Scarborough Housing Alliance
Committee Meeting
Wednesday, February 25, 2026 - Hybrid Meeting

[Scarborough Town Hall – 6:00 p.m.]
Town Manager's Conference Room

Zoom Link: https://scarboroughmaine.zoom.us/s/87340706005

YouTube Link: https://youtu.be/T1zIWID1mL8

AGENDA

Item 1. **Call to Order.**

Item 2. **Those Present.**

Item 3. **Approval of Minutes:** January 28, 2026

Item 4. **Discussion:** *LD 2173/1829 Update*

Item 5. **Discussion:** *School Impact Fees - Affordable Housing Exemption*

Item 6. **Discussion:** *Housing Assessment - Scope of Work*

Item 7. **Discussion:** *Affordability Agreement - Rental Option*

Item 8. **Public Comment.**

Item 9. **Adjournment.**

Scarborough Housing Alliance
Meeting Minutes
January 28, 2026, 6:00pm

Present at Town Hall: Tom Hall, Eric Boucher, Leroy Crockett, Bill Shanahan, Stephen Zamierowski, and Bill Donovan, Town Council Liaison.
Attendees via Zoom: Bob Nadeau.
Excused: Jean-Marie Caterina.
Guests at Town Hall: None.

1. The meeting began at 6:05pm.

2. The minutes for December 10, 2025, were approved as presented with a motion by Stephen, second by Bob, and all members voting in favor.

3. LD1829: Tom discussed the legislation noting it impacts Scarborough beginning June 2026. There is a potential for modifications to improve the bill as repeal is unlikely. Scarborough leadership feels that the town is not a problem as it has done a lot to increase housing supply, and the one size that fits all legislation does not feel right. Tom noted many towns are also concerned. The Town Council drafted a resolution to express concerns hoping to have amendments to the bill to give credit for municipalities that have historically contributed their share, among other concerns. The Alliance supports the resolution and will share that support with the Town Council at the February 4 meeting. Tom will send the resolution via email for our consideration.

4. Burnham Apartment: Tom provided an update on this upcoming Dunstan development, noting rents are considered workforce, nearly approaching affordable. The plan is to replicate the Route 1 Dunstan project to another area in Dunstan Crossing. The Alliance supports the project.

5. The Downs affordable for sale homes: Tom refreshed the Alliance on an affordable home in The Downs, which was acquired in low-rate environment, and is now trying to sell in higher rate environment, likely resulting in a selling price that is less than the purchase price. The owner asked for permission to rent, which the Alliance supports, within certain parameters, such as renting to a qualified renter. The town needs to amend agreements (Section 6.3) for this and all eight affordable homes. The town would carry some administrative burden, such as drafting and amending documents, coordinating with owners, and qualifying renters, which likely would turnover more. The homeowner would have to sign new documents. A brief discussion followed, including

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an inquiry as to whether The Downs HOA or condo documents limit or restrict this option. The Alliance members will review the current agreement and suggest some revisions for consideration at its next meeting.

6. Housing Study: Tom completed a draft scope of work for an RFQ/RFP for consideration by the Alliance. The Alliance briefly discussed other possible data points and conclusions that could result from updating the study. The Alliance supports moving this forward, needing names of consultants who might be qualified to complete this. Tom to check with Jeff Levine, and Eric/Bill to check with MaineHousing. Stephen asked if there is more that the Alliance can do to help people afford to live in this town.

7. Tom mentioned that the Town is recalibrating its school impact fee. Since it has been a long time, the fee is substantially increasing. The Town is reaching out to developers to share this update, which is also being addressed by the Town Council in February. Tom will circulate a one page summary of the changes to the Alliance.

8. Public comment – No public comment.

9. The next meeting is scheduled for February 25, 2026, at 6pm. Agenda to be developed and distributed in advance of the meeting date.

At 7:03pm, the Alliance adjourned its meeting with a motion by Eric, second by Stephen, and all in favor.

Respectfully submitted,

Eric Boucher
Secretary

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Testimony of Thomas Hall, Scarborough Town Manager
Joint Standing Committee on Housing and Economic Development
February 17, 2026 Public Hearing at 10:00 PM (Rescheduled from 2/10/26)

There are several components to LD 1829 which will have effects on Scarborough to one degree or another:

- Changes to the Rate of Growth provisions
- Increased density in Designated Growth areas with public utilities
- Increased density outside of Designated Growth areas with public utilities
- Increased height allowance for affordable projects
- Changes to the subdivision requirements and Planning Board review authority
- The removal of owner occupancy requirements for accessory dwelling units
- The allowance of residential uses in all commercial zones

LD 2173 is a positive step in the right direction for addressing many of Scarborough's concerns; however, I would like to offer additional recommendations to the Committee for further consideration.

Recommendation 1: Effective Date

Make all changes in LD 1829 and 2173 go into effect collectively July 1, 2027, for municipalities with municipal officer authority and July 1, 2028, for municipalities requiring voter approval for ordinance changes. The changes proposed by LD 1829 are vast and municipalities need adequate time to make required changes and to consider impacts to other ordinances and possibly Comprehensive Plans. In Scarborough, we may need to update our Comprehensive Plan and designated growth area which is a long public process that we won't be able to do by July 1, 2026. Not getting more time will likely result in a moratorium on growth to implement LD1829 and may be counter to the state's goals of increasing housing. Alternatively, the deadline for both types of communities could be pushed out to the July 1, 2027 date.

Recommendation 2: Rate of Growth

LD 1829's prohibition on growth caps removes a critical tool municipalities have used to align development with infrastructure capacity, comprehensive plans, and community character.

We appreciate the reintroduction of the Rate of Growth allowances in LD 2173. However, the increase from 105% to 130% is too high for communities like Scarborough. It would be ideal to see a scaled approach to how many units can be required, but the most effective means for the purpose of LD 2173 would be to leave the number of growth permits to 105% over a 10-year average. Removing the ability to not count affordable units and to exempt them in growth permit requirements has the desired effect of allowing for an increase in affordable units.

Recommendation 3: Density

Density allowances created with LD 1829 and reinforced with LD 2173, outside of growth areas, but served by water and sewer contradicts comprehensive plans and legislative intent as explained in committee testimony. We recommend removing the density allowances for areas outside of growth area, but served by water and sewer.

In addition, LD1829 nor 2173 proposes any requirement for affordable or workforce housing in exchange for these new density bonuses. In Scarborough, we have progressive zoning, allowing for multi-family housing and increased density. The outcome of that zoning has not produced affordable or workforce housing units, but rather predominantly market rate and luxury housing. Assuming density allowances alone will increase affordability is a big miss if that is a key policy objective of this legislation. The density bonus that are permitted by this new law should be accompanied by a requirement for a percentage of affordable or workforce units to take advantage of the increases.

Additional Recommendation: Funding

Provide more funding to Maine Housing to support financing on affordable housing projects and remove the requirement that requires local match to be eligible for funds. Without funding associated with this bill, it is unlikely in Scarborough we will be in a position to approve CEAs for affordable housing projects. We will need to focus on roads, vulnerabilities due to climate change, and keeping up with our capital projects in our capital improvement plans. Residents are frustrated with the pace of growth and increase in property taxes, that it will be difficult for future Councils to support CEAs which under the current point system will make it impossible for affordable housing projects to get financing. Either give Maine Housing more money and remove the local match requirement to increase competitiveness or give 3 or more points to communities who are growing.

Members of the Committee,

My name is Jon Anderson, and I am in my sixth year on the Scarborough Town Council. Thank you for your work to address Maine's housing crisis to promote affordability across the state. While LD 1829 and LD 2173 may increase overall housing supply, they **will not create affordable or workforce housing**—and only create new challenges for communities like Scarborough who has been leading the way.

Scarborough has taken a proactive, long-term approach to housing through progressive zoning and careful, community-driven planning. A one-size-fits-all statewide mandate—without corresponding financial support—undermines that work. If the goal is to help communities meet shared housing objectives, the most effective path is collaboration. Ask municipalities what tools we need instead of prescribing uniform solutions that ignore local conditions. Our residents have invested countless hours into a comprehensive plan that reflects local values. Home rule plays a very important role in how we meet our shared housing objectives, but the current approach sidelines that principle in ways that are harmful and erode public trust.

Rate of Growth

Under current law, Scarborough is already adding more than 220 new units per year. Without state financial support—through TIFs, credit enhancement, or other tools—the vast majority of new units being built are $2,500/month apartments and $800,000 homes. These are far out of reach for working families, young Mainers, and seniors and our residents no longer want to subsidize affordable housing.

Pushing us to grow 130% faster will accelerate gentrification, not affordability. I urge you to keep the growth requirement at **105% of the 10-year average**.

Density

Density is beneficial in the right locations and harmful in others.

We have tested this. At Higgins Beach, we increased density in a way similar to LD 1829, and the result has been million-dollar additions—not attainable homes. Municipalities need the ability to establish moderate density standards in established neighborhoods. High-growth areas are appropriate for many of the state requirements; moderate-density and rural areas are not. Please exempt those areas from this legislation.

If developers extend utilities into rural Scarborough under this current law, it will destroy farmland and invite the kind of sprawl seen in places like Hutto, Texas. That is exactly what happens when top-down mandates override local planning.

Affordable Housing

Neither LD 1829 nor LD 2173 guarantees affordable or workforce housing. The assumption that supply alone will lower prices ignores the intense demand from out-of-state cash buyers we are seeing in Scarborough. These buyers are not first-time homebuyers or local workers.

True affordability requires **state incentives, MaineHousing reform, and direct investment**. Scarborough taxpayers cannot shoulder this burden alone—especially while we address climate vulnerabilities, aging infrastructure, and a new $140 million school that may already be undersized under these mandates.

Time and Process

When Speaker Fecteau visited Scarborough, we emphasized the four pillars of smart growth: **housing, infrastructure, affordability, and conservation**. LD 2173 focuses on only one. As our region grows, the traffic, infrastructure strain, and environmental impacts to the Scarborough Marsh will fall heavily on us—without state help to fix failing state roads like Payne Road and Route 1.

The state is currently studying property tax reform. Passing sweeping mandates before addressing that cost burden is premature.

Because of LD 1829 and the changes in LD 2173, Scarborough is preparing a housing moratorium. That is not where we want to be, but it is necessary to protect our residents and the quality of life we've worked hard to build.

Closing

My recommendation is straightforward: **delay implementation of LD 1829** until 2028 and take a comprehensive, collaborative approach with municipalities and regional planners. Slow down, engage with the communities living these impacts, and propose something better.

Passing LD 1829 by unanimous consent with no floor vote damaged public trust. Don't damage it further. This issue is resonating with Scarborough voters. Recent community feedback shows that a strong majority of residents feel the pace of growth our biggest challenge. As Chair of the Scarborough Democratic Town Committee, I can say voters will be paying close attention to how the state proceeds and it will be deciding factor into how they engage in the 2026 election.

Scarborough has done its part. Now we need balanced policy, MaineHousing reform, and real incentives—not unfunded mandates.

Thank you.

Testimony on LD2173/LD1829

Larry Cain, Vice Chair of the Scarborough Town Council

Thank you for the opportunity to speak today on this very impactful piece of legislation.

Throughout this public process, I am sure you will hear from many stakeholders that the current version of LD1829 and the corrective changes proposed in LD 2173 will not effectively address housing needs, but will add undue burdens and unintended consequences to communities in Maine. I agree with that 100%. Please listen closely to the facts and logic that support those speakers.

If you do choose to move forward without a more thorough review of the goals, intent and impacts, I want to offer suggestions that should be the bare minimum of improvements to the original LD1829 enacted law.

As some of you know, Scarborough has been very active and invested in following the progress of this law. First, let me express our appreciation to Speaker Fecteau for recognizing the need, and participating in the process, of improving LD 1829 from its enacted version with the proposed changes in LD2173. We also appreciate that along with the Speaker, we had representatives Warren, Gattine and Murphy attend a public forum hosted in Scarborough that was very productive for both the Town Council and for the community members who attended.

Scarborough has a decades long commitment to residential growth. We have a significant amount of land that has been available for development. We have outstanding schools, beaches, healthcare and community services that are attractive considerations for home buyers. However, we also have the largest salt water marsh in the State, and a long tradition of rural farming, that both need to be actively preserved. Those competing factors have led our Town to be excellent stewards of planned growth, along with welcoming new residents at a high rate.

I can also proudly report that our town recognizes the existing housing shortage in Maine. We agree that affordability and availability of housing should be a top priority for both State and local governments. We are already doing our part. Our housing initiatives include a commitment to affordable housing, and we have demonstrated that with approved projects, direct grant funding and development subsidies through Credit Enhancement Agreements.

So, I am speaking today not to disagree with the intent of the law, but rather to point out that applying the same rules of this law to every community in the State needs to be reconsidered.

My first topic is the changes to Rate of Growth ordinances. I appreciate that in the corrective bill, there is now some ability to retain a rate of growth ordinance. What makes Scarborough unique is that over the last ten years we have averaged well over XX permits issued per year. That number has consistently grown based on the 105% growth factor. Changing that to 130% per year is untenable. Based on our current average, over the next five years, we would be obligated to issue over XX permits. Think about that. Please consider the unfunded burden for traffic, public safety, infrastructure and schools. We insist that you consider retaining the 105% increase, and a ten year look back period. I do understand that low, or no growth communities may need a faster pace to achieve the goals of this bill. It is perfectly reasonable for there to be a lesser % rate for high growth towns versus a higher rate to spur low growth towns.

In a similar vein, for the density provisions, we propose to eliminate the density allowances outside the designated growth areas, but served by water and sewer. This contradicts and undermines the intent of our Comp plan and in some ways, the legislative intent as explained in committee testimony. In addition, there is currently no requirement for affordable or workforce housing related to the density bonuses. In order to achieve one of the main goals of this legislation, there must be a requirement for a percentage of affordable and/or workforce housing in order to receive the

density bonuses. Otherwise, this density effort will only yield additional market rate housing growth….which benefits neither the community nor the State intent.

Next, please consider extending the effective date of this law to July 1 2028. Whatever the final version looks like, this will absolutely require significant changes to our Comp Plan, Zoning, Rate of Growth Ordinance, Designated Growth Plan, and other work. The original bill gave municipalities that require voter approval until 7/1/27 to comply. At the very least, based on the amount of work to be done, we need that same time frame. Without adequate time, we will certainly have to consider a building moratorium, which also works against the intent of the law.

Lastly, let's talk about costs. As shown, Scarborough has a long history of progressive commitments to housing. In addition, our community has been forced to support these efforts with tax increases and debt burdens. In November, our residents approved a $140 million school project that impacts five separate schools. This project has no State assistance, but the residents still made that investment. The town also recently hired 10 new fire fighters/EMTs. In addition, we purchased a new ambulance. These are just a few examples that illustrate the investments we have made because of growth impacts. There are many more road, traffic and municipal projects coming to us to be dealt with. Because of these additional costs, we expect there will be a focused effort at the State level to recognize the financial burden of these housing initiatives with supportive funding for infrastructure improvements.

In closing, I am not here to argue against the need or intent of this law. I am not here to propose changes that weaken this law. I am here asking for consideration to make this law work better for Scarborough and other Maine communities, along with better outcomes for housing affordability and availability.

Thank you

TO: Town Council
FROM: Karen Martin, SEDCO Executive Director
DATE: February 12, 2026
SUBJECT: School Impact Fee – Ordinance Revisions

Overview:

This memo provides the Council with the specific amendments to the Town's Impact Fee Ordinance to incorporate a portion of the expenses associated with the school improvements approved by the voters on November 4, 2025.

The language outlined in red in the attached draft ordinance shows the suggested changes based on the schedule reviewed by the council in their December 4, 2025 workshop.

This memo also provides a partial update on newly released data from The US Census Bureau.

Ordinance Changes

The following changes to the existing Chapter 415 Town of Scarborough Impact Fee Ordinance are proposed:

1) Section I: Inflation Adjustment – a reference to the school impact fee increasing on an annual basis due to inflation is deleted since no inflation adjustment is necessary. The impact fee is geared toward a specific amount ($52 Million) as documented in previous memos.
2) Section II: Use of Impact Fees – the school project, as approved by voters in November, is added as a use for School Impact Fees. A reference to the completion of the Wentworth project was deleted.
3) Section II C includes the revised schedule of fees.
4) Section 2: Item D was added to highlight that the fee schedule should be reviewed every three years, starting in 2027. This section also identifies that the Council may reexamine the fees at any time should there be current conditions that change the nature of the projections used to generate the fees.
5) The ordinance now references a technical memorandum that documents how the incorporated fees were determined. This technical memo is attached.

The ordinance revisions keep the existing exemption for deed restricted senior housing. No change was made. The new schedule does not have a provision for affordable housing.

Public Outreach

The following meetings have included discussions on the school impact fee.

Town Finance Committee:
September 11, 2025
October 9, 2025
January 8, 2026

Council Workshop:
December 4, 2025

In addition to the above meetings, an infographic (attached) was prepared, showing how the fees were calculated and the resulting schedule. The infographic was sent out to a list of local developers and engineering firms, with a proposed schedule for Council actions.

Developers were urged to reach out directly to the Town Council. Some feedback that came to SEDCO included a question about whether the fees could be prepared by number of bedrooms rather than type of unit.

During Finance Committee discussions, that question came up. Since the existing ordinance was organized by type of unit, the analysis by type of unit was kept in order to make direct comparisons to the existing fee schedule.

The Proposed Fee Schedule as Reviewed on December 4, 2025

Impact Fee Analysis by Type of Unit (Original)

Type of Unit	Impact Compared to Single Family	Base Fee	Distribution of Future Units	Count of Future Units	Fees Generated	Adjusted Base Fee	Adjusted Fees Generated
Single Family	100%	$ 6,669	40%	3,120	$ 20,808,800	**$ 11,391**	$ 35,540,222
Townhouse - 4 Units Per Structure	50%	$ 3,335	22%	1,716	$ 5,722,420	**$ 5,696**	$ 9,773,561
5 to 9 Units per structure	35%	$ 2,334	15%	1,170	$ 2,731,155	**$ 3,987**	$ 4,664,654
10 + Units per structure & Mobile Homes	10%	$ 667	23%	1,794	$ 1,196,506	**$ 1,139**	$ 2,043,563
				7,800	$ 30,458,881		$ 52,022,000
					$ 21,563,119		
				Adjustment Factor	70.79%		
Based on American Community Survey - 2023 5-year Data set							
Using Census Microdata by Portland Suburban PUMA area							

Conclusion

This purpose of this memo was to provide revised ordinance language to accommodate the revised fee schedule as outlined to the Council in their December 4th workshop. Those changes are outlined above and shown in red in the attached draft ordinance.

TO: Town Council
FROM: Karen Martin, SEDCO Executive Director
DATE: February 12, 2026
SUBJECT: Technical Memorandum on Housing Impact Fees

Overview:

This memo serves as a technical memorandum on the methodology for drafting School impact fees.

Details and Inputs

To calculate a new impact fee, the following information is required:

- Student Capacity Increase
- Total New Capital Investment in the Schools
- Amount Associated with Growth
- Amount of New Housing Units
- Impact of New Housing Units by Type of Unit
- Projection of New Units by Type of Unit

Increase in Capacity

The first step in determining the amount of a new fee is to evaluate the increase in capacity related to the proposed building project. The following table shows the actual enrollment compared to the increase in student capacity.

K-8 2025 Scenario	
K-8 Capacity Increase for New School Investment	
(All New Students Assigned to New Growth)	
Actual Enrollment K-8	1,975
Increase in Students	516
Projected Enrollment Capacity	2,491
% of Increase Assigned to New Housing	100%
Actual Increase Assigned to New Housing	516
% of student Increase	20.7%
% of Capital Investment Associated with New Students	**20.7%**

According to the table, 20.7% of the school investment may be assigned to new housing units. We did not assign any of the new students to existing housing units, even though, it is likely that some increase in students will be the result in existing homes turning over to new families.

Total Amount to Collect Over Time

The Finance Committee recommended the following amount for the calculation of a new Impact Fee

Base Bond Amount:	$139,850,000
Finance Charge:	$ 81,288,000
Remainder of Capital Improvements from Prior Bonds:	$30,000,000
Total Amount for 2025:	$251,138,000

Amount Associated with Increased Capacity

Total Capital Investment:	$251,138,000
Capacity Increase Associated with New Students:	20.7%
Total Amount for impact Fee Recovery:	$52,022,157*

**The actual computation used a detailed calculation of 20.71457%*

The total calculation includes $30,000,000 left over from previous school bonds associated with capital investments. Since the Town has an existing Impact fee, this remainder was included in the calculation of a new fee.

The new capital investment assigned to the calculation of school impact fees is **$52,022,157.**

Anticipated Increases in Housing Units & Impact on Schools

The above calculation results in the need to raise $52 Million to repay a portion of the capital investments. Repayment is in the form of a fee assigned to new housing units build over a 30-Year period. Using an annual amount of 260 new housing units per year, for 30 years, the fee would be distributed over 7,800 units.

While we project 7,800 units, not all units generate the same number of children. Our existing impact fee varies by type of unit, with single family having the highest fees. Multifamily housing units have fewer children per household and, therefore, had a reduced fee per unit in the existing fee schedule.

To better reflect the impact of different types of units, we ran a special tabulation of the 2023 American Community Survey (5-year Survey) which cross tabbed the number of children in two groups (5 to 17 and under

18) with the type of units by units in structures. This special tabulation was run for the suburban area of the Portland region. Note – a special tabulation cannot be produced at the community level.

Here are the results, including the translation for the impact to fees.

Fee Distribution & Relationship to Single Family Impacts					
Type of Unit	Children per unit < 18	Children per Units 5 to 17	Relationship to SF < 18	Relationship to SF 5-17	Recommended
Single Family Detached	0.578	0.45	100%	100%	**100%**
Single Family Attached	0.29	0.18	50%	40%	**50%**
2 to 4 Units per Structure	0.28	0.23	48%	51%	**50%**
5 to 9 Units per Structure	0.2	0.14	35%	31%	**35%**
10+ units per Structure	0.05	0.03	9%	7%	**10%**
Mobile Homes	0.04	0.04	7%	9%	**10%**
Source: US Census ACS 2023 (5-year accounting)					
Special Tabulation of Public Use Micro Data for Suburban Portland Area					

This distribution of impact by units is different than the original distribution noted in the current ordinance. The following table compares the two distributions.

Proposed Ratios of Different Types of Units to Single Family		
Type of Unit	**Existing**	**Proposed**
Single Family	100%	100%
2- family	38%	NA
Multifamily 3 + Units/Structure	25%	NA
Mobile Home	25%	10%
SF Detached (TownHomes)	NA	50%
2 to 4 Units/Structure	NA	50%
5 to 9 Units/Structure	NA	35%
10+ Units/Structure	NA	10%

In the update of the proposed impacts by unit, the special tabulation showed that multifamily with lower units per structure had a higher rate of children per unit than the existing distribution. To better align with impacts, multifamily units were split out by the number of units in the structure. The higher the number of units per structure, the fewer the impact on the schools in terms of the number of children expected.

The existing distribution lumps all multifamily together, and results in a lower percentage overall.

Projection of Units by Type of Unit

The next piece of the puzzle to determine fees is the type of growth expected over the next 30 years. Please note that we focused on the 30 year payback period for this analysis.

As described above, the projected total units at 30 years will be 7,800.

To collect a set amount of dollars, we need to know what type of units will be built. If 100% of the 7,800 units are single family and the goal is to raise $52,022,157 in fees, the amount assigned to new units would be $6,670. But if half of the units were in 2-4 unit buildings, the total fees raised we would be less than the needed $52 million. The only way to ensure that $52 Million is raised is to increase the price of the base, to account for the amount needed. We also need to project a reasonable distribution between the units.

To project the potential distribution of units, we looked at building permits over the last 10 years. Approximately 37% of building permits were single family during this period. Another 2% were units under 4 units per structure, while 61% were in multifamily units of 5 or more units per structure.

Roughly based on the permits issued over the last 10 years as well as some reasonable expectations over the next 30 years, we used the following distribution of units to generate adjusted fees.

Type of Unit	% of 7,800 Units Over 30 years	Resulting Units
Single Family	40%	3,120
Single Family Attached	12%	936
2 to 4 units per structure	10%	780
5 to 9 units per structure	15%	1,170
10+ units per structure	20%	1,560
Mobile Homes	3%	234

Projecting this distribution is challenging. You can make arguments on both ends of the spectrum about the future. Much depends on the disposition of LD 1829. This suggested distribution may overestimate the denser multifamily, but overestimating the denser units does increase the starting fee for single family. The fewer single family units that are built, the higher the fees have to be to generate the total dollars desired. This results in a conservative approach to raising the fees.

Resulting Fees:

The following table puts all the pieces together, resulting in a significant increase to the existing impact fees.

Recommended Fee Structure

Scenario 2:	New Project + Financing + Remaining Bond						
Total Amount	$251,138,000						
% Assigned to New Growth	20.7%						
Dollars to Finance	$52,022,157						
Collection Period in Yeara	30						
New Units per Year	260						
Total Units in 30 Years	7,800						
Base Rate	$ 6,670						
Goal: $52,022,157							
Type of Unit	**Fee Ratios**	**Projected Distribution of Growth**	**# of Units over 30 Years**	**Base Fee**	**Base Fee Totals**	**Adjusted Fee**	**Adjusted Fee Totals**
Single Family Detached	100%	40%	3,120	$6,670	$20,808,863	**$11,391**	**$35,540,329**
Single Family Attached	50%	12%	936	$3,335	$3,121,329	**$5,696**	**$5,331,049**
2 to 4 Units per Structure	50%	10%	780	$3,335	$2,601,108	**$5,696**	**$4,442,541**
5 to 9 Units per Structure	35%	15%	1,170	$2,334	$2,731,163	**$3,987**	**$4,664,668**
10+ units per Structure	10%	20%	1,560	$667	$1,040,443	**$1,139**	**$1,777,016**
Mobile Homes	10%	3%	234	$667	$156,066	**$1,139**	**$266,552**
Totals		100%	7,800		$30,458,973		**$52,022,157**
Shortfall from Base					$21,563,184		
Adjustment Factor					*70.794%*		
Sources:							
1) Calculation of ratio between single family and other types of units are based off the Census Bureau's American Community Survey 2023							
Special Tabulation of Public Use Micro Data for Suburban Portland Area, Children per type of unit							
2) Distribution of units by type into the future are roughly based on Building Permits for the period between 2014 and 2024							
Pulled from the Census Bureau Files							
3) Annual number of new housing extrapolated from Rate of Growth Ordinance							

Given the potential for the new units to change in amount or in type, the Town will need to review the amounts being raised on an annual basis to determine whether or not we are on track to raise the $52 million in impact fees.

The analysis is also dependent on the American Community Survey – which will be updated over the next few months. This update should be incorporated into the resulting fees.

In Summary

The Town can reasonably assign $52 million of the increase in the capacity of the schools, approved in November, to new growth. To raise the $52 million over a 30-year period the fees for a single family unit would increase from $5,570 to $11,391, an increase of 104%. The new fee accounts for 1.5% of the current median single family unit sales for 2025 (190 sales to date in 2025). Looking at new units, instead of all sales, the average sales price was $980,000, resulting in a fee that represented 1.2% of purchase price.

School Impact Fee
2026 Update

SCARBOROUGH MAINE

Voters Approve $139,850,00 For School Facilities

Voters approved $139,850,000 for school improvements. Financing costs add $81,288,000 to total. In addition, there is currently $30 Million from previous school facility improvements remaining. Adding these three costs together results in **$251,138,000** associated with school facilities. These costs are related to capital improvements only, allowing a portion of the expenses to be raised by impact fees.

Student Capacity Increases 20.7%

Impact Fees may be used to assign the increased capacity resulting from the improvements to future growth. The approved school investment results in an increase of 516 students over the current student enrollment. This represents 20.7% of the projected capacity.

$52 Million to be raised by Impact fees

Applying 20.7% of the project costs, **$52 million** is eligible to be paid back by impact fees. The $52 million is used to calculate the the impact fees.

7,800 units projected over 30 years

Using the Rate of Growth ordinance, the average annual increase in units is approximately 260 units per year. Over 30 years, the resulting number of new units would be **7,800** units.

40% of new units to be Single Family

The current school impact fee uses different fee levels for different types of housing to approximate impact by unit - assigning the highest per unit fee to single family units and the lowest fee to high density multifamily units. This relationship to number of students generated by type of unit was updated using Census data. The distribution of future units was also projected based roughly on current patterns. 40% of future units was projected to be single family.

Proposed New Fee Schedule

Type of Unit	Ratio	Units	Distribution of New Units	Existing Fees	Proposed Fee	Total Raised
Single Family	100%	3,120	40%	$5,570	$11,391	$35,539,920
Townhouse to 4 units/ structure	50%	1,716	22%	$2,130	$5,696	$9,774,336
5 to 9 units /structure	35%	1,170	15%	$1,410	$3,987	$4,664,790
10+ units/structure & Mobile Homes	10%	1,794	23%	$1,410	$1,139	$2,043,366
Totals		7,800	100%			$52,022,412

Notes: Since fee is based on impacts, units created exclusively for seniors would be exempt. The above analysis does not consider State legislation that may impact allowable residential development. The Ordinance will include a review in July 2026 and every other year, thereafter, to ensure that projections are reasonable and fees collected reach $52 Million in 30 years.

CONTACT Karen Martin for More Info. kmartin@sedcomaine.com/283-4893

CHAPTER 415
TOWN OF SCARBOROUGH
DEVELOPMENT IMPACT FEE ORDINANCE

The following proposed amendments to Chapter 415 - the Town of Scarborough Development Impact Fee Ordinance and reflects only that portion of the Ordinance that will be changed. Chapter 415, hereby is amended, as follows (additions are underlined; deletions are struck through):

A. Inflation Adjustment.

The ~~School and~~ Recreation impact fees established by the Town Council in this ordinance shall be adjusted annually by the Town Treasurer to account for inflation. Commencing on February 1, 2003 and on each February 1st thereafter, the Treasurer shall increase each impact fee by the dollar amount (rounded to the nearest ten dollar increment) obtained by multiplying the amount of the fee then-in-effect by the inflation rate. As used in this paragraph, the term "inflation rate" means the percentage increase, if any, during the previous calendar year in the Consumer Price Index – All Urban Consumers, Northeast Urban Area, All Items, base period 1982-84 = 100 (not seasonally adjusted) published by the United States Department of Labor Bureau of Labor Statistics. If there has been no such increase, there shall be no adjustment under this paragraph. Each year on February 1st, the Treasurer shall publish a schedule of impact fees adjusted pursuant to this paragraph (the "adjusted impact fees") and provide a copy of such schedule to the Code Enforcement Officer. The adjusted impact fees shall apply to all building permits issued on or after March 5 in the calendar year 2003 and on or after February 1st of each calendar year thereafter, whether or not the applications for building permits were filed prior to such dates.

SECTION II. SCHOOL IMPACT FEES

A. Use of School Impact Fees.

The fees collected under this section of this ordinance shall be used to fund one or more of ~~those~~ projects

1) identified in the major capital improvement applications submitted to the Maine Department of Education, dated July 26, 2001, for the Scarborough Middle School, the Scarborough High School, the Wentworth Intermediate School and the primary schools, the Town Council having determined that a portion of the costs of such school projects is made necessary by the projected increases in enrollment due to anticipated new residential housing construction. ~~Those improvements are scheduled to be completed by January 3, 2012, unless the completion dates are extended by order of the Town Council.~~

2) identified in the November 2025 School Improvement Program approved by Scarborough voters on November 4, 2025.

B. Calculation and Collection of School Impact Fees. [Updated 02/26/2020; 02/01/2025]

Prior to the issuance of a building permit for any new dwelling unit, the Code Enforcement Officer shall collect a school impact fee according to the following schedule:

Type of Dwelling	Amount
Single family dwelling	~~$5,570~~ –$11,391
~~Two-family dwelling~~	~~$2,130 per unit~~
~~Multiplex~~	~~$1,410 per unit~~
~~Mobile home in a mobile home park~~	~~$1,410~~
~~Affordable housing unit~~	~~$2,800~~
Single Family Attached, Townhouse, 2 to 4 units in a structure	$5,696 per unit
5 to 9 Units in a structure	$3,987 per unit
10 or More Units in A structure	$1,139 per unit

Exemptions.

A school impact fee is not required for a dwelling unit within a development consisting of three or more dwelling units all of which are permanently restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy by elderly households only. For this purpose, "elderly household" means a household which includes at least one person aged 55 or older and no occupant less than 55 years of age other than a full-time caregiver to or a spouse or companion of the elderly person(s).

C. Impact Fees to Terminate Upon Completion of Projects.

When the school projects identified in Chapter 415, Section II have been completed and all debt incurred in connection therewith has been repaid, the Town Council shall amend this ordinance either by repeal of this chapter, or by amendment of this chapter if circumstances at the time warrant the continuation of school impact fees.

D. School Impact Fee Reviews

Since the school impact fee is based on projections of future development, the above fees are subject to a review and update on a three-year cycle starting in 2027. The Council may revisit the fee structure at any time should conditions warrant a change in the projections upon which the fees are based. A technical memorandum is available, which documents the methodology used to derive the fee schedule. Any changes to the fee schedule should include an update to the technical documentation.

DRAFT- Housing Assessment - Scope of Work

- Review the 2005 Mayberry Report and evaluate and report on implementation efforts
- Revisit the 5 Questions in the Mayberry scope:
  - Is there a shortage of affordable single family homes in Scarborough?
  - Does the Town have a shortage of affordable retal housing untis?
  - What workforce housing needs are being created by job growth?
  - Will young people from Scarborouhg be able to afford housing here?
  - What housing cost burdens are faced by Scarborough's senior housing?
- Prepare a complete inventory of existing housing stock
  - List type of dwelling/unit type/# of bedrooms
  - Note owner occupied/long term rental/short term rental
  - # of Affordable units and what populations they serve
- Evaluate the connection between job growth and housing needs
- Evaluate the use of Inclusionary Zoning by other communities to incentivize affordable housing
- Review and recommend changes to Scarborough's definition of "affordable" and "workforce" housing
- Provide context for Scarborough in relation to other Maine municipalities in terms of balancing housing needs with community growth
- Evaluate how LD 1829 will impact Scarborough, particularly the impacts on affordable and workforce housing.

TOWN OF SCARBOROUGH
AFFORDABLE HOUSING AGREEMENT

2.4 Owner Occupancy Requirement. The Property shall at all times be subject to all standards set forth in the Ordinance, including without limitation, the requirement that that all housing units on the Property shall be owner-occupied. On or before December 31 of each calendar year, Owner shall make a written certification to the Town in the form attached hereto as Exhibit B representing and warranting to the Town that the Property is owner-occupied as of the date of such certification and that the Property has been owner-occupied for the entirety of the immediately preceding calendar year.

6.3 Conversion to Rental Property. In the event that the Town allows the Property to be converted from an owner-occupied property to a renter-occupied property, this Agreement and the covenants contained herein shall survive. However, the affordability requirements will then comply with the then-applicable "Renter-Occupied Housing Unit" affordability requirements as set forth in the Ordinance.

"Town allows"- Under what circumstances or conditions?

- ***Economic hardship***
- ***Term of the rental***
- ***Rent limits - 30% of 80% AMI adjusted for HH size***
  2024 80% Maximum Monthly Gross Rents 1BR $1,531 and 2BR $1,838 – MaineHousing
- ***Possible sale, rental term***
- ***Limits on economic gain or loss***

WHEREAS reference is made to Section VII.C (Residential Density and Affordable Housing Provisions) of the Zoning Ordinance of the Town of Scarborough adopted on November 3, 2004 and last amended on December 19, 2018 (as the same has been or may further be amended from time to time, the "Ordinance"); and

SECTION VIIC. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS
A. RESIDENTIAL DENSITY FACTORS
B. AFFORDABLE HOUSING DENSITY BONUS

2. For the purposes of this section, "affordable housing development" means:
a) For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and
b) For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

C. AFFORDABLE HOUSE IN LIEU FEE
C. AFFORDABLE HOUSING CERTAINTY

SCHEDULE A

AFFORDABLE HOUSING AGREEMENT
(Must be recorded with the deed to the property as an Exhibit)

This AFFORDABLE HOUSING AGREEMENT ("Agreement") made as of this 22nd day of November, 2019 (the "Effective Date"), by and between THE TOWN OF SCARBOROUGH, a body politic and Maine municipal corporation with a mailing address of P.O. Box 360, Scarborough, ME 04070-0360 (the "Town") and Dina Duffy, whose mailing address is 37 Mill Commons Unit 231 Scarborough ME 04074 (together with its successors and assigns, "Owner") (the Town and Owner are sometimes hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, reference is made to Section VII.C (Residential Density and Affordable Housing Provisions) of the Zoning Ordinance of the Town of Scarborough adopted on November 3, 2004 and last amended on December 19, 2018 (as the same has been or may further be amended from time to time, the "Ordinance"); and

WHEREAS, Owner has purchased the land and buildings known as Mill Commons in the Town of Scarborough, County of Cumberland, State of Maine and more particularly described in the foregoing deed dated 12/18/18 DHD; and

WHEREAS, the Property is an "Owner-Occupied Affordable Housing Unit" as that term is defined in the Ordinance; and

WHEREAS, in order to comply with the provisions of the Ordinance, Owner agrees to be bound by certain restrictions on the resale of the Property, including, without limitation, restrictions on the consideration for which the Property may be sold, the persons who may purchase the Property, and the persons who may occupy the Property, all on the terms and conditions hereinafter provided and in accordance with Maine law, including 33 M.R.S.A. Sec. 121 *et seq.*;

NOW THEREFORE, in consideration of the conveyance of the Property to Owner, and of the mutual undertakings set forth herein, Owner and the Town hereby agree as follows:

ARTICLE I
PARTIES INTENT

1.1 Parties Intent. The terms and conditions contained herein have been freely and voluntarily accepted by the Parties, each with the opportunity to consult independent and informed advice of legal counsel. The provisions and restrictions contained herein exist to further the mutual purposes and goals of Owner and the Town as set forth herein and in the Ordinance and to create and preserve access to affordable housing and home ownership opportunities for low- and moderate-income individuals and families in the Town of Scarborough. It is the express understanding and intent of the Parties that the terms and conditions hereof will enhance the marketability of the Property by making the Property affordable to individuals and families who, without such provisions, would likely be unable to afford housing in the Town similar to the Property. No sale, transfer or foreclosure shall affect the validity of this Agreement, except as provided herein.

ARTICLE II
COVENANTS

2.1 Affordability Requirement. Owner and the Town agree and intend that this Agreement and the covenants contained herein are to be interpreted as "Affordable Housing Covenants" as defined by 33 M.R.S.A. Sec. 121 and that they satisfy the requirements set forth in the Ordinance.

2.2 Enforceability of Covenants. The covenants and restrictions set forth herein are covenants and restrictions that run with the Property and shall inure to the benefit of the Town and bind Owner and all subsequent Owners of the Property for a period of thirty (30) years from the Effective Date of this Agreement. The covenants and restrictions set forth herein shall be enforceable by the Town.

2.3 Transfer to Qualified Buyer. Except as may be set forth herein, Owner may sell, transfer, or otherwise dispose of the Property only to a Qualified Buyer (as that term is defined below) or as set forth in Section 5.3 hereof. Any purported sale, transfer or other disposition to any other person or entity done without following the procedures set forth below, or in violation of the purchase price limitations set forth below, shall automatically be ***null and void***, ab initio, without the necessity for further action or instrument.

2.3.1 The term **"Qualified Buyer"** shall mean a person or household whose income is eighty percent (80%) or less than the most recently published Median Family Income for the Portland, Maine Metropolitan Statistical Area, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (hereinafter the "MFI Standard"), and as set out in the Ordinance under the definition of an "Owner-Occupied Affordable Housing Unit."

2.3.2 Income shall be determined using the most recent Federal Adjusted Gross Income from Form 1040, 1040-A, 1040EZ or other proof of income acceptable to the Town. In the event that an applicant does not file a federal tax return, other methods of income verification may be used in the Town's sole discretion.

2.4 Owner Occupancy Requirement. The Property shall at all times be subject to all standards set forth in the Ordinance, including without limitation, the requirement that that all housing units on the Property shall be owner-occupied. On or before December 31 of each calendar year, Owner shall make a written certification to the Town in the form attached hereto as Exhibit B representing and warranting to the Town that the Property is owner-occupied as of the date of such certification and that the Property has been owner-occupied for the entirety of the immediately preceding calendar year.

2.5 Disbursement of Insurance and Eminent Domain Proceeds. In the event Owner receives proceeds as a result of a complete eminent domain taking of the Property, Owner and the Town shall share in such proceeds such that Owner shall receive an amount equal to no more than the Maximum Allowable Price as determined under Section 5 above, with the Town receiving the balance of the proceeds, if any. If there occurs a partial eminent domain taking, or if Owner receives any insurance proceeds as a result of any casualty loss to the Property, then the parties shall share in the proceeds on a pro-rata basis, with Owner receiving a percentage of the Maximum Allowable Price based on the diminution of value of the Property and the Town receiving the balance of the proceeds, if any.

ARTICLE III
OBLIGATIONS OF THE OWNER, TOWN AND QUALIFIED BUYER/MODIFIED QUALIFIED BUYER IN CONNECTION WITH SALE, TRANSFER OR DISPOSITION OF THE PROPERTY

3.1 In each instance that Owner intends to effect a sale, transfer or disposition of the Property to a third party (other than a Mortgagee in first position), prior to listing the Property for sale, or entering into a purchase and sale agreement, or otherwise taking any steps to consummate the sale of the Property, the Owner shall:

3.1.1 give the Town written notice of such intent in the form attached hereto as Exhibit A (the "Notice of Intent"). The Notice of Intent shall be addressed to the Town at the address set forth above or at such other address as the Town shall provide to Owner in writing from time to time;

3.1.2 market the Property to Qualified Buyers at a price not to exceed the Maximum Allowable Price;

3.1.3 provide the Town with whatever information the Town reasonably requests to make the determinations required under this subsection;

3.1.4 make good faith and best efforts (as reasonably determined by the Town) to market the Property for sale to Qualified Buyers for at least one hundred eighty (180) days following the Notice of Determination (as defined in section 3.2.1.3) (the "Restricted Period") at a price not in excess of the Maximum Allowable Price (the "Good Faith Efforts"). If Owner is unable to find a ready, willing and able Qualified Buyer for the Property after marketing the Property with Good Faith Efforts for the Restricted Period, then Owner may submit a written petition to the Town (a "Petition for Modification") petitioning the Town for consent to sell the Property to a buyer whose income is one hundred twenty percent (120%) or less than the most recently published MFI Standard (a "Modified Qualified Buyer"). The Town must receive the Petition for Modification within six (6) months of the end of the Restricted Period.

3.2 In each instance that Owner intends to effect a sale, transfer or disposition of the Property to a third party (other than a Mortgagee in first position), the Town shall:

3.2.1 Within a reasonable amount of time of receiving the Notice of Intent:

3.2.1.1 determine the qualifications and income guidelines for a Qualified Buyer;

3.2.1.2 determine Owner's "Maximum Allowable Price" as set forth under Section 4, below;

3.2.1.3 communicate the results of such determinations by written notice to Owner (the "Notice of Determination") at the address provided by Owner in the Notice of Intent;

3.2.2 Within a reasonable amount of time after receiving a Petition for Modification, determine whether Owner made has Good Faith Efforts to identify a Qualified Buyer; and, if Good Faith Efforts were made, determine whether or not to grant the Petition for Modification and provide written notice to Owner of its determination;

3.2.3 Within a reasonable amount of time from the date it receives the information about a prospective buyer from Owner make the determination as whether the prospective buyer is a Qualified Buyer (or Modified Qualified Buyer, as the case may be);

3.2.4 Keep all nonpublic personal and confidential information provided regarding any

prospective Qualified Buyer or Modified Qualified Buyer confidential; provided, however, that the Town may disclose such information (i) to the Town's attorneys, accountants and other professional advisors for use in connection with their representation of the Town in connection with this Agreement and/or (ii) or pursuant to lawful process, Freedom of Access Act request, subpoena or court order requiring such disclosure;

3.2.5 Prepare a Certification of Qualified Buyer or Certificate of Modified Qualified Buyer, as the case may be, in form and substance suitable for recording prior to or contemporaneously with the deed conveying the Property.

3.3 In each instance that Owner intends to effect a sale, transfer or disposition of the Property to a Qualified Buyer or Modified Buyer, as the case may be, the Qualified Buyer or Modified Qualified Buyer shall:

3.3.1 Upon transfer of the Property, agree to be bound by the terms and conditions of this Agreement by inclusion of the following language in the deed: "The premises are conveyed subject to, and Grantee agrees to be bound by, those restrictions and covenants described in Affordable Housing Agreement dated 9/11/19 and attached to deed recorded in the Cumberland County Registry of Deeds in Book ____, Page ____";

3.3.2 Within thirty (30) days of closing, provide the Town with copies of the final executed settlement statements, the deed of conveyance recorded in the Cumberland County Registry of Deeds, and the Certification of Qualified Buyer or Certificate of Modified Qualified Buyer.

ARTICLE IV
DETERMINATION OF MAXIMUM ALLOWABLE PRICE

4.1 Determination of Maximum Allowable Price. The Maximum Allowable Price for purposes of this Agreement shall be determined in accordance with the definition of an "Owner-Occupied Affordable Housing Unit" in the Ordinance as of the month in which the Owner submits a Notice of Intent to the Town.

4.1.1 The Owner may request a re-calculation of the Maximum Allowable Price once every six (6) months to reflect changes in area median incomes published by the U.S. Department of Housing & Urban Development.

ARTICLE V
MORTGAGES

5.1 Subordination of Mortgages. All Mortgages placed against the Property, or any portion thereof, shall be subject and subordinate to this Agreement, except as provided in Section 8.3.3.

5.2 Amount of Mortgage. In no event shall the aggregate amount of all Mortgages placed against the Property exceed an amount equal to one hundred five percent (105%) of the Maximum Allowable Price for the Property. Prior to obtaining any Mortgage or refinancing thereof, Owner shall request from the Town the then-current Maximum Allowable Price as set forth in Section 4.1 of the Agreement.

5.3 Default of Mortgage

5.3.1 Notice of Default of Mortgage. The Mortgagor shall provide the Town immediately upon receipt a copy of any written notice of any notice of default and/or notice of intent to foreclose under the Mortgage on the Property. Notwithstanding the foregoing, in no event shall failure to provide such notices preclude the Mortgagee's right to proceed with its remedies for default under the Mortgage or the Town's right to proceed with its remedies for default under this Agreement.

5.3.2 Right of Purchase by the Town. The Town shall have the right to purchase the Property from the Owner in the event that a notice of default or notice of intent to foreclose of a Mortgage in first position is recorded in the Cumberland County Registry of Deeds. The purchase price shall be an amount that is the lesser of (a) the amount of the debt secured by all Mortgages recorded against the subject Property, including commercially reasonable costs and expenses, if any, incurred by Mortgagee as a result of a default and due and payable by the Owner under the terms of the Mortgage, or (b) the Maximum Allowable Price. The Town shall have thirty (30) days from the date a notice of default or a notice of foreclosure sale is recorded in the Cumberland County Registry of Deeds to exercise its option and to purchase the Property. The Town's right to purchase the Property pursuant to this Section 5.3.1 shall automatically expire upon the transfer of the Property by foreclosure or deed in lieu thereof.

5.3.3 Termination Upon Foreclosure and Assignment. In the event title to the Property is transferred following foreclosure or by deed in lieu of foreclosure to a Mortgagee in first position the terms of this Agreement applicable to such Property shall automatically terminate subject to Section 5.3.4.

5.3.4 Effect of Foreclosure on this Agreement. Except as provided in Section 5.3.3, in the event of foreclosure or deed in lieu thereof, this Agreement and all covenants and restrictions contained herein shall not be released or terminated and the Mortgagee or any Person who takes title to the Property through a foreclosure need not be a Qualified Buyer or Modified Qualified Buyer but is otherwise subject to this Agreement and must make reference to this Agreement with the applicable Deeds. Subsequent buyers must be a Qualified Buyer and shall be subject to all of the covenants and obligations of this Agreement.

ARTCILE VI
EXCEPTIONS/DEFAULT/RIGHT OF ENTRY

6.1 **Transfer to Owner's Heirs.** If the Owner (including the last surviving co-owner of the Property if held in joint tenancy) should die while owning the Property, the personal representative of the decedent's estate shall give the Town notice of the Owner's death. Upon receipt of notice, the Town shall, except for good cause shown, consent to a transfer of the Property to one or more of the following:

A. the spouse of the deceased Owner (in cases where such spouse was not a joint tenant with Owner); or

B. the child or children of the deceased Owner; or

C. member(s) of the deceased Owner's household who have resided in the Property for at least three years prior to the Owner's death.

6.1.1. Any subsequent transfer by a transferee under A, B, or C, above, shall be subject to the terms of this Agreement.

6.2 **Subsequent Destruction.** The restrictions and covenants contained herein shall cease to apply to the Property in the event of involuntary noncompliance caused by fire or other substantial destruction, seizure, requisition or other event that prevents the Town from enforcing the covenants contained herein.

6.3 **Conversion to Rental Property.** In the event that the Town allows the Property to be converted from an owner-occupied property to a renter-occupied property, this Agreement and the covenants contained herein shall survive. However, the affordability requirements will then comply with the then-applicable "Renter-Occupied Housing Unit" affordability requirements as set forth in the Ordinance.

6.4 **Default.** In the event Owner defaults under any term of this Agreement and does not cure such default within thirty (30) days following written notice of such default from the Town, the Town shall have the right to seek specific performance, injunctive relief and/or other equitable remedies, including, without limitation, compelling the re-sale of the Property and the disgorgement of rents and sale proceeds in excess of the rental rates and sale prices permitted hereunder.

6.5 **Right of Entry.** Pursuant to 33 M.R.S. section 122 (5), the Town may enter the Property to assure compliance with the restrictions and covenants contained herein.

6.5.1 Prior to entering the Property, the Town must provide the Owner, its successors and/or assigns, a minimum of twenty-four (24) hours' notice of the intent to enter and must make reasonable efforts to enter the Property between the hours of 9:00am through 5:00pm, unless other arrangements are made with the Owner.

ARTICLE VII
MISCELLANEOUS

7.1 **Null and Void Transfers.** Any sale or transfer of the Property conducted contrary to the terms and conditions contained herein shall be null and void. All sales or transfers shall be subject to all terms and conditions contained herein.

7.2 **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

7.3 **Notices.** Notices required by the Agreement shall be in writing and sent by first class mail, certified, return receipt requested, addressed to the recipient at the address given above. If the Town or its successors or assigns shall change addresses, it shall give notice of the new address in the manner provided in this paragraph.

7.4 **Further Assurances.** Each of the Parties shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required

to carry out the provisions the Agreement and give effect to the transactions contemplated by the Agreement.

7.5 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

7.6 Entire Agreement. This Agreement, together with the related exhibits/any other documents incorporated herein by reference and all related exhibits and schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related exhibits and schedules (other than an exception expressly set forth as such in the schedules), the statements in the body of this Agreement shall control.

7.7 Cumulative & Equitable Remedies. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to equitable relief, including injunctive relief or specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

7.8 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maine without giving effect to any choice or conflict of law provision or rule (whether of the State of Maine or any other jurisdiction).

7.9 Waiver. The Town shall not waive any defense immunity or limitation of liability which may be available to the Town under the Maine Tort Claims Act or any privileges or immunities as may be provided by law. These obligations survive the termination or expiration of this Agreement. No waiver by the Town of any of the provisions herein shall be effective unless explicitly set forth in writing and signed by the Town so waiving. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

7.10 Indemnification. The Owner shall indemnify and hold the Town and its agents harmless from and against any and all claims, demands, liability, loss, cost or expense which may be incurred by the Town arising out of or in any way related to this Agreement.

7.11 Amendment. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto and recorded in the Cumberland County Registry of Deeds.

DOC :61191 BK:36208 PG:316
RECEIVED - RECORDED, CUMBERLAND COUNTY REGISTER OF DEEDS
11/26/2019, 12:26:00P
Register of Deeds Nancy A. Lane E-RECORDED

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

WITNESS:

Lorraine LaChapelle

TOWN OF SCARBOROUGH

By: Thomas J. Hall

Name: Thomas J. Hall
Title: Town Manager

_____

_____
Owner
Print name:

_____

_____
Owner
Print name:

STATE OF MAINE
COUNTY OF CUMBERLAND, SS

Date: 10/31/19

Personally appeared the above-named Thomas J Hall and acknowledged the foregoing instrument to be his/her/their free act and deed.

Before me,

_____
Notary Public/Attorney at Law
Print name:
My Commission Expires:

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2022

STATE OF MAINE
COUNTY OF CUMBERLAND, SS

Date: 11/22/19

Personally appeared the above-named Dina Duffy and acknowledged the foregoing instrument to be his/her/their free act and deed.

Before me,

_____
Notary Public/Attorney at Law
Print name:
My Commission Expires:

Charles H. McLaughlin
Attorney at Law