Article I
Road Impact Fees

[Adopted 1-2-2008]

§ 136-1 Purpose.
A.—The purpose of this article is to raise funds and deposit them into trust accounts to help to pay the costs for future roadway improvements at identified locations. The proposed improvements have been determined to be necessary to provide capacity to accommodate new traffic generated by new development projects in the Town of Sanford. This article will help to assure that each new development pays a proportionate share of the cost of improvements based upon the development’s use of the new roadway capacity.

B.—This article imposes an impact fee on land development requiring review under the Town’s Subdivision Ordinance or site plan review under the Town’s Zoning Ordinance for providing new roads and related facilities necessitated by new development that impacts traffic in the Town as defined herein. This article also imposes impact fees on all new development or redevelopment that requires the issuance of a building permit by the Town and that generates new traffic within the Town of Sanford.

C.—This article also provides for the placement of impact fee revenue into road impact fee trust accounts established for that purpose and for the administration of the Road Impact Fee Article, including the expenditure of funds derived from road impact fees and the refunds of unexpended funds.

D.—These fees shall be assessed as a flat rate on developments that generate fewer than 20 peak hour trips in the p.m. peak hour. The calculation of the number of p.m. peak hour trips shall be performed in accordance with the provisions of this article. Flat rate fees shall be credited equally to all existing traffic impact fee trust fund accounts.

E.—All new development or redevelopment that generates more than 20 peak hour trips in the p.m. peak hour shall be required to submit a traffic study to the Town Engineer as the basis for the impact fee calculation.

§ 136-2 Legislative findings.
The Town Council of Sanford, Maine, finds, determines and declares as follows:

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

B.—The State of Maine has authorized municipalities to adopt impact fees for various purposes, including the construction of off-site capital improvements, such as roads and traffic control devices pursuant to 30-A M.R.S.A. § 4354:

C.—The imposition of impact fees is a preferred method of insuring that new development bears a proportionate share of cost of capital investments necessary to accommodate such development.

D.—New development frequently generates additional traffic, necessitating the acquisition of rights of way.
E. — The fees established by § 136-6 hereof are derived from, are based upon, and do not exceed the costs of providing additional rights-of-way, road construction and road improvements necessitated by the traffic-generated by new developments for which the fees are levied.


§ 136-3 Title; statutory authority; applicability.
A. — Title. This article shall be known and may be cited as the "Sanford Road Impact Fee Ordinance."

B. — Authority. The City Council of the City of Sanford, has the authority to enact this article pursuant to 30-A M.R.S.A. § 4354, and its statutory and constitutional home rule powers. [Amended 10-7-2014 by Order No. 14-145.09]

C. — Applicability. [Amended 10-7-2014 by Order No. 14-145.09]

(1) The application of this article shall be suspended effective November 7, 2014, for a period of not more than six months, unless extended by the City Council after notice and public hearing.

(2) The City Council hereby directs the review of Chapter 136 in its entirety to develop recommendations as to the amendment or dissolution of Chapter 136.

(3) The City Council shall act upon the recommendations within the six months starting November 7, 2014, unless extended, and then apply Chapter 136 as amended to all new applications for development as defined after such date. The application of Chapter 136 as amended shall also be retroactively applied to all applications for development made prior to November 7, 2014, for which the determination of and calculation of road impact fees due were not so completed.

(4) Agreements predating the effective date of the article between the then Town and now City of Sanford and developers regarding the payment of any road improvement fees shall not be affected by this article.

§ 136-4 Definitions.
As used in this article, the following terms shall have the meanings indicated:

CAPITAL IMPROVEMENT
A. — Includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features of any road construction project, including, but not limited to:

(1) Construction of new through lanes.

(2) Construction of new turn lanes.
City Council Order #19-492-01 adopted 10/15/2019, Repealed the Ordinance previously adopted pertaining to road impact fees in its entirety.

(3) Construction of new bridges.-

(4) Construction of new drainage facilities in conjunction with new roadway construction.-

(5) Purchase and installation of traffic signalization (including new and upgraded signalization).-

(6) Construction of curbs, medians, and shoulders.-

(7) Relocating utilities to accommodate new roadway construction.-

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

**DEVELOPER**

A person, firm, partnership, corporation or other legal entity commencing a land development activity or redevelopment activity, which generates or attracts traffic in the Town and which requires subdivision or site plan approval from the Town of Sanford, or which requires a building permit from the Code Enforcement Officer.

**DEVELOPMENT or DEVELOPMENT PROJECT**

Any change in land use or any construction of buildings or structures or any change in the use of any structure that generates vehicle trips at the impact fee locations.

**EXPANSION OF ROAD CAPACITY**

All road and intersection capacity enhancements, including but not limited to: extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges.

**IMPACT FEE LOCATIONS**

The intersections in Sanford as follows:

A. Route 109/Route 99.-

B. Route 109/Jagger Mill Road.-

C. Route 4/Jagger Mill Road.-

D. Route 4/School Street.-

E. Route 109/Route 4.-

**INDEPENDENT FEE CALCULATION STUDY**

The traffic engineering and/or economic documentation prepared by a developer to allow the determination of the impact fee other than by the use of the methodology outlined in § 136-6 of this article.

**MANDATORY OR REQUIRED RIGHT-OF-WAY DEDICATIONS AND/OR ROADWAY IMPROVEMENTS**
City Council Order #19-492-01 adopted 10/15/2019, Repealed the Ordinance previously adopted pertaining to road impact fees in its entirety.

Such noncompensated dedications and/or roadway improvements required by the Town during subdivision or site plan review.

ROADS

Means and includes arterial and collector streets and transportation facilities associated with the arterial, federal and State aid highway network within the Town and under the jurisdiction of the Town or the State of Maine.

SITE-RELATED IMPROVEMENTS

Capital improvements and right-of-way dedications for direct access improvements to and/or within the development in question. Direct access improvements include, but are not limited to, the following:

A. Access roads leading to the development.

B. Driveways and roads within the development.

C. Acceleration and deceleration lanes, right and left turn lanes, and required through lanes leading to those roads and driveways.

D. Traffic control measures for those roads and driveways.

§ 136-5 Procedures.

A. Any person who, after the effective date of this article, seeks a permit or approval for any development described in § 136-3C of this article is hereby required to pay a road impact fee in the manner and amount set forth in this article.

B. Preliminary determinations regarding whether a proposed development will generate traffic within the impact fee locations shall be made by the Town Engineer (with or without consultation with the Town's consulting traffic engineer). Actual traffic generation, impacts, and the corresponding fee shall be determined through a traffic analysis (in accordance with § 136-6 of this article), which may accompany a more comprehensive traffic impact study, depending on the scope of the development, prepared by a registered professional engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town Engineer (with or without consultation with the Town's consulting traffic engineer) and shall be incorporated into the review and approval of a development project by the Planning Board, Site Plan Review Committee, or Planning and Code Enforcement Department when applicable. Proposed developments that will generate not more than 20 p.m. peak hour trips shall be assessed impact fees based upon the table in § 136-6E of this article.

C. No extension of a building permit or extension of an application pending before the Planning Board or Site Plan Review Committee, issued before the effective date of this article, for any activity requiring payment of an impact fee pursuant to this article shall be granted unless and until the road impact fee hereby required shall have been paid or said amount is agreed to be paid by the developer.

§ 136-6 Calculation.

The impact fee is structured to be in proportion to the development project's share of the infrastructure costs.
necessitated by the development and as enabled by Title 30 A.M.R.S.A. § 4354. The process for this impact fee calculation is as follows:

A.—As per § 136-5 above, a traffic analysis shall be conducted by a registered professional engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the impact fee study area in the p.m. peak commuter hour.

B.—The impact fee calculation for individual development projects within the Town of Sanford shall us generally accepted standards, such as the most current Institute of Transportation Engineers Trip Generation Handbook of traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the p.m. peak commuter hour of traffic (between 3:00 p.m. and 6:00 p.m. on a weekday).

C.—The costs assigned to trips shall be based upon a fee per new trip (a.k.a. primary trip) to be generated by a development project that passes through the impact fee study area during the p.m. peak commuter hour. Other types of traffic associated with a development project, such as the capture of trips passing a site (a.k.a. pass-by trips) or trips in the area that are rerouted (a.k.a. diverted trips) shall not be utilized in the assessment of the fee.

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

(1)—The total cost of the roadway infrastructure improvements within the impact fee study area to be funded from this Impact Fee Article are:

(a) Route 109/Route 99: $2,740,000.

(b) Route 109/Jagger Mill Road: $3,270,000.

(c) Route 4/Jagger Mill Road: $1,630,000.

(d) Route 4/School Street: $2,690,000.

(e) Route 109/Route 4: $600,000.

(2)—The total additional (bidirectional) vehicle capacity to be fostered by the roadway infrastructure improvement equal approximately the following trip ends in the p.m. peak commuter hour of traffic.

(a) Route 109/Route 99: 2,318.

(b) Route 109/Jagger Mill Road: 1,614.

(c) Route 4/Jagger Mill Road: 2,630.

(d) Route 4/School Street: 1,791.

(e) Route 109/Route 4: 2,301.
City Council Order #19-492-01 adopted 10/15/2019, Repealed the Ordinance previously adopted pertaining to road impact fees in its entirety.

(3) Each additional trip generated by new development projects will benefit from the capacity increases noted in Subsection D(2) above and will utilize one trip end of that additional capacity.

(4) The fee per trip, therefore, shall be as noted below:

(a) Route 109/Route 99: $591

(b) Route 109/Jagger Mill Road: $1,013

(c) Route 4/Jagger Mill Road: $310

(d) Route 4/School Street: $751

(e) Route 109/Route 4: $261 (The project cost is estimated to be $2,100,000 of which the Town must raise $600,000 through impact fees.)

E. Smaller developments.

(1) Developments on parcels not requiring subdivision or site plan review or that generate fewer than 20 peak hour trips shall pay a fee per trip based upon the following table:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Fee Calculation Variable</th>
<th>Flat Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family-detached</td>
<td>Per-unit</td>
<td>$708</td>
</tr>
<tr>
<td>Apartment</td>
<td>Per-unit</td>
<td>$435</td>
</tr>
<tr>
<td>Condominium residential</td>
<td>Per-unit</td>
<td>$365</td>
</tr>
<tr>
<td>Office building</td>
<td>1,000 square feet</td>
<td>$1,045</td>
</tr>
<tr>
<td>Retail</td>
<td>1,000 square feet</td>
<td>$1,736</td>
</tr>
<tr>
<td>General light industrial</td>
<td>1000 square feet</td>
<td>$688</td>
</tr>
<tr>
<td>Other uses</td>
<td>See Note 1 below</td>
<td>$708 per trip</td>
</tr>
</tbody>
</table>

NOTES:

1. For other uses in the table, the flat rate shall be based upon the new p.m. peak hour trips calculated from the Institute for Transportation Engineers Trip Generation Rates for the proposed use multiplied by $708 per trip.

2. This table may be expanded to detail flat fees for each land use code in the ITE Trip Generation Handbook corresponding with the Zoning Ordinance’s listing of permitted uses.

(2) Fees collected under this section shall be divided equally and deposited to the trust funds established by this article.

§ 136-7 Payment of fees.

The impact fee amount, as determined in accordance with § 136-5 and 136-6 of this article, shall be paid to the Code Enforcement Office (for deposit with the Town Treasurer) as follows:

A. For a new residential subdivision or an expansion of a residential subdivision, the impact fee amount shall be paid prior to the issuance of building permits by the Code Enforcement Officer.
B. For a new commercial or mixed-use subdivision with multiple building lots, or an expansion of a commercial or mixed-use subdivision, the impact fee amount shall be paid prior to the issuance of a building permit by the Code Enforcement Officer for construction on an individual lot.

C. For a new residential, commercial or mixed-use development or an expansion of a commercial or mixed-use development on an individual lot, the impact fee amount shall be paid prior to the issuance of a building permit by the Code Enforcement Officer.

D. For any other development or redevelopment not listed above, the impact fee amount shall be paid prior to the issuance of a building permit by the Code Enforcement Officer.

E. For changes of use that require site plan review, the impact fee amount shall be paid prior to the issuance of the building permit or, in the case where a building permit is not required, prior to the issuance of a certificate of occupancy.

§ 136-8 Road impact fee locations.
There are hereby established five impact fee locations as defined in § 136-4, definition of "Impact fee locations," of this article.

§ 136-9 Impact fee trust fund.
A. There are hereby established five separate road impact fee trust funds, one for each impact fee location established by § 136-8 of this article.

B. Funds withdrawn from these accounts must be used in accordance with the provisions of § 136-10 of this article.

§ 136-10 Use of impact fee funds.
A. Funds generated by this article will be used for the purpose of completing the capital improvements identified in the June 15, 2007, Traffic Impact Fee Study.

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

C. In the event that bonds or similar debt instruments are issued for the advance provision of capital improvements for which road impact fees may be expended, impact fee funds may be used to pay debt service on such bonds or similar debt instruments to the extent that the improvements provided are a component of a master plan for roadway infrastructure improvements, as per Subsection A of this section.

D. Funds may be used to provide refunds in accordance with § 136-11.

E. Funds shall not be used to pay for any site-specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section at the impact fee location. Such project and site-specific improvements shall be the responsibility of the developer.

§ 136-11 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 as a condition for its issuance except that the Town shall retain 3% of the impact fee paid to offset a portion of the costs of collection. The developer must submit an application for such a refund to the Code Enforcement Officer not later than 15 days after the expiration of the permit.

B. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following 10 years from the date the fee was paid shall, upon application of the developer, be returned to the developer, provided that the developer submits an application for a refund to the Code Enforcement Officer within 180 days of the ten-year period.

§ 136-12 Exemptions.
A. Alterations or expansions of an existing building which do not result in the generation of additional new vehicle trips, as determined by the Town Engineer, shall be exempt from payment of the traffic impact fee.

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

C. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, as determined by the Code Enforcement Officer, shall be exempt from payment of the impact fee.

D. Municipal uses by the Town of Sanford shall not be subject to this article.

E. The re-use or changes of use of existing buildings that require Planning Board approval as conditional uses under the Town's Zoning Ordinance shall be exempt from this article if they would not otherwise require site plan review.

§ 136-13 Credits.
A. Credit for the dedication of land for rights-of-way shall be valued at the most recent assessed value by the Town Assessor or by fair market value established by private appraisers acceptable to the Town. Credit for dedication of land shall be provided when property has been conveyed at no charge to, and accepted by, the Town in a manner satisfactory to the Town Council.

B. Construction of capital improvements:

(1) Credit for construction of capital improvements shall be given only:

(a) Where the Town and the developer agree in writing that it would be more cost effective or expeditious for the developer to construct improvements authorized for funding under this article; or

(b) For the cost of constructing capital improvements as a condition of Planning Board approval under site plan review or under the Subdivision Ordinance of the Town, provided such capital improvements must be eligible for designation by the Town Council for funding under this article. In such cases, the developer shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town which shall determine credit for construction based upon either these cost.
estimates or upon alternative engineering criteria and construction cost estimates, if the Town
determines that estimates submitted by the developer are either unreliable or inaccurate.-

(2) Upon final determination of all credits, the Town shall provide the developer with a letter or certificate
setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other
adequate description of the development to which the credit may be applied. The developer must sign
and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the
letter or certificate and return such signed document to the Town before credit will be given. The failure
of the developer to sign, date and return such document with the balance of the impact fees and building
permit fees within 60 days shall nullify the credit.-

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

(1) Construction is completed and accepted by the Town or the State, whichever is applicable; and-

(2) A suitable maintenance and warranty bond is received and approved by the Town, where applicable.-

D. Security shall be given for provisional credit in the form of a performance bond, irrevocable letter of
credit or escrow agreement posted with and approved by the Town Manager (with or without
consultation with the Town Attorney) in an amount determined by the Town Manager. If the project will
not be constructed within two years of the acceptance of the offer by the Town, the amount of the
security shall be increased by 10% compounded for each year of life of the security. If the construction
project is not to be completed within five years of the date of the developer’s offer, the Town Council
must approve the construction project and its scheduled completion date prior to the acceptance of the
offer by the Town. The security or replacement shall state the date for commencement of the project and
the time period for estimated completion. This date and/or time period may be extended by the Town for
good cause shown conditioned upon extension of the security.-

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

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

G. Credits shall not be transferred from one project or development to another without the approval of the
Town Council.-
H. The determination of fees or credits made pursuant to this article may be appealed to the Town Manager by filing a written request with the Town Manager within 30 days of the notice of fee or credit determination.

§ 136-14 Amendments.-
A. This article may be amended from time to time in accordance with the provisions of 30-A M.R.S.A. § 4354, the Sanford Town Charter and the rules of the Sanford Town Council.

B. Amendments may include deletion of impact fee locations when the Town Council determines, in its sole and exclusive judgment, that all required capital improvements have been made and the purposes of this article are no longer applicable.

C. Amendments may include the addition of new impact fee locations, after studies determine the need, scope and cost of road improvements at the new locations. Said additions shall meet the standards for inclusion into this article as specified in 30-A M.R.S.A. § 4354.

§ 136-15 Nonimpact fee intersections.
All developments proposed within the Town of Sanford that impact intersections not included as impact fee locations within this article shall be required to take all necessary steps to comply with the requirements of all State and local ordinances, rules and regulations governing the safe handling of traffic generated by such developments. This shall include but not be limited to, the obligation to maintain adequate levels of service at all affected intersections.