the Subdivision Regulations
to
Coordinate with the Proposed Impact Fee
for Recreational Facilities and Open Space

1. Amend Section 10.2 of the Subdivision Regulations as follows. Additions are underlined and deletions are struck through:

"10.2 RETENTION OF OPEN SPACES, ~~AND~~ PRESERVATION OF
NATURAL OR HISTORIC FEATURES, ~~AND~~ PROVISION OF
RECREATIONAL AREAS AND FACILITIES

 ~~The Board shall require the reservation of a~~ A portion of the area of the subdivision shall be reserved as open space ~~or usable open space~~ in order to provide for the recreational open space needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In addition, the subdivision shall provide for the recreational needs of the residents of the development through the development of recreational areas and facilities or the payment of an impact fee. The common open space shall be accessible to the residents of the development. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.

10.2.1 Open Space Reservation - The following table provides the minimum open space reservations for various development densities.

<u>Average Square Feet per Dwelling Unit</u>	<u>% Open Space Required</u>
80,000 sf or more	2.5
40,000 - 79,999 sf	5
20,000 - 39,999 sf	7.5
10,000 - 19,999 sf	10
less than 10,000 sf	12

10.2.25 Where the land in the subdivision is not suitable for open space active recreation, or is insufficient in amount, or where the subdivider and the Planning Board agree that residents of the subdivision would be better served by a nearby public recreation facility, ~~a fee in lieu of dedication of the active recreation land may be deposited to a City recreation facility improvement and acquisition reserve fund. The amount of such contribution shall be \$500 per lot and it shall be made before any construction begins.~~

~~Any funds deposited to such a fund shall be returned to the developer if not used for the intended purpose within five years of the date of the deposit of funds with the city. community open space, the developer shall pay the open space portion of the Recreational Facilities and Open Space Impact Fee set forth in Article 16 of the Zoning Ordinance.~~

→ 10.2.32 Recreational Area and Facilities - All subdivisions shall provide for the recreational needs of the occupants of the development. Subdivisions with less than twenty (20) dwelling units shall pay the recreational facilities portion of the Recreational Facilities and Open Space Impact Fee established in Article 16 of the Zoning Ordinance. ~~All~~ Subdivisions of 20 or more dwelling units shall pay the impact fee or dedicate provide at least 50 percent of the required open space as usable open space for active recreation. This area shall be improved with recreational facilities appropriate to meet the needs of the residents of the development. In determining the type of open-space recreational areas and facilities that are appropriate, the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the Comprehensive land-use pPlan or park or open space or recreation plan; ~~for open space or recreation facilities in the neighborhood surrounding the subdivision~~; the type of development and the demographic characteristics of potential residents in the subdivision; and the density of the development.

10.2.43 Land reserved for recreation areas ~~usable open space~~ shall be of a character, configuration, and location suitable for the particular use intended. Active recreation shall include activities which require substantial construction and maintenance for recreation use, including playgrounds, tennis courts ball fields, basketball courts, and similar facilities. A site intended to be used as a play field, should be level and dry, have a total frontage on one or more streets of at least 50 feet, and have no major dimensions of less than 200 feet. The Planning Board shall determine if other active recreation areas are suitable for the intended uses. Open space sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than fifty feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate. Common open space shall not include areas devoted to public or private vehicular streets, driveways or parking spaces.

10.2.54 With the agreement of the Planning Board and the City Council, the developer may dedicate the open space and/or recreation areas and facilities to the city for the use of all its citizens, or to another government

agency or recognized land stewardship organization willing and able to manage the land permanently. If common open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements submitted with the final plan shall specify ownership of the open space; method of maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Board, and any other specifications deemed necessary by the Planning Board. The developer shall maintain control of common green spaces and facilities and be responsible for their maintenance until dedication, or transfer to the permanent controlling entity, and/or until development sufficient to support the association has taken place. The dedication agreement and/or association bylaws shall specify at what point maintenance is taken over by the association. All maintenance is the responsibility of the developer until that time."

Would you like to do something fun and, at the same time,
help out a good cause?

Join us June 23 at Falmouth's Park Fest!

Volunteers at the Chamber Booth will be cooking and selling
hot dogs and hamburgers and making freshly squeezed
lemonade to sell. Proceeds benefit various Chamber
projects and the Park development.

This fun event saw more than 30 Chamber businesspeople
work together last year for a fun and profitable event.

Will YOU (or some of your employees) join us this year?
We need your help!

Pick your choice of times. We need workers on **Saturday**
from 11 a.m. - 10 p.m.

**Call Sandra Robbins at Foreside Estates at 781-5151 to
volunteer and pick your choice of times.**

THANK YOU! We appreciate any time you can give!

THOMAS H. ALLEN

1ST DISTRICT OF MAINE

1717 LONGWORTH HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

(202) 225-6116

234 OXFORD STREET

PORTLAND, ME 04101

(207) 774-5019



Congress of the United States

House of Representatives

Washington, DC 20515-1901

COMMITTEE ON ARMED SERVICES

SUBCOMMITTEES:

MILITARY PROCUREMENT

MILITARY RESEARCH AND DEVELOPMENT

MERCHANT MARINE PANEL

COMMITTEE ON
GOVERNMENT REFORM

SUBCOMMITTEES:

NATIONAL SECURITY, VETERANS AFFAIRS,
AND INTERNATIONAL RELATIONS

CIVIL SERVICE

DEMOCRATIC AT-LARGE WHIP

June 5, 2001

Mr. Robert Benson
Town Of Cumberland
PO Box 128
Cumberland Center, Maine 04021

Dear Mr. Benson:

Please join me on June 25, at 7:45 a.m. at the Muddy Rudder Restaurant in Yarmouth for a breakfast meeting I am hosting to talk about the effect that high health insurance rates are having on your business. The meeting will conclude by 9:15 a.m. I would like to hear your thoughts about what the federal government can do to ensure that small business owners and their employees have access to affordable health insurance. Based in part on our discussion, I will introduce federal legislation to reduce the burden businesses face as they try to provide health insurance to their employees.

When talking to small business owners throughout the State, it is clear that the cost of health insurance is of great concern. In an effort to quantify this issue, I recently released a report, "Health Insurance Costs Are Rising for Maine Small Businesses" which you can review by accessing my website www.tomallen.house.gov or by calling my Portland office.

The report documents clearly that small business owners are witnessing an alarming trend. Since 1996, the average cost of fee-for-service health insurance has increased by 78 percent for Maine small businesses (those with 50 or fewer employees). For HMO coverage, the rise is 60 percent. Small businesses play a critical role in providing health insurance access to Maine employees. If health insurance costs continue to rise, Maine could experience a severe reduction in overall health insurance coverage.

Please participate in this important discussion. *Please let my Portland office know if you can attend the breakfast meeting by calling 774-5019 by Monday, June 18.* If you are unable to attend this breakfast but are interested in coming to a future meeting on health insurance and small business, please call the Portland office.

Sincerely,

Tom Allen
Member of Congress

This mailing was prepared, published, and mailed at tax payer expense.

received
6-7-01

Portland Press Herald

INSURANCE

Continued from Page 1C

both insurance costs and the choices available to small businesses.

More than half of Maine's workers are employed by small business. If these cost trends continue, Allen said, fewer small businesses will be able to offer health coverage to their employees, leading some of those workers to join the 145,000 Mainers who are uninsured.

The study used data from the Maine Center for Economic Policy and the Maine Bureau of Insurance to quantify what has taken place from 1996 to 2001. Among the findings:

- The average cost of fee-for-service health insurance for Maine small businesses increased by 78 percent. In 1996, the average annual premium was \$3,005 per employee. Today, the average annual premium is \$5,350.

- The average cost of HMO coverage increased by almost 60 percent. In 1996, the average annual premium was \$2,350. Today the average price of HMO coverage is \$3,708.

- HMO premium prices have risen most rapidly in the past two years. In 1999 and 2000, the average premium for standard HMO coverage increased by 49 percent. If this trend continues, Allen said, the cost of HMO coverage for small business will more than double over the next four years.

These increases are set against a

backdrop of diminished competition. Small businesses have fewer choices because many insurers have dropped out of the small business market.

In 1996, 23 insurers offered coverage plans to Maine small businesses. Today, only 13 remain.

The study said a key factor in both the increasing costs and diminishing availability of health insurance is the rising prices for prescription drugs. Medical costs in Maine increased by 26 percent between 1996 and 2001, the study said, due largely to a doubling in spending on prescription drugs.

These findings aren't welcome news to Deborah Broderson, office manager at Walter's Cafe in Portland, and Joe's Boathouse and the newly opened Salt Water Grille in South Portland.

She wrote to Allen to complain after her insurer, Anthem Blue Cross, raised rates by 20 percent in March. She felt the increase was unfair because most of her 26 workers are young and less likely to need prescription drugs.

Broderson said health care coverage for a single employee went up from \$1,836 annually to \$2,256. Her company pays 55 percent of the cost, but was forced to pass on an additional \$30 a month to workers.

"A lot of employees dropped out of

the plan," she said. "We were paying more. And we couldn't afford to absorb it."

Broderson said she is worried that the restaurant could some day stop offering health coverage. That would make it harder to attract and retain managers and full-time workers, she said.

The findings were also familiar to Dana Connors, president of the Maine Chamber of Commerce. Health care costs are the leading concern of his members, according to a recent survey. He agreed that publicity about the problem could prod the federal government into acting on what is becoming a national crisis.

"Solutions come from awareness and the pain that goes with the problem," Connors said.

Allen said it's too early to say if the Republican-controlled Congress will want to expand the government's role to offer some relief. He called on all parties to strive for a solution.

"Working together," Allen said, "government, the insurance industry and the business community must find creative ways to give all Maine workers access to quality, affordable health care coverage."

Staff Writer Tux Turkel can be contacted at 791-6462 or at:

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Health insurance weighing heavily on small business

● U.S. Rep Tom Allen presents a study that finds a pattern of rising cost and diminishing choice in Maine.

By TUX TURKEL

Staff Writer

Higher premiums. Less competition.

That sums up the status of health insurance coverage for Maine's small businesses and their employees, according to a study released Monday by U.S. Rep. Tom Allen.

The conclusion isn't exactly a revelation for anyone who has paid for

health insurance lately. But Allen said the study is the first detailed analysis of the changes in health insurance cost and accessibility for Maine small businesses over the past five years. He said he hopes other members of Congress will make similar examinations in their states, and decide that some sort of national response is needed.

"First you have to raise the issue in the minds of the public," he said.

The study was presented at a

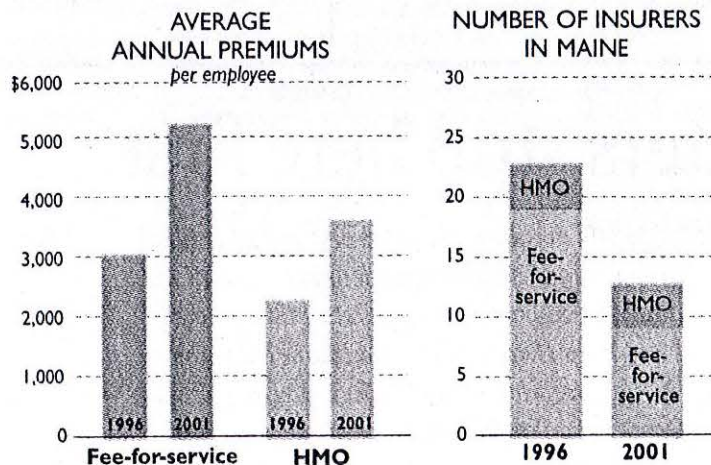
Portland press conference attended by representatives of small business. It was done for Allen, a Democrat, by the Minority Staff Special Investigations Division of the U.S. House of Representatives Committee on Government Reform.

The study found a pattern of steeply escalating cost and diminishing choice in the health insurance options available to Maine small businesses and their employees. Skyrocketing prescription drug prices were pegged as a major factor influencing

Please see **INSURANCE**, Page 2C

Soaring cost, less choice

Health insurance premiums for small businesses in Maine rose rapidly between 1996 and 2001, by 78 percent for fee-for-service coverage and 60 percent for HMO coverage. During the same period, many insurers found business unprofitable and pulled out of Maine, reducing the number of companies from 23 to 13.



Source: U.S. Rep. Tom Allen

Staff art

Maine School Administrative District #51
Cumberland ~ North Yarmouth

Robert G. Hasson, Jr., Ed.D. ~ Superintendent

Scott D. Poulin ~ Director of Finance, Human Resources and Operations

Judith H. True ~ Director of Instructional Support

June 14, 2001

Mr. Robert Benson,
Cumberland Town Manager
Cumberland Town Hall
290 Tuttle Rd.
Cumberland, ME 04021

Dear Bob,

As you know, the District is proceeding with plans to construct a new Middle School on its Greely campus. In connection with the project, the District has determined that additional athletic fields will be required. Given the lack of space on the Greely campus to accommodate additional athletic fields, however, the District would like to pursue the option of constructing new fields on a portion of the Town's property at Twin Brook.

In order for the District to obtain state funding with respect to the construction of additional athletic fields on property not owned by the District, it is necessary for the District to have "control" of the land in the form of a lease or use agreement, the precise terms of which would need to be worked out between the Town's and the District's respective attorneys.

Please accept this letter as a request from the District to the Town Council that the latter consider this proposal. If the Council is agreeable to it in concept, we will request that the District's attorneys work with the Town's attorneys to prepare a draft lease or use agreement for review by the District and the Council.

The District understands that the Council will be discussing this proposal in executive session at its meeting this coming Monday, June 18. We look forward to hearing back from you following that meeting.

Sincerely,



Scott Poulin,
Director of Finance, Human Resources & Operations

SP:sc

cc: R. Hasson
M. Schendel
K. True
S. Blatt

