

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
THURSDAY, JUNE 28, 2001**

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

I. Call to order at the Cumberland Town Offices Council Chambers at 7:00 p.m.

II. Legislation and Policy

01-36 To hold a Continued Public Hearing to discuss a proposed Impact Fee Ordinance and to consider taking action.

VIII. Adjourn

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

MEMORANDUM: IMPACT FEES

Date 28 June, 2001
To Cumberland Town Council
Bob Benson, Town Manager
From Andy Fillmore, Town Planner
Subject Impact Fee Ordinance

Thank you for your comments and feedback of Monday, June 25. The attached draft of the ordinance and its auxiliary exhibits should cover all of suggested changes, additions and deletions.

Specifically, the changes are:

1. The first 500 square feet of any new residential development have been made exempt from the impact fee.

Note: This raises the question of whether to grant the 500 square foot exemption on a residential addition made within five years of the initial building permit. It is my proposal, and the current draft of the ordinance reflects this, that only one exemption should ever be given to a particular home. Which is to say, a builder will have received the exemption at the time of the original building permit, so should therefore not get it again if he/she builds an addition within five years.

2. Builders already in possession of a Growth Permit at the time of the adoption of this ordinance have been made exempt from the impact fee.
3. Toward reducing the administrative burden on Town staff, the definition of Gross Floor Area has been amended so that its calculation will be substantially similar to the calculation the CEO undertakes for building permit assessment. The amendment further requires the developer to perform the calculation, subject to the approval of the CEO.
4. With regard to affordable housing: Given the 500 s.f. discount, and in light of Ken Cole's concerns over the legal integrity of exempting affordable housing from the impact fee, this draft of the ordinance does not provide such an exemption. Additionally, the administrative burden for such an exemption would be significant.

For the Council's information, the Maine State Planning Office's definition of affordable housing is, "...accommodations for persons or families whose incomes are less than 80% of the state or area median income, whichever is less." That definition corresponds to the federal HUD definition. The Maine State Housing Authority takes a leaner view, defining it at 60% of the area's median income.

5. I have prepared and included for your review an "Impact Fee Instruction Sheet" intended to aid developers in the calculation of the fee.

6. I have prepared and included for your review an "Impact Fee Information and Calculation Sheet" intended to provide a formalized way for the CEO to approve the developer's calculation of the fee, and to allow the CEO to track impact fees.
7. I have amended the matrix of "Sample Impact Fee Amounts" to reflect the 500 s.f. discount.

This package contains the following:

- Agenda for the Town Council's June 28, 2001 special meeting.
- Revised ordinance, dated 28 July, 2001.
- Impact Fee Instruction Sheet.
- Impact Fee Information and Calculation Sheet.
- Revised Sample Impact Fee Matrix.
- Mark Eyerman's methodology, unchanged.

If your review of this material uncovers any missed changes, please do not hesitate to contact me so that I can make any necessary changes and have a clean draft ready for Thursday evening. I look forward to seeing you all then.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. A. Fillmore", followed by a long, sweeping horizontal stroke.

Andy Fillmore, Town Planner

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28 June, 2001

RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE 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 "Recreational Facilities and Open Space Impact Fee 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 to provide adequate public facilities to meet the additional needs for recreation and open space created by future residents. Further, this Ordinance establishes a fair and equitable process by which to ensure that new residential development in the Town of Cumberland 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 recreational infrastructure necessary to service such development through the payment of impact fees that shall be dedicated to paying for the needed improvements.

1.4. Applicability

1. This Ordinance shall apply to the issuance of any building permit for a new residential structure within the Town of Cumberland but shall exclude senior housing projects as defined in this ordinance.
2. This Ordinance shall not apply to additions to residential structures existing at the time of the adoption of this ordinance.
3. This ordinance shall not apply to developers who have been issued a Town of Cumberland growth permit by the Code Enforcement Officer prior to date of the adoption of this ordinance.
4. This ordinance shall apply to any addition to a residential structure built following the adoption of this ordinance where such addition is made within five (5) years of the issuance of the original building permit. The fee for any such addition shall be assessed as for new construction as set forth in Section 1.11 below, except that the initial five hundred (500) square foot discount shall not apply. This Ordinance shall not apply to additions to residential structures made after the expiration of five (5) years from the issuance of the original building permit.

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5. 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.

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 entire floor area of each floor measured from the outside of exterior walls, and shall include all interior partitions and spaces whether finished or not, but shall exclude basements, garages, unheated porches and any portion of a room or attic with sloping ceilings measuring less than five (5) feet from floor to ceiling.

Residential Structure shall refer to any living unit including those in single-family homes, multi-family homes, attached and/or detached residential structures, condominiums, apartments, manufactured housing and mobile homes.

Senior Housing Project shall refer to a residential development constructed solely for elderly residents who meet strictly enforced age guidelines, and within which the residential units are by deed or covenant restricted to occupation by residents who meet such age guidelines.

1.6. Payment of Fees

The Code Enforcement Officer shall collect the impact fee prior to the issuance of any building 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 1.11 below.

1.7. Impact Fee Accounts

All impact fees collected under the provisions of this ordinance shall be segregated from the Town's general revenue and be accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

1. Open space land acquisition account (36% of each fee collected).
2. Recreational facility improvement and capacity expansion account (64% of each fee collected).

1.8. Use of Impact Fees

Impact fees collected under the provisions of this ordinance shall only be used to pay for site acquisition and capital improvements for the creation or expansion of recreational facilities and for the acquisition and related improvement of open space. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs are examples of, but are not intended to limit, capital improvements:

1. Acquisition of land or easements including conservation easements and development rights.
2. Engineering, surveying and environmental assessment services directly related to the acquisition, design, construction and continued upgrading of the improvement.
3. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of land, and necessary capital equipment dedicated to the site.
4. Mitigation costs.

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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 Town borrows for the construction of the improvement.
7. Relocation costs.
8. Similar costs that are directly related to the improvement project.

1.9. Refund of Fees

1. If a building permit or other relevant permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition of its issuance. A request for a refund shall be made in writing to the Town Planner, and shall occur within ninety (90) days of the expiration of the permit.
2. If the funds collected annually are not expended or obligated by contract for their intended purpose by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid, the prorated share of the funds shall be returned to the current owner of the property for which the fee was paid, provided that a request is made in writing to the Town Planner within one hundred eighty (180) days of the expiration of the ten (10) year period.

1.10. Waiver of Impact Fee

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

1.11. Calculation of Fees

The recreational facilities and open space impact fee shall be a per square foot fee established by the Town Council, and shall be based upon the Town's impact fee calculation methodology. This methodology has been adopted by the Town Council and is on file and available for review in the Town Planner's office. The amount of the fee paid by a developer shall be determined by multiplying the gross floor area as defined in this ordinance less five hundred (500) square feet by the per square foot fee established herein. The total amount of the impact fee due for each project shall be determined by the developer, subject to the approval of the Code Enforcement Officer (CEO), using the impact fee calculation worksheet provided by the CEO and shall be based upon the following:

1. The developer shall determine, subject to the CEO's approval, the gross floor area of the residential structure subject to the impact fee based upon plans and other documents submitted by the developer.
2. The developer shall determine, subject to the CEO's approval, the amount of the recreational facilities portion of the fee by subtracting five hundred (500) square feet from the gross floor area determined in Section 1.11.1 of this ordinance and multiplying the difference by \$0.87 per square foot unless the Town Council has waived that portion of the fee in accordance with Section 1.10 of this ordinance.
3. The developer shall determine, subject to the CEO's approval, the amount of the open space portion of the fee by subtracting five hundred (500) square feet from the gross floor area determined in Section 1.11.1 of this ordinance and multiplying the difference by \$0.49 per square

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foot unless the Town Council has waived that portion of the fee in accordance with Section 1.10 of this ordinance.

4. The developer shall determine, subject to the CEO's approval, the total impact fee due by combining the recreational facilities portion and the open space portion as calculated above. Unless the Town Council waives the fee required in either section 1.11.2 or section 1.11.3 above, the sum of the per square foot impact fees described in those sections shall be \$1.36 per square foot of gross floor area less five hundred (500) square feet.
5. The five hundred (500) square foot reduction in gross floor area discussed in this section of the ordinance shall not apply to residential additions made within five (5) years of the issuance of the original building permit for the home.

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 Review and Revision

The Town 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 development subject to the fee is no longer appropriate, the Council may adopt changes to the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not apply retroactively to projects that have already paid an impact fee. 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 Right to Appeal

A developer may appeal the determination of the Code Enforcement Officer as to either the applicability of the impact fee to a particular project, the gross floor area subject to the fee, or the amount of the fee to be paid. Appeals shall be made in writing to the CEO within ten (10) days of the CEO's initial determination of the amount of the impact fee due for a particular residential structure. The Board of Adjustment and Appeals shall consider such appeal at their next regularly scheduled meeting and shall issue a determination either upholding the CEO's decision or modifying the CEO's decision within seven (7) days of the date of the hearing at which the appeal was heard.

2.5 Effective Date

This Ordinance shall take effect upon its adoption by a majority of the eligible voters present at the June 28, 2001 Town Council Meeting. The effective date of this Ordinance is June 30, 2001.

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IMPACT FEE INSTRUCTION SHEET

for the

RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE ORDINANCE OF THE TOWN OF CUMBERLAND, MAINE

1. Using dimensioned building plans provided by the applicant, calculate the Gross Floor Area in accordance with the following definition as found in the "Recreational Facilities and Open Space Impact Fee Ordinance of the Town of Cumberland, Maine":

Gross floor area shall include the entire floor area of each floor measured from the outside of exterior walls, and shall include all interior partitions and spaces whether finished or not, but shall exclude basements, garages, unheated porches and any portion of a room or attic with sloping ceilings measuring less than five (5) feet from floor to ceiling.

2. To aid the gross floor area calculation, you may choose to sketch out and dimension the floor plan for each floor of the proposed structure, excluding the basement level, on the reverse side of this sheet.
3. To the gross floor area as calculated in accordance with the definition above and expressed in square feet, apply the following formula:

$$\begin{aligned} & [\text{Gross Floor Area} - 500 \text{ square feet}] \times \$0.87 \text{ per square foot} \quad (\text{recreation fee amount}) \\ + & \quad [\text{Gross Floor Area} - 500 \text{ square feet}] \times \$0.49 \text{ per square foot} \quad (\text{open space fee amount}) \\ = & \quad \text{Total Impact Fee}^* \end{aligned}$$

*** Please show this calculation on the "Impact Fee Information and Calculation Sheet"**

4. This fee amount is due to the Code Enforcement Officer prior to the granting of any building permit for a residential use in the Town of Cumberland.

<p style="text-align: center;"><i>Town of Cumberland</i></p> <p style="text-align: center;">Residential Impact Fee Information and Calculation Sheet</p>		IMPACT FEE #: DATE RECEIVED: TIME RECEIVED: RECEIVED BY:
APPLICANT:	APPLICANT ADDRESS:	APPLICANT PHONE NUMBER:
PROPERTY OWNER:	PROPERTY ADDRESS:	PROPERTY OWNER PHONE NUMBER:
LOCATION/PROPERTY ADDRESS:	TAX MAP & LOT NUMBER:	EXEMPTIONS IF ANY:
PROJECT DESCRIPTION:		
IMPACT FEE CALCULATION:		
TOTAL AMOUNT OF IMPACT FEE ASSESSED:		
I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IS COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.		
SIGNATURE OF APPLICANT:		DATE:

Town of Cumberland

Meeting of the Town Council

June 28, 2001

Proposed Recreation Facilities and Open Space Impact Fee Ordinance

Sample Impact Fee Amounts

Gross Floor Area (GFA)	Proposed Fee Amount (GFA - 500 sf X \$1.36 per sq. ft.)
1,000 sf	\$680
1,548 sf (average home in Small's Brook)	\$1,425
1,827 sf (average 3 bedroom home in Cumberland)	\$1,804
2,000 sf	\$2,040
2,535 sf (average 4 bedroom home in Cumberland)	\$2,768
3,000 sf	\$3,400
4,000 sf	\$4,760
5,000 sf	\$6,120

82¢ per sq. ft.

89¢ per sq. ft.

108¢ per sq. ft.

**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 Cumberland is \$4,000 - \$6,000 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 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 should pay this impact fee based upon the expected population of the project considering typical occupancy rates unless the Town determines that the unit is located in a project that includes an equivalent amount of open space as part of the development. 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 in calculating the appropriate fee:

Single family dwelling with:

- | | |
|-------------------|-----------------|
| a. three bedrooms | 3.4 people/unit |
| b. four bedrooms | 3.8 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 allocated on a square foot of gross floor area basis.

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 cost of \$750. This base cost should be adjusted by the 70% need factor resulting in an adjusted per capita recreational facilities cost of \$525. Any residential unit should be subject to an impact fee to cover this cost.

The open space portion of the fee should be calculated by multiplying the estimated average per acre cost of acquiring open space or \$5,000/acre by 0.084 acres per capita for a base per capita cost of \$420. This base fee should be adjusted by the 70% need factor resulting in an adjusted per capital open space facilities cost of \$294. Any residential unit should be subject to an impact fee to cover this cost unless the Town determines that the development in which the unit is located has provided an equivalent amount of open space.

The per capita recreational facilities cost of \$525 and the per capita open acquisition cost of \$294 per capita should then be charged to new residential development on a square footage basis. The Town's housing survey found that the average new three bedroom home had approximately 3.4 occupants while new four bedroom homes had approximately 3.8 occupants. The Town Assessor reports that the average three bedroom home has approximately 1,827 square feet of gross living area while the average four bedroom home has approximately 2,535 square feet. This translates into approximately 537 square feet per occupant in three bedroom homes and approximately 667 square feet in four bedroom homes or an average of approximately 600 square feet per occupant. This factor should be used in developing the impact fee on a square footage basis.

Allocating the \$525 per capita recreational facilities cost to the 600 square foot per occupant factor results in a recreational facilities impact fee of \$0.87 per square foot.

Allocating the \$294 per capital open space acquisition cost to the 600 square foot per occupant factor results in an acquisition impact fee of \$0.49 per square foot. The combined impact fee should therefore be \$1.36 per square foot of gross area of new residential construction to cover the cost of providing recreational facilities and acquiring open space to meet the needs generated by new residents of Cumberland.

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.

6/27/01

#	Date Received	Time Received	Type	Subdivision Name	Last	First	Map	Lot	Street	Issued	Time	Accept by Date	Bldg Appl Due	Building Permit	Date Issued
			Habitat												
			Habitat												
1	07/17/00	3:42 PM	Island	Division Shore	Minor	Paul	I07	65	Bar Point Rd	07/20/00	11:20 AM	08/20/00	10/20/00	00-280	10/19/00
2	07/19/00	1:00 PM	Island	Division Point	Richards	Paul & Kathleen	I07	55	Bluff Head Rd	07/20/00	11:30 AM	08/20/00	10/20/00	00-279	10/19/00
3	07/19/00	4:43 PM	Island		Dayton	Robert & Joan	I01	21 A	646 South Rd	07/20/00	11:35 AM	08/20/00	10/20/00	00-239	08/23/00
4	09/12/00	3:11 PM	Island		Rugh	Aaron	I06	8 A	North Road	04/06/01	11:45 AM	05/06/01	07/05/01		
5	09/08/00	11:32 AM	Island		Marshall	Barbara	I03	105	South Road	04/12/01	11:45 AM	05/12/01	07/12/01		
6	08/01/00	3:02 PM	Island		Bisharat	Leila and Suhail	I03	106	South Road	04/12/01	11:45 AM	05/12/01	07/12/01		
7	08/14/00	1:35 PM	Island		Hunt	Robert & Winter,	I03	68 B	South Road	04/12/01	11:45 AM	05/12/01	07/12/01		
8	09/11/00	8:08 AM	Island		Moulton	John	I01	76	38 Proctor Dr	04/12/01	11:45 AM	05/12/01	07/12/01		
9	09/12/00	3:46 PM	Island		Libby	Robert & Paula	I04	90 C	West View Rd	05/03/01	10:25 AM	06/03/01	08/03/01	01-105	06/21/01
10	09/20/00	4:16 PM	Island		Wilson	David	I04	90 D	Sunset Road	05/02/01	10:00 AM	06/02/01	08/02/01		
11	10/18/00	12:16 AM	Island		Hall	Peter	I02	12 A	12 South Road	05/03/01	10:35 AM	06/03/01	08/03/01	01-104	06/21/01
12	11/29/00	1:18 PM	Island		Boisvert	Richard & Paige	I03	130 B	North Road	06/04/01	8:46 AM	07/04/01	09/04/01		
13	01/09/01	3:49 PM	Island		Crosby	Russell & Sala, M	I01	15	Cottage Road	06/04/01	8:55 AM	07/04/01			
14	01/09/01	3:50 PM	Island		Crosby	Russell & Sala, M	I01	15	Cottage Road	06/04/01	8:55 AM	07/04/01			
15	01/09/01	4:49 PM	Island		Butters	Charles	I01	11A	Cottage Road	06/04/01	9:01 AM	07/04/01			
16	01/19/01	9:21 AM	Island		West	Susan	I04	29 A	Buxhill Blvd	06/04/01	9:11 AM	07/04/01			
17	06/27/01	12:25 PM	Island		Rich	Patricia	I06	7	Littlefield Road	06/27/01	12:28 PM	07/27/01	09/27/01		
1	07/12/00	9:15 AM	Non-subdiv		Seekins	Norma	R06	49	Blanchard Rd	07/17/00	3:50 PM	08/17/00	10/17/00	00-267	09/29/00
2	07/14/00	9:10 AM	Non-subdiv		Cyr	Mary	R07	72 B	Maloneys Rd	07/17/00	4:25 PM	08/17/00	10/17/00	00-278	10/15/00
3	07/25/00	2:20 PM	Non-subdiv		Shanley	Fran	R03	41	43 Harris Road	07/27/00	9:10 AM	08/27/00	10/27/00	00-276	10/17/00
4	08/22/00	1:09 PM	Non-subdiv		Grover	Ben	U10	9 F	Strawberry Rd	09/14/00	4:50 PM	10/14/00	12/14/00	00-246	09/18/00
5	09/06/00	1:07 PM	Non-subdiv		Boyle	William	R08	64 A	26 Orchard Rd	09/20/00	3:55 PM	10/20/00	12/20/00	00-314	12/12/00
6	09/15/00	10:19 AM	Non-subdiv		Lalumiere	Mary	U14	63 C	36 Val Halla Rd	09/22/00	10:50 AM	10/22/00	12/22/00	00-317	12/20/00
7	09/27/00	1:52 PM	Non-subdiv		Maloney	Timothy	R07	72 C	Maloneys Rd	09/29/00	10:03 AM	10/29/00	12/29/00	00-285	11/30/00
8	09/28/00	4:41 PM	Non-subdiv		Verrill	Scott	U12	7 C	47 Blanchard	10/20/00	11:57 AM	11/20/00	01/20/01	01-010	01/18/01
9	09/28/00	4:42 PM	Non-subdiv		Verrill	Scott	U12	7 B	47 Blanchard	10/20/00	11:58 AM	11/20/00	01/20/01	01-011	01/18/01
10	10/12/00	11:34 AM	Non-subdiv		Patton	Harry & Deborah	R04	20 A	8 Farms Edge	10/25/00	8:30 AM	11/25/00	01/25/01	00-290	11/06/00
11	11/15/00	8:13 AM	Non-subdiv		Brooks	Roger & Elizabeth	R06	18 D	Greely Road	11/16/00	4:58 PM	12/16/00	02/16/01	01-017	02/15/01
12	11/15/00	1:35 PM	Non-subdiv		Thompson	Peter & Kathy	U17	4 F	23 Old Farm	11/16/00	5:02 PM	12/16/00	02/16/01	00-313	12/12/00
13	11/16/00	2:25 AM	Non-subdiv		Peterson	Richard	R07	92 D	108 Mill Road	11/21/00	11:39 AM	12/21/00	02/21/01	01-005	01/10/01
14	11/16/00	5:11 PM	Non-subdiv		Peterson	Richard	R08	12	Pleasant Valley	11/21/00	12:01 PM	12/21/00	02/21/01	01-020	02/20/01
15	11/21/00	8:35 AM	Non-subdiv		Jordan	Joanne	U14	8 B	23 Sawyer Lane	11/21/00	1:13 PM	12/21/00	02/21/01	01-004	01/10/01
16	11/29/00	3:18 PM	Non-subdiv		Price	James H.	R03	23 A	Andrea Way	12/11/00	11:24 AM	01/11/01	03/11/01	01-022	03/09/01
17	12/04/00	8:11 AM	Non-subdiv		Lalumiere	Scott	U12	11 A	Treleaven Way	12/12/00	1:18 PM	01/12/01	03/12/01	01-001	01/03/01
18	12/26/00	9:30 AM	Non-subdiv		Stiles	W & Bickford, J	R05	35	Alder Way	12/27/00	4:00 PM	01/27/01	03/27/01	01-028	03/26/01
19	01/02/01	10:58 AM	Non-subdiv		Carley	Kevin	U12	11 B	16 Treleaven	01/04/01	9:03 AM	02/04/01	04/04/01	01-014	01/30/01
20	03/16/01	10:28 AM	Non-subdiv		Stratton	Gene	R07	57	Tinker Lane	03/28/01	4:15 PM	04/28/01	06/28/01	01-030	04/12/01
21	04/17/01	3:13 PM	Non-subdiv		Nevens	Gregory & Devin	U19B	22A	Mill Road	06/01/01	11:27 AM	07/01/01	09/01/01		
22	04/19/01	2:45 PM	Non-subdiv		Daigle	Jeffrey	R02 B	1	Tuttle Road	06/27/01	10:36 AM	07/27/01	09/27/01		
1	07/05/00	10:53 AM	Subdivision	Sunnyfield Falls	Sawchuck	Peter & Ann	U12 A	6	Sunnyfield Lane	07/07/00	9:30 AM	08/07/00	10/07/00	00-206	07/18/00
2	08/03/00	12:22 PM	Subdivision	Falmouth Cove	Raczkowski	David T.	R05 B	8	27 Hazeltine	08/09/00	10:05 AM	09/09/00	11/09/00	00-257	09/27/00
3	11/01/00	12:17 PM	Subdivision	Valley Road Circle	Hildreth & White		R08 A	15 C	42 Valley Road	11/08/00	11:46 AM	12/08/00	02/08/01	00-299	11/14/00
4	11/30/00	2:46 PM	Subdivision	Idlewood	Gallati	W. David	R05 C	20	418 Range Road	12/13/00	10:19 AM	01/13/01	03/13/01	01-012	01/18/01
5	01/10/01	2:53 PM	Subdivision	Schooner Ridge	Carriere	Noreita	R02 A	34	282 Foreside	01/16/01	12:59 PM	02/16/01	04/16/01	01-024	03/26/01
6	03/15/01	9:42 AM	Subdivision	Falmouth Cove	Bauer and Gilman		R03 A	24	22 Muirfield Road	03/15/01	2:45 AM	04/15/01	06/14/01	01-082	05/29/01
7	03/19/01	8:41 AM	Subdivision	Greely Pines	Ingraham	Curtis & Elaine	R02 A	35	55 Greely Road	03/26/01	1:48 PM	04/26/01	06/25/01	01-075	05/23/01
8															

Growth permit waiting list

check what lot

[illegible]

Town of Cumberland

Growth Permits Voided

6/27/01

#	Date Received	Time Received	Type	Subdivision Name	Last	First	Map	Lot	Street	Issued	Time	Status	
	09/19/00	3:16 PM	Non-subdiv		Dunnett	Robin	U12	11	Treleaven Way	09/28/00	6:10 PM	Growth permit expired	
	11/21/00	1:58 PM	Non-subdiv		Meoli	Richard	R03	15	45 Longwoods Road	11/21/00	2:02 PM	Growth permit expired	
	12/07/00	4:35 PM	Non-subdiv		Stockholm	Benedict	R05	13	Turkey Lane	N/A	N/A	Withdrawn by applicant	
	11/09/00	12:51 PM	Island		Haberthur	Robert &	I03	107 B	South Road	05/03/01	10:40 AM	Declined growth permit	
	07/03/00	11:50 AM	Non-subdiv		Morrison	Roland	R08 A	7 B	225 Blanchard Road	07/07/00	9:25 AM	Building permit expired	
	03/16/01	9:16 AM	Non-subdiv		Meoli	Richard	R03	15	45 Longwoods Road	03/19/01	9:15 AM	Growth permit expired	

	Date Received	Time Received	Type	Subdivision Name	Last	First	Map	Lot	Unit	Street	Septic Design	Waiting Letter	Exempt Letter	Building Permit	Permit Date
1	08/10/00	11:59 AM	Island	School House Road	Todd	Daniel and Heidi	I06	34		School House Rd	08/10/00	08/17/00	04/10/01		
2	09/19/00	3:22 PM	Island	Cart Road Acres	Watson	Donald & Karen	I07	41		Old Cart Road	06/16/00	09/25/00	04/10/01		
3	10/03/00	8:10 AM	Island	Cart Road Acres	Lloyd-Rees	David & Susan	I07	50		Old Cart Road	09/29/00	10/10/00	04/10/01		
4	11/21/00	8:36 AM	Island	Division Shores	Colbeth	Clyde	I07	74		Ship Lane	10/23/00	11/22/00	04/10/01		
5	01/18/01	10:47 AM	Island	Division Shores	Marion	Vicki	I07	72		Bar Point Road	Existing	01/18/01	04/10/01		
6	01/25/01	1:30 PM	Island	Cart Road Acres	Pelton	Kenneth	I07	43		Old Cart Road	01/10/01	01/30/01	04/10/01		
7	01/31/01	11:51 AM	Island	School House Road	Kidd	Dan	I06	32		School House Rd	01/28/00	03/07/01	04/10/01		
8	12/21/00	12:26 PM	Island	Nancy S. Pierce	Whittemore	Ann	I05	8 B		North Road	12/13/00	12/27/00	05/03/01		
9				True Spring Farm	Bragg	Terry	U04	8 A	8	2 Granite Ridge				00-191	07/10/00
10				True Spring Farm	Bragg	Terry	U04	8 A	7	1 Granite Ridge				00-192	07/10/00
11	Demolition and Rebuilding				Eaton	Melinda	U06A	22		15 Ledge Road				00-212SZ	07/20/00
12				Flintlock Ridge	Spaldero Co		R04	16A		34 Flintlock Drive				00-250	09/22/00
13				Rock Ridge	Custom Built Home		R03B	5		68 Rock Ridge Run				00-251	09/25/00
14				Stonegate	Chase Custom Homes		R07D	7		58 Stonewall Drive				00-277	10/18/00
15				Rock Ridge	Ames	Peter & Alice	R03B	12		69 Rock Ridge Run				01-013	01/30/01
16				Stonegate	Chase Custom Homes		R07D	14		5 Stonewall Drive				01-015	01/30/01
17	Relocating existing dwelling				Copp	Clayton	U21	9		260 Gray Rd				01-067	05/07/01
18				Stonegate	Chase Custom Homes		R07D	11		33 Stonewall Drive				01-088	06/04/01
				School House Road	Clarke	Andrew	I06	33		School House Rd				01-099	06/18/01

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
THURSDAY, JUNE 28, 2001**

DRAFT

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

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

I. Called to order at the Cumberland Town Offices Council Chambers at 7:05 p.m.

II. Legislation and Policy

01-36 To hold a Continued Public Hearing to discuss a proposed Impact Fee Ordinance and to consider taking action.

Chairman Moriarty opened the Public Hearing.

7 residents attended. Town Planner, Andy Fillmore, explained the Ordinance. Attorney Ken Cole was in attendance to explain legal aspects of the Ordinance. All residents present spoke ~~their~~ ⁱⁿ regards ~~the~~ ^{to} the Impact Fee Ordinance ~~would have on them if implemented.~~ ^{and its effect if enacted}

Chairman Moriarty closed the Public Hearing 7:45 pm.

Chairman Moriarty amended the Impact Fee Ordinance adding to the Article I. GENERAL PROVISIONS; Section 1.4 Applicability, Number 3 to read:

This Ordinance shall not apply to developers who have been issued or applied for a Town Cumberland growth permit by the Code Enforcement Officer prior to date of the adoption of this ordinance, provided however, that the said Growth Permit is converted into a building permit as prescribed in the Growth Management Ordinance.

Councilor Damon moved to amend the Impact Fee Ordinance to change the exemption from 500 square feet to 750 square feet.

Second by Councilor Kuntz.

VOTE: IN FAVOR (3)
OPPOSED (3)
ABSTAINED (1) Lambert

Motion failed.

Chairman Moriarty moved to adopt the Impact Fee Ordinance as written in final draft by the Town Planner with revisions made by Chairman Moriarty noted prior.

Second by Councilor Porter

VOTE: IN FAVOR (4)
OPPOSED (2)
ABSTAINED (1) Lambert

Councilor Bingham moved to amend the Comprehensive Plan to include the Recreational Facilities and Open Space Impact Fee Methodology.
Second by Councilor Porter

VOTE: IN FAVOR (4)
OPPOSED (2)
ABSTAINED (1) Lambert

III. Adjourn

Councilor Kuntz moved to adjourn meeting at 8:10 pm .
Second by Councilor Porter

VOTE: UNANIMOUS (7)

Respectfully Submitted,

Lisa Brown
Administrative Assistant

RECREATIONAL FACILITIES AND
OPEN SPACE IMPACT FEE 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 "Recreational Facilities and Open Space Impact Fee 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 to provide adequate public facilities to meet the additional needs for recreation and open space created by future residents. Further, this Ordinance establishes a fair and equitable process by which to ensure that new residential development in the Town of Cumberland 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 recreational infrastructure necessary to service such development through the payment of impact fees that shall be dedicated to paying for the needed improvements.

1.4. Applicability

1. This Ordinance shall apply to the issuance of any building permit for a new residential structure within the Town of Cumberland but shall exclude senior housing projects as defined in this ordinance.
2. This Ordinance shall not apply to additions to residential structures existing at the time of the adoption of this ordinance.
3. This ordinance shall not apply to developers who have been issued or applied for a Town of Cumberland growth permit by the Code Enforcement Officer prior to date of the adoption of this ordinance, provided however, that the said Growth Permit is converted into a building permit as prescribed in the Growth Management Ordinance.
4. This ordinance shall apply to any addition to a residential structure built following the adoption of this ordinance where such addition is made within five (5) years of the issuance of the original building permit. The fee for any such addition shall be assessed as for new construction as set forth in Section 1.11 below, except that the initial five hundred (500) square foot discount shall not apply. This Ordinance shall not apply to additions to residential structures made after the expiration of five (5) years from the issuance of the original building permit.
5. 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.

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 entire floor area of each floor measured from the outside of exterior walls, and shall include all interior partitions and spaces whether finished or not, but shall exclude basements, garages, unheated porches and any portion of a room or attic with sloping ceilings measuring less than five (5) feet from floor to ceiling.

Residential Structure shall refer to any living unit including those in single-family homes, multi-family homes, attached and/or detached residential structures, condominiums, apartments, manufactured housing and mobile homes.

Senior Housing Project shall refer to a residential development constructed solely for elderly residents who meet strictly enforced age guidelines, and within which the residential units are by deed or covenant restricted to occupation by residents who meet such age guidelines.

1.6. Payment of Fees

The Code Enforcement Officer shall collect the impact fee prior to the issuance of any building 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 1.11 below.

1.7. Impact Fee Accounts

All impact fees collected under the provisions of this ordinance shall be segregated from the Town's general revenue and be accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

1. Open space land acquisition account (36% of each fee collected).
2. Recreational facility improvement and capacity expansion account (64% of each fee collected).

1.8. Use of Impact Fees

Impact fees collected under the provisions of this ordinance shall only be used to pay for site acquisition and capital improvements for the creation or expansion of recreational facilities and for the acquisition and related improvement of open space. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs are examples of, but are not intended to limit, capital improvements:

1. Acquisition of land or easements including conservation easements and development rights.
2. Engineering, surveying and environmental assessment services directly related to the acquisition, design, construction and continued upgrading of the improvement.
3. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of land, and necessary capital equipment dedicated to the site.
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 Town borrows for the construction of the improvement.
7. Relocation costs.

8. Similar costs that are directly related to the improvement project.

1.9. Refund of Fees

1. If a building permit or other relevant permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition of its issuance. A request for a refund shall be made in writing to the Town Planner, and shall occur within ninety (90) days of the expiration of the permit.
2. If the funds collected annually are not expended or obligated by contract for their intended purpose by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid, the prorated share of the funds shall be returned to the current owner of the property for which the fee was paid, provided that a request is made in writing to the Town Planner within one hundred eighty (180) days of the expiration of the ten (10) year period.

1.10. Waiver of Impact Fee

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

1.11. Calculation of Fees

The recreational facilities and open space impact fee shall be a per square foot fee established by the Town Council, and shall be based upon the Town's impact fee calculation methodology. This methodology has been adopted by the Town Council and is on file and available for review in the Town Planner's office. The amount of the fee paid by a developer shall be determined by multiplying the gross floor area as defined in this ordinance less five hundred (500) square feet by the per square foot fee established herein. The total amount of the impact fee due for each project shall be determined by the developer, subject to the approval of the Code Enforcement Officer (CEO), using the impact fee calculation worksheet provided by the CEO and shall be based upon the following:

1. The developer shall determine, subject to the CEO's approval, the gross floor area of the residential structure subject to the impact fee based upon plans and other documents submitted by the developer.
2. The developer shall determine, subject to the CEO's approval, the amount of the recreational facilities portion of the fee by subtracting five hundred (500) square feet from the gross floor area determined in Section 1.11.1 of this ordinance and multiplying the difference by \$0.87 per square foot unless the Town Council has waived that portion of the fee in accordance with Section 1.10 of this ordinance.
3. The developer shall determine, subject to the CEO's approval, the amount of the open space portion of the fee by subtracting five hundred (500) square feet from the gross floor area determined in Section 1.11.1 of this ordinance and multiplying the difference by \$0.49 per square foot unless the Town Council has waived that portion of the fee in accordance with Section 1.10 of this ordinance.
4. The developer shall determine, subject to the CEO's approval, the total impact fee due by combining the recreational facilities portion and the open space portion as calculated above. Unless the Town Council waives the fee required in either section 1.11.2 or section 1.11.3 above,

the sum of the per square foot impact fees described in those sections shall be \$1.36 per square foot of gross floor area less five hundred (500) square feet.

5. The five hundred (500) square foot reduction in gross floor area discussed in this section of the ordinance shall not apply to residential additions made within five (5) years of the issuance of the original building permit for the home.

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 Review and Revision

The Town 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 development subject to the fee is no longer appropriate, the Council may adopt changes to the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not apply retroactively to projects that have already paid an impact fee. 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 Right to Appeal

A developer may appeal the determination of the Code Enforcement Officer as to either the applicability of the impact fee to a particular project, the gross floor area subject to the fee, or the amount of the fee to be paid. Appeals shall be made in writing to the CEO within ten (10) days of the CEO's initial determination of the amount of the impact fee due for a particular residential structure. The Board of Adjustment and Appeals shall consider such appeal at their next regularly scheduled meeting and shall issue a determination either upholding the CEO's decision or modifying the CEO's decision within seven (7) days of the date of the hearing at which the appeal was heard.

2.5 Effective Date

This Ordinance shall take effect upon its adoption by a majority of the eligible voters present at the June 28, 2001 Town Council Meeting. The effective date of this Ordinance is June 30, 2001.

[Adopted June 28, 2001, effective ~~7/01/2001~~ 6-28-01]